



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3340

Introduced 2/24/2011, by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Vehicle Code. Changes the definition of "automotive parts recycler" to mean a person who is in the business of acquiring previously owned vehicles and vehicle parts for the primary purpose of disposing of an entire vehicle or parts of vehicles (instead of only parts of vehicles) in a manner other than that described in the definition of a "scrap processor" in the Code. Modifies the definitions of "remittance agent" and "remitter" to include persons who give and receive money for the payment of registration plates, vehicle certificates of title, taxes, or registration fees (rather than the payment of vehicle taxes, license or registration fees). Provides that an application for a salvage certificate shall be submitted to the Secretary of State when any licensed rebuilder, repairer, new or used vehicle dealer, or remittance agent has applied for title to a vehicle that he or she knows or should have known to have sustained damages in excess of 33 1/3% of the vehicle's fair market value. Provides that an application for a remittance agent license must be accompanied by other information the Secretary may require and by a statement that the applicant has not committed in the past 3 years any violation as determined in any civil, criminal, or administrative proceedings under the Retailers' Occupation Tax Act or under portions of the Illinois Vehicle Code concerning title and registration requirements. Modifies language concerning the purpose of an Article concerning remittance agents and in Sections concerning the denial, suspension, and revocation of remittance agent licenses. Removes language from a Section concerning the application of the Article concerning remittance agents, a Section concerning the licensing of remittance agents, and a Section concerning hearings and subpoenas.

LRB097 10865 HEP 51374 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 5. The Illinois Vehicle Code is amended by changing
5 Sections 1-105.3, 1-171.01a, 1-171.01c, 3-117.1, 3-901, 3-902,
6 3-903, 3-904, 3-906, 3-907, and 3-913 as follows:

7 (625 ILCS 5/1-105.3)

8 Sec. 1-105.3. Automotive parts recycler. A person who is in
9 the business of acquiring previously owned vehicles and vehicle
10 parts for the primary purpose of disposing of an entire vehicle
11 or parts of vehicles in a manner other than that described in
12 the definition of a "scrap processor" in this Code.

13 (Source: P.A. 90-89, eff. 1-1-98.)

14 (625 ILCS 5/1-171.01a)

15 Sec. 1-171.01a. Remittance agent. For the purposes of
16 Article IX of Chapter 3, the term "remittance agent" means any
17 person who holds himself or herself out to the public as being
18 engaged in or who engages in accepting money for remittance to
19 the State of Illinois or any of its instrumentalities or
20 political subdivisions, or to any of their officials, for the
21 payment of registration plates, vehicle certificates of title,
22 taxes, ~~vehicle taxes or vehicle license~~ or registration fees

1 regardless of when the money is accepted from the public or
2 remitted to the State, whether or not the person renders any
3 other service in connection with the making of any such
4 remittance or is engaged in any other endeavor. The term
5 "remittance agent" does not include any licensed dealer in
6 motor vehicles who accepts money for remittance to the State of
7 Illinois for the payment of registration plates, vehicle
8 certificates of title, taxes, ~~vehicle taxes or vehicle licenses~~
9 or registration fees as an incident to his or her business as a
10 motor vehicle dealer.

11 (Source: P.A. 90-89, eff. 1-1-98.)

12 (625 ILCS 5/1-171.01c)

13 Sec. 1-171.01c. Remitter. Any person who gives money to a
14 remittance agent to submit to the State of Illinois and its
15 licensing and taxing agencies for the payment of registration
16 plates, vehicle certificates of title, taxes, or ~~vehicle taxes~~
17 ~~or vehicle license~~ and registration fees.

18 (Source: P.A. 90-89, eff. 1-1-98.)

19 (625 ILCS 5/3-117.1) (from Ch. 95 1/2, par. 3-117.1)

20 Sec. 3-117.1. When junking certificates or salvage
21 certificates must be obtained.

22 (a) Except as provided in Chapter 4 of this Code, a person
23 who possesses a junk vehicle shall within 15 days cause the
24 certificate of title, salvage certificate, certificate of

1 purchase, or a similarly acceptable out of state document of
2 ownership to be surrendered to the Secretary of State along
3 with an application for a junking certificate, except as
4 provided in Section 3-117.2, whereupon the Secretary of State
5 shall issue to such a person a junking certificate, which shall
6 authorize the holder thereof to possess, transport, or, by an
7 endorsement, transfer ownership in such junked vehicle, and a
8 certificate of title shall not again be issued for such
9 vehicle.

