



Sen. John M. Sullivan

Filed: 3/5/2013

09800SB1825sam001

LRB098 08969 MLW 42053 a

1 AMENDMENT TO SENATE BILL 1825

2 AMENDMENT NO. _____. Amend Senate Bill 1825 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 4-203 and 18a-300 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

1 highway other than a toll highway, interstate highway, or
2 expressway, outside of an urban district for 24 hours or more,
3 its removal by a towing service may be authorized by a law
4 enforcement agency having jurisdiction.

5 (d) When an abandoned, unattended, wrecked, burned or
6 partially dismantled vehicle is creating a traffic hazard
7 because of its position in relation to the highway or its
8 physical appearance is causing the impeding of traffic, its
9 immediate removal from the highway or private property adjacent
10 to the highway by a towing service may be authorized by a law
11 enforcement agency having jurisdiction.

12 (e) Whenever a peace officer reasonably believes that a
13 person under arrest for a violation of Section 11-501 of this
14 Code or a similar provision of a local ordinance is likely,
15 upon release, to commit a subsequent violation of Section
16 11-501, or a similar provision of a local ordinance, the
17 arresting officer shall have the vehicle which the person was
18 operating at the time of the arrest impounded for a period of
19 not more than 12 hours after the time of arrest. However, such
20 vehicle may be released by the arresting law enforcement agency
21 prior to the end of the impoundment period if:

22 (1) the vehicle was not owned by the person under
23 arrest, and the lawful owner requesting such release
24 possesses a valid operator's license, proof of ownership,
25 and would not, as determined by the arresting law
26 enforcement agency, indicate a lack of ability to operate a

1 motor vehicle in a safe manner, or who would otherwise, by
2 operating such motor vehicle, be in violation of this Code;
3 or

4 (2) the vehicle is owned by the person under arrest,
5 and the person under arrest gives permission to another
6 person to operate such vehicle, provided however, that the
7 other person possesses a valid operator's license and would
8 not, as determined by the arresting law enforcement agency,
9 indicate a lack of ability to operate a motor vehicle in a
10 safe manner or who would otherwise, by operating such motor
11 vehicle, be in violation of this Code.

12 (e-5) Whenever a registered owner of a vehicle is taken
13 into custody for operating the vehicle in violation of Section
14 11-501 of this Code or a similar provision of a local ordinance
15 or Section 6-303 of this Code, a law enforcement officer may
16 have the vehicle immediately impounded for a period not less
17 than:

18 (1) 24 hours for a second violation of Section 11-501
19 of this Code or a similar provision of a local ordinance or
20 Section 6-303 of this Code or a combination of these
21 offenses; or

22 (2) 48 hours for a third violation of Section 11-501 of
23 this Code or a similar provision of a local ordinance or
24 Section 6-303 of this Code or a combination of these
25 offenses.

26 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

1 completion of such towing or removal, notify the law
2 enforcement agency having jurisdiction of such towing or
3 removal, and the make, model, color and license plate
4 number of the vehicle, and shall obtain and record the name
5 of the person at the law enforcement agency to whom such
6 information was reported.

7 3. If the registered owner or legally authorized person
8 entitled to possession of the vehicle shall arrive at the
9 scene prior to actual removal or towing of the vehicle, the
10 vehicle shall be disconnected from the tow truck and that
11 person shall be allowed to remove the vehicle without
12 interference, upon the payment of a reasonable service fee
13 of not more than one half the posted rate of the towing
14 service as provided in paragraph 6 of this subsection, for
15 which a receipt shall be given.

16 4. The rebate or payment of money or any other valuable
17 consideration from the towing service or its owners,
18 managers or employees to the owners or operators of the
19 premises from which the vehicles are towed or removed, for
20 the privilege of removing or towing those vehicles, is
21 prohibited. Any individual who violates this paragraph
22 shall be guilty of a Class A misdemeanor.

23 5. Except for property appurtenant to and obviously a
24 part of a single family residence, and except for instances
25 where notice is personally given to the owner or other
26 legally authorized person in control of the vehicle that

1 the area in which that vehicle is parked is reserved or
2 otherwise unavailable to unauthorized vehicles and they
3 are subject to being removed at the owner or operator's
4 expense, any property owner or lessor, prior to towing or
5 removing any vehicle from private property without the
6 consent of the owner or other legally authorized person in
7 control of that vehicle, must post a notice meeting the
8 following requirements:

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

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

24 b. The notice must indicate clearly, in not less
25 than 2 inch high light-reflective letters on a
26 contrasting background, that unauthorized vehicles

1 will be towed away at the owner's expense.

2 c. The notice must also provide the name and
3 current telephone number of the towing service towing
4 or removing the vehicle.

