

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 Sections 18a-100, 18a-101, 18a-200, 18a-500, and 18a-501 and by
6 adding Sections 18a-308, 18a-309, 18a-310, 18a-311, 18a-312,
7 18a-313, 18a-314, and 18a-315 as follows:

8 (625 ILCS 5/18a-100) (from Ch. 95 1/2, par. 18a-100)

9 Sec. 18a-100. Definitions. As used in this Chapter: (1)
10 "Commercial vehicle relocater" or "relocater" means any person
11 or entity engaged in the business of removing trespassing
12 vehicles from private property or damaged or disabled vehicles
13 from public or private property by means of towing or
14 otherwise, and thereafter relocating and storing such
15 vehicles;

16 (2) "Commission" means the Illinois Commerce Commission;

17 (3) "Operator" means any person who, as an employee of a
18 commercial vehicle relocater, removes trespassing vehicles
19 from private property or damaged or disabled vehicles from
20 public or private property by means of towing or otherwise.

21 This term includes the driver of any vehicle used in removing a
22 trespassing vehicle from private property, as well as any
23 person other than the driver who assists in the removal of a

1 trespassing vehicle from private property;

2 (4) "Operator's employment permit" means a license issued
3 to an operator in accordance with Sections 18a-403 or 18a-405
4 of this Chapter;

5 (5) "Relocator's license" means a license issued to a
6 commercial vehicle relocator in accordance with Sections
7 18a-400 or 18a-401 of this Chapter;

8 (6) "Dispatcher" means any person who, as an employee or
9 agent of a commercial vehicle relocator, dispatches vehicles to
10 or from locations from which operators perform removal
11 activities; and

12 (7) "Dispatcher's employment permit" means a license
13 issued to a dispatcher in accordance with Sections 18a-407 or
14 18a-408 of this Chapter.

15 (Source: P.A. 85-923.)

16 (625 ILCS 5/18a-101) (from Ch. 95 1/2, par. 18a-101)

17 Sec. 18a-101. Declaration of policy and delegation of
18 jurisdiction. It is hereby declared to be the policy of the
19 State of Illinois to supervise and regulate the commercial
20 removal of trespassing vehicles from private property and
21 damaged or disabled vehicles from public or private property,
22 and the subsequent relocation and storage of such vehicles in
23 such manner as to fairly distribute rights and responsibilities
24 among vehicle owners, private property owners and commercial
25 vehicle relocators, and for this purpose the power and

1 authority to administer and to enforce the provisions of this
2 Chapter shall be vested in the Illinois Commerce Commission.

3 (Source: P.A. 80-1459.)

4 (625 ILCS 5/18a-200) (from Ch. 95 1/2, par. 18a-200)

5 Sec. 18a-200. General powers and duties of Commission. The
6 Commission shall:

7 (1) Regulate commercial vehicle relocators and their
8 employees or agents in accordance with this Chapter and to that
9 end may establish reasonable requirements with respect to
10 proper service and practices relating thereto;

11 (2) Require the maintenance of uniform systems of accounts,
12 records and the preservation thereof;

13 (3) Require that all drivers and other personnel used in
14 relocation be employees of a licensed relocater;

15 (4) Regulate equipment leasing to and by relocators;

16 (5) Adopt reasonable and proper rules covering the exercise
17 of powers conferred upon it by this Chapter, and reasonable
18 rules governing investigations, hearings and proceedings under
19 this Chapter;

20 (6) Set reasonable rates for the commercial towing or
21 removal of trespassing vehicles from private property and
22 damaged or disabled vehicles from public or private property.

23 The rates shall not exceed the mean average of the 5 highest
24 rates for police tows within the territory to which this
25 Chapter applies that are performed under Sections 4-201 and

1 4-214 of this Code and that are of record at hearing; provided
2 that the Commission shall not re-calculate the maximum
3 specified herein if the order containing the previous
4 calculation was entered within one calendar year of the date on
5 which the new order is entered. Set reasonable rates for the
6 storage, for periods in excess of 24 hours, of the vehicles in
7 connection with the towing or removal; however, no relocater
8 shall impose charges for storage for the first 24 hours after
9 towing or removal. Set reasonable rates for other services
10 provided by relocators, provided that the rates shall not be
11 charged to the owner or operator of a relocated vehicle. Any
12 fee charged by a relocater for the use of a credit card that is
13 used to pay for any service rendered by the relocater shall be
14 included in the total amount that shall not exceed the maximum
15 reasonable rate established by the Commission. The Commission
16 shall require a relocater to refund any amount charged in
17 excess of the reasonable rate established by the Commission,
18 including any fee for the use of a credit card;

