

HB1940



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1940

Introduced 2/18/2009, by Rep. Michael J. Madigan - Barbara Flynn Currie - John D'Amico

SYNOPSIS AS INTRODUCED:

625 ILCS 5/3-402

from Ch. 95 1/2, par. 3-402

Amends the Illinois Vehicle Code. Makes a technical change in a Section concerning vehicles subject to registration.

LRB096 05266 AJT 15332 b

A BILL FOR

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 3-402 as follows:

6 (625 ILCS 5/3-402) (from Ch. 95 1/2, par. 3-402)

7 Sec. 3-402. Vehicles subject to registration; exceptions.

8 A. Exemptions and ~~and~~ Policy. Every motor vehicle, trailer,
9 semitrailer and pole trailer when driven or moved upon a
10 highway shall be subject to the registration and certificate of
11 title provisions of this Chapter except:

12 (1) Any such vehicle driven or moved upon a highway in
13 conformance with the provisions of this Chapter relating to
14 manufacturers, transporters, dealers, lienholders or
15 nonresidents or under a temporary registration permit
16 issued by the Secretary of State;

17 (2) Any implement of husbandry whether of a type
18 otherwise subject to registration hereunder or not which is
19 only incidentally operated or moved upon a highway, which
20 shall include a not-for-hire movement for the purpose of
21 delivering farm commodities to a place of first processing
22 or sale, or to a place of storage;

23 (3) Any special mobile equipment as herein defined;

1 (4) Any vehicle which is propelled exclusively by
2 electric power obtained from overhead trolley wires though
3 not operated upon rails;

4 (5) Any vehicle which is equipped and used exclusively
5 as a pumper, ladder truck, rescue vehicle, searchlight
6 truck, or other fire apparatus, but not a vehicle of a type
7 which would otherwise be subject to registration as a
8 vehicle of the first division;

9 (6) Any vehicle which is owned and operated by the
10 federal government and externally displays evidence of
11 federal ownership. It is the policy of the State of
12 Illinois to promote and encourage the fullest use of its
13 highways and to enhance the flow of commerce thus
14 contributing to the economic, agricultural, industrial and
15 social growth and development of this State, by authorizing
16 the Secretary of State to negotiate and enter into
17 reciprocal or proportional agreements or arrangements with
18 other States, or to issue declarations setting forth
19 reciprocal exemptions, benefits and privileges with
20 respect to vehicles operated interstate which are properly
21 registered in this and other States, assuring nevertheless
22 proper registration of vehicles in Illinois as may be
23 required by this Code;

24 (7) Any converter dolly or tow dolly which merely
25 serves as substitute wheels for another legally licensed
26 vehicle. A title may be issued on a voluntary basis to a

1 tow dolly upon receipt of the manufacturer's certificate of
2 origin or the bill of sale;

3 (8) Any house trailer found to be an abandoned mobile
4 home under the Abandoned Mobile Home Act;

5 (9) Any vehicle that is not properly registered or does
6 not have registration plates issued to the owner or
7 operator affixed thereto, or that does have registration
8 plates issued to the owner or operator affixed thereto but
9 the plates are not appropriate for the weight of the
10 vehicle, provided that this exemption shall apply only
11 while the vehicle is being transported or operated by a
12 towing service and has a third tow plate affixed to it.

13 B. Reciprocity. Any motor vehicle, trailer, semitrailer or
14 pole trailer need not be registered under this Code provided
15 the same is operated interstate and in accordance with the
16 following provisions and any rules and regulations promulgated
17 pursuant thereto:

18 (1) A nonresident owner, except as otherwise provided
19 in this Section, owning any foreign registered vehicle of a
20 type otherwise subject to registration hereunder, may
21 operate or permit the operation of such vehicle within this
22 State in interstate commerce without registering such
23 vehicle in, or paying any fees to, this State subject to
24 the condition that such vehicle at all times when operated
25 in this State is operated pursuant to a reciprocity
26 agreement, arrangement or declaration by this State, and

1 further subject to the condition that such vehicle at all
2 times when operated in this State is duly registered in,
3 and displays upon it, a valid registration card and
4 registration plate or plates issued for such vehicle in the
5 place of residence of such owner and is issued and
6 maintains in such vehicle a valid Illinois reciprocity
7 permit as required by the Secretary of State, and provided
8 like privileges are afforded to residents of this State by
9 the State of residence of such owner.

10 Every nonresident including any foreign corporation
11 carrying on business within this State and owning and
12 regularly operating in such business any motor vehicle,
13 trailer or semitrailer within this State in intrastate
14 commerce, shall be required to register each such vehicle
15 and pay the same fees therefor as is required with
16 reference to like vehicles owned by residents of this
17 State.

