



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2005

Introduced 2/10/2011, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-203

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

Amends the Illinois Vehicle Code. Contains a statement of public policy. Provides that the owner of record of any vehicle found containing specified fireworks that were not purchased in a manner legally consistent with the Pyrotechnic Use Act from a pyrotechnic or consumer fireworks distributor or retailer authorized through the Office of the State Fire Marshal may be subject to impoundment by units of local government in conjunction with local law enforcement, and that return of vehicles impounded under this amendatory Act is subject to existing or future local ordinances concerning return of impounded vehicles. Provides various exceptions and exemptions from the provisions allowing for the impoundment of vehicles containing illegal fireworks. Effective January 1, 2012.

LRB097 10238 HEP 50435 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 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 10. When a vehicle has been towed or removed pursuant
7 to this Section, it must be released to its owner or
8 custodian within one half hour after requested, if such
9 request is made during business hours. Any vehicle owner or
10 custodian or agent shall have the right to inspect the
11 vehicle before accepting its return, and no release or
12 waiver of any kind which would release the towing service
13 from liability for damages incurred during the towing and
14 storage may be required from any vehicle owner or other
15 legally authorized person as a condition of release of the
16 vehicle. A detailed, signed receipt showing the legal name
17 of the towing service must be given to the person paying
18 towing or storage charges at the time of payment, whether
19 requested or not.

20 This Section shall not apply to law enforcement,
21 firefighting, rescue, ambulance, or other emergency vehicles
22 which are marked as such or to property owned by any
23 governmental entity.

24 When an authorized person improperly causes a motor vehicle
25 to be removed, such person shall be liable to the owner or
26 lessee of the vehicle for the cost or removal, transportation

1 and storage, any damages resulting from the removal,
2 transportation and storage, attorney's fee and court costs.

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

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

11 Any person who fails to comply with the conditions and
12 restrictions of this subsection shall be guilty of a Class C
13 misdemeanor and shall be fined not less than \$100 nor more than
14 \$500.

15 (g)(1) When a vehicle is determined to be a hazardous
16 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
17 Illinois Municipal Code, its removal and impoundment by a
18 towing service may be authorized by a law enforcement agency
19 with appropriate jurisdiction.

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

24 (3) Vehicles removed from public or private property and
25 stored by a commercial vehicle relocater or any other towing
26 service authorized by a law enforcement agency in compliance

1 with this Section and Sections 4-201 and 4-202 of this Code, or
2 at the request of the vehicle owner or operator, shall be
3 subject to a possessor lien for services pursuant to the Labor
4 and Storage Lien (Small Amount) Act. The provisions of Section
5 1 of that Act relating to notice and implied consent shall be
6 deemed satisfied by compliance with Section 18a-302 and
7 subsection (6) of Section 18a-300. In no event shall such lien
8 be greater than the rate or rates established in accordance
9 with subsection (6) of Section 18a-200 of this Code. In no
10 event shall such lien be increased or altered to reflect any
11 charge for services or materials rendered in addition to those
12 authorized by this Act. Every such lien shall be payable by use
13 of any major credit card, in addition to being payable in cash.

14 (4) Any personal property belonging to the vehicle owner in
15 a vehicle subject to a lien under this subsection (g) shall
16 likewise be subject to that lien, excepting only: child
17 restraint systems as defined in Section 4 of the Child
18 Passenger Protection Act and other child booster seats;
19 eyeglasses; food; medicine; perishable property; any
20 operator's licenses; any cash, credit cards, or checks or
21 checkbooks; any wallet, purse, or other property containing any
22 operator's license or other identifying documents or
23 materials, cash, credit cards, checks, or checkbooks; and any
24 personal property belonging to a person other than the vehicle
25 owner if that person provides adequate proof that the personal
26 property belongs to that person. The spouse, child, mother,

1 father, brother, or sister of the vehicle owner may claim
2 personal property excepted under this paragraph (4) if the
3 person claiming the personal property provides the commercial
4 vehicle relocater or towing service with the authorization of
5 the vehicle owner.

