



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Tom Cross

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Makes a technical change in a Section regarding driving under the influence of alcohol, drugs, or intoxicating compounds.

LRB093 15460 DRH 41063 b

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 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 of alcohol, drugs, or intoxicating compounds
10 ~~thereof~~.

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

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

16 (2) under the influence of alcohol;

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

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

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

26 (6) there is any amount of a drug, substance, or
27 compound in the person's breath, blood, or urine resulting
28 from the unlawful use or consumption of cannabis listed in
29 the Cannabis Control Act, a controlled substance listed in
30 the Illinois Controlled Substances Act, or an intoxicating
31 compound listed in the Use of Intoxicating Compounds Act.

32 (b) The fact that any person charged with violating this

1 Section is or has been legally entitled to use alcohol, other
2 drug or drugs, or intoxicating compound or compounds, or any
3 combination thereof, shall not constitute a defense against any
4 charge of violating this Section.

5 (c) Except as provided under paragraphs (c-3), (c-4), and
6 (d) of this Section, every person convicted of violating this
7 Section or a similar provision of a local ordinance, shall be
8 guilty of a Class A misdemeanor and, in addition to any other
9 criminal or administrative action, for any second conviction of
10 violating this Section or a similar provision of a law of
11 another state or local ordinance committed within 5 years of a
12 previous violation of this Section or a similar provision of a
13 local ordinance shall be mandatorily sentenced to a minimum of
14 5 days of imprisonment or assigned to a minimum of 30 days of
15 community service as may be determined by the court. Every
16 person convicted of violating this Section or a similar
17 provision of a local ordinance shall be subject to an
18 additional mandatory minimum fine of \$500 and an additional
19 mandatory 5 days of community service in a program benefiting
20 children if the person committed a violation of paragraph (a)
21 or a similar provision of a local ordinance while transporting
22 a person under age 16. Every person convicted a second time for
23 violating this Section or a similar provision of a local
24 ordinance within 5 years of a previous violation of this
25 Section or a similar provision of a law of another state or
26 local ordinance shall be subject to an additional mandatory
27 minimum fine of \$500 and an additional 10 days of mandatory
28 community service in a program benefiting children if the
29 current offense was committed while transporting a person under
30 age 16. The imprisonment or assignment under this subsection
31 shall not be subject to suspension nor shall the person be
32 eligible for probation in order to reduce the sentence or
33 assignment.

34 (c-1) (1) A person who violates this Section during a
35 period in which his or her driving privileges are revoked
36 or suspended, where the revocation or suspension was for a

1 violation of this Section, Section 11-501.1, paragraph (b)
2 of Section 11-401, or Section 9-3 of the Criminal Code of
3 1961 is guilty of a Class 4 felony.

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

10 (3) A person who violates this Section a fourth or
11 subsequent time during a period in which his or her driving
12 privileges are revoked or suspended where the revocation or
13 suspension was for a violation of this Section, Section
14 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
15 of the Criminal Code of 1961 is guilty of a Class 2 felony.

16 (c-2) (Blank).

17 (c-3) Every person convicted of violating this Section or a
18 similar provision of a local ordinance who had a child under
19 age 16 in the vehicle at the time of the offense shall have his
20 or her punishment under this Act enhanced by 2 days of
21 imprisonment for a first offense, 10 days of imprisonment for a
22 second offense, 30 days of imprisonment for a third offense,
23 and 90 days of imprisonment for a fourth or subsequent offense,
24 in addition to the fine and community service required under
25 subsection (c) and the possible imprisonment required under
26 subsection (d). The imprisonment or assignment under this
27 subsection shall not be subject to suspension nor shall the
28 person be eligible for probation in order to reduce the
29 sentence or assignment.

30 (c-4) When a person is convicted of violating Section
31 11-501 of this Code or a similar provision of a local
32 ordinance, the following penalties apply when his or her blood,
33 breath, or urine was .16 or more based on the definition of
34 blood, breath, or urine units in Section 11-501.2 or when that
35 person is convicted of violating this Section while
36 transporting a child under the age of 16:

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

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

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

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

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

28 (A) the person committed a violation of this
29 Section, or a similar provision of a law of another
30 state or a local ordinance when the cause of action is
31 the same as or substantially similar to this Section,
32 for the third or subsequent time;

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

35 (C) the person in committing a violation of
36 paragraph (a) was involved in a motor vehicle accident

1 that resulted in great bodily harm or permanent
2 disability or disfigurement to another, when the
3 violation was a proximate cause of the injuries;

