



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4145

Introduced 1/30/2012, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12002.1 new
625 ILCS 5/4-203

from Ch. 95 1/2, par. 4-203

Amends the Counties Code. Makes legislative findings. Defines "hazardous dilapidated motor vehicle". Authorizes a county board to declare by ordinance all inoperable motor vehicles, whether on public or private property and in view of the general public, to be hazardous dilapidated motor vehicles. Further provides that a county board may authorize a law enforcement agency to remove certain hazardous dilapidated motor vehicles. Amends the Illinois Vehicle Code. Provides that when a vehicle is determined to be a hazardous dilapidated motor vehicle pursuant to certain Sections, its removal and impoundment by a towing service may be authorized by a law enforcement agency with appropriate jurisdiction. Effective immediately.

LRB097 17640 KMW 62847 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 5-12002.1 as follows:

6 (55 ILCS 5/5-12002.1 new)

7 Sec. 5-12002.1. Hazardous dilapidated motor vehicles.

8 (a) The General Assembly hereby finds that the
9 proliferation of hazardous dilapidated motor vehicles
10 constitutes a hazard to the health, safety, and welfare of the
11 public, and that addressing the problems caused by such
12 abandoned dilapidated vehicles constitutes a compelling and
13 fundamental governmental interest. The General Assembly also
14 finds that the only effective method of dealing with the
15 problem is to promulgate a comprehensive scheme to expedite the
16 towing and disposal of such vehicles.

17 (b) As used in this Section, "hazardous dilapidated motor
18 vehicle" means any motor vehicle with a substantial number of
19 essential parts, as defined by Section 1-118 of The Illinois
20 Vehicle Code, either damaged, removed, or altered or otherwise
21 so treated that the vehicle is incapable of being driven under
22 its own motor power or, which by its general state of
23 deterioration, poses a threat to the public's health, safety,

1 and welfare. "Hazardous dilapidated motor vehicle" shall not
2 include a motor vehicle that has been rendered temporarily
3 incapable of being driven under its own motor power in order to
4 perform ordinary service or repair operations. The owner of a
5 vehicle towed under the provisions of this Section shall be
6 entitled to any hearing or review of the towing of the vehicle
7 as provided by State or local law.

8 (c) A county board may by ordinance declare all inoperable
9 motor vehicles, whether on public or private property and in
10 view of the general public, to be hazardous dilapidated motor
11 vehicles, and may authorize a law enforcement agency, with
12 applicable jurisdiction, to remove immediately, any hazardous
13 dilapidated motor vehicle or parts thereof. Nothing in this
14 Section shall apply to any motor vehicle that is kept within a
15 building when not in use, to operable historic vehicles over 25
16 years of age, or to a motor vehicle on the premises of a place
17 of business engaged in the wrecking or junking of motor
18 vehicles.

19 Section 10. The Illinois Vehicle Code is amended by
20 changing Section 4-203 as follows:

21 (625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

22 Sec. 4-203. Removal of motor vehicles or other vehicles;
23 Towing or hauling away.

24 (a) When a vehicle is abandoned, or left unattended, on a

1 toll highway, interstate highway, or expressway for 2 hours or
2 more, its removal by a towing service may be authorized by a
3 law enforcement agency having jurisdiction.

4 (b) When a vehicle is abandoned on a highway in an urban
5 district 10 hours or more, its removal by a towing service may
6 be authorized by a law enforcement agency having jurisdiction.

7 (c) When a vehicle is abandoned or left unattended on a
8 highway other than a toll highway, interstate highway, or
9 expressway, outside of an urban district for 24 hours or more,
10 its removal by a towing service may be authorized by a law
11 enforcement agency having jurisdiction.

12 (d) When an abandoned, unattended, wrecked, burned or
13 partially dismantled vehicle is creating a traffic hazard
14 because of its position in relation to the highway or its
15 physical appearance is causing the impeding of traffic, its
16 immediate removal from the highway or private property adjacent
17 to the highway by a towing service may be authorized by a law
18 enforcement agency having jurisdiction.

