



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5214

Introduced 2/8/2012, by Rep. Randy Ramey, Jr.

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-303

from Ch. 95 1/2, par. 6-303

Amends the Illinois Vehicle Code. Defines "continuous alcohol monitoring device" as a device that automatically tests breath, blood, or transdermal alcohol concentration levels at least once every hour and detects tamper attempts, regardless of the location of the person who is being monitored, and regularly transmits the data. Provides that if a person is found guilty of driving while his or her driving privileges are suspended for a fourth, fifth, sixth, seventh, eighth, or ninth time and the license suspension was for a conviction of driving under the influence of alcohol or drugs or other prohibited substances or a summary suspension under the implied consent provisions of the Illinois Vehicle Code, that person is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days or serve a minimum of 60 days and abstain from consuming alcohol while wearing a continuous alcohol monitoring device to verify compliance for 270 days (rather than being guilty of a Class 4 felony and serving a minimum term of imprisonment of 180 days). Provides that for a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of the same, after a term of imprisonment, the person shall abstain from consuming alcohol and wear a continuous alcohol monitoring device to verify compliance for 365 days.

LRB097 18776 HEP 64012 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 6-303 as follows:

6 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

7 Sec. 6-303. Driving while driver's license, permit or  
8 privilege to operate a motor vehicle is suspended or revoked.

9 (a) Except as otherwise provided in subsection (a-5), any  
10 person who drives or is in actual physical control of a motor  
11 vehicle on any highway of this State at a time when such  
12 person's driver's license, permit or privilege to do so or the  
13 privilege to obtain a driver's license or permit is revoked or  
14 suspended as provided by this Code or the law of another state,  
15 except as may be specifically allowed by a judicial driving  
16 permit issued prior to January 1, 2009, monitoring device  
17 driving permit, family financial responsibility driving  
18 permit, probationary license to drive, or a restricted driving  
19 permit issued pursuant to this Code or under the law of another  
20 state, shall be guilty of a Class A misdemeanor.

21 (a-5) Any person who violates this Section as provided in  
22 subsection (a) while his or her driver's license, permit or  
23 privilege is revoked because of a violation of Section 9-3 of

1 the Criminal Code of 1961, relating to the offense of reckless  
2 homicide or a similar provision of a law of another state, is  
3 guilty of a Class 4 felony. The person shall be required to  
4 undergo a professional evaluation, as provided in Section  
5 11-501 of this Code, to determine if an alcohol, drug, or  
6 intoxicating compound problem exists and the extent of the  
7 problem, and to undergo the imposition of treatment as  
8 appropriate.

9 (b) (Blank).

10 (b-1) Upon receiving a report of the conviction of any  
11 violation indicating a person was operating a motor vehicle  
12 during the time when the person's driver's license, permit or  
13 privilege was suspended by the Secretary of State or the  
14 driver's licensing administrator of another state, except as  
15 specifically allowed by a probationary license, judicial  
16 driving permit, restricted driving permit or monitoring device  
17 driving permit the Secretary shall extend the suspension for  
18 the same period of time as the originally imposed suspension  
19 unless the suspension has already expired, in which case the  
20 Secretary shall be authorized to suspend the person's driving  
21 privileges for the same period of time as the originally  
22 imposed suspension.

23 (b-2) Except as provided in subsection (b-6), upon  
24 receiving a report of the conviction of any violation  
25 indicating a person was operating a motor vehicle when the  
26 person's driver's license, permit or privilege was revoked by

1 the Secretary of State or the driver's license administrator of  
2 any other state, except as specifically allowed by a restricted  
3 driving permit issued pursuant to this Code or the law of  
4 another state, the Secretary shall not issue a driver's license  
5 for an additional period of one year from the date of such  
6 conviction indicating such person was operating a vehicle  
7 during such period of revocation.

8 (b-3) (Blank).

9 (b-4) When the Secretary of State receives a report of a  
10 conviction of any violation indicating a person was operating a  
11 motor vehicle that was not equipped with an ignition interlock  
12 device during a time when the person was prohibited from  
13 operating a motor vehicle not equipped with such a device, the  
14 Secretary shall not issue a driver's license to that person for  
15 an additional period of one year from the date of the  
16 conviction.

17 (b-5) Any person convicted of violating this Section shall  
18 serve a minimum term of imprisonment of 30 consecutive days or  
19 300 hours of community service when the person's driving  
20 privilege was revoked or suspended as a result of a violation  
21 of Section 9-3 of the Criminal Code of 1961, as amended,  
22 relating to the offense of reckless homicide, or a similar  
23 provision of a law of another state.

