

SB3502



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3502

Introduced 2/8/2012, by Sen. Wm. Sam McCann

SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-401.2

from Ch. 95 1/2, par. 5-401.2

Amends the Illinois Vehicle Code. Provides that a person required to keep a separate certificate of title, salvage certificate, junking certificate, certificate of purchase, uniform invoice, out-of-state bill of sale, or other acceptable documentary evidence of his or her right to the possession of every vehicle or essential part who operates 2 or more established places of businesses within a 20 minute radius of each other may hold all original acceptable documentary evidence of the person's right to possess each vehicle or essential part at one of the established places of business. Provides that the person shall keep copies of the ownership documents at the location where the vehicle or essential part is held for resale.

LRB097 19883 HEP 65167 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 5-401.2 as follows:

6 (625 ILCS 5/5-401.2) (from Ch. 95 1/2, par. 5-401.2)

7 Sec. 5-401.2. Licensees required to keep records and make
8 inspections.

9 (a) Every person licensed or required to be licensed under
10 Section 5-101, 5-101.1, 5-102, 5-301 or 5-302 of this Code,
11 shall, with the exception of scrap processors, maintain for 3
12 years, in a form as the Secretary of State may by rule or
13 regulation prescribe, at his established place of business,
14 additional place of business, or principal place of business if
15 licensed under Section 5-302, the following records relating to
16 the acquisition or disposition of vehicles and their essential
17 parts possessed in this State, brought into this State from
18 another state, territory or country, or sold or transferred to
19 another person in this State or in another state, territory, or
20 country.

21 (1) The following records pertaining to new or used
22 vehicles shall be kept:

23 (A) the year, make, model, style and color of the

1 vehicle;

2 (B) the vehicle's manufacturer's identification
3 number or, if applicable, the Secretary of State or
4 Illinois Department of State Police identification
5 number;

6 (C) the date of acquisition of the vehicle;

7 (D) the name and address of the person from whom
8 the vehicle was acquired and, if that person is a
9 dealer, the Illinois or out-of-state dealer license
10 number of such person;

11 (E) the signature of the person making the
12 inspection of a used vehicle as required under
13 subsection (d) of this Section, if applicable;

14 (F) the purchase price of the vehicle, if
15 applicable;

16 (G) the date of the disposition of the vehicle;

17 (H) the name and address of the person to whom any
18 vehicle was disposed, and if that person is a dealer,
19 the Illinois or out-of-State dealer's license number
20 of that dealer;

21 (I) the uniform invoice number reflecting the
22 disposition of the vehicle, if applicable; and

23 (J) The sale price of the vehicle, if applicable.

24 (2) (A) The following records pertaining to used
25 essential parts other than quarter panels and
26 transmissions of vehicles of the first division shall be

1 kept:

2 (i) the year, make, model, color and type of such
3 part;

4 (ii) the vehicle's manufacturer's identification
5 number, derivative number, or, if applicable, the
6 Secretary of State or Illinois Department of State
7 Police identification number of such part;

8 (iii) the date of the acquisition of each part;

9 (iv) the name and address of the person from whom
10 the part was acquired and, if that person is a dealer,
11 the Illinois or out-of-state dealer license number of
12 such person; if the essential part being acquired is
13 from a person other than a dealer, the licensee shall
14 verify and record that person's identity by recording
15 the identification numbers from at least two sources of
16 identification, one of which shall be a drivers license
17 or State identification card;

18 (v) the uniform invoice number or out-of-state
19 bill of sale number reflecting the acquisition of such
20 part;

21 (vi) the stock number assigned to the essential
22 part by the licensee, if applicable;

23 (vii) the date of the disposition of such part;

24 (viii) the name and address of the person to whom
25 such part was disposed of and, if that person is a
26 dealer, the Illinois or out-of-state dealer license

1 number of that person;

2 (ix) the uniform invoice number reflecting the
3 disposition of such part.

4 (B) Inspections of all essential parts shall be
5 conducted in accordance with Section 5-402.1.

6 (C) A separate entry containing all of the information
7 required to be recorded in subparagraph (A) of paragraph
8 (2) of subsection (a) of this Section shall be made for
9 each separate essential part. Separate entries shall be
10 made regardless of whether the part was a large purchase
11 acquisition. In addition, a separate entry shall be made
12 for each part acquired for immediate sale or transfer, or
13 for placement into the overall inventory or stock to be
14 disposed of at a later time, or for use on a vehicle to be
15 materially altered by the licensee, or acquired for any
16 other purpose or reason. Failure to make a separate entry
17 for each essential part acquired or disposed of, or a
18 failure to record any of the specific information required
19 to be recorded concerning the acquisition or disposition of
20 each essential part as set forth in subparagraph (A) of
21 paragraph (2) of subsection (a) shall constitute a failure
22 to keep records.

