

TITLE 92: TRANSPORTATION
CHAPTER III: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER a: COMMERCIAL TRANSPORTATION GENERALLY

PART 1458
PERSONAL PROPERTY WAREHOUSES

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AUTHORITY: Implementing Sections 15.5 and 15.6 and authorized by Section 16 of the Personal Property Storage Act [240 ILCS 10/15.5, 15.6 and 16].

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SUBPART A: MISCELLANEOUS PROVISIONS

Section 1458.10 Definitions

"Act": the Personal Property Storage Act [240 ILCS 10].

"Commission": the Illinois Commerce Commission.

"Governmental fair license": a license issued to a fair or fair association that is engaged in the storage of personal property for compensation.

"License": a personal property warehouse license.

"Personal property warehouse": any location for storage of personal property for compensation where access to the goods is controlled by the warehouse operator.

Section 1458.20 Classification of Personal Property Warehouses

For the purposes of this Part, a personal property warehouse is classified according to the amount of storage space in that warehouse as follows:

- a) Class 1: for less than 20,000 net square feet of floor space or for less than 50,000 net cubic feet of volume devoted to the storage of personal property;
- b) Class 2: for 20,000 and less than 50,000 net square feet of floor space or for 50,000 and less than 100,000 net cubic feet of volume devoted to the storage of personal property;
- c) Class 3: for 50,000 and less than 100,000 net square feet of floor space or for 100,000 and less than 200,000 net cubic feet of volume devoted to the storage of personal property;
- d) Class 4: for 100,000 and less than 200,000 net square feet of floor space or for 200,000 and less than 300,000 net cubic feet of volume devoted to the storage of personal property;
- e) Class 5: for 200,000 and less than 300,000 net square feet of floor space or for 300,000 and less than 400,000 net cubic feet of volume devoted to the storage of personal property;
- f) Class 6: for 300,000 or more net square feet of floor space or for 400,000 or more net cubic feet of volume devoted to the storage of personal property.

SUBPART B: LICENSES

Section 1458.100 Application for License

- a) Applications for personal property warehouse licenses shall be filed on forms provided by the Commission.
- b) Incomplete or incorrect applications for licenses may be refused or rejected by the Commission.

Section 1458.110 Annual Renewal of License

All personal property warehouse licenses shall be renewed annually. All licenses shall expire one year from the day the license was issued by the Commission.

Section 1458.120 Suspension and Revocation of License

The Commission will suspend any personal property warehouse license for failure to comply with this Part or the Act. Continued failure to comply with the Act and this Part relating to personal property warehouses shall result in the revocation of the license.

Section 1458.130 Reinstatement of License

Subject to payment of the reinstatement fee in Section 1458.700(d) and compliance with the Act and this Part, a personal property warehouse license may be reinstated within one year after revocation. Licenses revoked for greater than one year shall not be reinstated.

SUBPART C: WAREHOUSE OPERATIONS

Section 1458.200 Warehouse Facilities and Operation

- a) Each personal property warehouse shall be suitable for the type of storage operations conducted at that warehouse. Warehouses shall be maintained and operated in a manner that will reasonably protect the stored property against loss or damage.
- b) Except as otherwise provided in subsection (c) of this Section, a personal property warehouse is liable for damages for loss of or injury to the goods caused by failure to exercise care in regard to the goods as a reasonably careful person would exercise under like circumstances.
- c) Damages may be limited by a conspicuous term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouse shall not be liable; however, such liability may, on written request of the owner of the goods at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, be increased on part or all of the goods. In this event, increased rates may be charged based on the increased valuation. No such limitation is effective with respect to the warehouse's liability for conversion to the warehouse's own use.
- d) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the storage of the goods shall be included in the warehouse receipt.

Section 1458.210 Placement of Goods into a Self-Storage Facility

- a) No person shall place, or arrange to place, another person's goods into a self-storage warehouse facility unless the owner of those goods has possession of the key and access to the warehouse and the owner's name appears on the storage contract.
- b) Except as otherwise provided in this subsection, no personal property storage shall be conducted for compensation on behalf of a customer at any location other than a licensed warehouse location. Notwithstanding this prohibition, personal property may, with the consent of the owner, be stored temporarily, for a period not to exceed 5 days, in a motor vehicle used to pick up or transport the property,

provided the vehicle is parked on or adjacent to the lot where the licensed warehouse is located.

