



Office of the City Clerk

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Legislation Text

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Committee on Pedestrian and Traffic Safety City Council
Meeting September 21, 2022 Alderman Brendan Reilly, 42nd
Ward Reckless Driving Ordinance

ORDINANCE

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

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

2-14-132 Impoundment.

a) (1) Whenever the owner of a vehicle seized and impounded pursuant to Sections 3-46-076, 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), 8-8-060, 8-20-070, 9-12-090, 9-12-095, 9-12-100, 9-12-105, 9-12-110, 9-12-115, 9-12-120, 9-32-040, 9-76-160, 9-80-225, 9-80-240, 9-92-035, 11-4-1410, 11-4-1500 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, 9-12-095, 9-12-105, or 9-12-120, 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.

2) In addition to any amount due under subsection (a)(1), prior to the release of a vehicle, the owner of the vehicle shall also pay all amounts due for all outstanding final determinations for parking, standing, compliance, automated traffic law enforcement system or automated speed enforcement system violations incurred by the owner, including all related collection costs and attorney's fees authorized under Section 1-19-020.

3) If the administrative law officer determines there is no such probable cause, or, if the impoundment is pursuant to Section 9-92-035, 9-12-095, 9-12-105, or 9-12-120, that the subject vehicle has previously been determined not to be eligible for impoundment under that section, the vehicle will be returned without penalty or other fees.

b) (1) (A) Within ten days after a vehicle is seized and impounded the Department of Streets and Sanitation or other appropriate department shall notify by certified mail the owner of record (other than a lessee who does not hold title to the vehicle), the person who was found to be in control of the vehicle at the

time of the alleged violation, and any lienholder of record, of the owner's right to request a hearing before the Department of Administrative Hearings to challenge

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whether a violation of this Code for which seizure and impoundment applies has occurred or, if the impoundment is pursuant to Section 9-92-035, 9-12-095^A or 9-12-105, or 9-12-120, whether the subject vehicle is eligible for impoundment under that section. In the case where an owner of record is a lessee who does not hold title to the vehicle, the notice shall be mailed to such lessee within ten days after the Department of Streets and Sanitation receives a copy or other satisfactory evidence of the vehicle lease or rental agreement, indicating the name, address, and driver's license number of the lessee pursuant to subsection (i). However, no such notice need be sent to the owner of record if the owner is personally served with the notice within ten days after the vehicle is seized and impounded, and the owner acknowledges receipt of the notice in writing. A copy of the notice shall be forwarded to the Department of Administrative Hearings. The notice shall state the penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the penalty and fees and remaining in the City pound may be sold or disposed of by the City in accordance with applicable law.

(B) If, after the ten-day notice period provided in subparagraph (b)(1)(A) of this section, the City learns that the impounded vehicle was owned at the time of the impoundment by a person other than those persons who were identified during the ten-day notice period, then notice shall be sent to such owner or lienholder no later than 10 days after the date the City has learned the identity of such owner or lienholder. Except as provided in this subparagraph (b)(1)(B) of this section, such notice shall be consistent with, and shall be sent in the manner as provided in, subparagraph (b)(1)(A) of this section.

2) The owner of record seeking a hearing must file a written request for a hearing with the Department of Administrative Hearings no later than 15 days after notice was mailed or otherwise given under this subsection. The hearing date must be no more than 30 days after a request for a hearing has been filed.

3) (A) If, after the hearing, the administrative law officer determines by a preponderance of the evidence that the vehicle was used in the violation, or, if the impoundment is pursuant to Section 9-92-035, 9-12-095^A or 9-12-105, or 9-12-120, that the subject vehicle was properly impounded under that section, the administrative law officer shall enter an order finding the owner of record liable to the City for the amount of the administrative penalty prescribed for the violation, plus towing and storage fees.

