

HB4146



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4146

by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-1704

from Ch. 95 1/2, par. 18c-1704

Amends the Illinois Vehicle Code. Increases the amount of the civil penalty that the Illinois Commerce Commission may impose on a rail carrier for violation of the Illinois Commercial Transportation Law.

LRB095 13779 DRH 39525 b

FISCAL NOTE ACT
MAY APPLY

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 18c-1704 as follows:

6 (625 ILCS 5/18c-1704) (from Ch. 95 1/2, par. 18c-1704)

7 Sec. 18c-1704. Sanctions. Each violation of this Chapter
8 shall subject the violator to the following sanctions, except
9 as otherwise provided elsewhere in this Chapter. Sanctions
10 provided for in this Section may be imposed by the Commission
11 only in compliance with the notice and hearing requirements of
12 Section 18c-2102 of this Chapter.

13 (1) Criminal Misdemeanor Penalties. Each violation of this
14 Chapter shall constitute a Class C misdemeanor.

15 (2) Civil Penalties. The Commission may assess, against any
16 person found by it to have violated Subchapter 1, 2, 3, 4, 5,
17 6, or 9 of this Chapter, a civil penalty not greater than
18 \$1,000 nor less than \$100 per violation. The Commission may
19 assess, against any person found by it to have violated
20 Subchapter 7 of this Chapter, a civil penalty not greater than
21 \$5,000 nor less than \$1,000 per violation. The penalty assessed
22 by the Commission shall reflect the number and severity of
23 violations found to have been committed. Penalties assessed by

1 the Commission shall be enforced by any court having venue in
2 enforcement cases under this Chapter.

3 (3) Cease and Desist Orders. The Commission may, where a
4 person is found after hearing to have violated this Chapter,
5 Commission regulations or orders, and justice requires, order
6 the person to cease and desist from further or from any future
7 violations. A cease and desist order may be entered on the
8 Commission's own motion or by agreement between the parties.
9 Orders and agreements under this Section shall be valid and
10 enforceable for the period stated therein, not to exceed 2
11 years from the date the order or agreement is approved by the
12 Commission, unless the parties stipulate otherwise. Such
13 orders and agreements shall be enforceable in any court of this
14 State having venue and jurisdiction in enforcement actions
15 under this Chapter. Failure to comply with a Commission cease
16 and desist order shall constitute a violation of this Chapter
17 separate and apart from any underlying violations.

18 (4) Stipulated Settlements.

19 (a) General Provisions. The Commission may accept a
20 reasonable monetary settlement, suspension or revocation
21 of a license or registration, or any other reasonable terms
22 stipulated between the respondent and staff, with or
23 without a finding of violations.

24 (b) Presumption of Reasonableness. Such stipulations
25 shall be presumed reasonable. Unless the terms of a
26 stipulation exceed such parameters as the Commission may

1 establish, this presumption is rebuttable only by evidence
2 of record at hearing.

3 (c) Parameters. Parameters for settlement shall be
4 based on type of violation; severity, as measured by
5 revenues from unlawful activities; and number of
6 violations. Minimum settlement amounts may be established.

7 (d) Orders. Orders suspending proposed settlements
8 shall cite reasons for suspension which are specific to the
9 case. Orders rejecting proposed settlements shall recite
10 the grounds on which the settlements are found to be
11 unreasonable and describe the evidence which supports such
12 findings.

13 (5) Injunctive Relief. Any court with jurisdiction and
14 venue for purposes of enforcing this Chapter shall have the
15 power to enjoin any person from committing violations of this
16 Chapter. Suit for penalties shall not be a prerequisite to
17 injunctive relief. No bond shall be required when injunctive
18 relief is granted at the request of the Commission.

19 (6) Suspension or Revocation of Licenses and
20 Registrations.

21 (a) Availability of Suspension and Revocation as
22 Sanctions. Violation of this Chapter by a motor carrier of
23 property or passengers shall, in addition to other
24 sanctions provided herein, subject the violator to
25 suspension or revocation of any or all Commission licenses
26 and registrations. The Commission may impose the sanctions

1 of suspension and revocation. Where the violation is
2 failure of a motor carrier of property or passengers to
3 have in effect and file proof of continuous insurance
4 coverage in accordance with this Chapter, Commission
5 regulations and orders, the license or registration or both
6 may be suspended by telephonic or telegraphic directive,
7 confirmed by certified or registered mail or personal
8 service, pending final disposition of revocation
9 proceedings.

10 (b) Suspension Pending Adjudication. Where the
11 violation is failure of a motor carrier of property to pay
12 a franchise or franchise renewal fee, the license or
13 registration or both may be suspended by certified or
14 registered mail or personally served directive, pending
15 final disposition of revocation proceedings.

16 (c) Special Revocation Procedures.

17 (i) Notice. The Commission shall serve notice upon
18 all persons who have failed to pay a franchise tax,
19 license fee, or penalty required under the Business
20 Corporation Act of 1983, or who have failed to comply
21 with this Chapter, Commission regulations and orders,
22 regarding the filing of proof of continuous insurance
23 or bond coverage, the payment of periodic fees, the
24 filing of periodic reports, the payment of civil
25 penalties, or the filing of rates to the full extent of
26 a carrier's authority. The notice shall advise such

1 person of the apparent violations and state that,
2 unless the Commission receives a written request for
3 hearing or extension of time within 30 days from the
4 date the notice is served, the person's license or
5 registration will be revoked by operation of law
6 without further action by the Commission.

7 (ii) Extensions of Time. The Commission may grant
8 one extension of time not exceeding 60 days where the
9 extension will not endanger the public.

10 (iii) Request for Hearing. If a timely written
11 request for hearing is received, no further action
12 shall be taken until the requirements of Section
13 18c-2102 of this Chapter have been satisfied.

14 (iv) Revocation by Operation of Law. If, at the
15 expiration of the applicable time period, the person
16 has not complied with the pertinent requirements, and a
17 written request for hearing has not been received, the
18 person will be deemed to have waived hearing and the
19 license or registration shall be revoked by operation
20 of law without further action by the Commission as if
21 the Commission has served an order on the date
22 following expiration revoking the license or
23 registration.

24 (7) Probation. The Commission may probate the imposition of
25 any of the sanctions set forth in this Section.

26 (Source: P.A. 88-415.)