



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2420

Introduced 1/24/2018, by Sen. Jim Oberweis

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-100	from Ch. 95 1/2, par. 5-100
625 ILCS 5/5-102.1	from Ch. 95 1/2, par. 5-102.1
625 ILCS 5/5-106	from Ch. 95 1/2, par. 5-106

Amends the Illinois Vehicle Code. Provides that this Act may be referred to as the Freedom to Choose Act. Allows for the sale of motor vehicles on any 6 days of the week chosen by the business owner (instead of on any day but Sunday). Makes conforming changes. Effective immediately.

LRB100 18027 LNS 33215 b

1 AN ACT concerning transportation.

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

4 Section 1. References to Act. This Act may be referred to  
5 as the Freedom to Choose Act.

6 Section 5. The Illinois Vehicle Code is amended by changing  
7 Sections 5-100, 5-102.1, and 5-106 as follows:

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

9 Sec. 5-100. Definitions. For the purposes of this Chapter,  
10 the following words shall have the meanings ascribed to them as  
11 follows:

12 "Additional place of business" means a place owned or  
13 leased and occupied by the dealer in addition to its  
14 established place of business, at which the dealer conducts or  
15 intends to conduct business on a permanent or long term basis.  
16 The term does not include an area where an off site sale or  
17 exhibition is conducted. The Secretary of State shall adopt  
18 guidelines for the administration and enforcement of this  
19 definition by rule.

20 "Display exhibition" means a temporary display of vehicles  
21 by a dealer licensed under Section 5-101 or 5-102, at a  
22 location at which no vehicles are offered for sale, that is

1 conducted at a place other than the dealer's established and  
2 additional places of business.

3 "Established place of business" means the place owned or  
4 leased and occupied by any person duly licensed or required to  
5 be licensed as a dealer for the purpose of engaging in selling,  
6 buying, bartering, displaying, exchanging or dealing in, on  
7 consignment or otherwise, vehicles and their essential parts  
8 and for such other ancillary purposes as may be permitted by  
9 the Secretary by rule. It shall include an office in which the  
10 dealer's records shall be separate and distinct from any other  
11 business or tenant which may occupy space in the same building  
12 except as provided in Section 5-101.1. This office shall not be  
13 located in a house trailer, residence, tent, temporary stand,  
14 temporary address, room or rooms in a hotel or rooming house,  
15 nor the premises occupied by a single or multiple unit  
16 residence. The established place of business of a scrap  
17 processor shall be the fixed location where the scrap processor  
18 maintains its principal place of business. The Secretary of  
19 State shall, by rule and regulation, adopt guidelines for the  
20 administration and enforcement of this definition, such as, but  
21 not limited to issues concerning the required hours of  
22 operation, describing where vehicles are displayed and offered  
23 for sale, where books and records are maintained and  
24 requirements for the fulfillment of warranties. A dealer may  
25 have an additional place of business as defined under this  
26 Section.

1 "Motor vehicle financing affiliate" means a business  
2 organization registered to do business in Illinois that,  
3 pursuant to a written contract with either (1) a single new or  
4 used motor vehicle dealer or (2) a single group of new or used  
5 motor vehicle dealers that share a common ownership within the  
6 group, purchases new or used motor vehicles on behalf of the  
7 dealer or group of dealers and then sells, transfers, or  
8 assigns those motor vehicles to the dealer or group of dealers.  
9 The motor vehicle financing affiliate must be incorporated or  
10 organized solely to purchase new or used vehicles on behalf of  
11 the new or used motor vehicle dealer or group of dealers with  
12 which it has contracted, shall not sell motor vehicles at  
13 retail, shall perform only those business functions related to  
14 the purchasing of motor vehicles and selling, transferring, or  
15 assigning those motor vehicles to the dealer or group of  
16 dealers. The motor vehicle financing affiliate must be licensed  
17 under the provisions of Section 5-101.1 and must not be  
18 licensed as a new or used motor vehicle dealer.

19 "Off site sale" means the temporary display and sale of  
20 vehicles, for a period of not more than 7 calendar days  
21 (excluding Sundays or any other day chosen by a dealer), by a  
22 dealer licensed under Section 5-101 or 5-102 at a place other  
23 than the dealer's established and additional places of  
24 business.

