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Legislation Details (With Text)

File #: SO2020-4817

Type: Ordinance **Status:** Passed

File created: 10/7/2020 **In control:** City Council

Final action: 5/26/2021

Title: Amendment of Municipal Code Titles 2 and 4 by adding new Chapter 4-227 and modifying Chapters 2-14 and 4-5 regarding licensing and operation of tow truck companies and operators

Sponsors: Villegas, Gilbert, Reboyras, Ariel, Vasquez, Jr., Andre, Gardiner, James M., Mitts, Emma, Lopez, Raymond A.

Indexes: Ch. 5 License Fees for Title 4 Licenses, Ch. 14 Dept. of Administrative Hearings, Ch. 227 Towing

Attachments: 1. SO2020-4817.pdf, 2. O2020-4817.pdf

Date	Ver.	Action By	Action	Result
5/26/2021	1	City Council	Passed as Substitute	Pass
5/20/2021	1	Committee on License and Consumer Protection	Add Co-Sponsor(s)	
5/19/2021	1	Committee on License and Consumer Protection		
5/19/2021	1	Committee on License and Consumer Protection	Substituted in Committee	
10/7/2020	1	City Council	Referred	

s u b s i i m i i ORDINANCE

WHEREAS, It is well-documented that vulnerable accident victims and stranded motorists in Chicago are often taken advantage of by tow truck companies and operators engaging in predatory and potentially dangerous business practices, including:

- Lying to automobile owners that the tow truck has been dispatched to the scene of an accident or vehicular breakdown by the police, insurance company or motor club;
- Failing to disclose in advance of towing all towing, storage and miscellaneous fees necessary to secure release of the towed vehicle;
- Charging persons for work that was not performed;
- Towing vehicles without first having obtained authorization to tow from the vehicle's owner or operator, or telling a stranded motorist or accident victim that they must sign an authorization-to-tow form, which fails to disclose the costs for towing, storage, and other miscellaneous fees;
- Towing victims to other than the agreed-upon location; and
- Arriving at accident sites unsolicited and interfering with police operations.

WHEREAS, The business practices described herein are of a type likely to promote potentially violent confrontations, to strand motorists without their vehicle in unfamiliar areas of the City, to impeded expedited vehicle recovery, and to waste local law enforcement's limited resources; and

WHEREAS, Requiring tow truck companies and operators to obtain a City license to operate in Chicago will better enable the City to take prompt and meaningful enforcement action against tow truck companies and operators who repeatedly engage in these dangerous business practices, and other deceptive and dangerous practices that place the public in great peril; and

WHEREAS, Preventing such abuses is hereby declared to be a matter of public safety; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-14-132 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

(a) (1) Whenever the owner of a vehicle seized and impounded pursuant to Sections 3-46-076, 3-56-155, 4-68-195, 4-227-140, 9-80-220, 9-112-640 or 9-114-420 of this Code (for purposes of this section, the "status-related offense sections"), or Sections 7-24-225, 7-24-226, 7-28-390, 7-28-440, 7-38-115(c-5), 8-4-130, 8-8-060, 8-20-070, 9-12-090, 9-32-040, 9-76-145, 9-80-225, 9-80-240, 9-92-035, 10-8-480(c), 11-4-1410, 11-1500 or 15-20-270 of this Code (for purposes of this section, the "use-related offense sections") requests a preliminary hearing in person and in writing at the department of administrative hearings, within 15 days after the vehicle is seized and impounded, an administrative law officer of the department of administrative hearings shall conduct such preliminary hearing within 48 hours of request, excluding Saturdays, Sundays and legal holidays, unless the vehicle was seized and impounded pursuant to Section 7-24-225 and the department of police determines that it must retain custody of the vehicle under the applicable state or federal forfeiture law. If, after the

hearing, the administrative law officer determines that there is probable cause to believe that the vehicle was used in a violation of this Code for which seizure and impoundment applies, or, if the impoundment is pursuant to Section 9-92-035, that the subject vehicle is eligible for impoundment under that section, the administrative law officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle pays to the city the amount of the administrative penalty prescribed for the code violation plus fees for towing and storing the vehicle.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 4-5-010 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-5-010 Establishment of license fees.