10 A licensee who possesses a junk vehicle and a Certificate
11 of Title, Salvage Certificate, Certificate of Purchase, or a
12 similarly acceptable out-of-state document of ownership for
13 such junk vehicle, may transport the junk vehicle to another
14 licensee prior to applying for or obtaining a junking
15 certificate, by executing a uniform invoice. The licensee
16 transferor shall furnish a copy of the uniform invoice to the
17 licensee transferee at the time of transfer. In any case, the
18 licensee transferor shall apply for a junking certificate in
19 conformance with Section 3-117.1 of this Chapter. The following
20 information shall be contained on a uniform invoice:

21 (1) The business name, address and dealer license
22 number of the person disposing of the vehicle, junk vehicle
23 or vehicle cowl;

24 (2) The name and address of the person acquiring the
25 vehicle, junk vehicle or vehicle cowl, and if that person
26 is a dealer, the Illinois or out-of-state dealer license

1 number of that dealer;

2 (3) The date of the disposition of the vehicle, junk
3 vehicle or vehicle cowl;

4 (4) The year, make, model, color and description of
5 each vehicle, junk vehicle or vehicle cowl disposed of by
6 such person;

7 (5) The manufacturer's vehicle identification number,
8 Secretary of State identification number or Illinois
9 Department of State Police number, for each vehicle, junk
10 vehicle or vehicle cowl part disposed of by such person;

11 (6) The printed name and legible signature of the
12 person or agent disposing of the vehicle, junk vehicle or
13 vehicle cowl; and

14 (7) The printed name and legible signature of the
15 person accepting delivery of the vehicle, junk vehicle or
16 vehicle cowl.

17 The Secretary of State may certify a junking manifest in a
18 form prescribed by the Secretary of State that reflects those
19 vehicles for which junking certificates have been applied or
20 issued. A junking manifest may be issued to any person and it
21 shall constitute evidence of ownership for the vehicle listed
22 upon it. A junking manifest may be transferred only to a person
23 licensed under Section 5-301 of this Code as a scrap processor.
24 A junking manifest will allow the transportation of those
25 vehicles to a scrap processor prior to receiving the junk
26 certificate from the Secretary of State.

1 (b) An application for a salvage certificate shall be
2 submitted to the Secretary of State in any of the following
3 situations:

4 (1) When an insurance company makes a payment of
5 damages on a total loss claim for a vehicle, the insurance
6 company shall be deemed to be the owner of such vehicle and
7 the vehicle shall be considered to be salvage except that
8 ownership of (i) a vehicle that has incurred only hail
9 damage that does not affect the operational safety of the
10 vehicle or (ii) any vehicle 9 model years of age or older
11 may, by agreement between the registered owner and the
12 insurance company, be retained by the registered owner of
13 such vehicle. The insurance company shall promptly deliver
14 or mail within 20 days the certificate of title along with
15 proper application and fee to the Secretary of State, and a
16 salvage certificate shall be issued in the name of the
17 insurance company. Notwithstanding the foregoing, an
18 insurer making payment of damages on a total loss claim for
19 the theft of a vehicle shall not be required to apply for a
20 salvage certificate unless the vehicle is recovered and has
21 incurred damage that initially would have caused the
22 vehicle to be declared a total loss by the insurer.

23 (1.1) When a vehicle of a self-insured company is to be
24 sold in the State of Illinois and has sustained damaged by
25 collision, fire, theft, rust corrosion, or other means so
26 that the self-insured company determines the vehicle to be

1 a total loss, or if the cost of repairing the damage,
2 including labor, would be greater than 50% of its fair
3 market value without that damage, the vehicle shall be
4 considered salvage. The self-insured company shall
5 promptly deliver the certificate of title along with proper
6 application and fee to the Secretary of State, and a
7 salvage certificate shall be issued in the name of the
8 self-insured company. A self-insured company making
9 payment of damages on a total loss claim for the theft of a
10 vehicle may exchange the salvage certificate for a
11 certificate of title if the vehicle is recovered without
12 damage. In such a situation, the self-insured shall fill
13 out and sign a form prescribed by the Secretary of State
14 which contains an affirmation under penalty of perjury that
15 the vehicle was recovered without damage and the Secretary
16 of State may, by rule, require photographs to be submitted.