25 "Relevant market area", for a new vehicle dealer licensed  
26 under Section 5-101 and for a used vehicle dealer licensed

1 under Section 5-102, means the area within 10 miles of the  
2 established or additional place of business of the dealer  
3 located in a county with a population of 300,000 or more, or  
4 within 15 miles if the established place of business is located  
5 in a county with a population of less than 300,000.

6 "Trade show exhibition" means a temporary display of  
7 vehicles, by dealers licensed under Section 5-101 or 5-102, or  
8 any other person as defined in subsection (c) of Section  
9 5-102.1, at a location at which no vehicles are offered for  
10 sale that is conducted at a place other than the dealer's  
11 established and additional places of business. In order for a  
12 display exhibition to be considered a trade show exhibition, it  
13 must be participated in by at least 3 dealers, 2 of which must  
14 be licensed under Section 5-101 or 5-102; and a trade show  
15 exhibition of new vehicles shall only be participated in by  
16 licensed new vehicle dealers at least 2 of which must be  
17 licensed under Section 5-101.

18 (Source: P.A. 90-89, eff. 1-1-98; 91-415, eff. 1-1-00.)

19 (625 ILCS 5/5-102.1) (from Ch. 95 1/2, par. 5-102.1)

20 Sec. 5-102.1. Permits for off site sales and exhibitions.

21 (a) A licensed new or used motor vehicle dealer licensed  
22 under Section 5-101 or 5-102 shall not engage in any off site  
23 sale without an off site sale permit issued by the Secretary  
24 under this Section.

25 The Secretary shall issue an off site sale permit to a

1 dealer if:

2 (1) an application therefor is received by the  
3 Secretary prior to the beginning date of the proposed off  
4 site sale, accompanied by a fee of \$25;

5 (2) the applicant is a licensed new vehicle dealer or  
6 used vehicle dealer in good standing; and

7 (3) the Secretary determines that the proposed off site  
8 sale will conform with the requirements imposed by law.

9 However, in no event shall an off site sale permit be  
10 issued to any licensed new or used vehicle dealer for any off  
11 site sale to be conducted outside that dealer's relevant market  
12 area, as that term is defined in this Chapter, except that this  
13 restriction shall not apply to off site sales of motor homes or  
14 recreational vehicles.

15 The provisions of this subsection shall not apply to  
16 self-contained motor homes, mini motor homes, van campers, and  
17 recreational trailers, including trailers designed and used to  
18 transport vessels or watercraft.

19 ~~An off site sale permit does not authorize the sale of~~  
20 ~~vehicles on a Sunday.~~

21 (b) Only a new or used vehicle dealer licensed under  
22 Section 5-101 or 5-102 may participate in a display exhibition  
23 and shall obtain a display exhibition permit issued by the  
24 Secretary under this Section.

25 The Secretary shall issue a display exhibition permit to a  
26 dealer if:

1           (1) an application therefor is received by the  
2 Secretary prior to the beginning date of the proposed  
3 exhibition, accompanied by a fee of \$10;

4           (2) the applicant is a licensed new vehicle dealer or  
5 used vehicle dealer in good standing; and

6           (3) the Secretary determines that the proposed  
7 exhibition will conform with the requirements imposed by  
8 law.

9           A display exhibition permit shall be valid for a period of  
10 no longer than 30 days.

11           (c) A licensed new or used motor vehicle dealer under  
12 Section 5-101 or 5-102, or any other person as defined in this  
13 Section, may participate in a trade show exhibition and must  
14 obtain a trade show exhibition permit issued by the Secretary  
15 under this Section.

16           The Secretary shall issue a trade show exhibition permit  
17 if:

18           (1) an application is received by the Secretary before  
19 the beginning date of the proposed trade show exhibition,  
20 accompanied by a fee of \$10;

21           (2) the applicant is a licensed new vehicle dealer or  
22 used vehicle dealer in good standing; and

23           (3) the Secretary determines that the proposed trade  
24 show exhibition shall conform with the requirements  
25 imposed by law.

26           A trade show exhibition permit shall be valid for a period

1 of no longer than 30 days.

