

# **ILLINOIS COMMERCE COMMISSION**

**Environment and Business Regulations/Executive agency**

**FY14 Headcount: 275**

<http://www.icc.illinois.gov/>

## **Summary of Agency Operations**

The Illinois Commerce Commission (ICC) ensures safe, reliable and economical utility services to the citizens of Illinois. ICC regulates the spending of utility companies while allowing them the opportunity to earn a reasonable profit. ICC also regulates trucking companies, natural gas pipelines, property warehouses and railroad crossings. In fiscal year 2013, ICC added oversight of the repossession industry to its existing oversight of movers and towers.

## **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

Not mentioned in the agency report

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

**Jurisdiction and Powers of the (Commerce) Commission [625 ILCS 5/Ch 18C Sub 1 Art II heading] ARTICLE II. (625 ILCS 5/18c-1205) Sec. 18c-1205. Qualifications of Transportation Compliance Program Staff.** (a) Merit standards and procedures, and education requirements, applicable to State troopers

**See State Police Merit Board Fact Sheet for disqualifying criteria**

**System of personnel administration**

**Personnel Code [20 ILCS 415]**

**Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

**Criminal history record check procedures**

**1) Self-disclosure on application**

Yes (CMS 100)

**2) Background check review procedure**

Background checks conducted, but procedures not specified in agency's report to the Task Force

**Exemption, waiver, or review mechanisms**

Not specified in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

14; None were disqualified; none sought waiver

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Commercial relocator license (in regard to trespassing vehicles); Tow truck driver, and dispatcher employment permits (in regard to trespassing vehicles); Collateral repossession (vehicles) agency licenses, collateral recovery manager; collateral recovery employee; Disabled vehicle (non-relocation) towing license; disabled vehicle (non-relocation) driver permits; Motor carriers of property; household goods carriers (movers)

### **Statutory, regulatory restrictions applicable to occupational licensing**

#### **Commercial relocators license:**

#### **Administrative Code: Title 92, Transportation, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application a) Relocator's Licenses a) (1) The**

Commission shall consider, with regard to applications for new or renewed relocator's licenses, **the criminal conviction records (see Section 1710.22(b)(1) below)** of the applicant, its owners or controllers, directors, officers, members, managers, employees and agents; the safety record of those persons; the compliance record of those persons; the equipment, facilities and storage lots of the applicant; and other facts that may bear on their fitness to hold the license.

**Restriction type:** Mandatory

**Restriction duration:** Within 5 years preceding filing of the application

#### **Background Check Procedures for relocator license**

##### **(1) Self-disclosure on application for relocator license**

[Sec. 18a-400.] Relocator's licenses - Applications, original determinations. (a) Each application for a license to operate as a commercial vehicle relocator shall be made in writing to the Commission, shall be verified under oath, shall be in such form and contain such information as the Commission may by regulation require, and shall be accompanied by the required application fee and proof of security

##### **(2) Background check procedure for relocator license**

[625 ILCS 5/18a-200] 7) Investigate and maintain current files of the criminal records, if any, of all relocators and their employees and of all applicants for relocator's license, operator's licenses and dispatcher's licenses. If the Commission determines that an applicant for a license issued under this Chapter will be subjected to a criminal history records check, the applicant shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record information databases now and hereafter filed. The Department of State Police shall charge the applicant a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish pursuant to positive identification, records of conviction to the Commission

### **(3) Review procedures for relocator license**

[Sec. 18a-400]. Relocator's licenses - Applications, original determinations. (a) Each application for a license to operate as a commercial vehicle relocator shall be made in writing to the Commission, shall be verified under oath, shall be in such form and contain such information as the Commission may by regulation require, and shall be accompanied by the required application fee and proof of security. (b) Upon the filing of such application, the Commission shall, within a reasonable time, fix a time and place for public hearing thereon. At least 10 days before the hearing, the Commission shall notify the applicant and all parties of record to such proceeding of the time and place of such hearing, by mailing a notice thereof to each such party to the address of such party shown in the records of such proceeding. Any person having an interest in the subject matter may appear at the hearing in support of or in objection to the application. (d) The Commission shall issue a relocator's license to any qualified applicant therefor after hearing, pursuant to an application filed, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to provisions of this Chapter and the requirements, rules and regulations of the Commission thereunder; otherwise such application shall be denied. The order of the Commission granting or denying a relocator's license shall set forth the specific findings of fact on which such order is based.