17 (2) When a vehicle the ownership of which has been
18 transferred to any person through a certificate of purchase
19 from acquisition of the vehicle at an auction, other
20 dispositions as set forth in Sections 4-208 and 4-209 of
21 this Code, a lien arising under Section 18a-501 of this
22 Code, or a public sale under the Abandoned Mobile Home Act
23 shall be deemed salvage or junk at the option of the
24 purchaser. The person acquiring such vehicle in such manner
25 shall promptly deliver or mail, within 20 days after the
26 acquisition of the vehicle, the certificate of purchase,

1 the proper application and fee, and, if the vehicle is an
2 abandoned mobile home under the Abandoned Mobile Home Act,
3 a certification from a local law enforcement agency that
4 the vehicle was purchased or acquired at a public sale
5 under the Abandoned Mobile Home Act to the Secretary of
6 State and a salvage certificate or junking certificate
7 shall be issued in the name of that person. The salvage
8 certificate or junking certificate issued by the Secretary
9 of State under this Section shall be free of any lien that
10 existed against the vehicle prior to the time the vehicle
11 was acquired by the applicant under this Code.

12 (3) A vehicle which has been repossessed by a
13 lienholder shall be considered to be salvage only when the
14 repossessed vehicle, on the date of repossession by the
15 lienholder, has sustained damage by collision, fire,
16 theft, rust corrosion, or other means so that the cost of
17 repairing such damage, including labor, would be greater
18 than 33 1/3% of its fair market value without such damage.
19 If the lienholder determines that such vehicle is damaged
20 in excess of 33 1/3% of such fair market value, the
21 lienholder shall, before sale, transfer or assignment of
22 the vehicle, make application for a salvage certificate,
23 and shall submit with such application the proper fee and
24 evidence of possession. If the facts required to be shown
25 in subsection (f) of Section 3-114 are satisfied, the
26 Secretary of State shall issue a salvage certificate in the

1 name of the lienholder making the application. In any case
2 wherein the vehicle repossessed is not damaged in excess of
3 33 1/3% of its fair market value, the lienholder shall
4 comply with the requirements of subsections (f), (f-5), and
5 (f-10) of Section 3-114, except that the affidavit of
6 repossession made by or on behalf of the lienholder shall
7 also contain an affirmation under penalty of perjury that
8 the vehicle on the date of sale is not damaged in excess of
9 33 1/3% of its fair market value. If the facts required to
10 be shown in subsection (f) of Section 3-114 are satisfied,
11 the Secretary of State shall issue a certificate of title
12 as set forth in Section 3-116 of this Code. The Secretary
13 of State may by rule or regulation require photographs to
14 be submitted.

15 (4) A vehicle which is a part of a fleet of more than 5
16 commercial vehicles registered in this State or any other
17 state or registered proportionately among several states
18 shall be considered to be salvage when such vehicle has
19 sustained damage by collision, fire, theft, rust,
20 corrosion or similar means so that the cost of repairing
21 such damage, including labor, would be greater than 33 1/3%
22 of the fair market value of the vehicle without such
23 damage. If the owner of a fleet vehicle desires to sell,
24 transfer, or assign his interest in such vehicle to a
25 person within this State other than an insurance company
26 licensed to do business within this State, and the owner

1 determines that such vehicle, at the time of the proposed
2 sale, transfer or assignment is damaged in excess of 33
3 1/3% of its fair market value, the owner shall, before such
4 sale, transfer or assignment, make application for a
5 salvage certificate. The application shall contain with it
6 evidence of possession of the vehicle. If the fleet vehicle
7 at the time of its sale, transfer, or assignment is not
8 damaged in excess of 33 1/3% of its fair market value, the
9 owner shall so state in a written affirmation on a form
10 prescribed by the Secretary of State by rule or regulation.
11 The Secretary of State may by rule or regulation require
12 photographs to be submitted. Upon sale, transfer or
13 assignment of the fleet vehicle the owner shall mail the
14 affirmation to the Secretary of State.

15 (5) A vehicle that has been submerged in water to the
16 point that rising water has reached over the door sill and
17 has entered the passenger or trunk compartment is a "flood
18 vehicle". A flood vehicle shall be considered to be salvage
19 only if the vehicle has sustained damage so that the cost
20 of repairing the damage, including labor, would be greater
21 than 33 1/3% of the fair market value of the vehicle
22 without that damage. The salvage certificate issued under
23 this Section shall indicate the word "flood", and the word
24 "flood" shall be conspicuously entered on subsequent
25 titles for the vehicle. A person who possesses or acquires
26 a flood vehicle that is not damaged in excess of 33 1/3% of

1 its fair market value shall make application for title in
2 accordance with Section 3-116 of this Code, designating the
3 vehicle as "flood" in a manner prescribed by the Secretary
4 of State. The certificate of title issued shall indicate
5 the word "flood", and the word "flood" shall be
6 conspicuously entered on subsequent titles for the
7 vehicle.

8 (6) When any licensed rebuilder, repairer, new or used
9 vehicle dealer, or remittance agent has submitted an
10 application for title to a vehicle that he or she knows or
11 should have known to have sustained damages in excess of 33
12 1/3% of the vehicle's fair market value.