6 (5) This paragraph (5) applies only in the case of a
7 vehicle that is towed as a result of being involved in an
8 accident. In addition to the personal property excepted under
9 paragraph (4), all other personal property in a vehicle subject
10 to a lien under this subsection (g) is exempt from that lien
11 and may be claimed by the vehicle owner if the vehicle owner
12 provides the commercial vehicle relocater or towing service
13 with proof that the vehicle owner has an insurance policy
14 covering towing and storage fees. The spouse, child, mother,
15 father, brother, or sister of the vehicle owner may claim
16 personal property in a vehicle subject to a lien under this
17 subsection (g) if the person claiming the personal property
18 provides the commercial vehicle relocater or towing service
19 with the authorization of the vehicle owner and proof that the
20 vehicle owner has an insurance policy covering towing and
21 storage fees. The regulation of liens on personal property and
22 exceptions to those liens in the case of vehicles towed as a
23 result of being involved in an accident are exclusive powers
24 and functions of the State. A home rule unit may not regulate
25 liens on personal property and exceptions to those liens in the
26 case of vehicles towed as a result of being involved in an

1 accident. This paragraph (5) is a denial and limitation of home
2 rule powers and functions under subsection (h) of Section 6 of
3 Article VII of the Illinois Constitution.

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

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

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

17 (2) If the person ticketed for a violation of
18 subsection (a) of Section 11-506 of this Code was not
19 authorized by the registered owner of the vehicle to
20 operate the vehicle at the time of the violation; or

21 (3) If the registered owner of the vehicle was neither
22 the driver nor a passenger in the vehicle at the time of
23 the violation or was unaware that the driver was using the
24 vehicle to engage in street racing; or

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

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

4 (i) It is the public policy of this State that in the
5 interest of public safety, the possession of certain fireworks
6 is illegal in the State of Illinois without proper permitting.

7 The owner of record of any vehicle found containing
8 fireworks that were not purchased in a manner legally
9 consistent with the Pyrotechnic Use Act from a pyrotechnic or
10 consumer fireworks distributor or retailer authorized through
11 the Office of the State Fire Marshal may be subject to
12 impoundment by units of local government in conjunction with
13 the local law enforcement agency having jurisdiction. This
14 subsection (i) applies only to 1.3G fireworks, consumer
15 fireworks, flame effects, and special effects fireworks as
16 defined by the Pyrotechnic Use Act and the Office of the State
17 Fire Marshal. Return of vehicles impounded under this
18 subsection (i) is subject to existing or future local
19 ordinances concerning the return of impounded vehicles to their
20 owners.

21 For purposes of this subsection (i), "owner of record"
22 means the record title holder of the vehicle.

23 This subsection (i) does not apply if:

24 (1) the vehicle used in violation was stolen at the
25 time of the violation and the theft was reported to the
26 appropriate law enforcement officials within 24 hours

1 after the theft was discovered or reasonably should have
2 been discovered;

3 (2) the vehicle was in operation as a common carrier
4 and the violation occurred without the knowledge of the
5 person in control of the vehicle;

6 (3) the alleged owner provides adequate proof that the
7 vehicle had been sold to another person prior to the
8 violation; or

9 (4) the owner provides adequate proof that the presence
10 of fireworks was permissible under the Section above.

11 Nothing contained in this subsection (i) concerning
12 fireworks shall be construed as applying to the transportation
13 of any article or thing shipped in conformity with Interstate
14 Commerce Commission regulations, nor as applying to the
15 military or naval forces of the United States.

16 (Source: P.A. 95-310, eff. 1-1-08; 95-562, eff. 7-1-08; 95-621,
17 eff. 6-1-08; 95-876, eff. 8-21-08; 96-1274, eff. 7-26-10;
18 96-1506, eff. 1-27-11.)

19 Section 99. Effective date. This Act takes effect January
20 1, 2012.