

70.155 Motor vehicle impoundment -- Handling and storage fees -- Challenge to validity of impoundment -- Hearing -- Appeal.

- (1) As used in this section, "hearing board" or "board" means a body:
 - (a) Established by ordinance;
 - (b) Empowered to conduct hearings pursuant to this section; and
 - (c) Composed of one (1) or more persons appointed pursuant to ordinance and any hearing officers appointed by the board.

Any actions of a hearing officer shall be deemed to be the action of the board.

- (2) A sheriff may impound a motor vehicle parked, stopped, or standing upon a street or public way within its jurisdiction that is in violation of an ordinance or statute prohibiting parking, stopping, or standing in the location, manner, or at the time the vehicle is cited or for any other lawful reason.
- (3) A sheriff may condition the release of an impounded motor vehicle upon the payment of the handling and storage fees imposed thereon, unless the owner or other person entitled to possession challenges the validity of the impoundment pursuant to subsection (4) of this section. A vehicle may be released to the owner or other person entitled to possession only upon proof of ownership or right to possession. The sheriff may require reasonable security, bond, or other assurances of indemnification from a person who is not the registered owner of the vehicle prior to releasing the vehicle to that person.
- (4) The owner of a motor vehicle which has been impounded pursuant to this section or other person entitled to possession may challenge the validity of the impoundment and request in writing a hearing before the hearing board. The hearing shall be conducted within ten (10) business days of the date of the request, unless the owner or other person entitled to possession waives the right to the hearing or the sheriff shows good cause for the delay. The sheriff shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond in an amount equal to the fees accrued as of the date of the hearing request, or seventy-five dollars (\$75), whichever is less. If the owner or person claiming possession of the vehicle is unable to pay the amount of the bond, the hearing shall be held within seventy-two (72) hours of the date the request for the hearing is received, unless that person requests or agrees to a continuance.
- (5)
 - (a) At least five (5) days prior to the date set for the hearing, the sheriff shall notify the person requesting the hearing of the date, time, and place of the hearing. In the case of a hearing required to be held within seventy-two (72) hours of the date of the request as provided in subsection (4) of this section, the person requesting the hearing shall be informed at the time of his or her request, or as soon thereafter as is practicable, of the date, time, and place of the hearing.
 - (b) Any person who refuses or, except for good cause, fails to appear at the date, time, and place set for the hearing shall be deemed to have conceded on that person's and owner's behalf that the impoundment was valid and reasonable.
 - (c) At the hearing, after consideration of the evidence, the board shall determine whether the impoundment was valid and reasonable. If the

board determines the impoundment was:

1. Valid and reasonable, the board shall uphold the impoundment and condition the release of the vehicle upon payment of all fees accruing thereto. If a bond was posted as security for release of the vehicle, the bond shall be forfeited to the sheriff. Any fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to the sheriff; or
2. Not valid and reasonable, an order releasing the vehicle shall be entered. All fees paid or amounts posted as bond because of the impoundment of the vehicle shall be returned.

The board shall furnish the owner or person appearing on the owner's behalf with a copy of its order.

- (d) The board may consider a parking citation and any other written report made under oath by the issuing officer in lieu of the officer's personal appearance at the hearing.
- (e) An appeal from the hearing board's determination may be made to the District Court of the county in which the sheriff is located within seven (7) days of the board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on the sheriff to establish that the impoundment was valid and reasonable. If the court finds that the impoundment was:
 1. Valid and reasonable, the owner shall be ordered to pay all fees accruing thereto as of the date of judgment; or
 2. Not valid and reasonable, the sheriff shall be ordered to release the vehicle, if applicable, and to return all fees paid as a result of the impoundment and the plaintiff shall be authorized to recover his or her costs.
- (f) The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

Effective: March 22, 2019

History: Created 2019 Ky. Acts ch. 46, sec. 2, effective March 22, 2019.