(Omitted text is unaffected by this ordinance)

(42) Towina (Chapter 4-227)

Per tow truck \$250

Tow Storage Lot for Chapter 4-227 licensees with a "Commercial vehicle relocater license" issued by the Illinois Commerce Commission pursuant to the Illinois Commercial Relocation of Trespassing Vehicles Law

\$250.00 per licensed storage lot

Tow Storage Lot for Chapter 4-227 licensees without a "Commercial vehicle relocater license" issued by the Illinois Commerce Commission pursuant to the Illinois Commercial Relocation of Trespassing Vehicles Law \$750.00 per licensed storage lot

SECTION 3. Title 4 of the Municipal Code of Chicago is hereby amended by inserting new Chapter 4-227, as follows:

CHAPTER 4-227 TOWING

4-227-010 Definitions.

As used in this chapter:

"Commercial vehicle relocater license" means the commercial vehicle relocater license issued by the Illinois Commerce Commission pursuant to the Illinois Commercial Relocation of Trespassing Vehicles Law.

"Illinois Commercial Relocation of Trespassing Vehicles Law" means the Illinois Commercial Relocation of Trespassing Vehicles Law, codified at 625 ILCS 5/Ch.18a et seq.

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"Illinois Commercial Safety Towing Law" means the Illinois Commercial Safety Towing Law, codified at 625 ILCS 5/18d-101 et seq.

"Safety relocater's registration certificate" means the safety relocater's registration certificate issued by the Illinois Commerce Commission pursuant to the Illinois Commercial Safety Towing law, codified at 625 ILCS 5/18d-101 et seq.

"Storage lot" means any real property owned by or in the lawful possession or control of a licensee under this chapter that, in accordance with the applicable provisions of the Zoning Code, is used for the storage of vehicles towed from location within the City.

"Tow truck" has the meaning ascribed to that term in Section 5/1-205.1 of the Illinois Vehicle Code, codified at 625 ILCS 5/1-01 et seq.

"Tower" means the person who owns or operates a tow truck.

"Towing" means removing, for hire or for compensation of any type, abandoned, damaged or disabled vehicles from public property within the City by means of a truck designed or altered and equipped for and used to push, tow, carry upon or draw vehicles by means of a crane, hoist, towbar, towline or auxiliary axle, or carried upon to move damaged or disabled vehicles.

4-227-020 License - Required.

a) No person shall engage in the business of towing damaged or disabled vehicles from the public way without first having obtained a towing license under this chapter; provided, however, that nothing in this chapter shall prohibit a licensee from towing vehicles from private property with the express written consent of the vehicle's owner or operator, in accordance with applicable law. The towing license shall be in addition to any other license, registration, certificate, or permit required by law. If any applicant under this chapter does not possess an active Illinois Commercial Vehicle Relocater License, the Department shall inspect the storage lot and any premises or place of business that is to be operated by the licensee.

b) Exemption. The provisions of this chapter shall not apply to the towing of a damaged or disabled vehicle by the City of Chicago or by any other governmental entity or by any person acting under the direction of and pursuant to a contract with the City of Chicago or such governmental entity.

4-227-030 Application-Additional information required.

(a) In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of any license to engage in the business of towing shall be accompanied by the following information:

- 1) proof that, in conformity with the Illinois Commercial Safety Towing Law, the applicant holds a valid safety relocators registration certificate;
- 2) the applicable license fees;
- 3) a statement as to whether, within five years prior to the date of application or renewal, the applicant or any controlling person has (i) been convicted, in custody, under

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parole, or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of any felony; (ii) applied for, renewed, or obtained a safety relocators registration certificate under the Illinois Commercial Safety Towing Law, and under what business name; (iii) applied for, renewed, or obtained a commercial vehicle relocators license under the Illinois Commercial Relocation of Trespassing Vehicles Law, and under what business name; and (iv) had their safety relocators registration certificate or commercial vehicle relocators license revoked by the Illinois Commerce Commission;

4) a statement as to whether, within five years prior to the date of application or renewal, any employee or agent of the applicant who engages in the towing of vehicles from the public way, has been convicted, in custody, under parole, or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of any felony;

5) proof that the applicant and all controlling persons are at least 18 years of age;

6) proof of insurance coverage meeting the requirements of Section 9-44-050;

7) the make, model, and Vehicle Identification Number (VIN) of each tow truck owned, leased, or operated by the applicant;

(8) the address, location, and description of each storage lot that is to be operated under the license;

9) the primary location and description of each tow truck that is to be operated under the license;

10) the name of the owner of each premises to be used as a storage lot, and, if such premises is leased by the applicant, a copy of the lease, and the name, address, and telephone number of the owner of the premises, including the name and address of the beneficiary if title to the premises is held by a person as a trustee; and

11) any other information that the Commissioner may reasonably require.