13 (c) Any person who without authority acquires, sells,
14 exchanges, gives away, transfers or destroys or offers to
15 acquire, sell, exchange, give away, transfer or destroy the
16 certificate of title to any vehicle which is a junk or salvage
17 vehicle shall be guilty of a Class 3 felony.

18 (d) Any person who knowingly fails to surrender to the
19 Secretary of State a certificate of title, salvage certificate,
20 certificate of purchase or a similarly acceptable out-of-state
21 document of ownership as required under the provisions of this
22 Section is guilty of a Class A misdemeanor for a first offense
23 and a Class 4 felony for a subsequent offense; except that a
24 person licensed under this Code who violates paragraph (5) of
25 subsection (b) of this Section is guilty of a business offense
26 and shall be fined not less than \$1,000 nor more than \$5,000

1 for a first offense and is guilty of a Class 4 felony for a
2 second or subsequent violation.

3 (e) Any vehicle which is salvage or junk may not be driven
4 or operated on roads and highways within this State. A
5 violation of this subsection is a Class A misdemeanor. A
6 salvage vehicle displaying valid special plates issued under
7 Section 3-601(b) of this Code, which is being driven to or from
8 an inspection conducted under Section 3-308 of this Code, is
9 exempt from the provisions of this subsection. A salvage
10 vehicle for which a short term permit has been issued under
11 Section 3-307 of this Code is exempt from the provisions of
12 this subsection for the duration of the permit.

13 (Source: P.A. 95-495, eff. 1-1-08; 95-783, eff. 1-1-09.)

14 (625 ILCS 5/3-901) (from Ch. 95 1/2, par. 3-901)

15 Sec. 3-901. Purpose of Article.

16 Many persons throughout the State hold themselves out to
17 the public as being engaged in, and have engaged in, accepting
18 money from members of the public for remittance to the State of
19 Illinois, and its licensing and taxing agencies in payment of
20 registration plates, vehicle certificates of title, taxes,
21 ~~vehicle taxes or vehicle license~~ or registration fees. Some of
22 these persons have failed to make such remittance with the
23 consequent loss to the remitters. It is the public policy of
24 this State that its people be protected against such hazards.

25 (Source: P.A. 76-1705.)

1 (625 ILCS 5/3-902) (from Ch. 95 1/2, par. 3-902)

2 Sec. 3-902. Application of Article.

3 This Article shall not apply to ~~(1) any person who accepts~~
4 ~~for remittance only such sums as he is authorized to collect by~~
5 ~~the remittee as its agent, and (2) to any person who, in~~
6 connection with the issuance of a license to him to conduct a
7 business in this State other than a remitter's license, shall
8 have filed, pursuant to a statutory requirement, a surety bond
9 covering the proper discharge of any liability incurred by him
10 in connection with the acceptance for remittance of money for
11 the purposes designated in the Article pursuant to which he or
12 she is licensed; ~~provided he does not accept any money for~~
13 ~~remittance, as a remittance agent, the proper transmittal of~~
14 ~~which is not covered by said bond.~~

15 (Source: P.A. 76-1705.)

16 (625 ILCS 5/3-903) (from Ch. 95 1/2, par. 3-903)

17 Sec. 3-903. License.

18 It shall be unlawful for any person, ~~either as principal or~~
19 ~~agent,~~ to act as a "remittance agent" in the State of Illinois
20 without first having obtained or renewed, ~~as the case may be,~~ a
21 license and posted a bond, as hereafter provided.

22 (Source: P.A. 76-1705.)

23 (625 ILCS 5/3-904) (from Ch. 95 1/2, par. 3-904)

1 Sec. 3-904. Application - Contents - Affidavits. Any person
2 who desires to act as a "remittance agent" shall first file
3 with the Secretary of State a written application for a
4 license. The application shall be under oath and shall contain
5 the following:

6 1. The name and address of the applicant.

7 2. The address of each location at which the applicant
8 intends to act as a remittance agent.

9 3. The applicant's business, occupation or profession.

10 4. A statement disclosing whether he has been involved in
11 any civil or criminal litigation and if so, the material facts
12 pertaining thereto.

13 5. A statement that the applicant has not committed in the
14 past 3 years any violation as determined in any civil,
15 criminal, or administrative proceedings under the Retailers'
16 Occupation Tax Act or under Article I or VII of Chapter 3 of
17 this Code.

18 6. Any other information concerning the business of the
19 applicant that the Secretary of State may prescribe.

