



Sen. Edward D. Maloney

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LRB095 10586 DRH 31954 a

1 AMENDMENT TO SENATE BILL 435

2 AMENDMENT NO. _____. Amend Senate Bill 435 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 18a-100, 18a-101, 18a-200, 18a-500, and
6 18a-501 and by adding Sections 18a-308, 18a-309, 18a-310,
7 18a-311, 18a-312, 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;

1 (3) "Operator" means any person who, as an employee of a
2 commercial vehicle relocator, removes trespassing vehicles
3 from private property or damaged or disabled vehicles from
4 public or private property by means of towing or otherwise.
5 This term includes the driver of any vehicle used in removing a
6 trespassing vehicle from private property, as well as any
7 person other than the driver who assists in the removal of a
8 trespassing vehicle from private property;

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

12 (5) "Relocator's license" means a license issued to a
13 commercial vehicle relocator in accordance with Sections
14 18a-400 or 18a-401 of this Chapter;

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

19 (7) "Dispatcher's employment permit" means a license
20 issued to a dispatcher in accordance with Sections 18a-407 or
21 18a-408 of this Chapter.

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

23 (625 ILCS 5/18a-101) (from Ch. 95 1/2, par. 18a-101)
24 Sec. 18a-101. Declaration of policy and delegation of
25 jurisdiction. It is hereby declared to be the policy of the

1 State of Illinois to supervise and regulate the commercial
2 removal of trespassing vehicles from private property and
3 damaged or disabled vehicles from public or private property,
4 and the subsequent relocation and storage of such vehicles in
5 such manner as to fairly distribute rights and responsibilities
6 among vehicle owners, private property owners and commercial
7 vehicle relocators, and for this purpose the power and
8 authority to administer and to enforce the provisions of this
9 Chapter shall be vested in the Illinois Commerce Commission.

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

11 (625 ILCS 5/18a-200) (from Ch. 95 1/2, par. 18a-200)

12 Sec. 18a-200. General powers and duties of Commission. The
13 Commission shall:

14 (1) Regulate commercial vehicle relocators and their
15 employees or agents in accordance with this Chapter and to that
16 end may establish reasonable requirements with respect to
17 proper service and practices relating thereto;

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

20 (3) Require that all drivers and other personnel used in
21 relocation be employees of a licensed locator;

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

23 (5) Adopt reasonable and proper rules covering the exercise
24 of powers conferred upon it by this Chapter, and reasonable
25 rules governing investigations, hearings and proceedings under

1 this Chapter;

2 (6) Set reasonable rates for the commercial towing or
3 removal of trespassing vehicles from private property and
4 damaged or disabled vehicles from public or private property.

5 The rates shall not exceed the mean average of the 5 highest
6 rates for police tows within the territory to which this
7 Chapter applies that are performed under Sections 4-201 and
8 4-214 of this Code and that are of record at hearing; provided
9 that the Commission shall not re-calculate the maximum
10 specified herein if the order containing the previous
11 calculation was entered within one calendar year of the date on
12 which the new order is entered. Set reasonable rates for the
13 storage, for periods in excess of 24 hours, of the vehicles in
14 connection with the towing or removal; however, no relocater
15 shall impose charges for storage for the first 24 hours after
16 towing or removal. Set reasonable rates for other services
17 provided by relocators, provided that the rates shall not be
18 charged to the owner or operator of a relocated vehicle. Any
19 fee charged by a relocater for the use of a credit card that is
20 used to pay for any service rendered by the relocater shall be
21 included in the total amount that shall not exceed the maximum
22 reasonable rate established by the Commission. The Commission
23 shall require a relocater to refund any amount charged in
24 excess of the reasonable rate established by the Commission,
25 including any fee for the use of a credit card;

26 (7) Investigate and maintain current files of the criminal

1 records, if any, of all relocators and their employees and of
2 all applicants for relocator's license, operator's licenses
3 and dispatcher's licenses. If the Commission determines that an
4 applicant for a license issued under this Chapter will be
5 subjected to a criminal history records check, the applicant
6 shall submit his or her fingerprints to the Department of State
7 Police in the form and manner prescribed by the Department of
8 State Police. These fingerprints shall be checked against the
9 Department of State Police and Federal Bureau of Investigation
10 criminal history record information databases now and
11 hereafter filed. The Department of State Police shall charge
12 the applicant a fee for conducting the criminal history records
13 check, which shall be deposited in the State Police Services
14 Fund and shall not exceed the actual cost of the records check.
15 The Department of State Police shall furnish pursuant to
16 positive identification, records of conviction to the
17 Commission;

