



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4772

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.6

from Ch. 95 1/2, par. 11-501.6

Amends the Illinois Vehicle Code. Provides that any person who drives or is in actual control of a motor vehicle upon the public highways of this State and who has been involved in a fatal motor vehicle accident shall be deemed to have given consent, regardless of whether an arrest takes place, to tests of blood, breath, other bodily substance, or urine to detect alcohol, drugs, or intoxicating compounds. Provides that both a test of the concentration of alcohol in the person's breath and a test of blood, other bodily substance, or urine for the purpose of determining the content of alcohol, drugs, or intoxicating compounds of the person's blood shall be administered. Provides that the required tests be conducted within one hour of the arrival of law enforcement personnel at the scene of the accident or, if the driver has fled the scene of the accident, within one hour of apprehending the driver.

LRB100 16480 AXK 31610 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 11-501.6 as follows:

6 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

7 Sec. 11-501.6. Driver involvement in personal injury or
8 fatal motor vehicle accident; chemical test.

9 (a) Any person who drives or is in actual control of a
10 motor vehicle upon the public highways of this State and who
11 has been involved in a personal injury ~~or fatal motor~~ vehicle
12 accident, shall be deemed to have given consent to a breath
13 test using a portable device as approved by the Department of
14 State Police or to a chemical test or tests of blood, breath,
15 other bodily substance, or urine for the purpose of determining
16 the content of alcohol, other drug or drugs, or intoxicating
17 compound or compounds of such person's blood if arrested as
18 evidenced by the issuance of a Uniform Traffic Ticket for any
19 violation of the Illinois Vehicle Code or a similar provision
20 of a local ordinance, with the exception of equipment
21 violations contained in Chapter 12 of this Code, or similar
22 provisions of local ordinances. The test or tests shall be
23 administered at the direction of the arresting officer within

1 one hour of the arrival of law enforcement personnel at the
2 scene of the accident or, if the driver has fled the scene of
3 the accident, within one hour of apprehending the driver. The
4 law enforcement agency employing the officer shall designate
5 which of the aforesaid tests shall be administered. Up to 2
6 additional tests of urine or other bodily substance may be
7 administered even after a blood or breath test or both has been
8 administered. Compliance with this Section does not relieve
9 such person from the requirements of Section 11-501.1 of this
10 Code.

11 (a-5) Any person who drives or is in actual control of a
12 motor vehicle upon the public highways of this State and who
13 has been involved in a fatal motor vehicle accident shall be
14 deemed to have given consent to a breath test using a portable
15 device as approved by the Department of State Police and to a
16 chemical test or tests of blood, breath, other bodily
17 substance, or urine for the purpose of determining the content
18 of alcohol, other drug or drugs, or intoxicating compound or
19 compounds of such person's blood. This Section shall not apply
20 to those persons arrested for a violation under Section 11-501
21 of this Code or a similar violation of a local ordinance, in
22 which case the provisions of Section 11-501.1 shall apply. The
23 tests shall be administered at the direction of the officer
24 responding to the vehicle accident. Both a test of the
25 concentration of alcohol in the person's breath and a test of
26 blood, other bodily substance, or urine for the purpose of

1 determining the content of alcohol, other drug or drugs, or
2 intoxicating compound or compounds of the person's blood shall
3 be administered. The test shall be administered within one hour
4 of the arrival of law enforcement personnel at the scene of the
5 accident or, if the driver has fled the scene of the accident,
6 within one hour of apprehending the driver. Up to 2 additional
7 tests of urine or other bodily substance test may be
8 administered even after a blood or breath test or both have
9 been administered. Compliance with this Section does not
10 relieve such person from the requirements of Section 11-501.1
11 of this Code.

12 (b) Any person who is dead, unconscious or who is otherwise
13 in a condition rendering such person incapable of refusal shall
14 be deemed not to have withdrawn the consent provided by
15 subsection (a) of this Section. In addition, if a driver of a
16 vehicle is receiving medical treatment as a result of a motor
17 vehicle accident, any physician licensed to practice medicine,
18 licensed physician assistant, licensed advanced practice
19 registered nurse, registered nurse or a phlebotomist acting
20 under the direction of a licensed physician shall withdraw
21 blood for testing purposes to ascertain the presence of
22 alcohol, other drug or drugs, or intoxicating compound or
23 compounds, upon the specific request of a law enforcement
24 officer. However, no such testing shall be performed until, in
25 the opinion of the medical personnel on scene, the withdrawal
26 can be made without interfering with or endangering the

1 well-being of the patient.