19 (e) Whenever a peace officer reasonably believes that a
20 person under arrest for a violation of Section 11-501 of this
21 Code or a similar provision of a local ordinance is likely,
22 upon release, to commit a subsequent violation of Section
23 11-501, or a similar provision of a local ordinance, the
24 arresting officer shall have the vehicle which the person was
25 operating at the time of the arrest impounded for a period of
26 not more than 12 hours after the time of arrest. However, such

1 vehicle may be released by the arresting law enforcement agency
2 prior to the end of the impoundment period if:

3 (1) the vehicle was not owned by the person under
4 arrest, and the lawful owner requesting such release
5 possesses a valid operator's license, proof of ownership,
6 and would not, as determined by the arresting law
7 enforcement agency, indicate a lack of ability to operate a
8 motor vehicle in a safe manner, or who would otherwise, by
9 operating such motor vehicle, be in violation of this Code;

10 or

11 (2) the vehicle is owned by the person under arrest,
12 and the person under arrest gives permission to another
13 person to operate such vehicle, provided however, that the
14 other person possesses a valid operator's license and would
15 not, as determined by the arresting law enforcement agency,
16 indicate a lack of ability to operate a motor vehicle in a
17 safe manner or who would otherwise, by operating such motor
18 vehicle, be in violation of this Code.

19 (e-5) Whenever a registered owner of a vehicle is taken
20 into custody for operating the vehicle in violation of Section
21 11-501 of this Code or a similar provision of a local ordinance
22 or Section 6-303 of this Code, a law enforcement officer may
23 have the vehicle immediately impounded for a period not less
24 than:

25 (1) 24 hours for a second violation of Section 11-501
26 of this Code or a similar provision of a local ordinance or

1 Section 6-303 of this Code or a combination of these
2 offenses; or

3 (2) 48 hours for a third violation of Section 11-501 of
4 this Code or a similar provision of a local ordinance or
5 Section 6-303 of this Code or a combination of these
6 offenses.

7 The vehicle may be released sooner if the vehicle is owned
8 by the person under arrest and the person under arrest gives
9 permission to another person to operate the vehicle and that
10 other person possesses a valid operator's license and would
11 not, as determined by the arresting law enforcement agency,
12 indicate a lack of ability to operate a motor vehicle in a safe
13 manner or would otherwise, by operating the motor vehicle, be
14 in violation of this Code.

15 (f) Except as provided in Chapter 18a of this Code, the
16 owner or lessor of privately owned real property within this
17 State, or any person authorized by such owner or lessor, or any
18 law enforcement agency in the case of publicly owned real
19 property may cause any motor vehicle abandoned or left
20 unattended upon such property without permission to be removed
21 by a towing service without liability for the costs of removal,
22 transportation or storage or damage caused by such removal,
23 transportation or storage. The towing or removal of any vehicle
24 from private property without the consent of the registered
25 owner or other legally authorized person in control of the
26 vehicle is subject to compliance with the following conditions

1 and restrictions:

2 1. Any towed or removed vehicle must be stored at the
3 site of the towing service's place of business. The site
4 must be open during business hours, and for the purpose of
5 redemption of vehicles, during the time that the person or
6 firm towing such vehicle is open for towing purposes.

7 2. The towing service shall within 30 minutes of
8 completion of such towing or removal, notify the law
9 enforcement agency having jurisdiction of such towing or
10 removal, and the make, model, color and license plate
11 number of the vehicle, and shall obtain and record the name
12 of the person at the law enforcement agency to whom such
13 information was reported.

14 3. If the registered owner or legally authorized person
15 entitled to possession of the vehicle shall arrive at the
16 scene prior to actual removal or towing of the vehicle, the
17 vehicle shall be disconnected from the tow truck and that
18 person shall be allowed to remove the vehicle without
19 interference, upon the payment of a reasonable service fee
20 of not more than one half the posted rate of the towing
21 service as provided in paragraph 6 of this subsection, for
22 which a receipt shall be given.

23 4. The rebate or payment of money or any other valuable
24 consideration from the towing service or its owners,
25 managers or employees to the owners or operators of the
26 premises from which the vehicles are towed or removed, for

1 the privilege of removing or towing those vehicles, is
2 prohibited. Any individual who violates this paragraph
3 shall be guilty of a Class A misdemeanor.