2 The provisions of this subsection shall not apply to  
3 self-contained motor homes, mini motor homes, van campers, and  
4 recreational trailers, including trailers designed and used to  
5 transport vessels or watercraft.

6 The term "any other person" shall mean new or used vehicle  
7 dealers licensed by other states; provided however, a trade  
8 show exhibition of new vehicles shall only be participated in  
9 by licensed new vehicle dealers, at least 2 of which must be  
10 licensed under Section 5-101.

11 (d) An Illinois or out-of-state licensed new or used  
12 trailer dealer, manufactured home dealer, motor home dealer,  
13 mini motor home dealer, or van camper dealer shall not engage  
14 in any off site sale or trade show exhibition without first  
15 acquiring a permit issued by the Secretary under this  
16 subsection. However, the provisions of this Section shall not  
17 apply to a licensed trailer dealer selling a mobile home or  
18 manufactured housing, as defined in the Illinois Manufactured  
19 Housing and Mobile Home Safety Act, if the manufactured housing  
20 or mobile home has utilities permanently attached. The  
21 Secretary shall issue a permit to an Illinois dealer if:

22 (1) an application is received by the Secretary before  
23 the beginning date of the proposed off site sale or trade  
24 show exhibition, accompanied by a fee of \$25;

25 (2) the applicant is a licensed new or used vehicle  
26 dealer in good standing; and



1           (3) the Secretary determines that the proposed off site  
2           sale or trade show exhibition will conform with the  
3           requirements imposed by law.

4           The Secretary shall issue a permit to an out-of-state  
5           dealer if the requirements of subdivisions (1), (2), and (3) of  
6           this subsection (d) are met and at least 2 licensed Illinois  
7           dealers will participate in the off site sale or trade show  
8           exhibition.

9           A permit issued pursuant to this subsection shall allow for  
10          the sale of vehicles at either an off site sale or at a trade  
11          show exhibition. The permit shall be valid for a period not to  
12          exceed 30 days.

13          (e) The Secretary of State may adopt rules regulating the  
14          conduct of off site sales and exhibitions, and governing the  
15          issuance and enforcement of the permits authorized under this  
16          Section.

17          (Source: P.A. 90-718, eff. 1-1-99; 90-774, eff. 8-14-98;  
18          91-357, eff. 7-29-99.)

19                 (625 ILCS 5/5-106) (from Ch. 95 1/2, par. 5-106)

20          Sec. 5-106. No person may keep open, operate, or assist in  
21          keeping open or operating any established or additional place  
22          of business for the purpose of buying, selling, bartering,  
23          exchanging, or leasing for a period of 1 year or more, or  
24          offering for sale, barter, exchange, or lease for a period of 1  
25          year or more, any motor vehicle, whether new or used, for more

1 than 6 days a week chosen by the business owner. This ~~on the~~  
2 ~~first day of the week, commonly called Sunday; provided, that~~  
3 ~~this~~ Section does not apply to the opening of an established or  
4 additional place of business ~~on Sunday~~ for the following  
5 purposes:

6 (1) to sell petroleum products, tires or repair parts  
7 and accessories;

8 (2) to operate and conduct a motor vehicle repair shop;

9 (3) to supply services for the washing, towing or  
10 wrecking of motor vehicles;

11 (4) to participate in a trade show exhibition or  
12 display exhibition by a dealer who has been granted a  
13 permit by the Secretary of State pursuant to Section  
14 5-102.1 of this Article;

15 (5) to sell motorcycles, motor driven cycles,  
16 motorized pedalcycles when offered for sale by a dealer  
17 licensed under Sections 5-101 and 5-102 to sell only such  
18 motor vehicles;

19 (6) to offer for sale manufactured housing;

20 (7) to sell self-contained motor homes, mini motor  
21 homes, van campers and recreational trailers when offered  
22 for sale by a dealer at an established or additional place  
23 of business where only such vehicles are displayed or  
24 offered for sale. This exemption includes dealers with off  
25 site sales or trade show exhibition permits issued pursuant  
26 to subsection (d) of Section 5-102.1 of this Article.

1 (Source: P.A. 89-551, eff. 1-1-97.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.