Section 1458.220 Inspection of Warehouse Facilities

A compliance inspection shall be conducted by Commission staff prior to the issuance of a personal property warehouse license. The inspection shall include, but not be limited to, a review of:

- a) physical characteristics of the warehouse, including, but not limited to, the size, location and overall condition of the storage facilities;
- b) types of goods stored;
- c) proper storage of goods;
- d) size of warehouse facility;
- e) method of protection from fire;
- f) method of protection from theft or burglary;
- g) potential damage to stored goods by vermin, insects or water;
- h) business organization records;
- i) proper documentation of storage lots, including warehouse receipts;
- j) advertising.

Section 1458.230 Posting of Personal Property Warehouse Sign

Every personal property warehouse shall keep posted, at the main outside entrance of each warehouse operated, a conspicuous sign that clearly states the name of the warehouse and the license number issued by the Commission and identifies that warehouse as a personal property warehouse.

Section 1458.240 Advertising

- a) For purposes of this Section, the term "advertisement" means any advertisement, solicitation, or other communication with the public in relation to the offer or sale of Illinois personal property warehouse storage service. The term shall include advertisement by radio, television, internet, computer media or any other medium.
- b) Each personal property warehouse shall include in every advertisement the full name of the warehouse as it appears on its Commission issued license. The

advertisement shall also identify the warehouse by showing the license number assigned to the warehouse by the Commission.

- c) Personal property warehouses shall not misrepresent the scope of services offered and made available to the public under authority of the license issued by the Commission.
- d) No applicant for a personal property warehouse license shall advertise by any means until authority to operate has been issued by the Commission.

Section 1458.250 Standards for Forms of Payment

- a) Personal property warehouses shall accept payment tendered in the following forms:
 - 1) Cash;
 - 2) Cashier's check; or
 - 3) Money order.
- b) Bartering is not permissible.

Section 1458.260 Notification to Customers of Revocation

If a personal property warehouse license is revoked by the Commission, the warehouse shall send notification to all persons with goods in storage. The revocation notification shall inform the customer of reasonable business hours when goods may be claimed and shall permit any person with goods in storage to remove those goods. The warehouse shall provide the notification within 3 business days after the revocation by the Commission.

SUBPART D: INSURANCE OR BOND COVERAGE

Section 1458.300 Licenses Conditioned upon Compliance with Insurance Requirements

A license issued by the Commission to a personal property warehouse has force and effect only while the warehouse is in compliance with requirements for the filing of proof of insurance or bond coverage.

Section 1458.310 Minimum Insurance Amounts Required

- a) Each personal property warehouse shall have on file with the Commission evidence of insurance liability coverage in the following amount for each warehouse location:
 - 1) For a Class 1 warehouse, \$10,000;

- 2) For a Class 2 warehouse, \$20,000;
 - 3) For a Class 3 warehouse, \$30,000;
 - 4) For a Class 4 warehouse, \$40,000;
 - 5) For a Class 5 warehouse, \$50,000;
 - 6) For a Class 6 warehouse, \$50,000 plus an additional \$5,000 for each additional 100,000 net square feet, or net cubic feet of volume, or fraction thereof.
- b) The insurance coverage required by this Section shall protect against damage to personal property goods including, but not limited to, damage caused by fire, vermin, insects, water or loss.
- c) A continuous surety bond may be used in lieu of the insurance coverage required in subsection (a) as security against damage to personal property, provided that all of the following conditions are satisfied:
- 1) the surety bond is made payable to the Commission for the benefit of owners of stored property or their assignees;
 - 2) the bond is endorsed by a surety company authorized to do business in the State of Illinois;
 - 3) the bond is in a form approved by the Commission containing all of the terms and conditions required by the Commission;
 - 4) the surety bond shall be continuing and subject to cancellation by the surety company only upon 30 days written notice to the Commission served in person or by certified mail;

Section 1458.320 Proof of Insurance or Bond Coverage

A personal property warehouse shall file with the Commission evidence of proof of insurance or bond coverage in the amount shown in Section 1458.310. The conditions of bond or insurance coverage are as follows:

- a) The filing of the proof shall constitute acceptance of the minimum terms required by this Part or by statute and shall bind the insurance company to those terms.
- b) The coverage shall remain in effect until a cancellation form is filed with the Commission or the coverage is cancelled by filing with the Commission a subsequent certificate of insurance or bond.