18 (8) Issue relocator's licenses, dispatcher's employment
19 permits, and operator's employment permits in accordance with
20 Article IV of this Chapter;

21 (9) Establish fitness standards for applicants seeking
22 relocator licensees and holders of relocator licenses;

23 (10) Upon verified complaint in writing by any person,
24 organization or body politic, or upon its own initiative may,
25 investigate whether any commercial vehicle relocator,
26 operator, dispatcher, or person otherwise required to comply

1 with any provision of this Chapter or any rule promulgated
2 hereunder, has failed to comply with any provision or rule;

3 (11) Whenever the Commission receives notice from the
4 Secretary of State that any domestic or foreign corporation
5 regulated under this Chapter has not paid a franchise tax,
6 license fee or penalty required under the Business Corporation
7 Act of 1983, institute proceedings for the revocation of the
8 license or right to engage in any business required under this
9 Chapter or the suspension thereof until such time as the
10 delinquent franchise tax, license fee or penalty is paid.

11 (12) Establish form disclosures for use by commercial
12 vehicle relocators and operators, including all material
13 disclosures that must be made to the vehicle owner or operator
14 before a vehicle is towed, as is required by Section 18a-308 of
15 this Code.

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

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

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

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

3 (a) A commercial vehicle relocater or operator shall not
4 commence the towing of a damaged or disabled vehicle without
5 specific authorization from the vehicle owner or operator after
6 the disclosures set forth in this Section.

7 (b) Every commercial vehicle relocater or operator shall,
8 before towing a damaged or disabled vehicle, give to each
9 vehicle owner or operator a written disclosure providing:

10 (1) The formal business name of the commercial vehicle
11 relocater or its operator, as registered with the Illinois
12 Secretary of State, and its business address and telephone
13 number.

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

16 (3) The cost of all relocation, storage, and any other
17 fees, without limitation, that the commercial vehicle
18 relocater or operator will charge for its services.

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

21 "As a customer, you also have the following rights
22 under Illinois law:

23 (1) This written disclosure must be provided to you
24 before your vehicle is towed, providing the business
25 name, business address, address where the vehicle will
26 be towed, and a reliable telephone number;

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

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

6 (4) Upon your demand, your vehicle must be returned
7 during business hours, upon your prompt payment of all
8 reasonable fees, not to exceed those set by the
9 Illinois Commerce Commission;

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

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

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

20 (c) The commercial vehicle relocater or operator shall
21 provide a copy of the completed disclosure required by this
22 Section to the vehicle owner or operator, before towing the
23 damaged or disabled vehicle, and shall maintain an identical
24 copy of the completed disclosure in its records for a minimum
25 of 5 years after the transaction concludes.

26 (d) If the vehicle owner or operator is incapacitated,

1 incompetent, or otherwise unable to knowingly accept receipt of
2 the disclosure described in this Section, the commercial
3 vehicle relocater or operator shall provide a completed copy of
4 the disclosure to local law enforcement and, if known, the
5 vehicle owner or operator's automobile insurance company.

6 (e) If the commercial vehicle relocater or operator fails
7 to comply with the requirements of this Section, the commercial
8 vehicle relocater or operator shall be prohibited from seeking
9 any compensation whatsoever from the vehicle owner or operator,
10 including but not limited to any towing, storage, or other
11 incidental fees. Furthermore, if the commercial vehicle
12 relocater or operator fails to comply with the requirements of
13 this Section, any contracts entered into by the commercial
14 vehicle relocater or operator and the vehicle owner or operator
15 shall be deemed null, void, and unenforceable.

16 (625 ILCS 5/18a-309 new)

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

19 (a) Upon demand of the vehicle owner or operator, the
20 commercial vehicle relocater or operator shall provide an
21 itemized final invoice that fairly and accurately documents the
22 charges owed by the vehicle owner or operator for relocation of
23 damaged or disabled vehicles. The final estimate or invoice
24 shall accurately record in writing all of the items set forth
25 in this Section.

