



Rep. Kevin A. McCarthy

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LRB095 10586 DRH 36783 a

1 AMENDMENT TO SENATE BILL 435

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

5 "Section 5. The Illinois Vehicle Code is amended by
6 changing Sections 1-100 and 18a-105 and by adding Chapter 18d
7 as follows:

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

9 Sec. 1-100. Short Title. This Act may be cited as the
10 Illinois Vehicle Code.

11 Portions of this Act may likewise be cited by a short title
12 as follows:

13 Chapters 2, 3, 4 and 5: the Illinois Vehicle Title &
14 Registration Law.

15 Chapter 6: the Illinois Driver Licensing Law.

16 Chapter 7: the Illinois Safety and Family Financial

1 Responsibility Law.

2 Chapter 11: the Illinois Rules of the Road.

3 Chapter 12: the Illinois Vehicle Equipment Law.

4 Chapter 13: the Illinois Vehicle Inspection Law.

5 Chapter 14: the Illinois Vehicle Equipment Safety Compact.

6 Chapter 15: the Illinois Size and Weight Law.

7 Chapter 17: the Illinois Highway Safety Law.

8 Chapter 18a: the Illinois Commercial Relocation of
9 Trespassing Vehicles Law.

10 Chapter 18b: the Illinois Motor Carrier Safety Law.

11 Chapter 18c: the Illinois Commercial Transportation Law.

12 Chapter 18d: The Illinois Commercial Safety Towing Law.

13 (Source: P.A. 89-92, eff. 7-1-96.)

14 (625 ILCS 5/Chapter 18d heading new)

15 CHAPTER 18d. ILLINOIS COMMERCIAL SAFETY TOWING LAW

16 (625 ILCS 5/18d-101 new)

17 Sec. 18d-101. Short title. This Chapter may be cited as the
18 Illinois Commercial Safety Towing Law.

19 (625 ILCS 5/18d-105 new)

20 Sec. 18d-105. Definitions. As used in this Chapter:

21 (1) "Commercial vehicle safety relocater" or "safety
22 relocater" means any person or entity engaged in the business
23 of removing damaged or disabled vehicles from public or private

1 property by means of towing or otherwise, and thereafter
2 relocating and storing such vehicles.

3 (2) "Commission" means the Illinois Commerce Commission.

4 (625 ILCS 5/18d-110 new)

5 Sec. 18d-110. The General Assembly finds and declares that
6 commercial vehicle towing service in the State of Illinois
7 fundamentally affects the public interest and public welfare.
8 It is the intent of the General Assembly, in this amendatory
9 Act of the 95th General Assembly, to promote the public
10 interest and the public welfare by requiring similar basic
11 consumer protections and fraud prevention measures that are
12 required of other marketplace participants, including the
13 disclosure of material terms and conditions of the service to
14 consumers before consumers accept the terms and conditions. The
15 General Assembly also intends that the provisions in this
16 amendatory Act of the 95th General Assembly promote safety for
17 all persons and vehicles that travel or otherwise use the
18 public highways of this State. The General Assembly finds that
19 it is in the public interest that persons whose vehicles are
20 towed from the public highways know important basic
21 information, such as where they can retrieve their vehicles and
22 the cost to retrieve their vehicles, so that they can avoid
23 vehicle deterioration and arrange for a prompt repair of the
24 vehicles.

1 (625 ILCS 5/18d-115 new)

2 Sec. 18d-115. It shall be unlawful for any commercial
3 vehicle safety relocater to operate in any county in which this
4 chapter is applicable without a valid, current safety
5 relocater's registration certificate issued by the Illinois
6 Commerce Commission. The Illinois Commerce Commission shall
7 issue safety relocater's registration certificates in
8 accordance with administrative rules adopted by the
9 Commission. The Commission may, at any time during the term of
10 the registration certificate, make inquiry, into the
11 licensee's management or conduct of business or otherwise, to
12 determine that the provisions of this Chapter and the rules of
13 the Commission adopted under this Chapter are being observed.

14 (625 ILCS 5/18d-120 new)

15 Sec. 18d-120. Disclosure to vehicle owner or operator
16 before towing of damaged or disabled vehicle commences.

17 (a) A commercial vehicle safety relocater shall not
18 commence the towing of a damaged or disabled vehicle without
19 specific authorization from the vehicle owner or operator after
20 the disclosures set forth in this Section.