- c) Evidence of the insurance or bond coverage shall be on a form approved by the Commission containing all of the terms and conditions required by the Commission.
- d) The insurance policy or bond shall be continuing and subject to cancellation or nonrenewal by the insurer only upon 30 days prior written notice to the Commission served in person or by certified mail.

SUBPART E: NOTICES AND WAREHOUSE RECEIPTS

Section 1458.400 Notice of Liability Limits

Before a personal property warehouse contracts to store personal property for any person, the warehouse shall notify that person of any limit on the warehouse's liability for loss or damage to property in storage and of that person's responsibility to provide additional coverage if desired.

Section 1458.410 Warehouse Receipts

Whenever a personal property warehouse receives property from any person for storage, the warehouse shall issue to that person a warehouse or storage receipt for that property. The receipt shall clearly identify the property that the warehouse has received from that person, the location of the warehouse where the property will be stored, the terms and conditions of storage, and the date on which the receipt is issued.

Section 1458.420 Form of Warehouse Receipt; Essential Terms; Optional Terms

- a) A warehouse receipt need not be in any particular form.
- b) A warehouse receipt shall be signed by the customer.
- c) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouse is liable for damages caused by the omission to a person injured by the omission:
 - 1) The location of the warehouse where the goods are stored;
 - 2) The date of issue of the receipt;
 - 3) The consecutive number of the receipt;
 - 4) A statement whether the goods received will be delivered to the bearer or to a specified person;
 - 5) The rate of storage and handling charges;

- 6) A description of the goods or of the packages containing them;
 - 7) The signature of an employee or agent of the warehouse.
- d) A warehouse may insert in its receipt any other terms that are not contrary to the Act or this Part, or its duty of care. Any contrary provisions are ineffective.

SUBPART F: ENFORCEMENT

Section 1458.500 Imposition of Sanctions

When the Commission has reason to believe that a person has committed an act that is a violation of the Act or this Part it may conduct an operating practices proceeding to impose sanctions including, but not limited to, the suspension or revocation of the respondent's license and/or the assessment of civil penalties. In deciding whether to conduct an operating practices proceeding, the Commission will consider, among other factors, the severity of the offense, the probability of guilt, and possible effects of sudden suspension or revocation on the personal property warehouse's customers.

Section 1458.510 Informal Settlement in Lieu of Formal Proceeding

Prior to the institution of formal enforcement proceedings before the Commission, a respondent shall be given the opportunity to settle, at an informal staff level, any controversy regarding the respondent's alleged illegal activity under the Act.

- a) The Notice of Alleged Violation and Opportunity to Settle (NAVOS) setting forth the alleged violations of the Act or this Part shall be served on the respondent and shall specify the procedure for the respondent to exercise the option to settle. Included will be instructions to telephone or write to the specific Commission staff member assigned to the case to request and schedule a settlement conference, if the respondent chooses to exercise the settlement option. The respondent shall have 20 days from the date of service to exercise the option to settle.
- b) Monetary settlements specified in the NAVOS shall be based upon the minimum and maximum amounts set forth in Section 18c-1704(2) of the Illinois Commercial Transportation Law (ICTL) [625 ILCS 5/18c-1704(2)].
- c) An amount less than the minimum established in the NAVOS may be agreed upon between the staff of the Commission and the respondent during informal settlement discussions. This lesser amount shall be incorporated in a stipulated settlement agreement that shall be presented to the Commission for approval or rejection pursuant to the provisions of Section 18c-1705 of the ICTL.
- d) Settlement amounts shall be determined upon consideration of the respondent's past compliance history, his/her cooperation with authorities in the resolution of

the dispute, his/her willingness to comply with the Act and this Part, the type of violation, the amount of revenue realized from the unlawful activities, and the number of violations.