23 (D) The vehicle's manufacturer's identification number
24 or Secretary of State or Illinois Department of State
25 Police identification number for the essential part shall
26 be ascertained and recorded even if such part is acquired

1 from a person or dealer located in a State, territory, or
2 country which does not require that such information be
3 recorded. If the vehicle's manufacturer's identification
4 number or Secretary of State or Illinois Department of
5 State Police identification number for an essential part
6 cannot be obtained, that part shall not be acquired by the
7 licensee or any of his agents or employees. If such part or
8 parts were physically acquired by the licensee or any of
9 his agents or employees while the licensee or agent or
10 employee was outside this State, that licensee or agent or
11 employee was outside the State, that licensee, agent or
12 employee shall not bring such essential part into this
13 State or cause it to be brought into this State. The
14 acquisition or disposition of an essential part by a
15 licensee without the recording of the vehicle
16 identification number or Secretary of State identification
17 number for such part or the transportation into the State
18 by the licensee or his agent or employee of such part or
19 parts shall constitute a failure to keep records.

20 (E) The records of essential parts required to be kept
21 by this Section shall apply to all hulks, chassis, frames
22 or cowls, regardless of the age of those essential parts.
23 The records required to be kept by this Section for
24 essential parts other than hulks, chassis, frames or cowls,
25 shall apply only to those essential parts which are 6 model
26 years of age or newer. In determining the model year of

1 such an essential part it may be presumed that the
2 identification number of the vehicle from which the
3 essential part came or the identification number affixed to
4 the essential part itself acquired by the licensee denotes
5 the model year of that essential part. This presumption,
6 however, shall not apply if the gross appearance of the
7 essential part does not correspond to the year, make or
8 model of either the identification number of the vehicle
9 from which the essential part is alleged to have come or
10 the identification number which is affixed to the essential
11 part itself. To determine whether an essential part is 6
12 years of age or newer within this paragraph, the model year
13 of the essential part shall be subtracted from the calendar
14 year in which the essential part is acquired or disposed of
15 by the licensee. If the remainder is 6 or less, the record
16 of the acquisition or disposition of that essential part
17 shall be kept as required by this Section.

18 (F) The requirements of paragraph (2) of subsection (a)
19 of this Section shall not apply to the disposition of an
20 essential part other than a cowl which has been damaged or
21 altered to a state in which it can no longer be returned to
22 a usable condition and which is being sold or transferred
23 to a scrap processor or for delivery to a scrap processor.

24 (3) the following records for vehicles on which junking
25 certificates are obtained shall be kept:

26 (A) the year, make, model, style and color of the

1 vehicle;

2 (B) the vehicle's manufacturer's identification number
3 or, if applicable, the Secretary of State or Illinois
4 Department of State Police identification number;

5 (C) the date the vehicle was acquired;

6 (D) the name and address of the person from whom the
7 vehicle was acquired and, if that person is a dealer, the
8 Illinois or out-of-state dealer license number of that
9 person;

10 (E) the certificate of title number or salvage
11 certificate number for the vehicle, if applicable;

12 (F) the junking certificate number obtained by the
13 licensee; this entry shall be recorded at the close of
14 business of the fifth business day after receiving the
15 junking certificate;

16 (G) the name and address of the person to whom the
17 junking certificate has been assigned, if applicable, and
18 if that person is a dealer, the Illinois or out-of-state
19 dealer license number of that dealer;

20 (H) if the vehicle or any part of the vehicle is
21 dismantled for its parts to be disposed of in any way, or
22 if such parts are to be used by the licensee to materially
23 alter a vehicle, those essential parts shall be recorded
24 and the entries required by paragraph (2) of subsection (a)
25 shall be made.

26 (4) The following records for rebuilt vehicles shall be

1 kept:

2 (A) the year, make, model, style and color of the
3 vehicle;

4 (B) the vehicle's manufacturer's identification number
5 of the vehicle or, if applicable, the Secretary of State or
6 Illinois Department of State Police identification number;

7 (C) the date the vehicle was acquired;

8 (D) the name and address of the person from whom the
9 vehicle was acquired, and if that person is a dealer, the
10 Illinois or out-of-state dealer license number of that
11 person;

12 (E) the salvage certificate number for the vehicle;

13 (F) the newly issued certificate of title number for
14 the vehicle;

15 (G) the date of disposition of the vehicle;

16 (H) the name and address of the person to whom the
17 vehicle was disposed, and if a dealer, the Illinois or
18 out-of-state dealer license number of that dealer;

19 (I) The sale price of the vehicle.

