



Rep. Patrick Windhorst

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10200HB4590ham001

LRB102 25038 LNS 36943 a

1 AMENDMENT TO HOUSE BILL 4590

2 AMENDMENT NO. _____. Amend House Bill 4590 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood,
13 other bodily substance, or breath is 0.08 or more based on
14 the definition of blood and breath units in Section
15 11-501.2;

16 (2) under the influence of alcohol;

1 (3) under the influence of any intoxicating compound
2 or combination of intoxicating compounds to a degree that
3 renders the person incapable of driving safely;

4 (4) under the influence of any other drug or
5 combination of drugs to a degree that renders the person
6 incapable of safely driving;

7 (5) under the combined influence of alcohol, cannabis,
8 other drug or drugs, or intoxicating compound or compounds
9 to a degree that renders the person incapable of safely
10 driving;

11 (6) there is any amount of a drug, substance, or
12 compound in the person's breath, blood, other bodily
13 substance, or urine resulting from the unlawful use or
14 consumption of a controlled substance listed in the
15 Illinois Controlled Substances Act, an intoxicating
16 compound listed in the Use of Intoxicating Compounds Act,
17 or methamphetamine as listed in the Methamphetamine
18 Control and Community Protection Act; ~~or~~

19 (7) the person has, within 2 hours of driving or being
20 in actual physical control of a vehicle, a
21 tetrahydrocannabinol concentration in the person's whole
22 blood or other bodily substance as defined in paragraph 6
23 of subsection (a) of Section 11-501.2 of this Code.
24 Subject to all other requirements and provisions under
25 this Section, this paragraph (7) does not apply to the
26 lawful consumption of cannabis by a qualifying patient

1 licensed under the Compassionate Use of Medical Cannabis
2 Program Act who is in possession of a valid registry card
3 issued under that Act, unless that person is impaired by
4 the use of cannabis; ~~or~~.

5 (8) under the influence of cannabis to a degree that
6 renders the person incapable of safely driving.

7 (b) The fact that any person charged with violating this
8 Section is or has been legally entitled to use alcohol,
9 cannabis under the Compassionate Use of Medical Cannabis
10 Program Act, other drug or drugs, or intoxicating compound or
11 compounds, or any combination thereof, shall not constitute a
12 defense against any charge of violating this Section.

13 (c) Penalties.

14 (1) Except as otherwise provided in this Section, any
15 person convicted of violating subsection (a) of this
16 Section is guilty of a Class A misdemeanor.

17 (2) A person who violates subsection (a) or a similar
18 provision a second time shall be sentenced to a mandatory
19 minimum term of either 5 days of imprisonment or 240 hours
20 of community service in addition to any other criminal or
21 administrative sanction.

22 (3) A person who violates subsection (a) is subject to
23 6 months of imprisonment, an additional mandatory minimum
24 fine of \$1,000, and 25 days of community service in a
25 program benefiting children if the person was transporting
26 a person under the age of 16 at the time of the violation.

1 (4) A person who violates subsection (a) a first time,
2 if the alcohol concentration in his or her blood, breath,
3 other bodily substance, or urine was 0.16 or more based on
4 the definition of blood, breath, other bodily substance,
5 or urine units in Section 11-501.2, shall be subject, in
6 addition to any other penalty that may be imposed, to a
7 mandatory minimum of 100 hours of community service and a
8 mandatory minimum fine of \$500.

9 (5) A person who violates subsection (a) a second
10 time, if at the time of the second violation the alcohol
11 concentration in his or her blood, breath, other bodily
12 substance, or urine was 0.16 or more based on the
13 definition of blood, breath, other bodily substance, or
14 urine units in Section 11-501.2, shall be subject, in
15 addition to any other penalty that may be imposed, to a
16 mandatory minimum of 2 days of imprisonment and a
17 mandatory minimum fine of \$1,250.

18 (d) Aggravated driving under the influence of alcohol,
19 other drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof.