(B) If, after a hearing, the administrative law officer does not determine by a preponderance of the evidence that the vehicle was used in such a violation, or, if the impoundment is pursuant to Section 9-92-035, 9-12-095^A or 9-12-105, or 9-12-120, that the subject vehicle was not eligible for impoundment under that section, the administrative law officer shall enter an order finding for the owner and for the return of the vehicle or previously paid penalty and fees; provided that if the vehicle was seized and impounded pursuant to Section 7-24-225, the vehicle shall not be returned unless and until the City receives notice from the appropriate state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted; or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the vehicle shall be returned to the owner of record.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 9-4-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

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9-4-010 Definitions.

Whenever the following words and phrases are used in Chapter 9-4 through 9-103, they shall have the meanings respectively ascribed to them in this section:

(Omitted text is unaffected by this ordinance)

"Drag racing" means the act of: (1) two or more individuals competing or racing on any street, highway or other public way or on any City-owned or private property in a situation in which where one of the motor vehicles is beside or to the rear of a motor vehicle operated by a competing driver and the one driver attempts to prevent the competing driver from passing or overtaking, either by acceleration or maneuver; or (2) one or more individuals competing in a race against time on any street, highway or other public way or on any City-owned or private property.

(Omitted text is unaffected by this ordinance)

"Railroad train" means a steam engine, electric or other motor with or without cars coupled thereto, operated upon rails.

"Reckless driving event" means any event wherein people engage in: (i) drag racing in violation of Section 9-12-090 or Section 9-12-115; (ii) drifting in violation of Section 9-12-100 or Section 9-12-115; (iii) a violation of Section 9-12-110; or (iv) a violation of Section 9-48-080.

"Reckless driving event organizer" means any individual who in any manner knowingly takes part in the planning, organization, coordination, advertisement, promotion, or sharing of the location of any reckless driving event for the purposes of facilitating such event or encouraging attendance at such event, or collects moneys in connection with such event.

"Reckless driving event participant" means any individual who is knowingly present at any reckless driving event for the purpose of actively taking part in such event, through conduct including riding in a drag race vehicle as a willing passenger; assisting the organizers or operators of the vehicles in carrying out the event; or exchanging money or anything of value with any driver, owner of record of the motor vehicle, or other participant in connection with the event.

"Reckless driving event spectator" means any individual who is present at any reckless driving event for the purpose of viewing, observing, watching, or witnessing such event as it progresses, or who is present at any preparations for any such event. "Spectator" includes any person at the location of the event without regard to the means by which the person arrived. "Spectator" does not include an individual who is a mere bystander or passerby, or any law enforcement officer or other government employee responding to a reckless driving event.

"Recreational vehicle" means every camping trailer, motor home, mini-motor home, travel trailer, truck or van camper used primarily for recreational purposes and not used commercially nor owned and used by a commercial business.

(Omitted text is unaffected by this ordinance)

SECTION 3. The title of Section 9-12-090 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-12-090 Drag racing on the public way.

(Omitted text is unaffected by this ordinance)

SECTION 4. The title of Section 9-12-095 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-12-095 Authority to impound vehicles previously used in a drag racing violation on the public way.

(Omitted text is unaffected by this ordinance)

SECTION 4. The title of Section 9-12-100 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-12-100 Drifting on the public way.

(Omitted text is unaffected by this ordinance)

SECTION 5. The title of Section 9-12-105 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-12-105 Authority to impound vehicles previously used in a drifting violation on the public way.

(Omitted text is unaffected by this ordinance)

SECTION 6. Chapter 9-12 of the Municipal Code of Chicago is hereby amended by inserting a new Section 9-12-115, as follows:

9-12-115 Drag racing or drifting on City-owned or private property.

a) No person who operates a motor vehicle shall engage in drag racing or drifting, as those terms are defined in Section 9-4-010, on any City-owned or private property. This subsection (a) shall not apply if: (1) the activity occurs with the property owner's consent; and (2) such property owner or his agent has obtained all Federal, State, and local licenses or permits required in connection with such activity.

b) No private property owner shall allow any person to engage in drag racing or drifting, as those terms are defined in Section 9-4-010, on their property without first obtaining all Federal, State, and local licenses or permits required in connection with such activity. Private property owners who use reasonable efforts to prevent individuals from engaging in drag racing or drifting on their property, including by hiring private security or installing fences or gates to prohibit access to the property during hours in which the property is not open to the public, shall not be liable for violation of this subsection (b).