4 5. Except for property appurtenant to and obviously a
5 part of a single family residence, and except for instances
6 where notice is personally given to the owner or other
7 legally authorized person in control of the vehicle that
8 the area in which that vehicle is parked is reserved or
9 otherwise unavailable to unauthorized vehicles and they
10 are subject to being removed at the owner or operator's
11 expense, any property owner or lessor, prior to towing or
12 removing any vehicle from private property without the
13 consent of the owner or other legally authorized person in
14 control of that vehicle, must post a notice meeting the
15 following requirements:

16 a. Except as otherwise provided in subparagraph
17 a.1 of this subdivision (f)5, the notice must be
18 prominently placed at each driveway access or curb cut
19 allowing vehicular access to the property within 5 feet
20 from the public right-of-way line. If there are no
21 curbs or access barriers, the sign must be posted not
22 less than one sign each 100 feet of lot frontage.

23 a.1. In a municipality with a population of less
24 than 250,000, as an alternative to the requirement of
25 subparagraph a of this subdivision (f)5, the notice for
26 a parking lot contained within property used solely for

1 a 2-family, 3-family, or 4-family residence may be
2 prominently placed at the perimeter of the parking lot,
3 in a position where the notice is visible to the
4 occupants of vehicles entering the lot.

5 b. The notice must indicate clearly, in not less
6 than 2 inch high light-reflective letters on a
7 contrasting background, that unauthorized vehicles
8 will be towed away at the owner's expense.

9 c. The notice must also provide the name and
10 current telephone number of the towing service towing
11 or removing the vehicle.

12 d. The sign structure containing the required
13 notices must be permanently installed with the bottom
14 of the sign not less than 4 feet above ground level,
15 and must be continuously maintained on the property for
16 not less than 24 hours prior to the towing or removing
17 of any vehicle.

18 6. Any towing service that tows or removes vehicles and
19 proposes to require the owner, operator, or person in
20 control of the vehicle to pay the costs of towing and
21 storage prior to redemption of the vehicle must file and
22 keep on record with the local law enforcement agency a
23 complete copy of the current rates to be charged for such
24 services, and post at the storage site an identical rate
25 schedule and any written contracts with property owners,
26 lessors, or persons in control of property which authorize

1 them to remove vehicles as provided in this Section. The
2 towing and storage charges, however, shall not exceed the
3 maximum allowed by the Illinois Commerce Commission under
4 Section 18a-200.

5 7. No person shall engage in the removal of vehicles
6 from private property as described in this Section without
7 filing a notice of intent in each community where he
8 intends to do such removal, and such notice shall be filed
9 at least 7 days before commencing such towing.

10 8. No removal of a vehicle from private property shall
11 be done except upon express written instructions of the
12 owners or persons in charge of the private property upon
13 which the vehicle is said to be trespassing.

14 9. Vehicle entry for the purpose of removal shall be
15 allowed with reasonable care on the part of the person or
16 firm towing the vehicle. Such person or firm shall be
17 liable for any damages occasioned to the vehicle if such
18 entry is not in accordance with the standards of reasonable
19 care.

20 10. When a vehicle has been towed or removed pursuant
21 to this Section, it must be released to its owner or
22 custodian within one half hour after requested, if such
23 request is made during business hours. Any vehicle owner or
24 custodian or agent shall have the right to inspect the
25 vehicle before accepting its return, and no release or
26 waiver of any kind which would release the towing service

1 from liability for damages incurred during the towing and
2 storage may be required from any vehicle owner or other
3 legally authorized person as a condition of release of the
4 vehicle. A detailed, signed receipt showing the legal name
5 of the towing service must be given to the person paying
6 towing or storage charges at the time of payment, whether
7 requested or not.

8 This Section shall not apply to law enforcement,
9 firefighting, rescue, ambulance, or other emergency vehicles
10 which are marked as such or to property owned by any
11 governmental entity.