21 (1) Every person convicted of committing a violation
22 of this Section shall be guilty of aggravated driving
23 under the influence of alcohol, other drug or drugs, or
24 intoxicating compound or compounds, or any combination
25 thereof if:

26 (A) the person committed a violation of subsection

1 (a) or a similar provision for the third or subsequent
2 time;

3 (B) the person committed a violation of subsection
4 (a) while driving a school bus with one or more
5 passengers on board;

6 (C) the person in committing a violation of
7 subsection (a) was involved in a motor vehicle
8 accident that resulted in great bodily harm or
9 permanent disability or disfigurement to another, when
10 the violation was a proximate cause of the injuries;

11 (D) the person committed a violation of subsection
12 (a) and has been previously convicted of violating
13 Section 9-3 of the Criminal Code of 1961 or the
14 Criminal Code of 2012 or a similar provision of a law
15 of another state relating to reckless homicide in
16 which the person was determined to have been under the
17 influence of alcohol, other drug or drugs, or
18 intoxicating compound or compounds as an element of
19 the offense or the person has previously been
20 convicted under subparagraph (C) or subparagraph (F)
21 of this paragraph (1);

22 (E) the person, in committing a violation of
23 subsection (a) while driving at any speed in a school
24 speed zone at a time when a speed limit of 20 miles per
25 hour was in effect under subsection (a) of Section
26 11-605 of this Code, was involved in a motor vehicle

1 accident that resulted in bodily harm, other than
2 great bodily harm or permanent disability or
3 disfigurement, to another person, when the violation
4 of subsection (a) was a proximate cause of the bodily
5 harm;

6 (F) the person, in committing a violation of
7 subsection (a), was involved in a motor vehicle,
8 snowmobile, all-terrain vehicle, or watercraft
9 accident that resulted in the death of another person,
10 when the violation of subsection (a) was a proximate
11 cause of the death;

12 (G) the person committed a violation of subsection
13 (a) during a period in which the defendant's driving
14 privileges are revoked or suspended, where the
15 revocation or suspension was for a violation of
16 subsection (a) or a similar provision, Section
17 11-501.1, paragraph (b) of Section 11-401, or for
18 reckless homicide as defined in Section 9-3 of the
19 Criminal Code of 1961 or the Criminal Code of 2012;

20 (H) the person committed the violation while he or
21 she did not possess a driver's license or permit or a
22 restricted driving permit or a judicial driving permit
23 or a monitoring device driving permit;

24 (I) the person committed the violation while he or
25 she knew or should have known that the vehicle he or
26 she was driving was not covered by a liability

1 insurance policy;

2 (J) the person in committing a violation of
3 subsection (a) was involved in a motor vehicle
4 accident that resulted in bodily harm, but not great
5 bodily harm, to the child under the age of 16 being
6 transported by the person, if the violation was the
7 proximate cause of the injury;

8 (K) the person in committing a second violation of
9 subsection (a) or a similar provision was transporting
10 a person under the age of 16; or

11 (L) the person committed a violation of subsection
12 (a) of this Section while transporting one or more
13 passengers in a vehicle for-hire.

14 (2) (A) Except as provided otherwise, a person
15 convicted of aggravated driving under the influence of
16 alcohol, other drug or drugs, or intoxicating compound or
17 compounds, or any combination thereof is guilty of a Class
18 4 felony.

19 (B) A third violation of this Section or a similar
20 provision is a Class 2 felony. If at the time of the third
21 violation the alcohol concentration in his or her blood,
22 breath, other bodily substance, or urine was 0.16 or more
23 based on the definition of blood, breath, other bodily
24 substance, or urine units in Section 11-501.2, a mandatory
25 minimum of 90 days of imprisonment and a mandatory minimum
26 fine of \$2,500 shall be imposed in addition to any other

1 criminal or administrative sanction. If at the time of the
2 third violation, the defendant was transporting a person
3 under the age of 16, a mandatory fine of \$25,000 and 25
4 days of community service in a program benefiting children
5 shall be imposed in addition to any other criminal or
6 administrative sanction.

7 (C) A fourth violation of this Section or a similar
8 provision is a Class 2 felony, for which a sentence of
9 probation or conditional discharge may not be imposed. If
10 at the time of the violation, the alcohol concentration in
11 the defendant's blood, breath, other bodily substance, or
12 urine was 0.16 or more based on the definition of blood,
13 breath, other bodily substance, or urine units in Section
14 11-501.2, a mandatory minimum fine of \$5,000 shall be
15 imposed in addition to any other criminal or
16 administrative sanction. If at the time of the fourth
17 violation, the defendant was transporting a person under
18 the age of 16 a mandatory fine of \$25,000 and 25 days of
19 community service in a program benefiting children shall
20 be imposed in addition to any other criminal or
21 administrative sanction.