24 (b-6) Upon receiving a report of a first conviction of  
25 operating a motor vehicle while the person's driver's license,  
26 permit or privilege was revoked where the revocation was for a

1 violation of Section 9-3 of the Criminal Code of 1961 relating  
2 to the offense of reckless homicide or a similar out-of-state  
3 offense, the Secretary shall not issue a driver's license for  
4 an additional period of three years from the date of such  
5 conviction.

6 (c) Except as provided in subsections (c-3) and (c-4), any  
7 person convicted of violating this Section shall serve a  
8 minimum term of imprisonment of 10 consecutive days or 30 days  
9 of community service when the person's driving privilege was  
10 revoked or suspended as a result of:

11 (1) a violation of Section 11-501 of this Code or a  
12 similar provision of a local ordinance relating to the  
13 offense of operating or being in physical control of a  
14 vehicle while under the influence of alcohol, any other  
15 drug or any combination thereof; or

16 (2) a violation of paragraph (b) of Section 11-401 of  
17 this Code or a similar provision of a local ordinance  
18 relating to the offense of leaving the scene of a motor  
19 vehicle accident involving personal injury or death; or

20 (3) a statutory summary suspension or revocation under  
21 Section 11-501.1 of this Code.

22 Such sentence of imprisonment or community service shall  
23 not be subject to suspension in order to reduce such sentence.

24 (c-1) Except as provided in subsections (c-5) and (d), any  
25 person convicted of a second violation of this Section shall be  
26 ordered by the court to serve a minimum of 100 hours of

1 community service.

2 (c-2) In addition to other penalties imposed under this  
3 Section, the court may impose on any person convicted a fourth  
4 time of violating this Section any of the following:

5 (1) Seizure of the license plates of the person's  
6 vehicle.

7 (2) Immobilization of the person's vehicle for a period  
8 of time to be determined by the court.

9 (c-3) Any person convicted of a violation of this Section  
10 during a period of summary suspension imposed pursuant to  
11 Section 11-501.1 when the person was eligible for a MDDP shall  
12 be guilty of a Class 4 felony and shall serve a minimum term of  
13 imprisonment of 30 days.

14 (c-4) Any person who has been issued a MDDP and who is  
15 convicted of a violation of this Section as a result of  
16 operating or being in actual physical control of a motor  
17 vehicle not equipped with an ignition interlock device at the  
18 time of the offense shall be guilty of a Class 4 felony and  
19 shall serve a minimum term of imprisonment of 30 days.

20 (c-5) Any person convicted of a second violation of this  
21 Section is guilty of a Class 2 felony, is not eligible for  
22 probation or conditional discharge, and shall serve a mandatory  
23 term of imprisonment, if the revocation or suspension was for a  
24 violation of Section 9-3 of the Criminal Code of 1961, relating  
25 to the offense of reckless homicide, or a similar out-of-state  
26 offense.

1           (d) Any person convicted of a second violation of this  
2 Section shall be guilty of a Class 4 felony and shall serve a  
3 minimum term of imprisonment of 30 days or 300 hours of  
4 community service, as determined by the court, if the original  
5 revocation or suspension was for a violation of Section 11-401  
6 or 11-501 of this Code, or a similar out-of-state offense, or a  
7 similar provision of a local ordinance, or a statutory summary  
8 suspension or revocation under Section 11-501.1 of this Code.

9           (d-1) Except as provided in subsections (d-2), (d-2.5), and  
10 (d-3), any person convicted of a third or subsequent violation  
11 of this Section shall serve a minimum term of imprisonment of  
12 30 days or 300 hours of community service, as determined by the  
13 court.

14           (d-2) Any person convicted of a third violation of this  
15 Section is guilty of a Class 4 felony and must serve a minimum  
16 term of imprisonment of 30 days if the revocation or suspension  
17 was for a violation of Section 11-401 or 11-501 of this Code,  
18 or a similar out-of-state offense, or a similar provision of a  
19 local ordinance, or a statutory summary suspension or  
20 revocation under Section 11-501.1 of this Code.

21           (d-2.5) Any person convicted of a third violation of this  
22 Section is guilty of a Class 1 felony, is not eligible for  
23 probation or conditional discharge, and must serve a mandatory  
24 term of imprisonment if the revocation or suspension was for a  
25 violation of Section 9-3 of the Criminal Code of 1961, relating  
26 to the offense of reckless homicide, or a similar out-of-state

1 offense. The person's driving privileges shall be revoked for  
2 the remainder of the person's life.