12 When an authorized person improperly causes a motor vehicle
13 to be removed, such person shall be liable to the owner or
14 lessee of the vehicle for the cost or removal, transportation
15 and storage, any damages resulting from the removal,
16 transportation and storage, attorney's fee and court costs.

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

20 11. Towing companies shall also provide insurance
21 coverage for areas where vehicles towed under the
22 provisions of this Chapter will be impounded or otherwise
23 stored, and shall adequately cover loss by fire, theft or
24 other risks.

25 Any person who fails to comply with the conditions and
26 restrictions of this subsection shall be guilty of a Class C

1 misdemeanor and shall be fined not less than \$100 nor more than
2 \$500.

3 (g)(1) When a vehicle is determined to be a hazardous
4 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the
5 Illinois Municipal Code or Section 5-12002.1 of the Counties
6 Code, its removal and impoundment by a towing service may be
7 authorized by a law enforcement agency with appropriate
8 jurisdiction.

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

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

1 authorized by this Act. Every such lien shall be payable by use
2 of any major credit card, in addition to being payable in cash.

3 (4) Any personal property belonging to the vehicle owner in
4 a vehicle subject to a lien under this subsection (g) shall
5 likewise be subject to that lien, excepting only: child
6 restraint systems as defined in Section 4 of the Child
7 Passenger Protection Act and other child booster seats;
8 eyeglasses; food; medicine; perishable property; any
9 operator's licenses; any cash, credit cards, or checks or
10 checkbooks; any wallet, purse, or other property containing any
11 operator's license or other identifying documents or
12 materials, cash, credit cards, checks, or checkbooks; and any
13 personal property belonging to a person other than the vehicle
14 owner if that person provides adequate proof that the personal
15 property belongs to that person. The spouse, child, mother,
16 father, brother, or sister of the vehicle owner may claim
17 personal property excepted under this paragraph (4) if the
18 person claiming the personal property provides the commercial
19 vehicle relocater or towing service with the authorization of
20 the vehicle owner.

21 (5) This paragraph (5) applies only in the case of a
22 vehicle that is towed as a result of being involved in an
23 accident. In addition to the personal property excepted under
24 paragraph (4), all other personal property in a vehicle subject
25 to a lien under this subsection (g) is exempt from that lien
26 and may be claimed by the vehicle owner if the vehicle owner

1 provides the commercial vehicle relocater or towing service
2 with proof that the vehicle owner has an insurance policy
3 covering towing and storage fees. The spouse, child, mother,
4 father, brother, or sister of the vehicle owner may claim
5 personal property in a vehicle subject to a lien under this
6 subsection (g) if the person claiming the personal property
7 provides the commercial vehicle relocater or towing service
8 with the authorization of the vehicle owner and proof that the
9 vehicle owner has an insurance policy covering towing and
10 storage fees. The regulation of liens on personal property and
11 exceptions to those liens in the case of vehicles towed as a
12 result of being involved in an accident are exclusive powers
13 and functions of the State. A home rule unit may not regulate
14 liens on personal property and exceptions to those liens in the
15 case of vehicles towed as a result of being involved in an
16 accident. This paragraph (5) is a denial and limitation of home
17 rule powers and functions under subsection (h) of Section 6 of
18 Article VII of the Illinois Constitution.

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

23 (h) Whenever a peace officer issues a citation to a driver
24 for a violation of subsection (a) of Section 11-506 of this
25 Code, the arresting officer may have the vehicle which the
26 person was operating at the time of the arrest impounded for a

1 period of 5 days after the time of arrest. An impounding agency
2 shall release a motor vehicle impounded under this subsection
3 (h) to the registered owner of the vehicle under any of the
4 following circumstances:

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

6 (2) If the person ticketed for a violation of
7 subsection (a) of Section 11-506 of this Code was not
8 authorized by the registered owner of the vehicle to
9 operate the vehicle at the time of the violation; or

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

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

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

19 (Source: P.A. 95-310, eff. 1-1-08; 95-562, eff. 7-1-08; 95-621,
20 eff. 6-1-08; 95-876, eff. 8-21-08; 96-1274, eff. 7-26-10;
21 96-1506, eff. 1-27-11.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.