21 (b) Every commercial vehicle safety relocater shall,
22 before towing a damaged or disabled vehicle, give to each
23 vehicle owner or operator a written disclosure providing:

24 (1) The formal business name of the commercial vehicle
25 Safety relocater, as registered with the Illinois

1 Secretary of State, and its business address and telephone
2 number.

3 (2) The address of the location to which the vehicle
4 shall be relocated.

5 (3) The cost of all relocation, storage, and any other
6 fees, without limitation, that the commercial vehicle
7 safety relocater will charge for its services.

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

10 "As a customer, you also have the following rights under
11 Illinois law:

12 (1) This written disclosure must be provided to you
13 before your vehicle is towed, providing the business name,
14 business address, address where the vehicle will be towed,
15 and a reliable telephone number;

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

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

21 (4) Upon your demand, your vehicle must be returned
22 during business hours, upon your prompt payment of all
23 reasonable fees;

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

26 (6) Upon your demand, you must be provided with proof

1 of the existence of mandatory insurance insuring against
2 all risks associated with the transportation and storage of
3 your vehicle."

4 (c) The commercial vehicle safety relocater shall provide a
5 copy of the completed disclosure required by this Section to
6 the vehicle owner or operator, before towing the damaged or
7 disabled vehicle, and shall maintain an identical copy of the
8 completed disclosure in its records for a minimum of 5 years
9 after the transaction concludes.

10 (d) If the vehicle owner or operator is incapacitated,
11 incompetent, or otherwise unable to knowingly accept receipt of
12 the disclosure described in this Section, the commercial
13 vehicle safety relocater shall provide a completed copy of the
14 disclosure to local law enforcement and, if known, the vehicle
15 owner or operator's automobile insurance company.

16 (e) If the commercial vehicle safety relocater fails to
17 comply with the requirements of this Section, the commercial
18 vehicle safety relocater shall be prohibited from seeking any
19 compensation whatsoever from the vehicle owner or operator,
20 including but not limited to any towing, storage, or other
21 incidental fees. Furthermore, if the commercial vehicle Safety
22 relocater or operator fails to comply with the requirements of
23 this Section, any contracts entered into by the commercial
24 Vehicle safety relocater and the vehicle owner or operator
25 shall be deemed null, void, and unenforceable.

1 (625 ILCS 5/18d-125 new)

2 Sec. 18d-125. Disclosures to vehicle owners or operators;
3 invoices.

4 (a) Upon demand of the vehicle owner or operator, the
5 commercial vehicle safety relocater shall provide an itemized
6 final invoice that fairly and accurately documents the charges
7 owed by the vehicle owner or operator for relocation of damaged
8 or disabled vehicles. The final estimate or invoice shall
9 accurately record in writing all of the items set forth in this
10 Section.

11 (b) The final invoice shall show the formal business name
12 of the commercial vehicle safety relocater, as registered with
13 the Illinois Secretary of State, its business address and
14 telephone number, the date of the invoice, the odometer reading
15 at the time the final invoice was prepared, the name of the
16 vehicle owner or operator, and the description of the motor
17 vehicle, including the motor vehicle identification number. In
18 addition, the invoice shall describe any modifications made to
19 the vehicle by the commercial vehicle safety relocater, any
20 observable damage to the vehicle upon its initial receipt by
21 the commercial vehicle safety relocater, and any observable
22 damage to the vehicle at the time of its release to the vehicle
23 owner or operator. The invoice shall itemize any additional
24 charges and include those charges in the total presented to the
25 vehicle owner or operator.

26 (c) A legible copy of the invoice shall be given to the

1 vehicle owner or operator, and a legible copy shall be retained
2 by the collision repair facility for a period of 5 years from
3 the date of release of the vehicle. The copy may be retained in
4 electronic format. Records may be stored at a separate
5 location.

6 (d) Disclosure forms required in accordance with this
7 Section 18d-120 must be approved by the Commission.