2 (c) A person requested to submit to a test as provided
3 above shall be warned by the law enforcement officer requesting
4 the test that a refusal to submit to the test, or submission to
5 the test resulting in an alcohol concentration of 0.08 or more,
6 or testing discloses the presence of cannabis as listed in the
7 Cannabis Control Act with a tetrahydrocannabinol concentration
8 as defined in paragraph 6 of subsection (a) of Section 11-501.2
9 of this Code, or any amount of a drug, substance, or
10 intoxicating compound resulting from the unlawful use or
11 consumption of a controlled substance listed in the Illinois
12 Controlled Substances Act, an intoxicating compound listed in
13 the Use of Intoxicating Compounds Act, or methamphetamine as
14 listed in the Methamphetamine Control and Community Protection
15 Act as detected in such person's blood, other bodily substance,
16 or urine, may result in the suspension of such person's
17 privilege to operate a motor vehicle. If the person is also a
18 CDL holder, he or she shall be warned by the law enforcement
19 officer requesting the test that a refusal to submit to the
20 test, or submission to the test resulting in an alcohol
21 concentration of 0.08 or more, or any amount of a drug,
22 substance, or intoxicating compound resulting from the
23 unlawful use or consumption of cannabis, as covered by the
24 Cannabis Control Act, a controlled substance listed in the
25 Illinois Controlled Substances Act, an intoxicating compound
26 listed in the Use of Intoxicating Compounds Act, or

1 methamphetamine as listed in the Methamphetamine Control and
2 Community Protection Act as detected in the person's blood,
3 other bodily substance, or urine, may result in the
4 disqualification of the person's privilege to operate a
5 commercial motor vehicle, as provided in Section 6-514 of this
6 Code. The length of the suspension shall be the same as
7 outlined in Section 6-208.1 of this Code regarding statutory
8 summary suspensions.

9 A person requested to submit to a test shall also
10 acknowledge, in writing, receipt of the warning required under
11 this Section. If the person refuses to acknowledge receipt of
12 the warning, the law enforcement officer shall make a written
13 notation on the warning that the person refused to sign the
14 warning. A person's refusal to sign the warning shall not be
15 evidence that the person was not read the warning.

16 (d) If the person refuses testing or submits to a test
17 which discloses an alcohol concentration of 0.08 or more, the
18 presence of cannabis as listed in the Cannabis Control Act with
19 a tetrahydrocannabinol concentration as defined in paragraph 6
20 of subsection (a) of Section 11-501.2 of this Code, or any
21 amount of a drug, substance, or intoxicating compound in such
22 person's blood or urine resulting from the unlawful use or
23 consumption of a controlled substance listed in the Illinois
24 Controlled Substances Act, an intoxicating compound listed in
25 the Use of Intoxicating Compounds Act, or methamphetamine as
26 listed in the Methamphetamine Control and Community Protection

1 Act, the law enforcement officer shall immediately submit a
2 sworn report to the Secretary of State on a form prescribed by
3 the Secretary, certifying that the test or tests were requested
4 under subsection (a) and the person refused to submit to a test
5 or tests or submitted to testing which disclosed an alcohol
6 concentration of 0.08 or more, the presence of cannabis as
7 listed in the Cannabis Control Act with a tetrahydrocannabinol
8 concentration as defined in paragraph 6 of subsection (a) of
9 Section 11-501.2 of this Code, or any amount of a drug,
10 substance, or intoxicating compound in such person's blood,
11 other bodily substance, or urine, resulting from the unlawful
12 use or consumption of a controlled substance listed in the
13 Illinois Controlled Substances Act, an intoxicating compound
14 listed in the Use of Intoxicating Compounds Act, or
15 methamphetamine as listed in the Methamphetamine Control and
16 Community Protection Act. If the person is also a CDL holder
17 and refuses testing or submits to a test which discloses an
18 alcohol concentration of 0.08 or more, or any amount of a drug,
19 substance, or intoxicating compound in the person's blood,
20 other bodily substance, or urine resulting from the unlawful
21 use or consumption of cannabis listed in the Cannabis Control
22 Act, a controlled substance listed in the Illinois Controlled
23 Substances Act, an intoxicating compound listed in the Use of
24 Intoxicating Compounds Act, or methamphetamine as listed in the
25 Methamphetamine Control and Community Protection Act, the law
26 enforcement officer shall immediately submit a sworn report to

1 the Secretary of State on a form prescribed by the Secretary,
2 certifying that the test or tests were requested under
3 subsection (a) and the person refused to submit to a test or
4 tests or submitted to testing which disclosed an alcohol
5 concentration of 0.08 or more, or any amount of a drug,
6 substance, or intoxicating compound in such person's blood,
7 other bodily substance, or urine, resulting from the unlawful
8 use or consumption of cannabis listed in the Cannabis Control
9 Act, a controlled substance listed in the Illinois Controlled
10 Substances Act, an intoxicating compound listed in the Use of
11 Intoxicating Compounds Act, or methamphetamine as listed in the
12 Methamphetamine Control and Community Protection Act.