18 (2) Any motor vehicle, trailer, semitrailer and pole
19 trailer operated interstate need not be registered in this
20 State, provided:

21 (a) that the vehicle is properly registered in
22 another State pursuant to law or to a reciprocity
23 agreement, arrangement or declaration; or

24 (b) that such vehicle is part of a fleet of
25 vehicles owned or operated by the same person who
26 registers such fleet of vehicles pro rata among the

1 various States in which such fleet operates; or

2 (c) that such vehicle is part of a fleet of
3 vehicles, a portion of which are registered with the
4 Secretary of State of Illinois in accordance with an
5 agreement or arrangement concurred in by the Secretary
6 of State of Illinois based on one or more of the
7 following factors: ratio of miles in Illinois as
8 against total miles in all jurisdictions; situs or base
9 of a vehicle, or where it is principally garaged, or
10 from whence it is principally dispatched or where the
11 movements of such vehicle usually originate; situs of
12 the residence of the owner or operator thereof, or of
13 his principal office or offices, or of his places of
14 business; the routes traversed and whether regular or
15 irregular routes are traversed, and the jurisdictions
16 traversed and served; and such other factors as may be
17 deemed material by the Secretary and the motor vehicle
18 administrators of the other jurisdictions involved in
19 such apportionment. Such vehicles shall maintain
20 therein any reciprocity permit which may be required by
21 the Secretary of State pursuant to rules and
22 regulations which the Secretary of State may
23 promulgate in the administration of this Code, in the
24 public interest.

25 (3) (a) In order to effectuate the purposes of this
26 Code, the Secretary of State of Illinois is empowered

1 to negotiate and execute written reciprocal agreements
2 or arrangements with the duly authorized
3 representatives of other jurisdictions, including
4 States, districts, territories and possessions of the
5 United States, and foreign states, provinces, or
6 countries, granting to owners or operators of vehicles
7 duly registered or licensed in such other
8 jurisdictions and for which evidence of compliance is
9 supplied, benefits, privileges and exemption from the
10 payment, wholly or partially, of any taxes, fees or
11 other charges imposed with respect to the ownership or
12 operation of such vehicles by the laws of this State
13 except the tax imposed by the Motor Fuel Tax Law,
14 approved March 25, 1929, as amended, and the tax
15 imposed by the Use Tax Act, approved July 14, 1955, as
16 amended.

17 The Secretary of State may negotiate agreements or
18 arrangements as are in the best interests of this State
19 and the residents of this State pursuant to the
20 policies expressed in this Section taking into
21 consideration the reciprocal exemptions, benefits and
22 privileges available and accruing to residents of this
23 State and vehicles registered in this State.

24 (b) Such reciprocal agreements or arrangements
25 shall provide that vehicles duly registered or
26 licensed in this State when operated upon the highways

1 of such other jurisdictions, shall receive exemptions,
2 benefits and privileges of a similar kind or to a
3 similar degree as extended to vehicles from such
4 jurisdictions in this State.

5 (c) Such agreements or arrangements may also
6 authorize the apportionment of registration or
7 licensing of fleets of vehicles operated interstate,
8 based on any or all of the following factors: ratio of
9 miles in Illinois as against total miles in all
10 jurisdictions; situs or base of a vehicle, or where it
11 is principally garaged or from whence it is principally
12 dispatched or where the movements of such vehicle
13 usually originate; situs of the residence of the owner
14 or operator thereof, or of his principal office or
15 offices, or of his places of business; the routes
16 traversed and whether regular or irregular routes are
17 traversed, and the jurisdictions traversed and served;
18 and such other factors as may be deemed material by the
19 Secretary and the motor vehicle administrators of the
20 other jurisdictions involved in such apportionment,
21 and such vehicles shall likewise be entitled to
22 reciprocal exemptions, benefits and privileges.

23 (d) Such agreements or arrangements shall also
24 provide that vehicles being operated in intrastate
25 commerce in Illinois shall comply with the
26 registration and licensing laws of this State, except

1 that vehicles which are part of an apportioned fleet
2 may conduct an intrastate operation incidental to
3 their interstate operations. Any motor vehicle
4 properly registered and qualified under any reciprocal
5 agreement or arrangement under this Code and not having
6 a situs or base within Illinois may complete the
7 inbound movement of a trailer or semitrailer to an
8 Illinois destination that was brought into Illinois by
9 a motor vehicle also properly registered and qualified
10 under this Code and not having a situs or base within
11 Illinois, or may complete an outbound movement of a
12 trailer or semitrailer to an out-of-state destination
13 that was originated in Illinois by a motor vehicle also
14 properly registered and qualified under this Code and
15 not having a situs or base in Illinois, only if the
16 operator thereof did not break bulk of the cargo laden
17 in such inbound or outbound trailer or semitrailer.
18 Adding or unloading intrastate cargo on such inbound or
19 outbound trailer or semitrailer shall be deemed as
20 breaking bulk.

21 (e) Such agreements or arrangements may also
22 provide for the determination of the proper State in
23 which leased vehicles shall be registered based on the
24 factors set out in subsection (c) above and for
25 apportionment of registration of fleets of leased
26 vehicles by the lessee or by the lessor who leases such

1 vehicles to persons who are not fleet operators.

2 (f) Such agreements or arrangements may also
3 include reciprocal exemptions, benefits or privileges
4 accruing under The Illinois Driver Licensing Law or The
5 Driver License Compact.

