



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0066

Introduced 1/26/2005, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-203

from Ch. 95 1/2, par. 4-203

Amends the Illinois Vehicle Code. Provides that vehicles that are towed or relocated at the request of the owner or operator (as well as those towed or relocated because they are abandoned, lost, stolen, or unclaimed) are subject to a lien under the Labor and Storage Lien (Small Amount) Act. Provides that the provisions of that Act regarding the maximum amount of the lien do not apply to liens covered by the Vehicle Code provision. Provides that with certain enumerated exceptions, personal property in a vehicle subject to a lien under the Code provision is also subject to that lien. Limits the amounts of liens under the provision. Provides that a relocater or other towing service that accepts a properly signed credit card receipt becomes a holder in due course, and neither the holder of the credit card nor the company that issued the credit card may refuse to pay the amount charged, minus the processing charge assessed by the credit card company. Effective immediately.

LRB094 05931 DRH 35985 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 4-203 as follows:

6 (625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

7 Sec. 4-203. Removal of motor vehicles or other vehicles;
8 Towing or hauling away.

9 (a) When a vehicle is abandoned, or left unattended, on a
10 toll highway, interstate highway, or expressway for 2 hours or
11 more, its removal by a towing service may be authorized by a
12 law enforcement agency having jurisdiction.

13 (b) When a vehicle is abandoned on a highway in an urban
14 district 10 hours or more, its removal by a towing service may
15 be authorized by a law enforcement agency having jurisdiction.

16 (c) When a vehicle is abandoned or left unattended on a
17 highway other than a toll highway, interstate highway, or
18 expressway, outside of an urban district for 24 hours or more,
19 its removal by a towing service may be authorized by a law
20 enforcement agency having jurisdiction.

21 (d) When an abandoned, unattended, wrecked, burned or
22 partially dismantled vehicle is creating a traffic hazard
23 because of its position in relation to the highway or its
24 physical appearance is causing the impeding of traffic, its
25 immediate removal from the highway or private property adjacent
26 to the highway by a towing service may be authorized by a law
27 enforcement agency having jurisdiction.

28 (e) Whenever a peace officer reasonably believes that a
29 person under arrest for a violation of Section 11-501 of this
30 Code or a similar provision of a local ordinance is likely,
31 upon release, to commit a subsequent violation of Section
32 11-501, or a similar provision of a local ordinance, the

1 arresting officer shall have the vehicle which the person was
2 operating at the time of the arrest impounded for a period of
3 not more than 12 hours after the time of arrest. However, such
4 vehicle may be released by the arresting law enforcement agency
5 prior to the end of the impoundment period if:

6 (1) the vehicle was not owned by the person under
7 arrest, and the lawful owner requesting such release
8 possesses a valid operator's license, proof of ownership,
9 and would not, as determined by the arresting law
10 enforcement agency, indicate a lack of ability to operate a
11 motor vehicle in a safe manner, or who would otherwise, by
12 operating such motor vehicle, be in violation of this Code;
13 or

14 (2) the vehicle is owned by the person under arrest,
15 and the person under arrest gives permission to another
16 person to operate such vehicle, provided however, that the
17 other person possesses a valid operator's license and would
18 not, as determined by the arresting law enforcement agency,
19 indicate a lack of ability to operate a motor vehicle in a
20 safe manner or who would otherwise, by operating such motor
21 vehicle, be in violation of this Code.

22 (e-5) Whenever a registered owner of a vehicle is taken
23 into custody for operating the vehicle in violation of Section
24 11-501 of this Code or a similar provision of a local ordinance
25 or Section 6-303 of this Code, a law enforcement officer may
26 have the vehicle immediately impounded for a period not less
27 than:

28 (1) 24 hours for a second violation of Section 11-501
29 of this Code or a similar provision of a local ordinance or
30 Section 6-303 of this Code or a combination of these
31 offenses; or

32 (2) 48 hours for a third violation of Section 11-501 of
33 this Code or a similar provision of a local ordinance or
34 Section 6-303 of this Code or a combination of these
35 offenses.

36 The vehicle may be released sooner if the vehicle is owned

1 by the person under arrest and the person under arrest gives
2 permission to another person to operate the vehicle and that
3 other person possesses a valid operator's license and would
4 not, as determined by the arresting law enforcement agency,
5 indicate a lack of ability to operate a motor vehicle in a safe
6 manner or would otherwise, by operating the motor vehicle, be
7 in violation of this Code.

