



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5235

by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-1431  
625 ILCS 5/18c-4104 from Ch. 95 1/2, par. 18c-4104  
625 ILCS 5/18c-4208 new  
625 ILCS 5/18d-115  
625 ILCS 5/18d-117  
625 ILCS 5/18d-155

Amends the Illinois Vehicle Code. Provides that a towing service shall possess, before the towing service arrives at the scene from which a vehicle is to be towed or transported, proof that the owner or operator of the vehicle initiated contact with the towing service regarding service. Provides that any towing service authorized to tow a vehicle is entitled to the payment of applicable recovery, towing, and storage charges, and shall have a lien against the vehicle to secure payment. Provides that a towing service that solicits or tows a vehicle in violation of certain provisions regarding solicitations at an accident or disablement scene shall not have a lien against the vehicle, and is required to release the vehicle without payment. Provides that if a towing service solicits or tows a vehicle in violation of certain provisions regarding solicitations at an accident or disablement scene and fails to produce electronic or other proof of contact, the law enforcement official with jurisdiction shall impound all tow trucks used in connection with the solicitation or towing and collect a civil penalty not less than \$10,000 nor more than \$15,000 per impounded vehicle. Provides that it is unlawful for any person to operate, as an intrastate motor carrier of property, in violation of provisions regarding solicitations at an accident or disablement scene. Provides that if the Illinois Commerce Commission finds that a licensed or unlicensed motor carrier of property or commercial vehicle safety relocator has violated certain provisions regarding solicitations at an accident or disablement scene 3 times in one year, the Commission shall revoke any motor carrier or relocator license held by the motor carrier or relocator, and shall not issue a license to the person or entity for 3 years. Makes other changes. Effective immediately.

LRB101 18471 LNS 67919 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 11-1431, 18c-4104, 18d-115, 18d-117, and 18d-155 and  
6 by adding Section 18c-4208 as follows:

7 (625 ILCS 5/11-1431)

8 Sec. 11-1431. Solicitations at accident or disablement  
9 scene prohibited.

10 (a) A tower, as defined by Section 1-205.2 of this Code, or  
11 an employee or agent of a tower may not: (i) stop at the scene  
12 of a motor vehicle accident or at or near a damaged or disabled  
13 vehicle for the purpose of soliciting the owner or operator of  
14 the damaged or disabled vehicle to enter into a towing service  
15 transaction; or (ii) stop at the scene of an accident or at or  
16 near a damaged or disabled vehicle unless called to the  
17 location by a law enforcement officer, the Illinois Department  
18 of Transportation, the Illinois State Toll Highway Authority, a  
19 local agency having jurisdiction over the highway, the owner or  
20 operator of the damaged or disabled vehicle, or the owner or  
21 operator's authorized agent, including his or her insurer or  
22 motor club of which the owner or operator is a member. This  
23 Section shall not apply to employees of the Department, the

1 Illinois State Toll Highway Authority, or local agencies when  
2 engaged in their official duties. Nothing in this Section shall  
3 prevent a tower from stopping at the scene of a motor vehicle  
4 accident or at or near a damaged or disabled vehicle if the  
5 owner or operator signals the tower for assistance from the  
6 location of the motor vehicle accident or damaged or disabled  
7 vehicle.

8 (b) A person or company who violates this Section is guilty  
9 of a Class 4 felony. A person convicted of violating this  
10 Section shall also have his or her driver's license, permit, or  
11 privileges suspended for 3 months. After the expiration of the  
12 3-month suspension, the person's driver's license, permit, or  
13 privileges shall not be reinstated until he or she has paid a  
14 reinstatement fee of \$100. If a person violates this Section  
15 while his or her driver's license, permit, or privileges are  
16 suspended under this subsection (b), his or her driver's  
17 license, permit, or privileges shall be suspended for an  
18 additional 6 months, and shall not be reinstated after the  
19 expiration of the 6-month suspension until he or she pays a  
20 reinstatement fee of \$100. A vehicle owner, or his or her  
21 authorized agent or automobile insurer, may bring a claim  
22 against a company or person who willfully and materially  
23 violates this Section. A court may award the prevailing party  
24 reasonable attorney's fees, costs, and expenses relating to  
25 that action.

