



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-103	from Ch. 95 1/2, par. 6-103
625 ILCS 5/6-208	from Ch. 95 1/2, par. 6-208
625 ILCS 5/11-501	from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a person who has been convicted in another state of an offense similar to reckless homicide may not be granted driving privileges within 2 years of the date on which the person's driving privileges were revoked or suspended or within 24 months of being released from a prison term for commission of the offense. Provides that a person who commits the offense of driving under the influence of alcohol, drugs, intoxicating compounds, or any combination of them is guilty of aggravated DUI if the person previously had been convicted in another state of an offense similar to reckless homicide and the person's intoxication was an element of the offense. Deletes language providing that, if a DUI defendant prohibited under the terms of a previous DUI conviction from driving a vehicle not equipped with an ignition interlock device nevertheless drove a vehicle not equipped with the device, the period during which the person is prohibited from driving a non-equipped vehicle shall be extended by an additional period equal to the period of the initial prohibition.

LRB093 15263 DRH 40862 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning vehicles.

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 Sections 6-103, 6-208, and 11-501 as follows:

6 (625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

7 Sec. 6-103. What persons shall not be licensed as drivers
8 or granted permits. The Secretary of State shall not issue,
9 renew, or allow the retention of any driver's license nor issue
10 any permit under this Code:

11 1. To any person, as a driver, who is under the age of
12 18 years except as provided in Section 6-107, and except
13 that an instruction permit may be issued under paragraphs
14 (a) and (b) of Section 6-105 to a child who is not less
15 than 15 years of age if the child is enrolled in an
16 approved driver education course as defined in Section
17 1-103 of this Code and requires an instruction permit to
18 participate therein, except that an instruction permit may
19 be issued under the provisions of Section 6-107.1 to a
20 child who is 17 years and 9 months of age without the child
21 having enrolled in an approved driver education course and
22 except that an instruction permit may be issued to a child
23 who is at least 15 years and 6 months of age, is enrolled
24 in school, meets the educational requirements of the Driver
25 Education Act, and has passed examinations the Secretary of
26 State in his or her discretion may prescribe;

27 2. To any person who is under the age of 18 as an
28 operator of a motorcycle other than a motor driven cycle
29 unless the person has, in addition to meeting the
30 provisions of Section 6-107 of this Code, successfully
31 completed a motorcycle training course approved by the
32 Illinois Department of Transportation and successfully

1 completes the required Secretary of State's motorcycle
2 driver's examination;

3 3. To any person, as a driver, whose driver's license
4 or permit has been suspended, during the suspension, nor to
5 any person whose driver's license or permit has been
6 revoked, except as provided in Sections 6-205, 6-206, and
7 6-208;

8 4. To any person, as a driver, who is a user of alcohol
9 or any other drug to a degree that renders the person
10 incapable of safely driving a motor vehicle;

11 5. To any person, as a driver, who has previously been
12 adjudged to be afflicted with or suffering from any mental
13 or physical disability or disease and who has not at the
14 time of application been restored to competency by the
15 methods provided by law;

16 6. To any person, as a driver, who is required by the
17 Secretary of State to submit an alcohol and drug evaluation
18 or take an examination provided for in this Code unless the
19 person has successfully passed the examination and
20 submitted any required evaluation;

21 7. To any person who is required under the provisions
22 of the laws of this State to deposit security or proof of
23 financial responsibility and who has not deposited the
24 security or proof;

25 8. To any person when the Secretary of State has good
26 cause to believe that the person by reason of physical or
27 mental disability would not be able to safely operate a
28 motor vehicle upon the highways, unless the person shall
29 furnish to the Secretary of State a verified written
30 statement, acceptable to the Secretary of State, from a
31 competent medical specialist to the effect that the
32 operation of a motor vehicle by the person would not be
33 inimical to the public safety;

34 9. To any person, as a driver, who is 69 years of age
35 or older, unless the person has successfully complied with
36 the provisions of Section 6-109;

1 10. To any person convicted, within 12 months of
2 application for a license, of any of the sexual offenses
3 enumerated in paragraph 2 of subsection (b) of Section
4 6-205;

5 11. To any person who is under the age of 21 years with
6 a classification prohibited in paragraph (b) of Section
7 6-104 and to any person who is under the age of 18 years
8 with a classification prohibited in paragraph (c) of
9 Section 6-104;