(c) In addition to any other penalty provided by law, any person who violates this section shall be fined not less than \$5,000 nor more than \$10,000 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

d) Whenever a police officer who is present at the time of the alleged violation 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 themselves 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 person, of the fact of the seizure and of the vehicle owner's right to request a vehicle impoundment 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.

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

SECTION 7. Chapter 9-12 of the Municipal Code of Chicago is hereby amended by inserting a new Section 9-12-120, as follows:

9-12-120 Authority to impound vehicles previously used in a drag racing or drifting violation on City-owned or private property.

a) A police officer may seize and impound a vehicle previously used in violation of Section 9-12-115 when the operator or owner of the vehicle is not present, provided that the requirements of this section are met. Before any seizure or impoundment under this section, the Department of Police shall send to the owner of record of the vehicle to be seized and impounded, either by first class mail or by messenger to the address of the owner of record as indicated in state registration records, a notice of intent to seize and impound the vehicle that includes: (i) a statement that an operator of the vehicle violated Section 9-12-115 by engaging in drag racing as defined in Section 9-4-010; (ii) the date, approximate time and approximate location of the alleged violation; (iii) a description of the vehicle, including the vehicle make and color, and the vehicle's license plate number with the issuing state; and (iv) the owner's opportunity to contest eligibility for impoundment. A copy of the notice shall be forwarded to the Department of Administrative Hearings. A notice is presumed to be delivered upon being deposited with the United States Postal Service with proper postage affixed.

b) An owner of record who receives a notice pursuant to this section may contest eligibility for impoundment by written request delivered to the Department of Administrative Hearings, postmarked within 14 days after the delivery of the notice. The Department of Administrative Hearings shall set a date for a hearing on the eligibility of the vehicle for impoundment, and shall notify the owner of the date, time, and place of the hearing. The hearing date must be no more than 30 days after a request for a hearing has been filed. At the hearing the Department's evidence of probable cause shall be considered prima facie correct. In order to disprove the vehicle's eligibility for impoundment, the owner of record must prove that:

(1) at the time and date of the alleged violation as described in the notice, the described vehicle was not operated within the City; or

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2) the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate

police authorities within 24 hours after the theft was discovered or reasonably should have been discovered; or

3) the license information described in the report does not match the listed make of the described vehicle.

If the owner of record prevails, the notice of intent to impound the owner's vehicle shall be withdrawn and the vehicle shall not be eligible for impoundment under this section.

c) If a vehicle owner receives a notice pursuant to this subsection and: (i) fails to contest eligibility; or (ii) does not prevail in the contest of eligibility, the vehicle described in the notice shall be eligible for impoundment if found on the public way within 12 months following the conclusion of the contest, if a contest was requested, or following the last date to request a contest, if none was requested. Provided, however, if the owner of the vehicle that is eligible for impoundment under this subsection pays the administrative penalty provided in subsection (d) any time before such vehicle is impounded, the vehicle shall not be eligible for impoundment.

d) The owner of a vehicle eligible for impoundment under this section shall be subject to an administrative penalty of \$500. If such vehicle is impounded, the owner of the vehicle shall be subject to the administrative penalty plus the applicable cost of towing and storage of the vehicle under Section 9-92-080.

SECTION 8. Chapter 9-12 of the Municipal Code of Chicago is hereby amended by inserting new Section 9-12-125, as follows:

9-12-125 Offenses related to reckless driving events.

No person shall knowingly act as a reckless driving event organizer, reckless driving event participant, or reckless driving event spectator. In addition to any other penalty provided by law, any individual who violates this Section: (i) as a reckless driving event organizer shall be subject to a fine of not less than \$1,000 nor more than \$2,000; (ii) as a reckless driving event participant shall be subject to a fine of not less than \$500 nor more than \$1,000; and (iii) as a reckless driving event spectator shall be subject to a fine of not less than \$100 nor more than \$250.

SECTION 9. This ordinance shall take full force and effect 10 days after its passage and publication.

Brendan Reilly Alderman, 42nd Ward President Pro Tempore