1 (b) The final invoice shall show the formal business name
2 of the commercial vehicle relocater or its operator, as
3 registered with the Illinois Secretary of State, its business
4 address and telephone number, the date of the invoice, the
5 odometer reading at the time the final invoice was prepared,
6 the name of the vehicle owner or operator, and the description
7 of the motor vehicle, including the motor vehicle
8 identification number. In addition, the invoice shall describe
9 any modifications made to the vehicle by the commercial vehicle
10 relocater or operator, any observable damage to the vehicle
11 upon its initial receipt by the commercial vehicle relocater or
12 operator, and any observable damage to the vehicle at the time
13 of its release to the vehicle owner or operator. The invoice
14 shall itemize any additional charges and include those charges
15 in the total presented to the vehicle owner or operator.

16 (c) A legible copy of the invoice shall be given to the
17 vehicle owner or operator, and a legible copy shall be retained
18 by the collision repair facility for a period of 5 years from
19 the date of release of the vehicle. The copy may be retained in
20 electronic format. Records may be stored at a separate
21 location.

22 (625 ILCS 5/18a-310 new)

23 Sec. 18a-310. Disclosures to vehicle owners or operators;
24 required signs. Every commercial vehicle relocater's or
25 operator's storage facility that relocates or stores damaged or

1 disabled vehicles shall post, in a prominent place on the
2 business premises, one or more signs, readily visible to
3 customers, in the following form:

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

5 1. BEFORE TOWING, A WRITTEN DISCLOSURE STATING THE NAME
6 OF THE TOWING AND STORAGE SERVICE, ITS BUSINESS ADDRESS AND
7 TELEPHONE NUMBER, AND THE ADDRESS WHERE THE VEHICLE WAS TO
8 BE TOWED.

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

11 3. UPON YOUR DEMAND FOR THE RETURN OF YOUR VEHICLE, A
12 FINAL INVOICE ITEMIZING ALL CHARGES FOR TOWING, STORAGE, OR
13 ANY OTHER SERVICES PROVIDED, AS WELL AS ANY DAMAGE
14 IDENTIFIED TO THE VEHICLE AT THE TIME IT WAS TAKEN BY THE
15 TOWING AND STORAGE FACILITY, AS WELL AS ANY DAMAGE TO THE
16 VEHICLE IDENTIFIED UPON ITS RELEASE TO YOU.

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

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

22 6. UPON YOUR DEMAND, PROOF OF THE EXISTENCE OF
23 INSURANCE, WHICH THE COMMERCIAL VEHICLE RELOCATOR MUST
24 MAINTAIN TO INSURE AGAINST RISK OF DAMAGE TO YOUR VEHICLE
25 IN TRANSIT AND WHILE IN STORAGE.

26 IF THE COMMERCIAL VEHICLE RELOCATOR HAS COMPLIED WITH

1 THE ABOVE RIGHTS, YOU ARE REQUIRED, BEFORE TAKING THE
2 VEHICLE FROM THE PREMISES, TO PAY FOR THE SERVICES PROVIDED
3 BY THE COMMERCIAL VEHICLE RELOCATOR, IN AN AMOUNT NOT IN
4 EXCESS OF THOSE FEES SET BY THE ILLINOIS COMMERCE
5 COMMISSION.

6 THE ILLINOIS COMMERCE COMMISSION HAS SET THE FOLLOWING
7 MAXIMUM FEES FOR SERVICES:

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

11 (625 ILCS 5/18a-311 new)

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

21 (625 ILCS 5/18a-312 new)

22 Sec. 18a-312. Waiver or limitation of liability
23 prohibited.

24 (a) Commercial vehicle relocators or operators engaged in

1 the relocation or storage of damaged or disabled vehicles shall
2 be prohibited from including a clause in contracts for the
3 relocation or storage of vehicles purporting to waive or limit
4 the commercial vehicle relocators' or operator's liability
5 under this Code, in tort or contract, or under any other
6 cognizable cause of action available to the vehicle owner or
7 operator.

8 (b) Commercial vehicle relocators or operators are
9 prohibited from requiring the vehicle owner or operator to sign
10 or agree to any document purporting to waive or limit the
11 commercial vehicle relocators' and operator's liability under
12 this Code, in tort or contract, or under any other cognizable
13 cause of action available to the vehicle owner or operator.

14 (c) Any contract, release, or other document purporting to
15 wave or limit the commercial vehicle relocators' or operator's
16 liability under this Code, in tort or contract, or under any
17 other cognizable cause of action available to the vehicle owner
18 or operator, shall be deemed null, void, and unenforceable.