19 (7) Investigate and maintain current files of the criminal
20 records, if any, of all relocators and their employees and of
21 all applicants for relocater's license, operator's licenses
22 and dispatcher's licenses. If the Commission determines that an
23 applicant for a license issued under this Chapter will be
24 subjected to a criminal history records check, the applicant
25 shall submit his or her fingerprints to the Department of State
26 Police in the form and manner prescribed by the Department of

1 State Police. These fingerprints shall be checked against the
2 Department of State Police and Federal Bureau of Investigation
3 criminal history record information databases now and
4 hereafter filed. The Department of State Police shall charge
5 the applicant a fee for conducting the criminal history records
6 check, which shall be deposited in the State Police Services
7 Fund and shall not exceed the actual cost of the records check.
8 The Department of State Police shall furnish pursuant to
9 positive identification, records of conviction to the
10 Commission;

11 (8) Issue relocater's licenses, dispatcher's employment
12 permits, and operator's employment permits in accordance with
13 Article IV of this Chapter;

14 (9) Establish fitness standards for applicants seeking
15 relocater licensees and holders of relocater licenses;

16 (10) Upon verified complaint in writing by any person,
17 organization or body politic, or upon its own initiative may,
18 investigate whether any commercial vehicle relocater,
19 operator, dispatcher, or person otherwise required to comply
20 with any provision of this Chapter or any rule promulgated
21 hereunder, has failed to comply with any provision or rule;

22 (11) Whenever the Commission receives notice from the
23 Secretary of State that any domestic or foreign corporation
24 regulated under this Chapter has not paid a franchise tax,
25 license fee or penalty required under the Business Corporation
26 Act of 1983, institute proceedings for the revocation of the

1 license or right to engage in any business required under this
2 Chapter or the suspension thereof until such time as the
3 delinquent franchise tax, license fee or penalty is paid;~~;~~

4 (12) Establish form disclosures for use by commercial
5 vehicle relocators and operators, including all material
6 disclosures that must be made to the vehicle owner or operator
7 before a vehicle is towed, as is required by Section 18a-308 of
8 this Code;

9 (13) Establish form invoices for use by commercial vehicle
10 relocators and operators, including all material disclosures
11 that must be made to the vehicle owner or operator upon the
12 vehicle owner or operator's demand for the return of his or her
13 vehicle, as is required by Section 18a-309 of this Code;

14 (14) Establish form contracts for use by commercial vehicle
15 relocators and operators that comply with all requirements of
16 this Code.

17 (Source: P.A. 93-418, eff. 1-1-04.)

18 (625 ILCS 5/18a-308 new)

19 Sec. 18a-308. Disclosure to vehicle owner or operator
20 before towing of damaged or disabled vehicle commences.

21 (a) A commercial vehicle relocator or operator shall not
22 commence the towing of a damaged or disabled vehicle without
23 specific authorization from the vehicle owner or operator after
24 the disclosures set forth in this Section.

25 (b) Every commercial vehicle relocator or operator shall,

1 before towing a damaged or disabled vehicle, give to each
2 vehicle owner or operator a written disclosure providing:

3 (1) The formal business name of the commercial vehicle
4 relocator or its operator, as registered with the Illinois
5 Secretary of State, and its business address and telephone
6 number.

7 (2) The address of the location to which the vehicle
8 shall be relocated by the operator.

9 (3) The cost of all relocation, storage, and any other
10 fees, without limitation, that the commercial vehicle
11 relocator or operator will charge for its services.

12 (4) An itemized description of the vehicle owner or
13 operator's rights under this Code, as follows:

14 "As a customer, you also have the following rights
15 under Illinois law:

16 (1) This written disclosure must be provided to you
17 before your vehicle is towed, providing the business
18 name, business address, address where the vehicle will
19 be towed, and a reliable telephone number;

20 (2) Before towing, you must be advised of the price
21 of all services;

22 (3) Upon your demand, a final invoice itemizing all
23 charges, as well as any damage to the vehicle upon its
24 receipt and return to you, must be provided;

25 (4) Upon your demand, your vehicle must be returned
26 during business hours, upon your prompt payment of all

1 reasonable fees, not to exceed those set by the
2 Illinois Commerce Commission;

3 (5) You have the right to pay all charges in cash
4 or by major credit card;

5 (6) Upon your demand, you must be provided with
6 proof of the existence of mandatory insurance insuring
7 against all risks associated with the transportation
8 and storage of your vehicle;

9 (7) You cannot be charged a fee in excess of the
10 maximum fees for all services as set by the Consumer
11 Services Division of the Illinois Commerce Commission,
12 which are as follows:"

13 (c) The commercial vehicle relocater or operator shall
14 provide a copy of the completed disclosure required by this
15 Section to the vehicle owner or operator, before towing the
16 damaged or disabled vehicle, and shall maintain an identical
17 copy of the completed disclosure in its records for a minimum
18 of 5 years after the transaction concludes.