#### **Relocator operators and dispatchers:**

**Administrative Code: Title 92, Transportation, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits.**

(b) (1) The Commission shall consider, with regard to applications for new or renewed operator's and dispatcher's employment permits, any record of the applicant of **convictions involving injury or death to persons, use of a deadly weapon, injury to property, or unlawful taking of property; crimes relevant to the determination of the credibility of a witness; or of violation of the Law or this Part.** 2) No provisional employment permits shall be issued to persons who have been convicted of crimes specified in subsection (b)(1) **within the 5 year period preceding filing of the application, or to persons who are defendants in pending criminal proceedings involving those crimes.**

**Restriction type:** Mandatory

**Restriction duration:** Within 5 years preceding filing of the application

**Administrative Code: Title 92, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits.**

The Commission may deny a provisional employment permit to any person with a record of violations of the Law or this Part. In determining whether to deny a provisional employment permit on the basis of violations of the Law or this Part, the Commission will consider such factors as the type of violation, when the violation occurred, and the age of the applicant at the time of the violation. The Commission may also deny a provisional employment permit on the basis of the applicant's criminal or driving record, in the case of an application for a provisional operator's employment permit, **or on the basis of the applicant's criminal record, in the case of an application for a provisional dispatcher's employment permit. In determining whether to deny a provisional employment permit on the basis of a criminal or driving**

**record, the Commission will consider such factors as the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.**

**Restriction Type:** Discretionary

**Restriction Duration:** Within the 5 year period preceding filing of the application

**Administrative Code: Title 92, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits**

When the applicant has a record of convictions for crimes specified in subsection (b)(1), or the applicant was convicted for those crimes, or the applicant was convicted more than 5 years prior to filing the application, or the applicant has a record of violations of the Law or this Part, the application for a permanent employment permit shall be set for hearing.

**Restriction Type:** Mandatory

**Restriction Duration:** More than 5 years prior to filing the application

**Illinois Commercial Relocation of Trespassing Vehicles Law 625 ILCS 5/18a-201**

**[625 ILCS 5/18a-404]** Operator's and dispatcher's employment permits – Revocation.

(1) The Commission shall suspend or revoke the permit of an operator if it finds that:

(a) The operator or dispatcher made a **false statement** on the application for an operator's or dispatcher's employment permit; (b) The **operator's or dispatcher's driver's license** issued by the Secretary of State has been **suspended or revoked**; (c) The operator or dispatcher has been **convicted, during the preceding 5 years, of any criminal offense of the State of Illinois or any other jurisdiction involving any of the following, and the holder does not make a compelling showing that he is nevertheless fit to hold an operator's license: (i) Bodily injury or attempt to inflict bodily injury to another; (ii) Theft of property or attempted theft of property; or (iii) Sexual assault or attempted sexual assault of any kind; or (d) The operator or dispatcher has, during the preceding 5 years, violated this Chapter, Commission regulations or orders, or any other law affecting public safety, and the holder does not make a compelling showing that he or she is nevertheless fit to hold an operator's license.**

**Restriction type:** Mandatory

**Restriction duration:** 5 years previous to discovery of criminal conviction

**Background Check Procedures for operator, dispatcher permits**

**(1) Self-disclosure on application for operator, dispatcher permit**

Yes **[625 ILCS 5/18a-403]** (2) Upon the filing of such application, the Commission shall conduct an investigation of the criminal record, if any, of the applicant.

**(2) Background check and Review Procedures for operator, dispatcher permit**

**[625 ILCS 5/18a-200]** The Commission shall, within 3 working days, issue to any new applicant for an employment permit a provisional operator's or dispatcher's employment permit **unless the Commission finds that the applicant has committed an offense for which the permit could be revoked under Section 18a-404 of this Chapter** (see above). This provisional employment permit shall be valid for a period of 1 year unless suspended or revoked by order of the Commission. At the end of 1 year, the provisional permit shall automatically become permanent unless the permit was revoked by order of the Commission during the preceding year.