8 (f) Except as provided in Chapter 18a of this Code, the
9 owner or lessor of privately owned real property within this
10 State, or any person authorized by such owner or lessor, or any
11 law enforcement agency in the case of publicly owned real
12 property may cause any motor vehicle abandoned or left
13 unattended upon such property without permission to be removed
14 by a towing service without liability for the costs of removal,
15 transportation or storage or damage caused by such removal,
16 transportation or storage. The towing or removal of any vehicle
17 from private property without the consent of the registered
18 owner or other legally authorized person in control of the
19 vehicle is subject to compliance with the following conditions
20 and restrictions:

21 1. Any towed or removed vehicle must be stored at the
22 site of the towing service's place of business. The site
23 must be open during business hours, and for the purpose of
24 redemption of vehicles, during the time that the person or
25 firm towing such vehicle is open for towing purposes.

26 2. The towing service shall within 30 minutes of
27 completion of such towing or removal, notify the law
28 enforcement agency having jurisdiction of such towing or
29 removal, and the make, model, color and license plate
30 number of the vehicle, and shall obtain and record the name
31 of the person at the law enforcement agency to whom such
32 information was reported.

33 3. If the registered owner or legally authorized person
34 entitled to possession of the vehicle shall arrive at the
35 scene prior to actual removal or towing of the vehicle, the
36 vehicle shall be disconnected from the tow truck and that

1 person shall be allowed to remove the vehicle without
2 interference, upon the payment of a reasonable service fee
3 of not more than one half the posted rate of the towing
4 service as provided in paragraph 6 of this subsection, for
5 which a receipt shall be given.

6 4. The rebate or payment of money or any other valuable
7 consideration from the towing service or its owners,
8 managers or employees to the owners or operators of the
9 premises from which the vehicles are towed or removed, for
10 the privilege of removing or towing those vehicles, is
11 prohibited. Any individual who violates this paragraph
12 shall be guilty of a Class A misdemeanor.

13 5. Except for property appurtenant to and obviously a
14 part of a single family residence, and except for instances
15 where notice is personally given to the owner or other
16 legally authorized person in control of the vehicle that
17 the area in which that vehicle is parked is reserved or
18 otherwise unavailable to unauthorized vehicles and they
19 are subject to being removed at the owner or operator's
20 expense, any property owner or lessor, prior to towing or
21 removing any vehicle from private property without the
22 consent of the owner or other legally authorized person in
23 control of that vehicle, must post a notice meeting the
24 following requirements:

25 a. The notice must be prominently placed at each
26 driveway access or curb cut allowing vehicular access
27 to the property within 5 feet from the public
28 right-of-way line. If there are no curbs or access
29 barriers, the sign must be posted not less than one
30 sign each 100 feet of lot frontage.

31 b. The notice must indicate clearly, in not less
32 than 2 inch high light-reflective letters on a
33 contrasting background, that unauthorized vehicles
34 will be towed away at the owner's expense.

35 c. The notice must also provide the name and
36 current telephone number of the towing service towing

1 or removing the vehicle.

2 d. The sign structure containing the required
3 notices must be permanently installed with the bottom
4 of the sign not less than 4 feet above ground level,
5 and must be continuously maintained on the property for
6 not less than 24 hours prior to the towing or removing
7 of any vehicle.

8 6. Any towing service that tows or removes vehicles and
9 proposes to require the owner, operator, or person in
10 control of the vehicle to pay the costs of towing and
11 storage prior to redemption of the vehicle must file and
12 keep on record with the local law enforcement agency a
13 complete copy of the current rates to be charged for such
14 services, and post at the storage site an identical rate
15 schedule and any written contracts with property owners,
16 lessors, or persons in control of property which authorize
17 them to remove vehicles as provided in this Section.

18 7. No person shall engage in the removal of vehicles
19 from private property as described in this Section without
20 filing a notice of intent in each community where he
21 intends to do such removal, and such notice shall be filed
22 at least 7 days before commencing such towing.

23 8. No removal of a vehicle from private property shall
24 be done except upon express written instructions of the
25 owners or persons in charge of the private property upon
26 which the vehicle is said to be trespassing.