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

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

24 7. No person shall engage in the removal of vehicles
25 from private property as described in this Section without
26 filing a notice of intent in each community where he

1 intends to do such removal, and such notice shall be filed
2 at least 7 days before commencing such towing.

3 8. No removal of a vehicle from private property shall
4 be done except upon express written instructions of the
5 owners or persons in charge of the private property upon
6 which the vehicle is said to be trespassing.

7 9. Vehicle entry for the purpose of removal shall be
8 allowed with reasonable care on the part of the person or
9 firm towing the vehicle. Such person or firm shall be
10 liable for any damages occasioned to the vehicle if such
11 entry is not in accordance with the standards of reasonable
12 care.

13 9.5. Except as authorized by a law enforcement officer,
14 no towing service shall engage in the removal of a
15 commercial motor vehicle by operating the vehicle under its
16 own power on a highway.

17 10. When a vehicle has been towed or removed pursuant
18 to this Section, it must be released to its owner or
19 custodian within one half hour after requested, if such
20 request is made during business hours. Any vehicle owner or
21 custodian or agent shall have the right to inspect the
22 vehicle before accepting its return, and no release or
23 waiver of any kind which would release the towing service
24 from liability for damages incurred during the towing and
25 storage may be required from any vehicle owner or other
26 legally authorized person as a condition of release of the

1 vehicle. A detailed, signed receipt showing the legal name
2 of the towing service must be given to the person paying
3 towing or storage charges at the time of payment, whether
4 requested or not.

5 This Section shall not apply to law enforcement,
6 firefighting, rescue, ambulance, or other emergency vehicles
7 which are marked as such or to property owned by any
8 governmental entity.

9 When an authorized person improperly causes a motor vehicle
10 to be removed, such person shall be liable to the owner or
11 lessee of the vehicle for the cost or removal, transportation
12 and storage, any damages resulting from the removal,
13 transportation and storage, attorney's fee and court costs.

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

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

22 Any person who fails to comply with the conditions and
23 restrictions of this subsection shall be guilty of a Class C
24 misdemeanor and shall be fined not less than \$100 nor more than
25 \$500.

26 (g) (1) When a vehicle is determined to be a hazardous

1 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
2 Illinois Municipal Code or Section 5-12002.1 of the Counties
3 Code, its removal and impoundment by a towing service may be
4 authorized by a law enforcement agency with appropriate
5 jurisdiction.

6 (2) When a vehicle removal from either public or private
7 property is authorized by a law enforcement agency, the owner
8 of the vehicle shall be responsible for all towing and storage
9 charges.

10 (3) Vehicles removed from public or private property and
11 stored by a commercial vehicle relocater or any other towing
12 service authorized by a law enforcement agency in compliance
13 with this Section and Sections 4-201 and 4-202 of this Code, or
14 at the request of the vehicle owner or operator, shall be
15 subject to a possessor lien for services pursuant to the Labor
16 and Storage Lien (Small Amount) Act. The provisions of Section
17 1 of that Act relating to notice and implied consent shall be
18 deemed satisfied by compliance with Section 18a-302 and
19 subsection (6) of Section 18a-300. In no event shall such lien
20 be greater than the rate or rates established in accordance
21 with subsection (6) of Section 18a-200 of this Code. In no
22 event shall such lien be increased or altered to reflect any
23 charge 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.

26 (4) Any personal property belonging to the vehicle owner in

1 a vehicle subject to a lien under this subsection (g) shall
2 likewise be subject to that lien, excepting only: child
3 restraint systems as defined in Section 4 of the Child
4 Passenger Protection Act and other child booster seats;
5 eyeglasses; food; medicine; perishable property; any
6 operator's licenses; any cash, credit cards, or checks or
7 checkbooks; any wallet, purse, or other property containing any
8 operator's license or other identifying documents or
9 materials, cash, credit cards, checks, or checkbooks; and any
10 personal property belonging to a person other than the vehicle
11 owner if that person provides adequate proof that the personal
12 property belongs to that person. The spouse, child, mother,
13 father, brother, or sister of the vehicle owner may claim
14 personal property excepted under this paragraph (4) if the
15 person claiming the personal property provides the commercial
16 vehicle relocater or towing service with the authorization of
17 the vehicle owner.

