



Rep. Chapin Rose

Filed: 11/16/2010

09600HB1935ham002

LRB096 05252 HEP 44001 a

1 AMENDMENT TO HOUSE BILL 1935

2 AMENDMENT NO. _____. Amend House Bill 1935 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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

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

1 This Section shall not apply to law enforcement,
2 firefighting, rescue, ambulance, or other emergency vehicles
3 which are marked as such or to property owned by any
4 governmental entity.

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

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

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

18 Any person who fails to comply with the conditions and
19 restrictions of this subsection shall be guilty of a Class C
20 misdemeanor and shall be fined not less than \$100 nor more than
21 \$500.

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

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

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

21 (4) Any personal property belonging to the vehicle owner in
22 a vehicle subject to a lien under this subsection (g) shall
23 likewise be subject to that lien, excepting only: child
24 restraint systems as defined in Section 4 of the Child
25 Passenger Protection Act and other child booster seats;
26 eyeglasses; food; medicine; perishable property; any

1 operator's licenses; any cash, credit cards, or checks or
2 checkbooks; any wallet, purse, or other property containing any
3 operator's license or other identifying documents or
4 materials, cash, credit cards, checks, or checkbooks; and any
5 personal property belonging to a person other than the vehicle
6 owner if that person provides adequate proof that the personal
7 property belongs to that person. The spouse, child, mother,
8 father, brother, or sister of the vehicle owner may claim
9 personal property excepted under this paragraph (4) if the
10 person claiming the personal property provides the commercial
11 vehicle relocater or towing service with the authorization of
12 the vehicle owner.

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

1 vehicle owner has an insurance policy covering towing and
2 storage fees. The regulation of liens on personal property and
3 exceptions to those liens in the case of vehicles towed as a
4 result of being involved in an accident are exclusive powers
5 and functions of the State. A home rule unit may not regulate
6 liens on personal property and exceptions to those liens in the
7 case of vehicles towed as a result of being involved in an
8 accident. This paragraph (5) is a denial and limitation of home
9 rule powers and functions under subsection (h) of Section 6 of
10 Article VII of the Illinois Constitution.

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

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

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

24 (2) If the person ticketed for a violation of
25 subsection (a) of Section 11-506 of this Code was not
26 authorized by the registered owner of the vehicle to

1 operate the vehicle at the time of the violation; or

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

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

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

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

13 Section 99. Effective date. This Act takes effect January
14 1, 2011."