10 12. To any person who has been either convicted of or
11 adjudicated under the Juvenile Court Act of 1987 based upon
12 a violation of the Cannabis Control Act or the Illinois
13 Controlled Substances Act while that person was in actual
14 physical control of a motor vehicle. For purposes of this
15 Section, any person placed on probation under Section 10 of
16 the Cannabis Control Act or Section 410 of the Illinois
17 Controlled Substances Act shall not be considered
18 convicted. Any person found guilty of this offense, while
19 in actual physical control of a motor vehicle, shall have
20 an entry made in the court record by the judge that this
21 offense did occur while the person was in actual physical
22 control of a motor vehicle and order the clerk of the court
23 to report the violation to the Secretary of State as such.
24 The Secretary of State shall not issue a new license or
25 permit for a period of one year;

26 13. To any person who is under the age of 18 years and
27 who has committed the offense of operating a motor vehicle
28 without a valid license or permit in violation of Section
29 6-101;

30 14. To any person who is 90 days or more delinquent in
31 court ordered child support payments or has been
32 adjudicated in arrears in an amount equal to 90 days'
33 obligation or more and who has been found in contempt of
34 court for failure to pay the support, subject to the
35 requirements and procedures of Article VII of Chapter 7 of
36 the Illinois Vehicle Code; or

1 15. To any person released from a term of imprisonment
2 for violating Section 9-3 of the Criminal Code of 1961 or a
3 similar provision of a law of another state relating to
4 reckless homicide within 24 months of release from a term
5 of imprisonment.

6 The Secretary of State shall retain all conviction
7 information, if the information is required to be held
8 confidential under the Juvenile Court Act of 1987.

9 (Source: P.A. 92-343, eff. 1-1-02; 93-174, eff. 1-1-04.)

10 (625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

11 Sec. 6-208. Period of Suspension - Application After
12 Revocation.

13 (a) Except as otherwise provided by this Code or any other
14 law of this State, the Secretary of State shall not suspend a
15 driver's license, permit or privilege to drive a motor vehicle
16 on the highways for a period of more than one year.

17 (b) Any person whose license, permit or privilege to drive
18 a motor vehicle on the highways has been revoked shall not be
19 entitled to have such license, permit or privilege renewed or
20 restored. However, such person may, except as provided under
21 subsection (d) of Section 6-205, make application for a license
22 pursuant to Section 6-106 (i) if the revocation was for a cause
23 which has been removed or (ii) as provided in the following
24 subparagraphs:

25 1. Except as provided in subparagraphs 2, 3, and 4, the
26 person may make application for a license after the
27 expiration of one year from the effective date of the
28 revocation or, in the case of a violation of paragraph (b)
29 of Section 11-401 of this Code or a similar provision of a
30 local ordinance, after the expiration of 3 years from the
31 effective date of the revocation or, in the case of a
32 violation of Section 9-3 of the Criminal Code of 1961 or a
33 similar provision of a law of another state relating to the
34 offense of reckless homicide, after the expiration of 2
35 years from the effective date of the revocation or after

1 the expiration of 24 months from the date of release from a
2 period of imprisonment as provided in Section 6-103 of this
3 Code, whichever is later.

4 2. If such person is convicted of committing a second
5 violation within a 20 year period of:

6 (A) Section 11-501 of this Code, or a similar
7 provision of a local ordinance; or

8 (B) Paragraph (b) of Section 11-401 of this Code,
9 or a similar provision of a local ordinance; or

10 (C) Section 9-3 of the Criminal Code of 1961, as
11 amended, relating to the offense of reckless homicide;
12 or

13 (D) any combination of the above offenses
14 committed at different instances;

15 then such person may not make application for a license
16 until after the expiration of 5 years from the effective
17 date of the most recent revocation. The 20 year period
18 shall be computed by using the dates the offenses were
19 committed and shall also include similar out-of-state
20 offenses.

21 3. However, except as provided in subparagraph 4, if
22 such person is convicted of committing a third, or
23 subsequent, violation or any combination of the above
24 offenses, including similar out-of-state offenses,
25 contained in subparagraph 2, then such person may not make
26 application for a license until after the expiration of 10
27 years from the effective date of the most recent
28 revocation.

29 4. The person may not make application for a license if
30 the person is convicted of committing a fourth or
31 subsequent violation of Section 11-501 of this Code or a
32 similar provision of a local ordinance, Section 11-401 of
33 this Code, Section 9-3 of the Criminal Code of 1961, or a
34 combination of these offenses or similar provisions of
35 local ordinances or similar out-of-state offenses.

36 Notwithstanding any other provision of this Code, all

1 persons referred to in this paragraph (b) may not have their
2 privileges restored until the Secretary receives payment of the
3 required reinstatement fee pursuant to subsection (b) of
4 Section 6-118.

