

HB4392



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4392

by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-203

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

Amends the Illinois Vehicle Code. Prohibits a towing service from performing a removal of a commercial motor vehicle under that vehicle's own power without the authorization of a law enforcement officer. Effective July 1, 2015.

LRB098 18826 MLW 53971 b

A BILL FOR

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

1 physical appearance is causing the impeding of traffic, its
2 immediate removal from the highway or private property adjacent
3 to the highway by a towing service may be authorized by a law
4 enforcement agency having jurisdiction.

5 (e) Whenever a peace officer reasonably believes that a
6 person under arrest for a violation of Section 11-501 of this
7 Code or a similar provision of a local ordinance is likely,
8 upon release, to commit a subsequent violation of Section
9 11-501, or a similar provision of a local ordinance, the
10 arresting officer shall have the vehicle which the person was
11 operating at the time of the arrest impounded for a period of
12 not more than 12 hours after the time of arrest. However, such
13 vehicle may be released by the arresting law enforcement agency
14 prior to the end of the impoundment period if:

15 (1) the vehicle was not owned by the person under
16 arrest, and the lawful owner requesting such release
17 possesses a valid operator's license, proof of ownership,
18 and would not, as determined by the arresting law
19 enforcement agency, indicate a lack of ability to operate a
20 motor vehicle in a safe manner, or who would otherwise, by
21 operating such motor vehicle, be in violation of this Code;
22 or

23 (2) the vehicle is owned by the person under arrest,
24 and the person under arrest gives permission to another
25 person to operate such vehicle, provided however, that the
26 other person possesses a valid operator's license and would

1 not, as determined by the arresting law enforcement agency,
2 indicate a lack of ability to operate a motor vehicle in a
3 safe manner or who would otherwise, by operating such motor
4 vehicle, be in violation of this Code.

5 (e-5) Whenever a registered owner of a vehicle is taken
6 into custody for operating the vehicle in violation of Section
7 11-501 of this Code or a similar provision of a local ordinance
8 or Section 6-303 of this Code, a law enforcement officer may
9 have the vehicle immediately impounded for a period not less
10 than:

11 (1) 24 hours for a second violation of Section 11-501
12 of this Code or a similar provision of a local ordinance or
13 Section 6-303 of this Code or a combination of these
14 offenses; or

15 (2) 48 hours for a third violation of Section 11-501 of
16 this Code or a similar provision of a local ordinance or
17 Section 6-303 of this Code or a combination of these
18 offenses.

19 The vehicle may be released sooner if the vehicle is owned
20 by the person under arrest and the person under arrest gives
21 permission to another person to operate the vehicle and that
22 other person possesses a valid operator's license and would
23 not, as determined by the arresting law enforcement agency,
24 indicate a lack of ability to operate a motor vehicle in a safe
25 manner or would otherwise, by operating the motor vehicle, be
26 in violation of this Code.

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

14 1. Any towed or removed vehicle must be stored at the
15 site of the towing service's place of business. The site
16 must be open during business hours, and for the purpose of
17 redemption of vehicles, during the time that the person or
18 firm towing such vehicle is open for towing purposes.

19 2. The towing service shall within 30 minutes of
20 completion of such towing or removal, notify the law
21 enforcement agency having jurisdiction of such towing or
22 removal, and the make, model, color and license plate
23 number of the vehicle, and shall obtain and record the name
24 of the person at the law enforcement agency to whom such
25 information was reported.

26 3. If the registered owner or legally authorized person

1 entitled to possession of the vehicle shall arrive at the
2 scene prior to actual removal or towing of the vehicle, the
3 vehicle shall be disconnected from the tow truck and that
4 person shall be allowed to remove the vehicle without
5 interference, upon the payment of a reasonable service fee
6 of not more than one half the posted rate of the towing
7 service as provided in paragraph 6 of this subsection, for
8 which a receipt shall be given.