(b) It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the Department within 10 business days after such change has occurred.

4-227-040 License issuance and renewal - Prohibited when.

(a) No license to engage in the business of towing shall be issued to the following persons:

- 1) any person who is under the age of 18;
- 2) any person who, within five years of the date of application or renewal has been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of any felony, unless, upon request of such person, the Commissioner determines that such person

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has been substantially rehabilitated to warrant the public trust. The burden of proof of substantial rehabilitation shall be on the person seeking such rehabilitation;

- 3) any person whose license under this chapter has been revoked at any time within the last four years; or
- 4) any person who knowingly files false or incomplete information or signatures on any license or renewal application filed under this chapter.

(b) Eligibility for issuance of a license under this chapter shall be a continuing requirement for maintaining a license under this chapter. Failure to maintain such eligibility may result in license suspension or revocation in accordance with Section 4-4-280.

4-227-050 License - Posting.

The license required under this chapter or a legible copy thereof shall be posted in a conspicuous place within a part of the storage lot to which the public has access. The licensee or its agent shall be required to produce the license upon request from an authorized city official, or from the operator or owner of a vehicle that has been subject to a tow, or their authorized agent.

4-227-060 Registration emblems.

a) The Department shall issue to every licensee an annual registration emblem for every tow truck that the licensee provides or engages for use in the City. Registration emblems shall be issued within ten days of initial licensing under this chapter.

b) Every licensee shall affix or display, in a manner determined by rule, a registration emblem on or in every tow truck that is used in the City. If a tow truck does not affix or display a registration emblem as required by this subsection, then the licensee shall be prohibited from using or permitting the use and operation of the tow truck in the City.

c) The Department shall not issue a registration emblem to a licensee if the licensee has failed to pay any tax, interest, or penalty that has been assessed by the Department, unless one or more of the following conditions is true:

- 1) the licensee is contesting liability for the tax in a pending administrative or judicial proceeding;
- 2) the licensee has filed a petition in bankruptcy and the full amount of the tax due to the City is dischargeable in bankruptcy;

3) the licensee has entered into an agreement with the department for the payment of the entire tax, interest, and penalty, and the licensee is in compliance with the agreement;

d) immediately upon the sale of any tow truck, the seller or the purchaser shall remove the registration emblem from the vehicle. It shall be unlawful for the purchaser to use the vehicle unless the registration emblem has been removed; or

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(e) except as provided in subsection (c) of this section, any licensee may request that the Department issue a registration emblem if the licensee acquires or engages for use a new, used, or additional tow truck, subject to the payment of an increased license fee under Section 4-5-010(42), if applicable.

4-227-070 License - Fee - Termination.

The license fee shall be as set forth in Section 4-5-010. A separate license fee shall be required for each separate tow truck and storage lot that the licensee operates or maintains. The license shall expire on the date indicated on the face of the license.

4-227-080 Prohibited acts.

(a) Generally applicable prohibitions. It shall be unlawful for any licensee, or any employee or agent of any licensee, to:

1) violate any requirement of Chapter 9-44 of this Code or in any rule duly promulgated thereunder;

2) violate any requirement in the Illinois Commercial Safety Towing Law or any rule duly promulgated thereunder; or

3) engage in any of the following practices:

i) stop at or near the scene of a motor vehicle accident or at or near a damaged or disabled vehicle for the purpose of soliciting the vehicle owner or operator to enter into a towing service transaction in violation of Section 11-1431 of the Illinois Vehicle Code, codified at 625 ILCS 5/11-1431;

ii) stop at or near the scene of a motor vehicle accident or at or near a damaged or disabled vehicle unless called to the location by a law enforcement officer, the Illinois Department of Transportation, the Illinois State Toll Highway Authority, or any department or sister agency of the City, the owner or operator of the damaged or disabled vehicle, or the owner or operator's authorized agent, including the owner or operator's insurer or a motor club of which the owner or operator is a member;

iii) make any false, misleading, or threatening statement or representation, or any other false statement of material fact to the vehicle owner or operator for the purpose of, or any statement to the owner or operator which has the effect of, coercing the owner or operator to engage the licensee's towing services, including any misrepresentations that the licensee is approved by, authorized by, or otherwise affiliated with any insurance company or government agency, or that any insurance company or other third-party will pay all or any portion of the charges for the towing service transaction.