8 (625 ILCS 5/18d-130 new)

9 Sec. 18d-130. Disclosures to vehicle owners or operators;
10 required signs. Every commercial vehicle safety relocater's
11 storage facility that relocates or stores damaged or disabled
12 vehicles shall post, in a prominent place on the business
13 premises, one or more signs, readily visible to customers, in
14 the following form:

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

16 1. BEFORE TOWING, A WRITTEN DISCLOSURE STATING THE NAME
17 OF THE TOWING AND STORAGE SERVICE, ITS BUSINESS ADDRESS AND
18 TELEPHONE NUMBER, AND THE ADDRESS WHERE THE VEHICLE WAS TO
19 BE TOWED.

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

22 3. UPON YOUR DEMAND FOR THE RETURN OF YOUR VEHICLE, A
23 FINAL INVOICE ITEMIZING ALL CHARGES FOR TOWING, STORAGE, OR
24 ANY OTHER SERVICES PROVIDED, AS WELL AS ANY DAMAGE
25 IDENTIFIED TO THE VEHICLE AT THE TIME IT WAS TAKEN BY THE

1 TOWING AND STORAGE FACILITY, AS WELL AS ANY DAMAGE TO THE
2 VEHICLE IDENTIFIED UPON ITS RELEASE TO YOU.

3 4. THE RETURN OF YOUR VEHICLE, UPON YOUR DEMAND FOR ITS
4 RETURN DURING BUSINESS HOURS AND YOUR PROMPT PAYMENT OF ALL
5 REASONABLE FEES.

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

7 6. UPON YOUR DEMAND, PROOF OF THE EXISTENCE OF
8 INSURANCE, WHICH THE COMMERCIAL VEHICLE SAFETY RELOCATOR
9 MUST MAINTAIN TO INSURE AGAINST RISK OF DAMAGE TO YOUR
10 VEHICLE IN TRANSIT AND WHILE IN STORAGE. IF THE COMMERCIAL
11 VEHICLE SAFETY RELOCATOR HAS COMPLIED WITH THE ABOVE
12 RIGHTS, YOU ARE REQUIRED, BEFORE TAKING THE VEHICLE FROM
13 THE PREMISES, TO PAY FOR THE SERVICES PROVIDED BY THE
14 COMMERCIAL VEHICLE RELOCATOR.

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

18 (625 ILCS 5/18d-135 new)

19 Sec. 18d-135. Record keeping. Every commercial vehicle
20 safety relocater engaged in relocation or storage of damaged or
21 disabled vehicles shall maintain copies of (i) all disclosures
22 provided to vehicle owners or operators as required under this
23 Chapter and (ii) all invoices provided to vehicle owners or
24 operators as required under this Chapter. The copies may be
25 maintained in an electronic format, shall be kept for 5 years,

1 and shall be available for inspection by the Illinois Commerce
2 Commission.

3 Failure to provide requested documentation to the Illinois
4 Commerce Commission within 3 business days of a request
5 received from the Illinois Commerce Commission shall subject
6 the commercial vehicle safety relocater to penalties imposed by
7 the Illinois Commercial Commission. Penalties may include
8 suspension of registration certificate and monetary fines up to
9 \$1,000 for each violation.

10 (625 ILCS 5/18d-140 new)

11 Sec. 18d-140. Any vehicle used in connection with any
12 commercial vehicle safety relocation service must have painted
13 or firmly affixed to the vehicle on both sides of the vehicle
14 in a color or colors vividly contrasting to the color of the
15 vehicle the name, address, and telephone number of the safety
16 relocater. The Commission shall prescribe reasonable rules and
17 regulations pertaining to insignia to be painted or firmly
18 affixed to vehicles.

19 (625 ILCS 5/18d-145 new)

20 Sec. 18d-145. Any vehicle used in connection with any
21 commercial vehicle safety relocation service must carry in the
22 power unit of the vehicle a certified copy of the currently
23 effective safety relocater's registration certificate. Copies
24 may be photographed, photocopied, or reproduced or printed by

1 any other legible and durable process. Any person guilty of not
2 causing to be displayed a copy of the safety relocater's
3 registration certificate may in any hearing concerning the
4 violation be excused from the payment of the penalty
5 hereinafter provided upon a showing that the registration
6 certificate was issued by the Commission, but was subsequently
7 lost or destroyed.