19 (d) If the vehicle owner or operator is incapacitated,
20 incompetent, or otherwise unable to knowingly accept receipt of
21 the disclosure described in this Section, the commercial
22 vehicle relocater or operator shall provide a completed copy of
23 the disclosure to local law enforcement and, if known, the
24 vehicle owner or operator's automobile insurance company.

25 (e) If the commercial vehicle relocater or operator fails
26 to comply with the requirements of this Section, the commercial

1 vehicle relocater or operator shall be prohibited from seeking
2 any compensation whatsoever from the vehicle owner or operator,
3 including but not limited to any towing, storage, or other
4 incidental fees. Furthermore, if the commercial vehicle
5 relocater or operator fails to comply with the requirements of
6 this Section, any contracts entered into by the commercial
7 vehicle relocater or operator and the vehicle owner or operator
8 shall be deemed null, void, and unenforceable.

9 (625 ILCS 5/18a-309 new)

10 Sec. 18a-309. Disclosures to vehicle owners or operators;
11 invoices.

12 (a) Upon demand of the vehicle owner or operator, the
13 commercial vehicle relocater or operator shall provide an
14 itemized final invoice that fairly and accurately documents the
15 charges owed by the vehicle owner or operator for relocation of
16 damaged or disabled vehicles. The final estimate or invoice
17 shall accurately record in writing all of the items set forth
18 in this Section.

19 (b) The final invoice shall show the formal business name
20 of the commercial vehicle relocater or its operator, as
21 registered with the Illinois Secretary of State, its business
22 address and telephone number, the date of the invoice, the
23 odometer reading at the time the final invoice was prepared,
24 the name of the vehicle owner or operator, and the description
25 of the motor vehicle, including the motor vehicle

1 identification number. In addition, the invoice shall describe
2 any modifications made to the vehicle by the commercial vehicle
3 relocator or operator, any observable damage to the vehicle
4 upon its initial receipt by the commercial vehicle relocator or
5 operator, and any observable damage to the vehicle at the time
6 of its release to the vehicle owner or operator. The invoice
7 shall itemize any additional charges and include those charges
8 in the total presented to the vehicle owner or operator.

9 (c) A legible copy of the invoice shall be given to the
10 vehicle owner or operator, and a legible copy shall be retained
11 by the collision repair facility for a period of 5 years from
12 the date of release of the vehicle. The copy may be retained in
13 electronic format. Records may be stored at a separate
14 location.

15 (625 ILCS 5/18a-310 new)

16 Sec. 18a-310. Disclosures to vehicle owners or operators;
17 required signs. Every commercial vehicle relocator's or
18 operator's storage facility that relocates or stores damaged or
19 disabled vehicles shall post, in a prominent place on the
20 business premises, one or more signs, readily visible to
21 customers, in the following form:

22 YOUR CUSTOMER RIGHTS. YOU ARE ENTITLED BY LAW TO:

23 1. BEFORE TOWING, A WRITTEN DISCLOSURE STATING THE NAME
24 OF THE TOWING AND STORAGE SERVICE, ITS BUSINESS ADDRESS AND
25 TELEPHONE NUMBER, AND THE ADDRESS WHERE THE VEHICLE WAS TO

1 BE TOWED.

2 2. BEFORE TOWING, THE PRICE OF ALL CHARGES FOR THE
3 TOWING AND STORAGE OF YOUR VEHICLE.

4 3. UPON YOUR DEMAND FOR THE RETURN OF YOUR VEHICLE, A
5 FINAL INVOICE ITEMIZING ALL CHARGES FOR TOWING, STORAGE, OR
6 ANY OTHER SERVICES PROVIDED, AS WELL AS ANY DAMAGE
7 IDENTIFIED TO THE VEHICLE AT THE TIME IT WAS TAKEN BY THE
8 TOWING AND STORAGE FACILITY, AS WELL AS ANY DAMAGE TO THE
9 VEHICLE IDENTIFIED UPON ITS RELEASE TO YOU.