22 (D) A fifth violation of this Section or a similar
23 provision is a Class 1 felony, for which a sentence of
24 probation or conditional discharge may not be imposed. If
25 at the time of the violation, the alcohol concentration in
26 the defendant's blood, breath, other bodily substance, or

1 urine was 0.16 or more based on the definition of blood,
2 breath, other bodily substance, or urine units in Section
3 11-501.2, a mandatory minimum fine of \$5,000 shall be
4 imposed in addition to any other criminal or
5 administrative sanction. If at the time of the fifth
6 violation, the defendant was transporting a person under
7 the age of 16, a mandatory fine of \$25,000, and 25 days of
8 community service in a program benefiting children shall
9 be imposed in addition to any other criminal or
10 administrative sanction.

11 (E) A sixth or subsequent violation of this Section or
12 similar provision is a Class X felony. If at the time of
13 the violation, the alcohol concentration in the
14 defendant's blood, breath, other bodily substance, or
15 urine was 0.16 or more based on the definition of blood,
16 breath, other bodily substance, or urine units in Section
17 11-501.2, a mandatory minimum fine of \$5,000 shall be
18 imposed in addition to any other criminal or
19 administrative sanction. If at the time of the violation,
20 the defendant was transporting a person under the age of
21 16, a mandatory fine of \$25,000 and 25 days of community
22 service in a program benefiting children shall be imposed
23 in addition to any other criminal or administrative
24 sanction.

25 (F) For a violation of subparagraph (C) of paragraph
26 (1) of this subsection (d), the defendant, if sentenced to

1 a term of imprisonment, shall be sentenced to not less
2 than one year nor more than 12 years.

3 (G) A violation of subparagraph (F) of paragraph (1)
4 of this subsection (d) is a Class 2 felony, for which the
5 defendant, unless the court determines that extraordinary
6 circumstances exist and require probation, shall be
7 sentenced to: (i) a term of imprisonment of not less than 3
8 years and not more than 14 years if the violation resulted
9 in the death of one person; or (ii) a term of imprisonment
10 of not less than 6 years and not more than 28 years if the
11 violation resulted in the deaths of 2 or more persons.

12 (H) For a violation of subparagraph (J) of paragraph
13 (1) of this subsection (d), a mandatory fine of \$2,500,
14 and 25 days of community service in a program benefiting
15 children shall be imposed in addition to any other
16 criminal or administrative sanction.

17 (I) A violation of subparagraph (K) of paragraph (1)
18 of this subsection (d), is a Class 2 felony and a mandatory
19 fine of \$2,500, and 25 days of community service in a
20 program benefiting children shall be imposed in addition
21 to any other criminal or administrative sanction. If the
22 child being transported suffered bodily harm, but not
23 great bodily harm, in a motor vehicle accident, and the
24 violation was the proximate cause of that injury, a
25 mandatory fine of \$5,000 and 25 days of community service
26 in a program benefiting children shall be imposed in

1 addition to any other criminal or administrative sanction.

2 (J) A violation of subparagraph (D) of paragraph (1)
3 of this subsection (d) is a Class 3 felony, for which a
4 sentence of probation or conditional discharge may not be
5 imposed.

6 (3) Any person sentenced under this subsection (d) who
7 receives a term of probation or conditional discharge must
8 serve a minimum term of either 480 hours of community
9 service or 10 days of imprisonment as a condition of the
10 probation or conditional discharge in addition to any
11 other criminal or administrative sanction.

12 (e) Any reference to a prior violation of subsection (a)
13 or a similar provision includes any violation of a provision
14 of a local ordinance or a provision of a law of another state
15 or an offense committed on a military installation that is
16 similar to a violation of subsection (a) of this Section.

17 (f) The imposition of a mandatory term of imprisonment or
18 assignment of community service for a violation of this
19 Section shall not be suspended or reduced by the court.

20 (g) Any penalty imposed for driving with a license that
21 has been revoked for a previous violation of subsection (a) of
22 this Section shall be in addition to the penalty imposed for
23 any subsequent violation of subsection (a).

24 (h) For any prosecution under this Section, a certified
25 copy of the driving abstract of the defendant shall be
26 admitted as proof of any prior conviction.

1 (Source: P.A. 101-363, eff. 8-9-19.)".