5 In no event shall the Secretary issue such license unless
6 and until such person has had a hearing pursuant to this Code
7 and the appropriate administrative rules and the Secretary is
8 satisfied, after a review or investigation of such person, that
9 to grant the privilege of driving a motor vehicle on the
10 highways will not endanger the public safety or welfare.

11 (c) (Blank). ~~If a person prohibited under paragraph (2) or~~
12 ~~paragraph (3) of subsection (c-4) of Section 11-501 from~~
13 ~~driving any vehicle not equipped with an ignition interlock~~
14 ~~device nevertheless is convicted of driving a vehicle that is~~
15 ~~not equipped with the device, that person is prohibited from~~
16 ~~driving any vehicle not equipped with an ignition interlock~~
17 ~~device for an additional period of time equal to the initial~~
18 ~~time period that the person was required to use an ignition~~
19 ~~interlock device.~~

20 (Source: P.A. 91-357, eff. 7-29-99; 92-343, eff. 1-1-02;
21 92-418, eff. 8-17-01; 92-458, eff. 8-22-01; 92-651, eff.
22 7-11-02.)

23 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

24 Sec. 11-501. Driving while under the influence of alcohol,
25 other drug or drugs, intoxicating compound or compounds or any
26 combination thereof.

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

29 (1) the alcohol concentration in the person's blood or
30 breath is 0.08 or more based on the definition of blood and
31 breath units in Section 11-501.2;

32 (2) under the influence of alcohol;

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

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

4 (5) under the combined influence of alcohol, other drug
5 or drugs, or intoxicating compound or compounds to a degree
6 that renders the person incapable of safely driving; or

7 (6) there is any amount of a drug, substance, or
8 compound in the person's breath, blood, or urine resulting
9 from the unlawful use or consumption of cannabis listed in
10 the Cannabis Control Act, a controlled substance listed in
11 the Illinois Controlled Substances Act, or an intoxicating
12 compound listed in the Use of Intoxicating Compounds Act.

13 (b) The fact that any person charged with violating this
14 Section is or has been legally entitled to use alcohol, other
15 drug or drugs, or intoxicating compound or compounds, or any
16 combination thereof, shall not constitute a defense against any
17 charge of violating this Section.

18 (c) Except as provided under paragraphs (c-3), (c-4), and
19 (d) of this Section, every person convicted of violating this
20 Section or a similar provision of a local ordinance, shall be
21 guilty of a Class A misdemeanor and, in addition to any other
22 criminal or administrative action, for any second conviction of
23 violating this Section or a similar provision of a law of
24 another state or local ordinance committed within 5 years of a
25 previous violation of this Section or a similar provision of a
26 local ordinance shall be mandatorily sentenced to a minimum of
27 5 days of imprisonment or assigned to a minimum of 30 days of
28 community service as may be determined by the court. Every
29 person convicted of violating this Section or a similar
30 provision of a local ordinance shall be subject to an
31 additional mandatory minimum fine of \$500 and an additional
32 mandatory 5 days of community service in a program benefiting
33 children if the person committed a violation of paragraph (a)
34 or a similar provision of a local ordinance while transporting
35 a person under age 16. Every person convicted a second time for
36 violating this Section or a similar provision of a local

1 ordinance within 5 years of a previous violation of this
2 Section or a similar provision of a law of another state or
3 local ordinance shall be subject to an additional mandatory
4 minimum fine of \$500 and an additional 10 days of mandatory
5 community service in a program benefiting children if the
6 current offense was committed while transporting a person under
7 age 16. The imprisonment or assignment under this subsection
8 shall not be subject to suspension nor shall the person be
9 eligible for probation in order to reduce the sentence or
10 assignment.

11 (c-1) (1) A person who violates this Section during a
12 period in which his or her driving privileges are revoked
13 or suspended, where the revocation or suspension was for a
14 violation of this Section, Section 11-501.1, paragraph (b)
15 of Section 11-401, or Section 9-3 of the Criminal Code of
16 1961 is guilty of a Class 4 felony.

17 (2) A person who violates this Section a third time
18 during a period in which his or her driving privileges are
19 revoked or suspended where the revocation or suspension was
20 for a violation of this Section, Section 11-501.1,
21 paragraph (b) of Section 11-401, or Section 9-3 of the
22 Criminal Code of 1961 is guilty of a Class 3 felony.

23 (3) A person who violates this Section a fourth or
24 subsequent time during a period in which his or her driving
25 privileges are revoked or suspended where the revocation or
26 suspension was for a violation of this Section, Section
27 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
28 of the Criminal Code of 1961 is guilty of a Class 2 felony.