(b) It shall be unlawful for any person engaged in the business of towing to impersonate

or otherwise falsely represent themselves as a member or representative of any unit of government or law enforcement agency, including through: (1) a false statement; (2) a false display of any signage, emblems, or any other distinctive signage, or any counterfeit or imitation of the foregoing; (3) any act that falsely represents that the person has a current affiliation with a

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unit of government or law enforcement agency; or (4) any act that falsely represents that person is a member or representative of any unit of government or law enforcement agency.

c) Release of improperly towed vehicles. Any licensee, or any employee or agent of a licensee, that solicits or tows a vehicle in violation of subsection (a) of this section shall release such vehicle, without payment or lien, to the owner of the vehicle upon request.

d) Additional prohibitions. It shall be unlawful for any licensee, or any employee or agent of a licensee, to violate any requirement of Chapter 9-84 of this Code or in any rule duly promulgated thereunder or violate any requirement in the Illinois Commercial Relocation of Trespassing Vehicles Law or any rule duly promulgated thereunder, if applicable.

4-227-090 Recordkeeping.

Each licensee under this chapter shall keep the following documentation, and shall produce such documentation for inspection upon request from the Department or any law enforcement agency:

a) a list of all current and former tow truck drivers engaged by the licensee, including their name, address, date of birth, driver's license number, and periods of time during which the driver was engaged by the applicant; provided that such recordkeeping for former tow truck drivers shall only apply for one year after a driver is no longer engaged by the licensee; and

b) records of the make, model, year, license plate number, Vehicle Identification Number (VIN), and a copy of any applicable authorization for each vehicle towed, relocated, or stored.

4-227-100 Licensed storage lots.

No licensee may tow a vehicle under this chapter to a location other than a licensed storage lot operated by the licensee, unless the operator or owner of the vehicle to be towed affirmatively requests such vehicle be towed to another location.

4-227-110 License - Suspension or revocation.

a) Except as provided in subsection (b) of this section, three or more violations of this chapter by any licensee, or any employee or agent of a licensee, including any licensee previously operating under a different name, on any three or more different days within any 24-month period may result in license suspension or revocation in accordance with Section 4-4-280.

b) Any violation of Section 4-227-080(a)(3), 4-227-080(b), or 4-227-080(c) by any licensee, or any employee or agent of a licensee, shall result in immediate license revocation proceedings.

4-227-120 License revocation - Four-year wait for a new license.

No person whose license under this chapter is revoked shall be granted another license under this chapter under the same or a different name for a period of four years after the date of revocation.

4-227-130 Rules.

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The Commissioner is authorized to promulgate rules necessary or appropriate to implement this chapter.

4-227-140 Violation - Penalty.

(a) Except as otherwise provided in subsection (b) of this section, and in addition to any other penalty provided by law, any person who violates this chapter shall be subject to a fine of not less than \$500 nor more than \$1,000 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

(b) In addition to any other penalty provided by law, any person who violates Section 4-227-080(b) shall be subject to a fine of not less than \$10,000 nor more than \$20,000, or imprisonment for a period not to exceed 180 days, or both, for each offense. Each violation shall constitute a separate and distinct offense.

(c) In addition to any other penalties required under this section, any vehicle used to solicit or tow a vehicle in violation of Section 4-227-080(a)(3) or 4-227-080(b) shall be subject to seizure and impoundment pursuant to this section. The owner of record of such vehicle shall be liable to the city for an administrative penalty of \$10,000, in addition to fees for the towing and storage of the vehicle as provided in Section 9-92-080.

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle at the time of the alleged violation or the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code by serving such person with a copy of the vehicle impoundment seizure report.

Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

SECTION 4. This ordinance shall take effect 90 days after passage and publication.

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