18 (5) This paragraph (5) applies only in the case of a
19 vehicle that is towed as a result of being involved in an
20 accident. In addition to the personal property excepted under
21 paragraph (4), all other personal property in a vehicle subject
22 to a lien under this subsection (g) is exempt from that lien
23 and may be claimed by the vehicle owner if the vehicle owner
24 provides the commercial vehicle relocater or towing service
25 with proof that the vehicle owner has an insurance policy
26 covering towing and storage fees. The spouse, child, mother,

1 father, brother, or sister of the vehicle owner may claim
2 personal property in a vehicle subject to a lien under this
3 subsection (g) if the person claiming the personal property
4 provides the commercial vehicle relocater or towing service
5 with the authorization of the vehicle owner and proof that the
6 vehicle owner has an insurance policy covering towing and
7 storage fees. The regulation of liens on personal property and
8 exceptions to those liens in the case of vehicles towed as a
9 result of being involved in an accident are exclusive powers
10 and functions of the State. A home rule unit may not regulate
11 liens on personal property and exceptions to those liens in the
12 case of vehicles towed as a result of being involved in an
13 accident. This paragraph (5) is a denial and limitation of home
14 rule powers and functions under subsection (h) of Section 6 of
15 Article VII of the Illinois Constitution.

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

20 (h) Whenever a peace officer issues a citation to a driver
21 for a violation of subsection (a) of Section 11-506 of this
22 Code, the arresting officer may have the vehicle which the
23 person was operating at the time of the arrest impounded for a
24 period of 5 days after the time of arrest. An impounding agency
25 shall release a motor vehicle impounded under this subsection
26 (h) to the registered owner of the vehicle under any of the

1 following circumstances:

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

3 (2) If the person ticketed for a violation of
4 subsection (a) of Section 11-506 of this Code was not
5 authorized by the registered owner of the vehicle to
6 operate the vehicle at the time of the violation; or

7 (3) If the registered owner of the vehicle was neither
8 the driver nor a passenger in the vehicle at the time of
9 the violation or was unaware that the driver was using the
10 vehicle to engage in street racing; or

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

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

16 (Source: P.A. 96-1274, eff. 7-26-10; 96-1506, eff. 1-27-11;
17 97-779, eff. 7-13-12.)

18 (625 ILCS 5/18a-300) (from Ch. 95 1/2, par. 18a-300)

19 Sec. 18a-300. Commercial vehicle relocators - Unlawful
20 practices. It shall be unlawful for any commercial vehicle
21 relocater:

22 (1) To operate in any county in which this Chapter is
23 applicable without a valid, current relocater's license as
24 provided in Article IV of this Chapter;

25 (2) To employ as an operator, or otherwise so use the

1 services of, any person who does not have at the
2 commencement of employment or service, or at any time
3 during the course of employment or service, a valid,
4 current operator's employment permit, or temporary
5 operator's employment permit issued in accordance with
6 Sections 18a-403 or 18a-405 of this Chapter; or to fail to
7 notify the Commission, in writing, of any known criminal
8 conviction of any employee occurring at any time before or
9 during the course of employment or service;

10 (3) To employ as a dispatcher, or otherwise so use the
11 services of, any person who does not have at the
12 commencement of employment or service, or at any time
13 during the course of employment or service, a valid,
14 current dispatcher's or operator's employment permit or
15 temporary dispatcher's or operator's employment permit
16 issued in accordance with Sections 18a-403 or 18a-407 of
17 this Chapter; or to fail to notify the Commission, in
18 writing, of any known criminal conviction of any employee
19 occurring at any time before or during the course of
20 employment or service;

21 (4) To operate upon the highways of this State any
22 vehicle used in connection with any commercial vehicle
23 relocation service unless:

24 (A) There is painted or firmly affixed to the
25 vehicle on both sides of the vehicle in a color or
26 colors vividly contrasting to the color of the vehicle

1 the name, address and telephone number of the
2 relocater. The Commission shall prescribe reasonable
3 rules and regulations pertaining to insignia to be
4 painted or firmly affixed to vehicles and shall waive
5 the requirements of the address on any vehicle in cases
6 where the operator of a vehicle has painted or
7 otherwise firmly affixed to the vehicle a seal or trade
8 mark that clearly identifies the operator of the
9 vehicle; and

10 (B) There is carried in the power unit of the
11 vehicle a certified copy of the currently effective
12 relocater's license and operator's employment permit.
13 Copies may be photographed, photocopied, or reproduced
14 or printed by any other legible and durable process.
15 Any person guilty of not causing to be displayed a copy
16 of his relocater's license and operator's employment
17 permit may in any hearing concerning the violation be
18 excused from the payment of the penalty hereinafter
19 provided upon a showing that the license was issued by
20 the Commission, but was subsequently lost or
21 destroyed;

22 (5) To operate upon the highways of this State any
23 vehicle used in connection with any commercial vehicle
24 relocation service that bears the name or address and
25 telephone number of any person or entity other than the
26 relocater by which it is owned or to which it is leased;

1 (6) To advertise in any newspaper, book, list,
2 classified directory or other publication unless there is
3 contained in the advertisement the license number of the
4 relocator;