20 The application shall be accompanied by the affidavits of
21 two persons residing in the city or town of such applicant's
22 residence. Such affiants shall state that they have known the
23 applicant for a period of at least two years; that the
24 applicant is of good moral character and that his reputation
25 for honesty and business integrity in the community in which he
26 resides is good. If the applicant is not an individual, the

1 requirements of this paragraph shall apply to each of its
2 officers or members.

3 (Source: P.A. 83-387.)

4 (625 ILCS 5/3-906) (from Ch. 95 1/2, par. 3-906)

5 Sec. 3-906. Denial.

6 The Secretary of State shall deny any application under
7 this Article upon any of the following grounds:

8 (1) That the application contains any false or fraudulent
9 statement; or

10 (2) That the applicant has failed to furnish the
11 information required by the Secretary or to file a bond as
12 required; or

13 (3) That the required fee has not been paid; or

14 (4) That the applicant has failed to remit fees to the
15 Secretary of State or the Department of Revenue; or

16 (5) That the applicant has engaged in fraudulent practices;
17 or

18 (6) That the applicant or a member of his immediate family
19 is an employee of the Secretary of State; or

20 (7) That the Secretary of State is authorized under any
21 other provision of law.

22 If the Secretary of State denies the application for a
23 license, or renewal thereof, ~~or revokes a license,~~ he shall so
24 order in writing and notify the applicant thereof by certified
25 mail. Upon the denial of an application for a license, or

1 renewal thereof, he shall return the license fee. An applicant
2 may contest the denial of an application for a license or
3 renewal thereof by requesting an administrative hearing
4 pursuant to Section 2-118 of this Code ~~No application shall be~~
5 ~~denied unless the applicant has had an opportunity for a fair~~
6 ~~hearing in connection therewith.~~

7 (Source: P.A. 77-84.)

8 (625 ILCS 5/3-907) (from Ch. 95 1/2, par. 3-907)

9 Sec. 3-907. Suspension or revocation.

10 Such license may be suspended or revoked by the Secretary
11 of State for the violation of any provision of this Act or any
12 rule or regulation of the Secretary of State and for any reason
13 which, had it existed or been known to the Secretary of State
14 at the time of the filing of the application for such license,
15 would have been good cause for the denial of such application.
16 The Secretary of State shall order such license suspended or
17 revoked in writing and shall notify the licensee of the order
18 by certified mail. A licensee may, upon receipt of an order of
19 suspension or revocation seek a hearing to review such order
20 pursuant to Section 2-118 of this Code.

21 (Source: P.A. 77-84.)

22 (625 ILCS 5/3-913) (from Ch. 95 1/2, par. 3-913)

23 Sec. 3-913. Hearings ~~Hearing~~ ~~Subpoenas~~. Hearings under
24 this Article shall be governed by Section 2-118 of this Act and

1 the Administrative Review Law as amended, shall apply to and
2 govern all proceedings for judicial review of any final order
3 issued by the Secretary of State. ~~For the purposes of this Act,~~
4 ~~the Secretary of State, or the hearing officer as hereinafter~~
5 ~~provided, has power to require by subpoena the attendance and~~
6 ~~testimony of witnesses, and the production of all documentary~~
7 ~~evidence relating to any matter under hearing pursuant to this~~
8 ~~Act, and shall issue such subpoenas at the request of an~~
9 ~~interested party. The hearing officer may sign subpoenas in the~~
10 ~~name of the Secretary of State.~~

11 ~~The Secretary of State may, in his discretion, direct that~~
12 ~~any hearing pursuant to this Act, shall be held before a~~
13 ~~competent and qualified agent of the Secretary of State, whom~~
14 ~~the Secretary of State shall designate as the hearing officer~~
15 ~~in such matter. The Secretary of State and the hearing officer~~
16 ~~are hereby empowered to, and shall, administer oaths and~~
17 ~~affirmations to all witnesses appearing before them. The~~
18 ~~hearing officer, upon the conclusion of the hearing before him,~~
19 ~~shall certify the evidence to the Secretary of State, and may~~
20 ~~make recommendations in connection therewith.~~

21 ~~Any Circuit Court of this State, within the jurisdiction of~~
22 ~~which such hearing is carried on, may, in case of contumacy, or~~
23 ~~refusal of a witness to obey a subpoena, issue an order~~
24 ~~requiring such witness to appear before the Secretary of State,~~
25 ~~or the hearing officer, or to produce documentary evidence, or~~
26 ~~to give testimony touching the matter in question, and any~~

1 ~~failure to obey such order of the court may be punished by such~~
2 ~~court as a contempt thereof.~~

3 (Source: P.A. 82-783.)

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