20 (a-1) A person licensed or required to be licensed under
21 Section 5-101 or Section 5-102 of this Code who issues
22 temporary registration permits as permitted by this Code and by
23 rule must electronically file the registration with the
24 Secretary and must maintain records of the registration in the
25 manner prescribed by the Secretary.

26 (b) A failure to make separate entries for each vehicle

1 acquired, disposed of, or assigned, or a failure to record any
2 of the specific information required to be recorded concerning
3 the acquisition or disposition of each vehicle as set forth in
4 paragraphs (1), (3) and (4) of subsection (a) shall constitute
5 a failure to keep records.

6 (c) All entries relating to the acquisition of a vehicle or
7 essential part required by subsection (a) of this Section shall
8 be recorded no later than the close of business on the seventh
9 calendar day following such acquisition. All entries relating
10 to the disposition of a vehicle or an essential part shall be
11 made at the time of such disposition. If the vehicle or
12 essential part was disposed of on the same day as its
13 acquisition or the day thereafter, the entries relating to the
14 acquisition of the vehicle or essential part shall be made at
15 the time of the disposition of the vehicle or essential part.
16 Failure to make the entries required in or at the times
17 prescribed by this subsection following the acquisition or
18 disposition of such vehicle or essential part shall constitute
19 a failure to keep records.

20 (d) Every person licensed or required to be licensed shall,
21 before accepting delivery of a used vehicle, inspect the
22 vehicle to determine whether the manufacturer's public vehicle
23 identification number has been defaced, destroyed, falsified,
24 removed, altered, or tampered with in any way. If the person
25 making the inspection determines that the manufacturer's
26 public vehicle identification number has been altered,

1 removed, defaced, destroyed, falsified or tampered with he
2 shall not acquire that vehicle but instead shall promptly
3 notify law enforcement authorities of his finding.

4 (e) The information required to be kept in subsection (a)
5 of this Section shall be kept in a manner prescribed by rule or
6 regulation of the Secretary of State.

7 (f) Every person licensed or required to be licensed shall
8 have in his possession a separate certificate of title, salvage
9 certificate, junking certificate, certificate of purchase,
10 uniform invoice, out-of-state bill of sale or other acceptable
11 documentary evidence of his right to the possession of every
12 vehicle or essential part. A person licensed or required to be
13 licensed who operates 2 or more established places of
14 businesses within a 20 minute radius of each other may hold all
15 original acceptable documentary evidence of the person's right
16 to possess each vehicle or essential part at one of the
17 established places of business. The person shall keep copies of
18 the ownership documents at the location where the vehicle or
19 essential part is held for resale.

20 (g) Every person licensed or required to be licensed as a
21 transporter under Section 5-201 shall maintain for 3 years, in
22 such form as the Secretary of State may by rule or regulation
23 prescribe, at his principal place of business a record of every
24 vehicle transported by him, including numbers of or other marks
25 of identification thereof, the names and addresses of persons
26 from whom and to whom the vehicle was delivered and the dates

1 of delivery.

2 (h) No later than 15 days prior to going out of business,
3 selling the business, or transferring the ownership of the
4 business, the licensee shall notify the Secretary of State that
5 he is going out of business or that he is transferring the
6 ownership of the business. Failure to notify under this
7 paragraph shall constitute a failure to keep records.

8 (i) (Blank).

9 (j) A person who knowingly fails to comply with the
10 provisions of this Section or knowingly fails to obey, observe,
11 or comply with any order of the Secretary or any law
12 enforcement agency issued in accordance with this Section is
13 guilty of a Class B misdemeanor for the first violation and a
14 Class A misdemeanor for the second and subsequent violations.
15 Each violation constitutes a separate and distinct offense and
16 a separate count may be brought in the same indictment or
17 information for each vehicle or each essential part of a
18 vehicle for which a record was not kept as required by this
19 Section.

20 (k) Any person convicted of failing to keep the records
21 required by this Section with intent to conceal the identity or
22 origin of a vehicle or its essential parts or with intent to
23 defraud the public in the transfer or sale of vehicles or their
24 essential parts is guilty of a Class 2 felony. Each violation
25 constitutes a separate and distinct offense and a separate
26 count may be brought in the same indictment or information for

1 each vehicle or essential part of a vehicle for which a record
2 was not kept as required by this Section.

3 (l) A person may not be criminally charged with or
4 convicted of both a knowing failure to comply with this Section
5 and a knowing failure to comply with any order, if both
6 offenses involve the same record keeping violation.

7 (m) The Secretary shall adopt rules necessary for
8 implementation of this Section, which may include the
9 imposition of administrative fines.

10 (Source: P.A. 91-415, eff. 1-1-00; 92-773, eff. 8-6-02.)