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The permanent permit shall remain valid unless suspended or revoked by order of the Commission under this law

### **Exemption, waiver, or review mechanisms**

None provided in statute or administrative rule

**Collateral recovery managers:** (Section scheduled to be repealed on January 1, 2022)

**Collateral recovery Act [225 ILCS 422/40 (a)(2)] (Qualifications for recovery manager; identification card)** a) An applicant is qualified for licensure as a recovery manager if that person meets all of the following requirements: (2) Has not been convicted in any jurisdiction of any felony or at least 10 years has passed from the time of discharge from any sentence imposed for the felony.

**Restriction Type:** Mandatory

**Restriction Duration:** 10 years since discharge from any sentence imposed for a felony

**Repossession agency employee:** (Section scheduled to be repealed on January 1, 2022)

**Collateral recovery Act [225 ILCS 422/45] Sec. 45. Repossession agency employee requirements.** (a) All employees of a licensed repossession agency whose duties include the actual repossession of collateral must apply for a recovery permit. (B) Has been determined by the Commission to **be unfit by reason of conviction of an offense in this or another state, other than a minor traffic offense.** The Commission shall adopt rules for making those determinations.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Title 92: Transportation, Chapter III: Illinois Commerce Commission, Subchapter b: Motor Carriers of Property, Part 1480 Collateral Recovery, Section 1480.50 Recovery Permits**

### **Background Check Procedures for repossession agency employee**

#### **(1) Self-disclosure on application for repossession agency employee permit**

Yes [225 ILCS 422/45] Sec. 45. Repossession agency employee requirements. (2) No person may be employed by a repossession agency under this Section until he or she has executed and furnished to the Commission, on forms furnished by the Commission, a verified statement to be known as an "Employee's Statement" setting forth all of the following: (D) **Any conviction of a felony**, except as provided for in Section 85 (See below). (E) Any other information as may be required by any rule of the Commission to **show the good character, competency, and integrity of the person** executing the statement.

#### **(2) Background check and Review Procedures for repossession agency employee**

[225 ILCS 422/45] (b) Each applicant for a recovery permit shall have his or her fingerprints submitted to the Commission by a Live Scan fingerprint vendor certified by the Illinois State Police under the Private Detective, Private Alarm, Private Security, Fingerprint

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Vendor, and Locksmith Act of 2004 in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Commission shall charge applicants a fee for conducting the criminal history records check, which shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Commission. The Commission, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Commission, in its discretion, may also use other procedures in performing or obtaining criminal history records checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Commission that an equivalent security clearance has been conducted.

### **Owner of collateral recovery (repossession) company:**

**Title 92: Transportation, Chapter III: Illinois Commerce Commission, Subchapter b: Motor Carriers of Property, Part 1480 Collateral Recovery, Section 1480.20 Repossession Agency Licensure** d) The Commission shall review applications for repossession agency licensure to determine whether the applicant has satisfied the fitness criteria contained in the Act and this Part. **If, upon review of an application, the Commission discovers that the applicant or any individual required to submit to a criminal background check as part of the licensure process has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80],** the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction. e) At the hearing, the applicant shall have the burden of proving fitness by clear and convincing evidence.

**Restriction Type:** Mandatory (court hearing)

**Restriction Duration:** Not specified

### **Background Check and Review Procedures for repossession agency owner**

225 ILCS 422/60) (Section scheduled to be repealed on January 1, 2022) Sec. 60. Criminal background check. The Commission shall require that each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company, as part of the application process, authorize a criminal history records check to determine if such applicant has ever been charged with a crime and, if so, the disposition of those charges. Upon this authorization, each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company shall submit his or her fingerprints to the Commission in the form and manner prescribed by the Illinois Commerce Commission Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and Federal Bureau of Investigation criminal history records databases. The Commission shall charge a fee for conducting the criminal history records check, which shall be deposited in the Transportation Regulatory Fund and shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall provide information concerning any criminal

charges, and their disposition, now or hereafter filed against an applicant upon request of the Commission when the request is made in the form and manner required by the Illinois Commerce Commission Police. (Source: P.A. 97-576, eff. 7-1-12.)