- e) If a settlement agreement is not reached, the matter will be set for hearing before a Commission Hearing Examiner (see 83 Ill. Adm. Code 200).
- f) The respondent's right to a hearing and the respondent's position at hearing will not be prejudiced in any way if settlement is not reached.

Section 1458.520 Initiation of Operating Practices Proceeding

- a) An enforcement proceeding shall be initiated by the issuance of a Complaint that shall set forth the alleged violations of the Act. The Complaint shall be served on the respondent by certified mail, return receipt requested, at the last address known to the Commission, or by personal service if the respondent is not licensed by the Commission and service by mail cannot be accomplished.
- b) The respondent shall have 20 days from the date of service of the Complaint to file a responsive pleading with the Commission. Failure to respond within the specified time shall result in the matter being set for hearing. Notice of the time, date and place for the hearing shall be mailed to the respondent.
- c) All matters set for hearing as a result of this Section shall be conducted in accordance with 83 Ill. Adm. Code 200 (Rules of Practice) and with the provisions of Section 18c-1704 of the ICTL.
- d) Respondent's failure to appear at a hearing or otherwise respond to a complaint shall constitute a waiver of the respondent's right to contest the alleged violations. Commission staff shall present evidence in support of its allegations and the Commission is authorized, without further notice or hearing, to make findings and may forthwith order the imposition of any applicable sanction.

Section 1458.530 Failure to Appear at Hearing

Respondent's failure to appear at the hearing set for the violations in issue, may constitute a waiver of respondent's right to appear to contest the alleged violations. Commission staff shall testify in support of its allegations and the Commission is authorized without further notice to find the facts to be as alleged in the order and may forthwith order the imposition of any applicable sanction.

Section 1458.540 Standards for the Assessment of Civil Penalties

- a) In determining whether to assess civil penalties, the Commission shall consider the following factors:

- 1) the lack of mitigating circumstances, including:
 - A) whether the violation's occurrence was attributable to causes beyond the respondent's control rather than to respondent's fault or intent; and
 - B) whether the violation's occurrence was attributable to action by the Commission that precluded compliance;
 - 2) the lack of good faith or intent, including:
 - A) the past compliance history of the respondent; and
 - B) whether a violation is the result of willful conduct or comes about through mistake, inadvertence, or negligence;
 - 3) the financial ability of the respondent to pay the penalties assessed;
 - 4) the degree to which the violative conduct was harmful to the public; and
 - 5) the financial benefit accruing to the respondent as a result of its illegal activities.
- b) The Commission's consideration shall be limited to only those violations for which evidence exists. It shall be the burden of the respondent to establish a compelling reason why the civil penalty should be mitigated.

Section 1458.550 Payment of Civil Penalties

Whenever the Commission assesses a civil penalty under this Part:

- a) Payment of the civil penalty shall be made by certified or cashier's check, money order, or in installments by the foregoing means after execution of a promissory note containing an agreement for judgment;
- b) All remittances shall be made payable to the Illinois Commerce Commission and sent to Transportation Regulatory Fund, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701.

SUBPART G: ACCOUNTING AND FINANCIAL RECORD REQUIREMENTS

Section 1458.600 Audit and Inspection of Books and Records

Each personal property warehouse shall permit Commission staff to inspect or audit its books and records, on request, at any time when the warehouse is open to the public.

Section 1458.610 Maintenance of Records

A personal property warehouse shall keep a record of all property received for storage and of all warehouse or storage receipts issued for one year after the goods were removed from storage. Records shall include the warehouse or storage receipt number, a description of the property received for storage, the date on which the property was received for storage, and the date on which the property was withdrawn from storage. Persons holding an interest in stored property may, at any reasonable time, inspect the warehouse's records related to that property.

SUBPART H: FEES

Section 1458.700 Fees

The following fees shall apply:

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| a) | Initial application fee for personal property warehouse license | \$250 |
| b) | Annual renewal fee for personal property warehouse license | \$150 |
| c) | Annual fee for each additional personal property warehouse operated by applicant | \$100 |
| d) | Personal property warehouse license reinstatement fee | \$100 |
| e) | Special governmental fairs annual license | \$50 |