

CHAPTER 133: OFFENSES AGAINST PUBLIC JUSTICE AND ADMINISTRATION

Section

- 133.01 Resisting or obstructing a peace officer or correctional institution employee
- 133.02 Refusing to aid an officer
- 133.03 Tampering with public notice
- 133.04 Attempt to solicit drugs
- 133.05 Vehicle impoundment

§ 133.01 RESISTING OR OBSTRUCTING A PEACE OFFICER OR CORRECTIONAL INSTITUTION EMPLOYEE.

(A) (1) A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer, firefighter, or correctional institution employee of any authorized act within his official capacity commits a Class A misdemeanor.

(2) In addition to any other sentence that may be imposed, a court shall order any person convicted of resisting or obstructing a peace officer, firefighter, or correctional institution employee to be sentenced to a minimum of 48 consecutive hours of imprisonment or ordered to perform community service for not less than 100 hours as may be determined by the court. The person shall not be eligible for probation in order to reduce the sentence of imprisonment or community service.

(B) For purposes of this section, ***CORRECTIONAL INSTITUTION EMPLOYEE*** means any person employed to supervise and control inmates incarcerated in a penitentiary, state farm, reformatory, prison, jail, house of correction, police detention area, half-way house, or other institution or place for the incarceration or custody of persons under sentence for offenses or awaiting trial or sentence for offenses, under arrest for an offense, a violation of probation, a violation of parole, or a violation of mandatory supervised release, or awaiting a bail setting hearing or preliminary hearing, or who are sexually dangerous persons or who are sexually violent persons; and ***FIREFIGHTER*** means any individual, either as an employee or volunteer, of a regularly constituted fire department of a municipality or fire protection district who performs fire fighting duties, including, but not limited to, the fire chief, assistant fire chief, captain, engineer, driver, ladder person, hose person, pipe person, and any other member of a regularly constituted fire department. ***FIREFIGHTER*** also means a person employed by the Office of the State Fire Marshal to conduct arson investigations.

(C) It is an affirmative defense to a violation of this section if a person resists or obstructs the performance of one known by the person to be a firefighter by returning to or remaining in a dwelling, residence, building, or other structure to rescue or to attempt to rescue any person.
(ILCS Ch. 720, Act 5, § 31-1) Penalty, see § 130.99

§ 133.02 REFUSING TO AID AN OFFICER.

No person, upon command, shall refuse or knowingly reasonably fail to aid a person known by him/her to be a police officer in:

(A) Apprehending a person whom the officer is authorized to apprehend; or

(B) Preventing the commission by another of any offense.

(ILCS Ch. 720, Act 5, § 31-8) Penalty, see § 130.99

§ 133.03 TAMPERING WITH PUBLIC NOTICE.

No person shall knowingly and without lawful authority alter, destroy, deface, remove, or conceal any public notice posted according to law, during the time for which the notice was to remain posted.

(ILCS Ch. 720, Act 5, § 32-9) Penalty, see § 130.99

§ 133.04 ATTEMPT TO SOLICIT DRUGS.

It is unlawful for any person to solicit or to attempt to obtain cannabis as defined in the Illinois Cannabis Control Act or a controlled substance, counterfeit substance, controlled substance analog, or a look-a-like substance as defined by the Illinois Controlled Substances Act with an intent to possess by request, contract, agreement, command or understanding unless otherwise authorized by valid registration pursuant to said Act.

(Ord. 1952, passed 1-20-2004)

§ 133.05 VEHICLE IMPOUNDMENT.

(A) The owner of record of any motor vehicle which is used in connection with a violation of § 133.04, or that contains cannabis as defined by the Illinois Cannabis Act or a controlled substance counterfeit substance, controlled substance analog, or a look-alike substance as defined by the Illinois Controlled Substances Act, unless otherwise authorized by a valid registration under said Act, or a motor vehicle transporting firearms in violation of § 137.03, shall be subject to seizure and impoundment and liable to the village for an administrative penalty not to exceed \$500 plus any towing and storage fees as hereinafter provided. This division shall not apply:

(1) If the vehicle used in the violation was stolen at that 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

(2) If the vehicle is operating as a common carrier and the violations occurs without the knowledge of the person in control of the vehicle.

(B) 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 village 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 or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this section.

(C) Whenever the owner of record of a vehicle seized pursuant to this section makes a request of the Police Department in person and in writing for a vehicle impoundment hearing after the seizure, a hearing officer shall conduct the vehicle impoundment hearing within 24 hours after such request is made, excluding Saturdays, Sundays and legal holidays. All interested persons shall be given a reasonable opportunity to be heard at the vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under division (A), the hearing officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the department of revenue a cash bond in the amount to exceed \$500 plus any applicable towing and storage fees.

(D) Unless a hearing is held pursuant to division (C) above, within ten days after a vehicle is seized and impounded pursuant to this section, the village shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted pursuant to this section. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than 30 days after the vehicle was seized. The hearing shall be conducted by a hearing officer appointed by that Village President. All interested persons shall be given a reasonable opportunity to be heard at the hearing. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation of §§ 133.04 or 137.03, and that none of the exceptions described in division (A) (1) and (2) applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the village for an administrative penalty in the amount not to exceed \$500. If the owner of record fails to appear at the hearing, the hearing officer shall enter default order in favor of the village requiring the payment to the village of an administrative penalty in an amount not to exceed \$500. If the hearing officer finds that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond.

(E) (1) If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing to the village. If a cash bond has been posted pursuant to this section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed the village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this section, a vehicle shall continue to be impounded until:

2005 S-3

(a) The penalty, plus any applicable towing and storage fees, is paid to the village, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle, or

(b) The vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law.

(2) If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed under division (D) against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the village, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code, ILCS Ch. 625, Act 5, § 4-208.

(3) Except as otherwise specifically provided by law, no owner, lienholder or other person shall be legally entitled to take possession of a vehicle impounded under this section until the civil penalty and fees applicable under this section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund to the village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lienholders of record, not to exceed \$500 plus the applicable fees.

(F) For purposes of this section, the **OWNER OF RECORD** of a vehicle is the record title holder.

(Ord. 1952, passed 1-20-2004)