6 (4) The Secretary of State is further authorized to
7 examine the laws and requirements of other jurisdictions,
8 and, in the absence of a written agreement or arrangement,
9 to issue a written declaration of the extent and nature of
10 the exemptions, benefits and privileges accorded to
11 vehicles of this State by such other jurisdictions, and the
12 extent and nature of reciprocal exemptions, benefits and
13 privileges thereby accorded by this State to the vehicles
14 of such other jurisdictions. A declaration by the Secretary
15 of State may include any, part or all reciprocal
16 exemptions, benefits and privileges or provisions as may be
17 included within an agreement or arrangement.

18 (5) All agreements, arrangements, declarations and
19 amendments thereto, shall be in writing and become
20 effective when signed by the Secretary of State, and copies
21 of all such documents shall be available to the public upon
22 request.

23 (6) The Secretary of State is further authorized to
24 require the display by foreign registered trucks,
25 truck-tractors and buses, entitled to reciprocal benefits,
26 exemptions or privileges hereunder, a reciprocity permit

1 for external display before any such reciprocal benefits,
2 exemptions or privileges are granted. The Secretary of
3 State shall provide suitable application forms for such
4 permit and shall promulgate and publish reasonable rules
5 and regulations for the administration and enforcement of
6 the provisions of this Code including a provision for
7 revocation of such permit as to any vehicle operated
8 wilfully in violation of the terms of any reciprocal
9 agreement, arrangement or declaration or in violation of
10 the Illinois Motor Carrier of Property Law, as amended.

11 (7) (a) Upon the suspension, revocation or denial of
12 one or more of all reciprocal benefits, privileges and
13 exemptions existing pursuant to the terms and
14 provisions of this Code or by virtue of a reciprocal
15 agreement or arrangement or declaration thereunder;
16 or, upon the suspension, revocation or denial of a
17 reciprocity permit; or, upon any action or inaction of
18 the Secretary in the administration and enforcement of
19 the provisions of this Code, any person, resident or
20 nonresident, so aggrieved, may serve upon the
21 Secretary, a petition in writing and under oath,
22 setting forth the grievance of the petitioner, the
23 grounds and basis for the relief sought, and all
24 necessary facts and particulars, and request an
25 administrative hearing thereon. Within 20 days, the
26 Secretary shall set a hearing date as early as

1 practical. The Secretary may, in his discretion,
2 supply forms for such a petition. The Secretary may
3 require the payment of a fee of not more than \$50 for
4 the filing of any petition, motion, or request for
5 hearing conducted pursuant to this Section. These fees
6 must be deposited into the Secretary of State DUI
7 Administration Fund, a special fund that is hereby
8 created in the State treasury, and, subject to
9 appropriation and as directed by the Secretary of
10 State, shall be used to fund the operation of the
11 hearings department of the Office of the Secretary of
12 State and for no other purpose. The Secretary shall
13 establish by rule the amount and the procedures, terms,
14 and conditions relating to these fees.

15 (b) The Secretary may likewise, in his discretion
16 and upon his own petition, order a hearing, when in his
17 best judgment, any person is not entitled to the
18 reciprocal benefits, privileges and exemptions
19 existing pursuant to the terms and provisions of this
20 Code or under a reciprocal agreement or arrangement or
21 declaration thereunder or that a vehicle owned or
22 operated by such person is improperly registered or
23 licensed, or that an Illinois resident has improperly
24 registered or licensed a vehicle in another
25 jurisdiction for the purposes of violating or avoiding
26 the registration laws of this State.

1 (c) The Secretary shall notify a petitioner or any
2 other person involved of such a hearing, by giving at
3 least 10 days notice, in writing, by U.S. Mail,
4 Registered or Certified, or by personal service, at the
5 last known address of such petitioner or person,
6 specifying the time and place of such hearing. Such
7 hearing shall be held before the Secretary, or any
8 person as he may designate, and unless the parties
9 mutually agree to some other county in Illinois, the
10 hearing shall be held in the County of Sangamon or the
11 County of Cook. Appropriate records of the hearing
12 shall be kept, and the Secretary shall issue or cause
13 to be issued, his decision on the case, within 30 days
14 after the close of such hearing or within 30 days after
15 receipt of the transcript thereof, and a copy shall
16 likewise be served or mailed to the petitioner or
17 person involved.

18 (d) The actions or inactions or determinations, or
19 findings and decisions upon an administrative hearing,
20 of the Secretary, shall be subject to judicial review
21 in the Circuit Court of the County of Sangamon or the
22 County of Cook, and the provisions of the
23 Administrative Review Law, and all amendments and
24 modifications thereof and rules adopted pursuant
25 thereto, apply to and govern all such reviewable
26 matters.

1 Any reciprocal agreements or arrangements entered
2 into by the Secretary of State or any declarations
3 issued by the Secretary of State pursuant to any law in
4 effect prior to the effective date of this Code are not
5 hereby abrogated, and such shall continue in force and
6 effect until amended pursuant to the provisions of this
7 Code or expire pursuant to the terms or provisions
8 thereof.

9 (Source: P.A. 92-418, eff. 8-17-01; 92-651, eff. 7-11-02.)