13 Upon receipt of the sworn report of a law enforcement
14 officer, the Secretary shall enter the suspension and
15 disqualification to the individual's driving record and the
16 suspension and disqualification shall be effective on the 46th
17 day following the date notice of the suspension was given to
18 the person.

19 The law enforcement officer submitting the sworn report
20 shall serve immediate notice of this suspension on the person
21 and such suspension and disqualification shall be effective on
22 the 46th day following the date notice was given.

23 In cases involving a person who is not a CDL holder where
24 the blood alcohol concentration of 0.08 or more, or blood
25 testing discloses the presence of cannabis as listed in the
26 Cannabis Control Act with a tetrahydrocannabinol concentration

1 as defined in paragraph 6 of subsection (a) of Section 11-501.2
2 of this Code, or any amount of a drug, substance, or
3 intoxicating compound resulting from the unlawful use or
4 consumption of a controlled substance listed in the Illinois
5 Controlled Substances Act, an intoxicating compound listed in
6 the Use of Intoxicating Compounds Act, or methamphetamine as
7 listed in the Methamphetamine Control and Community Protection
8 Act, is established by a subsequent analysis of blood, other
9 bodily substance, or urine collected at the time of arrest, the
10 arresting officer shall give notice as provided in this Section
11 or by deposit in the United States mail of such notice in an
12 envelope with postage prepaid and addressed to such person at
13 his or her address as shown on the Uniform Traffic Ticket and
14 the suspension shall be effective on the 46th day following the
15 date notice was given.

16 In cases involving a person who is a CDL holder where the
17 blood alcohol concentration of 0.08 or more, or any amount of a
18 drug, substance, or intoxicating compound resulting from the
19 unlawful use or consumption of cannabis as listed in the
20 Cannabis Control Act, a controlled substance listed in the
21 Illinois Controlled Substances Act, an intoxicating compound
22 listed in the Use of Intoxicating Compounds Act, or
23 methamphetamine as listed in the Methamphetamine Control and
24 Community Protection Act, is established by a subsequent
25 analysis of blood, other bodily substance, or urine collected
26 at the time of arrest, the arresting officer shall give notice

1 as provided in this Section or by deposit in the United States
2 mail of such notice in an envelope with postage prepaid and
3 addressed to the person at his or her address as shown on the
4 Uniform Traffic Ticket and the suspension and disqualification
5 shall be effective on the 46th day following the date notice
6 was given.

7 Upon receipt of the sworn report of a law enforcement
8 officer, the Secretary shall also give notice of the suspension
9 and disqualification to the driver by mailing a notice of the
10 effective date of the suspension and disqualification to the
11 individual. However, should the sworn report be defective by
12 not containing sufficient information or be completed in error,
13 the notice of the suspension and disqualification shall not be
14 mailed to the person or entered to the driving record, but
15 rather the sworn report shall be returned to the issuing law
16 enforcement agency.

17 (e) A driver may contest this suspension of his or her
18 driving privileges and disqualification of his or her CDL
19 privileges by requesting an administrative hearing with the
20 Secretary in accordance with Section 2-118 of this Code. At the
21 conclusion of a hearing held under Section 2-118 of this Code,
22 the Secretary may rescind, continue, or modify the orders of
23 suspension and disqualification. If the Secretary does not
24 rescind the orders of suspension and disqualification, a
25 restricted driving permit may be granted by the Secretary upon
26 application being made and good cause shown. A restricted

1 driving permit may be granted to relieve undue hardship to
2 allow driving for employment, educational, and medical
3 purposes as outlined in Section 6-206 of this Code. The
4 provisions of Section 6-206 of this Code shall apply. In
5 accordance with 49 C.F.R. 384, the Secretary of State may not
6 issue a restricted driving permit for the operation of a
7 commercial motor vehicle to a person holding a CDL whose
8 driving privileges have been suspended, revoked, cancelled, or
9 disqualified.

10 (f) (Blank).

11 (g) For the purposes of this Section, a personal injury
12 shall include any type A injury as indicated on the traffic
13 accident report completed by a law enforcement officer that
14 requires immediate professional attention in either a doctor's
15 office or a medical facility. A type A injury shall include
16 severely bleeding wounds, distorted extremities, and injuries
17 that require the injured party to be carried from the scene.

18 (Source: P.A. 99-467, eff. 1-1-16; 99-697, eff. 7-29-16;
19 100-513, eff. 1-1-18.)