19 (625 ILCS 5/18a-313 new)

20 Sec. 18a-313. Unlawful practice. Any commercial vehicle
21 relocator or operator engaged in the relocation or storage of
22 damaged or disabled vehicles who fails to comply with Sections
23 18a-308, 18a-309, 18a-310, 18a-312, or 18a-500 of this Code
24 commits an unlawful practice within the meaning of the Consumer
25 Fraud and Deceptive Business Practices Act.

1 (625 ILCS 5/18a-314 new)

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

6 (625 ILCS 5/18a-315 new)

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

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

14 (b) Upon the demand of the vehicle owner or operator, a
15 commercial vehicle relocater or operator shall promptly supply
16 proof of the existence of this insurance.

17 (c) Any person who fails to comply with the conditions and
18 restrictions of this subsection shall be guilty of a Class C
19 misdemeanor and shall be fined not less than \$100 nor more than
20 \$500.

21 (625 ILCS 5/18a-500) (from Ch. 95 1/2, par. 18a-500)

22 Sec. 18a-500. Posting of rates. Every commercial vehicle
23 relocater shall print and keep open to the public, all

1 authorized rates and charges for towing, otherwise moving, and
2 storing vehicles in connection with removal of unauthorized
3 vehicles from private property or damaged or disabled vehicles
4 from public or private property. Such rates and charges shall
5 be clearly stated in terms of lawful money of the United
6 States, and shall be posted in such form and manner, and shall
7 contain such information as the Commission shall by regulation
8 prescribe.

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

10 (625 ILCS 5/18a-501) (from Ch. 95 1/2, par. 18a-501)

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

12 (a) Except as otherwise provided in subsection (b), any
13 vehicle ~~Unauthorized vehicles~~ removed and stored by a
14 commercial vehicle relocater in compliance with this Chapter
15 shall be subject to a possessory lien for services pursuant to
16 the Labor and Storage Lien (Small Amount) Act, and the
17 provisions of Section 1 of that Act relating to notice and
18 implied consent shall be deemed satisfied by compliance with
19 Section 18a-302 and item (10) of Section 18a-300. In no event
20 shall such lien be greater than the rate or rates established
21 in accordance with item (6) of Section 18a-200. In no event
22 shall such lien be increased or altered to reflect any charge
23 for services or materials rendered in addition to those
24 authorized by this Act. Every such lien shall be payable by use
25 of any major credit card, in addition to being payable in cash.

1 Upon receipt of a properly signed credit card receipt, a
2 relocater shall become a holder in due course, and neither the
3 holder of the credit card nor the company which issued the
4 credit card may thereafter refuse to remit payment in the
5 amount shown on the credit card receipt minus the ordinary
6 charge assessed by the credit card company for processing the
7 charge. The Commission may adopt regulations governing
8 acceptance of credit cards by a relocater.

9 (b) A commercial vehicle relocater or operator that fails
10 to comply with Sections 18a-300, 18a-301, 18a-302, 18a-304,
11 18a-308, 18a-309, 18a-310, 18a-311, 18a-312, or 18a-500 of this
12 Code is barred from asserting a possessory or chattel lien for
13 the amount of any fees claimed for any towing, storage, or
14 other services provided.

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

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

18 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

19 Sec. 2Z. Violations of other Acts. Any person who knowingly
20 violates the Automotive Repair Act, the Automotive Collision
21 Repair Act, the Home Repair and Remodeling Act, the Dance
22 Studio Act, the Physical Fitness Services Act, the Hearing
23 Instrument Consumer Protection Act, the Illinois Union Label
24 Act, the Job Referral and Job Listing Services Consumer

1 Protection Act, the Travel Promotion Consumer Protection Act,
2 the Credit Services Organizations Act, the Automatic Telephone
3 Dialers Act, the Pay-Per-Call Services Consumer Protection
4 Act, the Telephone Solicitations Act, the Illinois Funeral or
5 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
6 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
7 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
8 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
9 Act, the Payday Loan Reform Act, subsection (a) or (b) of
10 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
11 Act, paragraph (6) of subsection (k) of Section 6-305 of the
12 Illinois Vehicle Code, Section 18a-308, 18a-309, 18a-310,
13 18a-312, or 18a-500 of the Illinois Vehicle Code as provided in
14 Section 18a-313 of that Code, Article 3 of the Residential Real
15 Property Disclosure Act, the Automatic Contract Renewal Act, or
16 the Personal Information Protection Act commits an unlawful
17 practice within the meaning of this Act.

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