29 (c-2) (Blank).

30 (c-3) Every person convicted of violating this Section or a
31 similar provision of a local ordinance who had a child under
32 age 16 in the vehicle at the time of the offense shall have his
33 or her punishment under this Act enhanced by 2 days of
34 imprisonment for a first offense, 10 days of imprisonment for a
35 second offense, 30 days of imprisonment for a third offense,
36 and 90 days of imprisonment for a fourth or subsequent offense,

1 in addition to the fine and community service required under
2 subsection (c) and the possible imprisonment required under
3 subsection (d). The imprisonment or assignment under this
4 subsection shall not be subject to suspension nor shall the
5 person be eligible for probation in order to reduce the
6 sentence or assignment.

7 (c-4) When a person is convicted of violating Section
8 11-501 of this Code or a similar provision of a local
9 ordinance, the following penalties apply when his or her blood,
10 breath, or urine was .16 or more based on the definition of
11 blood, breath, or urine units in Section 11-501.2 or when that
12 person is convicted of violating this Section while
13 transporting a child under the age of 16:

14 (1) A person who is convicted of violating subsection
15 (a) of Section 11-501 of this Code a first time, in
16 addition to any other penalty that may be imposed under
17 subsection (c), is subject to a mandatory minimum of 100
18 hours of community service and a minimum fine of \$500.

19 (2) A person who is convicted of violating subsection
20 (a) of Section 11-501 of this Code a second time within 10
21 years, in addition to any other penalty that may be imposed
22 under subsection (c), is subject to a mandatory minimum of
23 2 days of imprisonment and a minimum fine of \$1,250.

24 (3) A person who is convicted of violating subsection
25 (a) of Section 11-501 of this Code a third time within 20
26 years is guilty of a Class 4 felony and, in addition to any
27 other penalty that may be imposed under subsection (c), is
28 subject to a mandatory minimum of 90 days of imprisonment
29 and a minimum fine of \$2,500.

30 (4) A person who is convicted of violating this
31 subsection (c-4) a fourth or subsequent time is guilty of a
32 Class 2 felony and, in addition to any other penalty that
33 may be imposed under subsection (c), is not eligible for a
34 sentence of probation or conditional discharge and is
35 subject to a minimum fine of \$2,500.

36 (d) (1) Every person convicted of committing a violation of

1 this Section shall be guilty of aggravated driving under
2 the influence of alcohol, other drug or drugs, or
3 intoxicating compound or compounds, or any combination
4 thereof if:

5 (A) the person committed a violation of this
6 Section, or a similar provision of a law of another
7 state or a local ordinance when the cause of action is
8 the same as or substantially similar to this Section,
9 for the third or subsequent time;

10 (B) the person committed a violation of paragraph
11 (a) while driving a school bus with children on board;

12 (C) the person in committing a violation of
13 paragraph (a) was involved in a motor vehicle accident
14 that resulted in great bodily harm or permanent
15 disability or disfigurement to another, when the
16 violation was a proximate cause of the injuries;

17 (D) the person committed a violation of paragraph
18 (a) for a second time and has been previously convicted
19 of violating Section 9-3 of the Criminal Code of 1961
20 or a similar provision of a law of another state
21 relating to reckless homicide in which the person was
22 determined to have been under the influence of alcohol,
23 other drug or drugs, or intoxicating compound or
24 compounds as an element of the offense or the person
25 has previously been convicted under subparagraph (C)
26 or subparagraph (F) of this paragraph (1);

27 (E) the person, in committing a violation of
28 paragraph (a) while driving at any speed in a school
29 speed zone at a time when a speed limit of 20 miles per
30 hour was in effect under subsection (a) of Section
31 11-605 of this Code, was involved in a motor vehicle
32 accident that resulted in bodily harm, other than great
33 bodily harm or permanent disability or disfigurement,
34 to another person, when the violation of paragraph (a)
35 was a proximate cause of the bodily harm; or

36 (F) the person, in committing a violation of

1 paragraph (a), was involved in a motor vehicle,
2 snowmobile, all-terrain vehicle, or watercraft
3 accident that resulted in the death of another person,
4 when the violation of paragraph (a) was a proximate
5 cause of the death.