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

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

1 following requirements:

2 a. Except as otherwise provided in subparagraph
3 a.1 of this subdivision (f)5, the notice must be
4 prominently placed at each driveway access or curb cut
5 allowing vehicular access to the property within 5 feet
6 from the public right-of-way line. If there are no
7 curbs or access barriers, the sign must be posted not
8 less than one sign each 100 feet of lot frontage.

9 a.1. In a municipality with a population of less
10 than 250,000, as an alternative to the requirement of
11 subparagraph a of this subdivision (f)5, the notice for
12 a parking lot contained within property used solely for
13 a 2-family, 3-family, or 4-family residence may be
14 prominently placed at the perimeter of the parking lot,
15 in a position where the notice is visible to the
16 occupants of vehicles entering the lot.

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

21 c. The notice must also provide the name and
22 current telephone number of the towing service towing
23 or removing the vehicle.

24 d. The sign structure containing the required
25 notices must be permanently installed with the bottom
26 of the sign not less than 4 feet above ground level,

1 and must be continuously maintained on the property for
2 not less than 24 hours prior to the towing or removing
3 of any vehicle.

4 6. Any towing service that tows or removes vehicles and
5 proposes to require the owner, operator, or person in
6 control of the vehicle to pay the costs of towing and
7 storage prior to redemption of the vehicle must file and
8 keep on record with the local law enforcement agency a
9 complete copy of the current rates to be charged for such
10 services, and post at the storage site an identical rate
11 schedule and any written contracts with property owners,
12 lessors, or persons in control of property which authorize
13 them to remove vehicles as provided in this Section. The
14 towing and storage charges, however, shall not exceed the
15 maximum allowed by the Illinois Commerce Commission under
16 Section 18a-200.

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

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

26 9. Vehicle entry for the purpose of removal shall be

1 allowed with reasonable care on the part of the person or
2 firm towing the vehicle. Such person or firm shall be
3 liable for any damages occasioned to the vehicle if such
4 entry is not in accordance with the standards of reasonable
5 care.

6 9.5. Except as authorized by a law enforcement officer,
7 no towing service shall engage in the removal of a
8 commercial motor vehicle by operating the vehicle under its
9 own power on a highway.

10 10. When a vehicle has been towed or removed pursuant
11 to this Section, it must be released to its owner or
12 custodian within one half hour after requested, if such
13 request is made during business hours. Any vehicle owner or
14 custodian or agent shall have the right to inspect the
15 vehicle before accepting its return, and no release or
16 waiver of any kind which would release the towing service
17 from liability for damages incurred during the towing and
18 storage may be required from any vehicle owner or other
19 legally authorized person as a condition of release of the
20 vehicle. A detailed, signed receipt showing the legal name
21 of the towing service must be given to the person paying
22 towing or storage charges at the time of payment, whether
23 requested or not.

24 This Section shall not apply to law enforcement,
25 firefighting, rescue, ambulance, or other emergency vehicles
26 which are marked as such or to property owned by any

1 governmental entity.

2 When an authorized person improperly causes a motor vehicle
3 to be removed, such person shall be liable to the owner or
4 lessee of the vehicle for the cost or removal, transportation
5 and storage, any damages resulting from the removal,
6 transportation and storage, attorney's fee and court costs.

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

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

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

19 (g)(1) When a vehicle is determined to be a hazardous
20 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
21 Illinois Municipal Code or Section 5-12002.1 of the Counties
22 Code, its removal and impoundment by a towing service may be
23 authorized by a law enforcement agency with appropriate
24 jurisdiction.

25 (2) When a vehicle removal from either public or private
26 property is authorized by a law enforcement agency, the owner

1 of the vehicle shall be responsible for all towing and storage
2 charges.