26 (c) Except as otherwise provided in subsection (e), a

1 towing service shall possess, before the towing service, or its  
2 employee or agent, arrives at the scene from which a vehicle is  
3 to be towed or transported, proof that the owner or operator of  
4 the vehicle, his or her family member, or other authorized  
5 person initiated contact with the towing service regarding  
6 service, and shall produce such proof to any law enforcement  
7 officer with jurisdiction on request. The authorization may be  
8 in the form of a fax, email, text, or other electronic record,  
9 recorded telephone call, or record showing that a call was made  
10 from the owner or operator of the vehicle, his or her family  
11 member, or other authorized person to the towing service,  
12 record of dispatch from a dealership, motor club, or repair or  
13 body shop, or other printable record.

14 (d) Contact to the towing service that was directed or  
15 suggested by the towing service or any person or entity  
16 affiliated with the towing service, or that was preceded by  
17 contact from the towing service or any person or entity  
18 affiliated with the towing service, does not satisfy the  
19 requirement of subsection (c).

20 (e) This Section does not apply: (i) if a law enforcement  
21 agency or officer has authorized the tow; or (ii) to the  
22 relocation of a trespassing vehicle from private property  
23 subject to subsection (f) of Section 4-203 or Chapter 18a.

24 (f) Any towing service authorized by the owner or operator  
25 or by law enforcement to tow a vehicle: (i) is entitled to the  
26 payment of applicable recovery, towing, and storage charges;

1 and (ii) shall have a lien against the vehicle pursuant to  
2 subsection (c) of Section 4-204 and subsection (b) of Section  
3 4-207 to secure payment. The lien is not assignable or  
4 otherwise transferable to any person other than the towing  
5 service.

6 (g) A towing service that solicits or tows a vehicle in  
7 violation of this Section: (i) shall not have a lien against  
8 the vehicle; and (ii) is required to release the vehicle  
9 without payment to a law enforcement official with  
10 jurisdiction.

11 (h) If a towing service solicits or tows a vehicle in  
12 violation of this Section and fails to produce, on demand by  
13 any law enforcement official with jurisdiction, proof of  
14 contact as required by subsection (c), any law enforcement  
15 official with jurisdiction shall impound all tow trucks used in  
16 connection with the solicitation or towing. A tow truck  
17 impounded under this subsection shall be released only upon:  
18 (i) proof of contact as required by subsection (c); or (ii)  
19 payment of a civil penalty not less than \$10,000 nor more than  
20 \$15,000 per impounded vehicle. Each law enforcement agency that  
21 impounds a vehicle under this subsection shall provide a  
22 procedure for a due process hearing and relief upon written  
23 petition by a towing service.

24 (Source: P.A. 99-438, eff. 1-1-16; 99-848, eff. 8-19-16;  
25 100-201, eff. 8-18-17.)

1 (625 ILCS 5/18c-4104) (from Ch. 95 1/2, par. 18c-4104)

2 Sec. 18c-4104. Unlawful Operations.

3 (1) Prohibition. Except as provided in Article I of this  
4 Sub-chapter, and subject to the provisions stated herein, it  
5 shall be unlawful for any person to:

6 (a) Operate as an intrastate motor carrier of property  
7 without a license from the Commission; or as an interstate  
8 motor carrier of property without a registration from the  
9 Commission.

10 (b) Operate as an intrastate household goods carrier in  
11 excess of the scope of a license issued to it by the  
12 Commission in regard to any of the following:

- 13 1. hauling unauthorized commodities;  
14 2. operating outside authorized territory; or  
15 3. violating other restrictions.

16 (c) Operate, as an intrastate motor carrier of  
17 property, any motor vehicle which does not carry a copy of  
18 a valid, current license issued by the Commission to such  
19 carrier; or operate, as an interstate motor carrier of  
20 property, any motor vehicle which does not carry a copy of  
21 a valid, current registration issued by the Commission to  
22 such carrier; or fail to produce such copy on request;  
23 provided that an authorized interstate motor carrier of  
24 property shall be exempted from the requirement that a copy  
25 of its registration be carried in each motor vehicle.