27 9. Vehicle entry for the purpose of removal shall be
28 allowed with reasonable care on the part of the person or
29 firm towing the vehicle. Such person or firm shall be
30 liable for any damages occasioned to the vehicle if such
31 entry is not in accordance with the standards of reasonable
32 care.

33 10. When a vehicle has been towed or removed pursuant
34 to this Section, it must be released to its owner or
35 custodian within one half hour after requested, if such
36 request is made during business hours. Any vehicle owner or

1 custodian or agent shall have the right to inspect the
2 vehicle before accepting its return, and no release or
3 waiver of any kind which would release the towing service
4 from liability for damages incurred during the towing and
5 storage may be required from any vehicle owner or other
6 legally authorized person as a condition of release of the
7 vehicle. A detailed, signed receipt showing the legal name
8 of the towing service must be given to the person paying
9 towing or storage charges at the time of payment, whether
10 requested or not.

11 This Section shall not apply to law enforcement,
12 firefighting, rescue, ambulance, or other emergency vehicles
13 which are marked as such or to property owned by any
14 governmental entity.

15 When an authorized person improperly causes a motor vehicle
16 to be removed, such person shall be liable to the owner or
17 lessee of the vehicle for the cost or removal, transportation
18 and storage, any damages resulting from the removal,
19 transportation and storage, attorney's fee and court costs.

20 Any towing or storage charges accrued shall be payable by
21 the use of any major credit card, in addition to being payable
22 in cash.

23 11. Towing companies shall also provide insurance
24 coverage for areas where vehicles towed under the
25 provisions of this Chapter will be impounded or otherwise
26 stored, and shall adequately cover loss by fire, theft or
27 other risks.

28 Any person who fails to comply with the conditions and
29 restrictions of this subsection shall be guilty of a Class C
30 misdemeanor and shall be fined not less than \$100 nor more than
31 \$500.

32 (g) When a vehicle is determined to be a hazardous
33 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
34 Illinois Municipal Code, its removal and impoundment by a
35 towing service may be authorized by a law enforcement agency
36 with appropriate jurisdiction.

1 When a vehicle removal from either public or private
2 property is authorized by a law enforcement agency, the owner
3 of the vehicle shall be responsible for all towing and storage
4 charges.

5 Vehicles removed from public or private property and stored
6 by a commercial vehicle relocater or any other towing service
7 in compliance with this Section and Sections 4-201 and 4-202 of
8 this Code, or at the request of the vehicle owner or operator,
9 shall be subject to a possessor lien for services pursuant to
10 the Labor and Storage Lien (Small Amount) Act; however, the
11 provisions of that Act governing the maximum amount of such a
12 lien do not apply to any lien covered by this subsection. "~~An~~
13 Act concerning liens for labor, services, skill or materials
14 furnished upon or storage furnished for chattels", filed July
15 24, 1941, as amended, and The provisions of Section 1 of that
16 Act relating to notice and implied consent shall be deemed
17 satisfied by compliance with Section 18a-302 and subsection (6)
18 of Section 18a-300. In no event shall such lien be greater than
19 the rate or rates established in accordance with subsection (6)
20 of Section 18a-200 of this Code. In no event shall such lien be
21 increased or altered to reflect any charge for services or
22 materials rendered in addition to those authorized by this Act.
23 Every such lien shall be payable by use of any major credit
24 card, in addition to being payable in cash.

25 Any personal property in a vehicle subject to a lien under
26 this subsection (g) shall likewise be subject to that lien,
27 excepting only: food; medicine; perishable property; any
28 operator's licenses; any cash, credit cards, or checks or
29 checkbooks; and any wallet, purse, or other property containing
30 any operator's license or other identifying documents or
31 materials, cash, credit cards, checks, or checkbooks.

32 No lien under this subsection (g) shall: exceed \$5,000 in
33 its total amount; or be increased or altered to reflect any
34 charge for services or materials rendered in addition to those
35 authorized by this Act.

36 Upon receipt of a properly signed credit card receipt, a

1 relocator or other towing service shall become a holder in due
2 course, and neither the holder of the credit card nor the
3 company which issued the credit card may thereafter refuse to
4 remit payment in the amount shown on the credit card receipt
5 minus the ordinary charge assessed by the credit card company
6 for processing the charge.

7 (Source: P.A. 90-738, eff. 1-1-99.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.