3 (3) Vehicles removed from public or private property and
4 stored by a commercial vehicle relocater or any other towing
5 service authorized by a law enforcement agency in compliance
6 with this Section and Sections 4-201 and 4-202 of this Code, or
7 at the request of the vehicle owner or operator, shall be
8 subject to a possessor lien for services pursuant to the Labor
9 and Storage Lien (Small Amount) Act. The provisions of Section
10 1 of that Act relating to notice and implied consent shall be
11 deemed satisfied by compliance with Section 18a-302 and
12 subsection (6) of Section 18a-300. In no event shall such lien
13 be greater than the rate or rates established in accordance
14 with subsection (6) of Section 18a-200 of this Code. In no
15 event shall such lien be increased or altered to reflect any
16 charge 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 (4) Any personal property belonging to the vehicle owner in
20 a vehicle subject to a lien under this subsection (g) shall
21 likewise be subject to that lien, excepting only: child
22 restraint systems as defined in Section 4 of the Child
23 Passenger Protection Act and other child booster seats;
24 eyeglasses; food; medicine; perishable property; any
25 operator's licenses; any cash, credit cards, or checks or
26 checkbooks; any wallet, purse, or other property containing any

1 operator's license or other identifying documents or
2 materials, cash, credit cards, checks, or checkbooks; and any
3 personal property belonging to a person other than the vehicle
4 owner if that person provides adequate proof that the personal
5 property belongs to that person. The spouse, child, mother,
6 father, brother, or sister of the vehicle owner may claim
7 personal property excepted under this paragraph (4) if the
8 person claiming the personal property provides the commercial
9 vehicle relocator or towing service with the authorization of
10 the vehicle owner.

11 (5) This paragraph (5) applies only in the case of a
12 vehicle that is towed as a result of being involved in an
13 accident. In addition to the personal property excepted under
14 paragraph (4), all other personal property in a vehicle subject
15 to a lien under this subsection (g) is exempt from that lien
16 and may be claimed by the vehicle owner if the vehicle owner
17 provides the commercial vehicle relocator or towing service
18 with proof that the vehicle owner has an insurance policy
19 covering towing and storage fees. The spouse, child, mother,
20 father, brother, or sister of the vehicle owner may claim
21 personal property in a vehicle subject to a lien under this
22 subsection (g) if the person claiming the personal property
23 provides the commercial vehicle relocator or towing service
24 with the authorization of the vehicle owner and proof that the
25 vehicle owner has an insurance policy covering towing and
26 storage fees. The regulation of liens on personal property and

1 exceptions to those liens in the case of vehicles towed as a
2 result of being involved in an accident are exclusive powers
3 and functions of the State. A home rule unit may not regulate
4 liens on personal property and exceptions to those liens in the
5 case of vehicles towed as a result of being involved in an
6 accident. This paragraph (5) is a denial and limitation of home
7 rule powers and functions under subsection (h) of Section 6 of
8 Article VII of the Illinois Constitution.

9 (6) No lien under this subsection (g) shall: exceed \$2,000
10 in its total amount; or be increased or altered to reflect any
11 charge for services or materials rendered in addition to those
12 authorized by this Act.

13 (h) Whenever a peace officer issues a citation to a driver
14 for a violation of subsection (a) of Section 11-506 of this
15 Code, the arresting officer may have the vehicle which the
16 person was operating at the time of the arrest impounded for a
17 period of 5 days after the time of arrest. An impounding agency
18 shall release a motor vehicle impounded under this subsection
19 (h) to the registered owner of the vehicle under any of the
20 following circumstances:

21 (1) If the vehicle is a stolen vehicle; or

22 (2) If the person ticketed for a violation of
23 subsection (a) of Section 11-506 of this Code was not
24 authorized by the registered owner of the vehicle to
25 operate the vehicle at the time of the violation; or

26 (3) If the registered owner of the vehicle was neither

1 the driver nor a passenger in the vehicle at the time of
2 the violation or was unaware that the driver was using the
3 vehicle to engage in street racing; or

4 (4) If the legal owner or registered owner of the
5 vehicle is a rental car agency; or

6 (5) If, prior to the expiration of the impoundment
7 period specified above, the citation is dismissed or the
8 defendant is found not guilty of the offense.

9 (Source: P.A. 96-1274, eff. 7-26-10; 96-1506, eff. 1-27-11;
10 97-779, eff. 7-13-12.)

11 Section 99. Effective date. This Act takes effect July 1,
12 2015.