3 (d-3) Any person convicted of a fourth, fifth, sixth,  
4 seventh, eighth, or ninth violation of this Section is guilty  
5 of a Class 4 felony and must serve a minimum term of  
6 imprisonment of 180 days if the revocation or suspension was  
7 for a violation of Section 11-401 ~~or 11-501~~ of this Code, or a  
8 similar out-of-state offense, or a similar provision of a local  
9 ordinance, ~~or a statutory summary suspension or revocation~~  
10 ~~under Section 11-501.1 of this Code.~~

11 (d-3.3) Any person convicted of a fourth, fifth, sixth,  
12 seventh, eighth, or ninth violation of this Section is guilty  
13 of a Class 4 felony and must serve a minimum term of  
14 imprisonment of 180 days or serve a minimum of 60 days and  
15 abstain from consuming alcohol while wearing a continuous  
16 alcohol monitoring device to verify compliance for 270 days, if  
17 the revocation or suspension was for a violation of Section  
18 11-501 of this Code, a similar out-of-state offense, a similar  
19 provision of a local ordinance, or a statutory summary  
20 suspension under Section 11-501.1 of this Code.

21 (d-3.5) Any person convicted of a fourth or subsequent  
22 violation of this Section is guilty of a Class 1 felony, is not  
23 eligible for probation or conditional discharge, and must serve  
24 a mandatory term of imprisonment, and is eligible for an  
25 extended term, if the revocation or suspension was for a  
26 violation of Section 9-3 of the Criminal Code of 1961, relating



1 to the offense of reckless homicide, or a similar out-of-state  
2 offense.

3 (d-4) Any person convicted of a tenth, eleventh, twelfth,  
4 thirteenth, or fourteenth violation of this Section is guilty  
5 of a Class 3 felony, and is not eligible for probation or  
6 conditional discharge, if the revocation or suspension was for  
7 a violation of Section 11-401 ~~or 11-501~~ of this Code, or a  
8 similar out-of-state offense, or a similar provision of a local  
9 ordinance, ~~or a statutory summary suspension or revocation~~  
10 ~~under Section 11-501.1 of this Code.~~

11 (d-4.5) Any person convicted of a tenth, eleventh, twelfth,  
12 thirteenth, or fourteenth violation of this Section is guilty  
13 of a Class 3 felony, and is not eligible for probation or  
14 conditional discharge, if the revocation or suspension was for  
15 a violation of Section 11-501 of this Code, a similar  
16 out-of-state offense, a similar provision of a local ordinance,  
17 or a statutory summary suspension under Section 11-501.1 of  
18 this Code. Upon release, the person shall abstain from  
19 consuming alcohol and wear a continuous alcohol monitoring  
20 device to verify compliance for 365 days.

21 (d-5) Any person convicted of a fifteenth or subsequent  
22 violation of this Section is guilty of a Class 2 felony, and is  
23 not eligible for probation or conditional discharge, if the  
24 revocation or suspension was for a violation of Section 11-401  
25 or 11-501 of this Code, or a similar out-of-state offense, or a  
26 similar provision of a local ordinance, or a statutory summary

1 suspension or revocation under Section 11-501.1 of this Code.

2 (e) Any person in violation of this Section who is also in  
3 violation of Section 7-601 of this Code relating to mandatory  
4 insurance requirements, in addition to other penalties imposed  
5 under this Section, shall have his or her motor vehicle  
6 immediately impounded by the arresting law enforcement  
7 officer. The motor vehicle may be released to any licensed  
8 driver upon a showing of proof of insurance for the vehicle  
9 that was impounded and the notarized written consent for the  
10 release by the vehicle owner.

11 (f) For any prosecution under this Section, a certified  
12 copy of the driving abstract of the defendant shall be admitted  
13 as proof of any prior conviction.

14 (g) The motor vehicle used in a violation of this Section  
15 is subject to seizure and forfeiture as provided in Sections  
16 36-1 and 36-2 of the Criminal Code of 1961 if the person's  
17 driving privilege was revoked or suspended as a result of a  
18 violation listed in paragraph (1) or (2) of subsection (c) of  
19 this Section, as a result of a summary suspension or revocation  
20 as provided in paragraph (3) of subsection (c) of this Section,  
21 or as a result of a violation of Section 9-3 of the Criminal  
22 Code of 1961 relating to the offense of reckless homicide.

23 (h) For the purposes of this Section, "continuous alcohol  
24 monitoring device" means a device that automatically tests  
25 breath, blood, or transdermal alcohol concentration levels at  
26 least once every hour and detects tamper attempts, regardless

1 of the location of the person who is being monitored, and  
2 regularly transmits the data.

3 (Source: P.A. 95-27, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400,  
4 eff. 1-1-09; 95-578, eff. 6-1-08; 95-876, eff. 8-21-08; 95-991,  
5 eff. 6-1-09; 96-502, eff. 1-1-10; 96-607, eff. 8-24-09;  
6 96-1000, eff. 7-2-10; 96-1344, eff. 7-1-11.)