6 (2) Except as provided in this paragraph (2),
7 aggravated driving under the influence of alcohol, other
8 drug or drugs, or intoxicating compound or compounds, or
9 any combination thereof is a Class 4 felony. For a
10 violation of subparagraph (C) of paragraph (1) of this
11 subsection (d), the defendant, if sentenced to a term of
12 imprisonment, shall be sentenced to not less than one year
13 nor more than 12 years. Aggravated driving under the
14 influence of alcohol, other drug or drugs, or intoxicating
15 compound or compounds, or any combination thereof as
16 defined in subparagraph (F) of paragraph (1) of this
17 subsection (d) is a Class 2 felony, for which the
18 defendant, if sentenced to a term of imprisonment, shall be
19 sentenced to: (A) a term of imprisonment of not less than 3
20 years and not more than 14 years if the violation resulted
21 in the death of one person; or (B) a term of imprisonment
22 of not less than 6 years and not more than 28 years if the
23 violation resulted in the deaths of 2 or more persons. For
24 any prosecution under this subsection (d), a certified copy
25 of the driving abstract of the defendant shall be admitted
26 as proof of any prior conviction.

27 (e) After a finding of guilt and prior to any final
28 sentencing, or an order for supervision, for an offense based
29 upon an arrest for a violation of this Section or a similar
30 provision of a local ordinance, individuals shall be required
31 to undergo a professional evaluation to determine if an
32 alcohol, drug, or intoxicating compound abuse problem exists
33 and the extent of the problem, and undergo the imposition of
34 treatment as appropriate. Programs conducting these
35 evaluations shall be licensed by the Department of Human
36 Services. The cost of any professional evaluation shall be paid

1 for by the individual required to undergo the professional
2 evaluation.

3 (e-1) Any person who is found guilty of or pleads guilty to
4 violating this Section, including any person receiving a
5 disposition of court supervision for violating this Section,
6 may be required by the Court to attend a victim impact panel
7 offered by, or under contract with, a County State's Attorney's
8 office, a probation and court services department, Mothers
9 Against Drunk Driving, or the Alliance Against Intoxicated
10 Motorists. All costs generated by the victim impact panel shall
11 be paid from fees collected from the offender or as may be
12 determined by the court.

13 (f) Every person found guilty of violating this Section,
14 whose operation of a motor vehicle while in violation of this
15 Section proximately caused any incident resulting in an
16 appropriate emergency response, shall be liable for the expense
17 of an emergency response as provided under Section 5-5-3 of the
18 Unified Code of Corrections.

19 (g) The Secretary of State shall revoke the driving
20 privileges of any person convicted under this Section or a
21 similar provision of a local ordinance.

22 (h) Every person sentenced under paragraph (2) or (3) of
23 subsection (c-1) of this Section or subsection (d) of this
24 Section and who receives a term of probation or conditional
25 discharge shall be required to serve a minimum term of either
26 60 days community service or 10 days of imprisonment as a
27 condition of the probation or conditional discharge. This
28 mandatory minimum term of imprisonment or assignment of
29 community service shall not be suspended and shall not be
30 subject to reduction by the court.

31 (i) The Secretary of State shall require the use of
32 ignition interlock devices on all vehicles owned by an
33 individual who has been convicted of a second or subsequent
34 offense of this Section or a similar provision of a local
35 ordinance. The Secretary shall establish by rule and regulation
36 the procedures for certification and use of the interlock

1 system.

2 (j) In addition to any other penalties and liabilities, a
3 person who is found guilty of or pleads guilty to violating
4 this Section, including any person placed on court supervision
5 for violating this Section, shall be fined \$100, payable to the
6 circuit clerk, who shall distribute the money to the law
7 enforcement agency that made the arrest. If the person has been
8 previously convicted of violating this Section or a similar
9 provision of a local ordinance, the fine shall be \$200. In the
10 event that more than one agency is responsible for the arrest,
11 the \$100 or \$200 shall be shared equally. Any moneys received
12 by a law enforcement agency under this subsection (j) shall be
13 used to purchase law enforcement equipment that will assist in
14 the prevention of alcohol related criminal violence throughout
15 the State. This shall include, but is not limited to, in-car
16 video cameras, radar and laser speed detection devices, and
17 alcohol breath testers. Any moneys received by the Department
18 of State Police under this subsection (j) shall be deposited
19 into the State Police DUI Fund and shall be used to purchase
20 law enforcement equipment that will assist in the prevention of
21 alcohol related criminal violence throughout the State.

22 (k) The Secretary of State Police DUI Fund is created as a
23 special fund in the State treasury. All moneys received by the
24 Secretary of State Police under subsection (j) of this Section
25 shall be deposited into the Secretary of State Police DUI Fund
26 and, subject to appropriation, shall be used to purchase law
27 enforcement equipment to assist in the prevention of alcohol
28 related criminal violence throughout the State.

29 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
30 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
31 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
32 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)