26 (d) Operate, as an intrastate household goods carrier,

1 any motor vehicle not owned by the carrier, or operate as  
2 an intrastate public carrier, any motor vehicle not owned  
3 by the carrier or another intrastate public carrier, for  
4 which a valid lease is not on file in compliance with  
5 Section 18c-4103 of this Chapter, Commission regulations  
6 and orders.

7 (e) Operate, as an intrastate household goods carrier,  
8 any motor vehicle not owned by the carrier, or operate as  
9 an intrastate public carrier, any motor vehicle not owned  
10 by the carrier or another intrastate public carrier, which  
11 does not carry an executed copy of the lease required in  
12 paragraph (d) of this subsection; or fail to produce such  
13 copy on request.

14 (f) Operate, as an intrastate motor carrier of  
15 property, any motor vehicle for which the carrier has not  
16 executed a prescribed intrastate cab card, with current  
17 Illinois intrastate identifier printed thereon; or, as an  
18 interstate motor carrier of property, any motor vehicle for  
19 which the carrier has not executed a prescribed interstate  
20 cab card, with current Illinois interstate identifier  
21 affixed or printed thereon.

22 (g) Operate, as an intrastate motor carrier of  
23 property, any motor vehicle which does not carry the  
24 properly executed intrastate cab card, with current  
25 Illinois intrastate identifier printed thereon; or, as an  
26 interstate motor carrier of property, any motor vehicle

1           which does not carry the properly executed interstate cab  
2           card, with current Illinois interstate identifier affixed  
3           or printed thereon.

4           (h) Operate, as an intrastate or interstate motor  
5           carrier of property, any motor vehicle which is not  
6           identified or is not properly identified in compliance with  
7           Section 18c-4701 of this Chapter, Commission regulations  
8           and orders.

9           (i) Operate, as an intrastate motor carrier of  
10          property, in violation of transfer requirements in Section  
11          18c-4307 of this Chapter.

12          (j) Provide, as an intrastate household goods carrier,  
13          service at rates other than those contained in lawfully  
14          applicable tariffs or schedules for such service.

15          (j-5) Operate, as an intrastate motor carrier of  
16          property, in violation of Section 11-1431.

17          (k) Otherwise operate as a motor carrier of property in  
18          violation of any provision of this Chapter, Commission  
19          regulations and orders, or any other law of this State.

20          (l) Aid or abet any other person in a violation of this  
21          Chapter, Commission regulations or orders, by soliciting,  
22          receiving, or compensating service from a person not  
23          authorized to provide such service, or at other than lawful  
24          rates for such service, or otherwise.

25          (2) Provisos.

26          (a) Presentation of Documents at Hearing as Defense.



1 Presentation, at hearing, of a copy of a current license or  
2 registration issued by the Commission to the carrier which  
3 was valid on the date the violation occurred shall, if no  
4 concurrent violations of this Chapter, Commission  
5 regulations or orders are found, excuse the carrier from  
6 any penalties under paragraph (c) of subsection (1) of this  
7 Section. Presentation, at hearing, of an executed copy of  
8 the current lease in the form prescribed by and on file  
9 with the Commission shall, if no concurrent violations of  
10 this Chapter, Commission regulations or orders are found,  
11 excuse the carrier from penalties under paragraph (d) of  
12 subsection (1) of this Section. Presentation, at hearing,  
13 of the required intrastate or interstate cab card, with the  
14 required Illinois intrastate or interstate identifier  
15 affixed or printed thereon, if valid on the date the  
16 violation occurred, and if no concurrent violations are  
17 found, shall excuse the carrier from penalties under  
18 paragraph (g) of subsection (1) of this Section.

19 (b) Lease Form Prescribed by the Commission. A lease  
20 shall, for purposes of paragraph (d) of subsection (1) of  
21 this Section, be deemed to be in the form prescribed by the  
22 Commission if it contains all provisions called for in the  
23 Commission-prescribed lease and does not contain any  
24 provisions inconsistent therewith.