10 4. THE RETURN OF YOUR VEHICLE, UPON YOUR DEMAND FOR ITS
11 RETURN DURING BUSINESS HOURS AND YOUR PROMPT PAYMENT OF ALL
12 REASONABLE FEES, NOT TO EXCEED THOSE SET BY THE ILLINOIS
13 COMMERCE COMMISSION, AS DETAILED BELOW.

14 5. PAY ALL CHARGES IN CASH OR BY MAJOR CREDIT CARD.

15 6. UPON YOUR DEMAND, PROOF OF THE EXISTENCE OF
16 INSURANCE, WHICH THE COMMERCIAL VEHICLE RELOCATOR MUST
17 MAINTAIN TO INSURE AGAINST RISK OF DAMAGE TO YOUR VEHICLE
18 IN TRANSIT AND WHILE IN STORAGE.

19 IF THE COMMERCIAL VEHICLE RELOCATOR HAS COMPLIED WITH
20 THE ABOVE RIGHTS, YOU ARE REQUIRED, BEFORE TAKING THE
21 VEHICLE FROM THE PREMISES, TO PAY FOR THE SERVICES PROVIDED
22 BY THE COMMERCIAL VEHICLE RELOCATOR, IN AN AMOUNT NOT IN
23 EXCESS OF THOSE FEES SET BY THE ILLINOIS COMMERCE
24 COMMISSION.

25 THE ILLINOIS COMMERCE COMMISSION HAS SET THE FOLLOWING
26 MAXIMUM FEES FOR SERVICES:

1 The first line of each sign shall be in letters not less
2 than 1.5 inches in height, and the remaining lines shall be in
3 letters not less than one-half inch in height.

4 (625 ILCS 5/18a-311 new)

5 Sec. 18a-311. Record keeping. Every commercial vehicle
6 relocator and operator engaged in relocation or storage of
7 damaged or disabled vehicles shall maintain copies of (i) all
8 disclosures provided to vehicle owners or operators as required
9 under Section 18a-308 and (ii) all invoices provided to vehicle
10 owners or operators as required under Section 18a-309. The
11 copies may be maintained in an electronic format, shall be kept
12 for 5 years, and shall be available for inspection by the
13 Attorney General.

14 (625 ILCS 5/18a-312 new)

15 Sec. 18a-312. Waiver or limitation of liability
16 prohibited.

17 (a) Commercial vehicle relocators or operators engaged in
18 the relocation or storage of damaged or disabled vehicles shall
19 be prohibited from including a clause in contracts for the
20 relocation or storage of vehicles purporting to waive or limit
21 the commercial vehicle relocator's or operator's liability
22 under this Code, in tort or contract, or under any other
23 cognizable cause of action available to the vehicle owner or
24 operator.

1 (b) Commercial vehicle relocators or operators are
2 prohibited from requiring the vehicle owner or operator to sign
3 or agree to any document purporting to waive or limit the
4 commercial vehicle relocators' and operators' liability under
5 this Code, in tort or contract, or under any other cognizable
6 cause of action available to the vehicle owner or operator.

7 (c) Any contract, release, or other document purporting to
8 waive or limit the commercial vehicle relocators' or operators'
9 liability under this Code, in tort or contract, or under any
10 other cognizable cause of action available to the vehicle owner
11 or operator, shall be deemed null, void, and unenforceable.

12 (625 ILCS 5/18a-313 new)

13 Sec. 18a-313. Unlawful practice. Any commercial vehicle
14 relocator or operator engaged in the relocation or storage of
15 damaged or disabled vehicles who fails to comply with Sections
16 18a-308, 18a-309, 18a-310, 18a-312, or 18a-500 of this Code
17 commits an unlawful practice within the meaning of the Consumer
18 Fraud and Deceptive Business Practices Act.

19 (625 ILCS 5/18a-314 new)

20 Sec. 18a-314. Charges payable in cash or by major credit
21 card. Any towing or storage charges accrued by the vehicle
22 owner or operator shall be payable by the use of any major
23 credit card, in addition to being payable in cash.

1 (625 ILCS 5/18a-315 new)

2 Sec. 18a-315. Mandatory insurance coverage.

3 (a) A commercial vehicle relocater or operator shall
4 provide insurance coverage for all risks associated with the
5 transportation of vehicles towed under this Chapter, as well as
6 for areas where vehicles towed under this Chapter are impounded
7 or otherwise stored, and shall adequately cover loss by fire,
8 theft, or other risks.