**Review considerations for all licenses under Collateral Recovery Act [225 ILCS 422/80]**

Sec. 80. Refusal, revocation, or suspension. (a) The Commission may refuse to issue or renew or may revoke any license or recovery permit or may suspend, place on probation, fine, or take any disciplinary action that the Commission may deem proper, including fines not to exceed \$2,500 for each violation, with regard to any license holder or recovery permit holder for one or any combination of the following causes: (1) Knowingly making any misrepresentation for the purpose of obtaining a license or recovery permit. (2) Violations of this Act or its rules. (3) **Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime that is related to the practice of the profession.** (5) Engaging in **dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public** as defined by rule (6) **Violation of any court order from any State or public agency engaged in the enforcement of payment of child support arrearages or for noncompliance with certain processes relating to paternity or support proceeding.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Evaluation criteria of prior criminal history under Collateral Recovery Act [225 ILCS 422/80]**

(225 ILCS 422/85) **Sec. 85.** Consideration of past crimes. (a) Notwithstanding the prohibitions set forth in Sections 40 and 45 of this Act, when considering the denial of a license or recovery permit on the grounds of conviction of a crime, the Commission, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license or recovery permit, shall consider each of the following criteria: (1) The nature and severity of the act or crime under consideration as grounds for denial. (2) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, which also could be considered as grounds for disciplinary action under this Act. (3) The amount of time that has lapsed since the commission of the act or crime referred to in item (1) or (2) of this subsection (a). (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant. (5) Evidence, if any, of rehabilitation submitted by the applicant.

**Non-relocation (disabled vehicle) towing license:**

**Chapter 18c. Illinois Commercial Transportation Law (625 ILCS 5/18c-5303) Sec. 18c-**

**5303.** The Fitness Test. (1) Prima Facie Evidence of Applicant Fitness in Licensing Cases.

Applicants for non-relocation towing licenses may establish a prima facie showing of fitness by the following evidence: (d) A statement that the applicant **has not: (i) Been convicted, during the 2 years immediately preceding the filing of the application, of a felony involving theft of property, violence to persons, or criminal damage to property**

**Restriction Type:** Discretionary

**Restriction Duration:** During the 2 years immediately preceding the filing of the application

**Household Goods Carriers (Movers):**

**Administrative Code:** Title 92, Chapter III, Subchapter a, Commercial Transportation Generally, Part 1457 Household Goods Carriers, Subpart B, Section 1457.80

**Requirements to show fitness** b. In determining whether the applicant is fit to operate as a household goods carrier, the Commission shall consider the following: 3) The conviction of the applicant of a crime punishable by death or imprisonment in excess of one year under the law under which he/she was convicted (**felony**), or a **crime involving dishonesty or false statement regardless of the punishment**. The Commission will consider the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Motor Carriers of Property:**

**Administrative Code:** Title 92, Chapter III, Subchapter b Motor Carriers of Property, Part 1301, Subpart A, Section 1301.15 Prerequisites to grant of interstate motor carrier

**registration** The Commission shall grant a completed application for an interstate motor carrier of property registration if it is accompanied by the fee prescribed in 92 Ill. Adm. Code 1205, absent evidence at hearing that the applicant has operated or will operate in violation of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1985, ch. 95½, pars. 18c-1101 et seq.) or Commission regulations and orders. For example, if the record at hearing shows that an applicant for an interstate motor carrier registration has been **convicted of stealing freight**, the registration could be denied on grounds of fitness.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Administrative Code:** Title 92, Chapter III, Subchapter b, Part 1304 Motor Carriers of Property Fitness Standards, Section 1304.10 Fitness Standards d. The conviction of the

applicant of a crime punishable by death or imprisonment in excess of one year under the law under which he was **convicted (felony)**, or a **crime involving dishonesty or false statement regardless of the punishment**. The Commission will consider the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)



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- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

Agency had 14 applicants who underwent criminal background checks from January 1, 2010 to December, 31, 2011. None were disqualified, none sought waiver, and none were denied waiver. No other information on agency employment restrictions reported to the Task Force.