25 (Source: P.A. 89-444, eff. 1-25-96.)

1 (625 ILCS 5/18c-4208 new)

2 Sec. 18c-4208. Enforcement. If the Commission finds that a  
3 licensed or unlicensed motor carrier of property has committed  
4 3 violations of Section 11-1431 in one year, the Commission, in  
5 addition to any other sanctions available under this Chapter,  
6 shall revoke any motor carrier property license held by the  
7 motor carrier of property. Following a finding under this  
8 Section, the Commission shall not issue a motor carrier of  
9 property license to the person or entity for 3 years.

10 (625 ILCS 5/18d-115)

11 Sec. 18d-115. Enforcement.

12 (a) It shall be unlawful for any commercial vehicle safety  
13 relocator to operate: (i) in any county in which this Chapter  
14 is applicable without a valid, current safety relocator's  
15 registration certificate issued by the Illinois Commerce  
16 Commission; or (ii) except in compliance with this Chapter and  
17 rules of the Commission adopted under this Chapter.

18 (b) The Illinois Commerce Commission shall issue safety  
19 relocator's registration certificates in accordance with  
20 administrative rules adopted by the Commission.

21 (c) The Commission may, at any time ~~during the term of the~~  
22 ~~registration certificate,~~ make inquiry, into any licensed or  
23 unlicensed commercial vehicle relocator's ~~the licensee's~~  
24 management or conduct of business or otherwise, to determine  
25 that the provisions of this Chapter and the rules of the

1 Commission adopted under this Chapter are being observed.

2 (Source: P.A. 95-562, eff. 7-1-08.)

3 (625 ILCS 5/18d-117)

4 Sec. 18d-117. Exemption.

5 (a) A tower, as defined by Section 1-205.2 of this Code,  
6 legally residing in a county not subject to this Chapter  
7 pursuant to Section 18d-180 of this Chapter may operate in a  
8 county that is subject to this Chapter pursuant to Section  
9 18d-180 for the limited purpose of removing a damaged or  
10 disabled vehicle upon the request of the owner or operator  
11 legally residing in a county not subject to this Chapter to  
12 remove the vehicle and tow the vehicle across county lines to  
13 the county where the tower and owner or operator resides.

14 (b) A tower operating for the limited purpose in subsection  
15 (a) is not subject to the provisions of this Chapter.

16 (c) Subsection (a) does not apply to towers that legally  
17 reside in both counties.

18 (d) The disclosures and authorization required under this  
19 Chapter are not required if a tow was authorized by a law  
20 enforcement agency or officer. The authorization may be  
21 evidenced by a tow sheet issued by the law enforcement agency  
22 or officer, records of the commercial vehicle safety relocater  
23 showing the date and time of the authorization and the  
24 department and star or badge number of the officer from whom  
25 the authorization was received, or other evidence of law

1 enforcement authorization.

2 (Source: P.A. 96-309, eff. 1-1-10.)

3 (625 ILCS 5/18d-155)

4 Sec. 18d-155. Compliance.

5 (a) The Illinois Commerce Commission may request  
6 documentation or investigate business practices by any  
7 licensed or unlicensed a commercial vehicle safety relocater to  
8 determine compliance with this Chapter and rules adopted by the  
9 Commission under this Chapter. Failure to comply with any  
10 Section of this Chapter or any rule adopted by the Commission  
11 under this Chapter, as determined by the Illinois Commerce  
12 Commission shall subject a commercial vehicle safety relocater  
13 to penalties imposed by the Illinois Commerce Commission.  
14 Penalties may include suspension or revocation of registration  
15 certificate and monetary fines up to \$1,000 for each violation.

16 (b) If the Commission finds that a commercial vehicle  
17 safety relocater has committed 3 violations of Section 11-1431  
18 in one year, the Commission, in addition to any other sanctions  
19 available under subsection (a), shall revoke the registration  
20 certificate of the commercial vehicle safety relocater.  
21 Following a revocation under this subsection, the Commission  
22 shall not issue a registration certificate to the commercial  
23 vehicle safety relocater for 3 years.

24 (Source: P.A. 95-562, eff. 7-1-08.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.