9 (b) Upon the demand of the vehicle owner or operator, a
10 commercial vehicle relocater or operator shall promptly supply
11 proof of the existence of this insurance.

12 (c) Any person who fails to comply with the conditions and
13 restrictions of this subsection shall be guilty of a Class C
14 misdemeanor and shall be fined not less than \$100 nor more than
15 \$500.

16 (625 ILCS 5/18a-500) (from Ch. 95 1/2, par. 18a-500)

17 Sec. 18a-500. Posting of rates. Every commercial vehicle
18 relocater shall print and keep open to the public, all
19 authorized rates and charges for towing, otherwise moving, and
20 storing vehicles in connection with removal of unauthorized
21 vehicles from private property or damaged or disabled vehicles
22 from public or private property. Such rates and charges shall
23 be clearly stated in terms of lawful money of the United
24 States, and shall be posted in such form and manner, and shall
25 contain such information as the Commission shall by regulation

1 prescribe.

2 (Source: P.A. 80-1459.)

3 (625 ILCS 5/18a-501) (from Ch. 95 1/2, par. 18a-501)

4 Sec. 18a-501. Liens against relocated vehicles.

5 (a) Except as otherwise provided in subsection (b), any
6 vehicle ~~Unauthorized vehicles~~ removed and stored by a
7 commercial vehicle relocater in compliance with this Chapter
8 shall be subject to a possessory lien for services pursuant to
9 the Labor and Storage Lien (Small Amount) Act, and the
10 provisions of Section 1 of that Act relating to notice and
11 implied consent shall be deemed satisfied by compliance with
12 Section 18a-302 and item (10) of Section 18a-300. In no event
13 shall such lien be greater than the rate or rates established
14 in accordance with item (6) of Section 18a-200. In no event
15 shall such lien be increased or altered to reflect any charge
16 for services or materials rendered in addition to those
17 authorized by this Act. Every such lien shall be payable by use
18 of any major credit card, in addition to being payable in cash.
19 Upon receipt of a properly signed credit card receipt, a
20 relocater shall become a holder in due course, and neither the
21 holder of the credit card nor the company which issued the
22 credit card may thereafter refuse to remit payment in the
23 amount shown on the credit card receipt minus the ordinary
24 charge assessed by the credit card company for processing the
25 charge. The Commission may adopt regulations governing

1 acceptance of credit cards by a relocater.

2 (b) A commercial vehicle relocater or operator that fails
3 to comply with Sections 18a-300, 18a-301, 18a-302, 18a-304,
4 18a-308, 18a-309, 18a-310, 18a-311, 18a-312, or 18a-500 of this
5 Code is barred from asserting a possessory or chattel lien for
6 the amount of any fees claimed for any towing, storage, or
7 other services provided.

8 (Source: P.A. 91-357, eff. 7-29-99.)

9 Section 10. The Consumer Fraud and Deceptive Business
10 Practices Act is amended by changing Section 2Z as follows:

11 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

12 Sec. 2Z. Violations of other Acts. Any person who knowingly
13 violates the Automotive Repair Act, the Automotive Collision
14 Repair Act, the Home Repair and Remodeling Act, the Dance
15 Studio Act, the Physical Fitness Services Act, the Hearing
16 Instrument Consumer Protection Act, the Illinois Union Label
17 Act, the Job Referral and Job Listing Services Consumer
18 Protection Act, the Travel Promotion Consumer Protection Act,
19 the Credit Services Organizations Act, the Automatic Telephone
20 Dialers Act, the Pay-Per-Call Services Consumer Protection
21 Act, the Telephone Solicitations Act, the Illinois Funeral or
22 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
23 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
24 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud

1 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
2 Act, the Payday Loan Reform Act, subsection (a) or (b) of
3 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
4 Act, paragraph (6) of subsection (k) of Section 6-305 of the
5 Illinois Vehicle Code, Section 18a-308, 18a-309, 18a-310,
6 18a-312, or 18a-500 of the Illinois Vehicle Code as provided in
7 Section 18a-313 of that Code, Article 3 of the Residential Real
8 Property Disclosure Act, the Automatic Contract Renewal Act, or
9 the Personal Information Protection Act commits an unlawful
10 practice within the meaning of this Act.

11 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
12 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
13 eff. 1-1-06; 94-822, eff. 1-1-07.)