8 (625 ILCS 5/18d-150 new)

9 Sec. 18d-150. Waiver or limitation of liability
10 prohibited.

11 (a) Commercial vehicle safety relocators engaged in the
12 relocation or storage of damaged or disabled vehicles shall be
13 prohibited from including a clause in contracts for the
14 relocation or storage of vehicles purporting to waive or limit
15 the commercial vehicle safety relocater's liability under this
16 Code, in tort or contract, or under any other cognizable cause
17 of action available to the vehicle owner or operator.

18 (b) Commercial vehicle safety relocators are prohibited
19 from requiring the vehicle owner or operator to sign or agree
20 to any document purporting to waive or limit the commercial
21 vehicle safety relocater's liability under this Code, in tort
22 or contract, or under any other cognizable cause of action
23 available to the vehicle owner or operator.

24 (c) Any contract, release, or other document purporting to
25 wave or limit the commercial vehicle safety relocater's

1 liability under this Code, in tort or contract, or under any
2 other cognizable cause of action available to the vehicle owner
3 or operator, shall be deemed null, void, and unenforceable.

4 (625 ILCS 5/18d-155 new)

5 Sec. 18d-155. The Illinois Commerce Commission may request
6 documentation or investigate business practices by a
7 commercial vehicle safety relocater to determine compliance
8 with this Chapter. Failure to comply with any Section of this
9 Chapter, as determined by the Illinois Commerce Commission
10 shall subject a commercial vehicle safety relocater to
11 penalties imposed by the Illinois Commercial Commission.
12 Penalties may include suspension of registration certificate
13 and monetary fines up to \$1,000 for each violation.

14 (625 ILCS 5/18d-160 new)

15 Sec. 18d-160. Unlawful practice. Any commercial vehicle
16 Safety relocater engaged in the relocation or storage of
17 damaged or disabled vehicles who fails to comply with Sections
18 18d-115, 18d-120, 18d-125, 18d-130, 18d-135, or 18d-150 of this
19 Code commits an unlawful practice within the meaning of the
20 Consumer Fraud and Deceptive Business Practices Act.

21 (625 ILCS 5/18d-165 new)

22 Sec. 18d-165. Charges payable in cash or by major credit
23 card. Any towing or storage charges accrued by the vehicle

1 owner or operator shall be payable by the use of any major
2 credit card, in addition to being payable in cash.

3 (625 ILCS 5/18d-170 new)

4 Sec. 18d-170. Mandatory insurance coverage.

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

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

14 (c) Any person who fails to comply with the conditions and
15 restrictions of this subsection shall be fined not less than
16 \$100 nor more than \$500.

17 (625 ILCS 5/18d-175 new)

18 Sec. 18d-175. Disposition of funds. All fees and fines
19 collected by the Commission under this Chapter shall be paid
20 into the Transportation Regulatory Fund in the State Treasury.
21 The money in that fund shall be used to defray the expenses of
22 the administration of this Chapter.

23 (625 ILCS 5/18d-180 new)

1 Sec. 18d-180. The provisions of this Chapter apply to all
2 the activities of safety relocators in any jurisdiction to
3 which Chapter 18a of this Code applies in accordance with
4 Section 18a-700.

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

7 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

8 Sec. 2Z. Violations of other Acts. Any person who knowingly
9 violates the Automotive Repair Act, the Automotive Collision
10 Repair Act, the Home Repair and Remodeling Act, the Dance
11 Studio Act, the Physical Fitness Services Act, the Hearing
12 Instrument Consumer Protection Act, the Illinois Union Label
13 Act, the Job Referral and Job Listing Services Consumer
14 Protection Act, the Travel Promotion Consumer Protection Act,
15 the Credit Services Organizations Act, the Automatic Telephone
16 Dialers Act, the Pay-Per-Call Services Consumer Protection
17 Act, the Telephone Solicitations Act, the Illinois Funeral or
18 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
19 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
20 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
21 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
22 Act, the Payday Loan Reform Act, subsection (a) or (b) of
23 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
24 Act, paragraph (6) of subsection (k) of Section 6-305 of the

1 Illinois Vehicle Code, Section 18d-115, 18d-120, 18d-125,
2 18d-135, or 18d-150 of the Illinois Vehicle Code, Article 3 of
3 the Residential Real Property Disclosure Act, the Automatic
4 Contract Renewal Act, or the Personal Information Protection
5 Act commits an unlawful practice within the meaning of this
6 Act.

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

10 Section 99. Effective date. This Act takes effect July 1,
11 2008.".