5 (7) To remove any vehicle from private property without
6 having first obtained the written authorization of the
7 property owner or other person in lawful possession or
8 control of the property, his authorized agent, or an
9 authorized law enforcement officer. The authorization may
10 be on a contractual basis covering a period of time or
11 limited to a specific removal;

12 (8) To charge the private property owner, who requested
13 that an unauthorized vehicle be removed from his property,
14 with the costs of removing the vehicle contrary to any
15 terms that may be a part of the contract between the
16 property owner and the commercial relocator. Nothing in
17 this paragraph shall prevent a relocator from assessing,
18 collecting, or receiving from the property owner, lessee,
19 or their agents any fee prescribed by the Commission;

20 (9) To remove a vehicle when the owner or operator of
21 the vehicle is present or arrives at the vehicle location
22 at any time prior to the completion of removal, and is
23 willing and able to remove the vehicle immediately;

24 (10) To remove any vehicle from property on which signs
25 are required and on which there are not posted appropriate
26 signs under Section 18a-302;

1 (11) To fail to notify law enforcement authorities in
2 the jurisdiction in which the trespassing vehicle was
3 removed within one hour of the removal. Notification shall
4 include a complete description of the vehicle,
5 registration numbers if possible, the locations from which
6 and to which the vehicle was removed, the time of removal,
7 and any other information required by regulation, statute
8 or ordinance;

9 (12) To impose any charge other than in accordance with
10 the rates set by the Commission as provided in paragraph
11 (6) of Section 18a-200 of this Chapter;

12 (13) To fail, in the office or location at which
13 relocated vehicles are routinely returned to their owners,
14 to prominently post the name, address and telephone number
15 of the nearest office of the Commission to which inquiries
16 or complaints may be sent;

17 (13.1) To fail to distribute to each owner or operator
18 of a relocated vehicle, in written form as prescribed by
19 Commission rule or regulation, the relevant statutes,
20 regulations and ordinances governing commercial vehicle
21 relocators, including, in at least 12 point boldface type,
22 the name, address and telephone number of the nearest
23 office of the Commission to which inquiries or complaints
24 may be sent;

25 (13.2) To fail, in the office or location at which
26 relocated vehicles are routinely returned to their owners,

1 to ensure that the relocater's representative provides
2 suitable evidence of his or her identity to the owners of
3 relocated vehicles upon request;

4 (14) To remove any vehicle, otherwise in accordance
5 with this Chapter, more than 15 air miles from its location
6 when towed from a location in an unincorporated area of a
7 county or more than 10 air miles from its location when
8 towed from any other location;

9 (15) To fail to make a telephone number available to
10 the police department of any municipality in which a
11 relocater operates at which the relocater or an employee of
12 the relocater may be contacted at any time during the hours
13 in which the relocater is engaged in the towing of
14 vehicles, or advertised as engaged in the towing of
15 vehicles, for the purpose of effectuating the release of a
16 towed vehicle; or to fail to include the telephone number
17 in any advertisement of the relocater's services published
18 or otherwise appearing on or after the effective date of
19 this amendatory Act; or to fail to have an employee
20 available at any time on the premises owned or controlled
21 by the relocater for the purposes of arranging for the
22 immediate release of the vehicle.

23 Apart from any other penalty or liability authorized
24 under this Act, if after a reasonable effort, the owner of
25 the vehicle is unable to make telephone contact with the
26 relocater for a period of one hour from his initial attempt

1 during any time period in which the relocater is required
2 to respond at the number, all fees for towing, storage, or
3 otherwise are to be waived. Proof of 3 attempted phone
4 calls to the number provided to the police department by an
5 officer or employee of the department on behalf of the
6 vehicle owner within the space of one hour, at least 2 of
7 which are separated by 45 minutes, shall be deemed
8 sufficient proof of the owner's reasonable effort to make
9 contact with the vehicle relocater. Failure of the
10 relocater to respond to the phone calls is not a criminal
11 violation of this Chapter;

12 (16) To use equipment which the relocater does not own,
13 except in compliance with Section 18a-306 of this Chapter
14 and Commission regulations. No equipment can be leased to
15 more than one relocater at any time. Equipment leases shall
16 be filed with the Commission. If equipment is leased to one
17 relocater, it cannot thereafter be leased to another
18 relocater until a written cancellation of lease is properly
19 filed with the Commission;

20 (17) To use drivers or other personnel who are not
21 employees or contractors of the relocater;

22 (18) To fail to refund any amount charged in excess of
23 the reasonable rate established by the Commission;

24 (19) To violate any other provision of this Chapter, or
25 of Commission regulations or orders adopted under this
26 Chapter.

1 (20) To engage in the removal of a commercial motor
2 vehicle by operating the vehicle under its own power on a
3 highway without authorization by a law enforcement
4 officer.

5 (Source: P.A. 94-650, eff. 1-1-06.)".