4 (D) the person committed a violation of paragraph
5 (a) for a second time and has been previously convicted
6 of violating Section 9-3 of the Criminal Code of 1961
7 relating to reckless homicide in which the person was
8 determined to have been under the influence of alcohol,
9 other drug or drugs, or intoxicating compound or
10 compounds as an element of the offense or the person
11 has previously been convicted under subparagraph (C)
12 or subparagraph (F) of this paragraph (1);

13 (E) the person, in committing a violation of
14 paragraph (a) while driving at any speed in a school
15 speed zone at a time when a speed limit of 20 miles per
16 hour was in effect under subsection (a) of Section
17 11-605 of this Code, was involved in a motor vehicle
18 accident that resulted in bodily harm, other than great
19 bodily harm or permanent disability or disfigurement,
20 to another person, when the violation of paragraph (a)
21 was a proximate cause of the bodily harm; or

22 (F) the person, in committing a violation of
23 paragraph (a), was involved in a motor vehicle,
24 snowmobile, all-terrain vehicle, or watercraft
25 accident that resulted in the death of another person,
26 when the violation of paragraph (a) was a proximate
27 cause of the death.

28 (2) Except as provided in this paragraph (2),
29 aggravated driving under the influence of alcohol, other
30 drug or drugs, or intoxicating compound or compounds, or
31 any combination thereof is a Class 4 felony. For a
32 violation of subparagraph (C) of paragraph (1) of this
33 subsection (d), the defendant, if sentenced to a term of
34 imprisonment, shall be sentenced to not less than one year
35 nor more than 12 years. Aggravated driving under the
36 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds, or any combination thereof as
2 defined in subparagraph (F) of paragraph (1) of this
3 subsection (d) is a Class 2 felony, for which the
4 defendant, if sentenced to a term of imprisonment, shall be
5 sentenced to: (A) a term of imprisonment of not less than 3
6 years and not more than 14 years if the violation resulted
7 in the death of one person; or (B) a term of imprisonment
8 of not less than 6 years and not more than 28 years if the
9 violation resulted in the deaths of 2 or more persons. For
10 any prosecution under this subsection (d), a certified copy
11 of the driving abstract of the defendant shall be admitted
12 as proof of any prior conviction.

13 (e) After a finding of guilt and prior to any final
14 sentencing, or an order for supervision, for an offense based
15 upon an arrest for a violation of this Section or a similar
16 provision of a local ordinance, individuals shall be required
17 to undergo a professional evaluation to determine if an
18 alcohol, drug, or intoxicating compound abuse problem exists
19 and the extent of the problem, and undergo the imposition of
20 treatment as appropriate. Programs conducting these
21 evaluations shall be licensed by the Department of Human
22 Services. The cost of any professional evaluation shall be paid
23 for by the individual required to undergo the professional
24 evaluation.

25 (e-1) Any person who is found guilty of or pleads guilty to
26 violating this Section, including any person receiving a
27 disposition of court supervision for violating this Section,
28 may be required by the Court to attend a victim impact panel
29 offered by, or under contract with, a County State's Attorney's
30 office, a probation and court services department, Mothers
31 Against Drunk Driving, or the Alliance Against Intoxicated
32 Motorists. All costs generated by the victim impact panel shall
33 be paid from fees collected from the offender or as may be
34 determined by the court.

35 (f) Every person found guilty of violating this Section,
36 whose operation of a motor vehicle while in violation of this

1 Section proximately caused any incident resulting in an
2 appropriate emergency response, shall be liable for the expense
3 of an emergency response as provided under Section 5-5-3 of the
4 Unified Code of Corrections.

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

8 (h) Every person sentenced under paragraph (2) or (3) of
9 subsection (c-1) of this Section or subsection (d) of this
10 Section and who receives a term of probation or conditional
11 discharge shall be required to serve a minimum term of either
12 60 days community service or 10 days of imprisonment as a
13 condition of the probation or conditional discharge. This
14 mandatory minimum term of imprisonment or assignment of
15 community service shall not be suspended and shall not be
16 subject to reduction by the court.

17 (i) The Secretary of State shall require the use of
18 ignition interlock devices on all vehicles owned by an
19 individual who has been convicted of a second or subsequent
20 offense of this Section or a similar provision of a local
21 ordinance. The Secretary shall establish by rule and regulation
22 the procedures for certification and use of the interlock
23 system.

24 (j) In addition to any other penalties and liabilities, a
25 person who is found guilty of or pleads guilty to violating
26 this Section, including any person placed on court supervision
27 for violating this Section, shall be fined \$100, payable to the
28 circuit clerk, who shall distribute the money to the law
29 enforcement agency that made the arrest. If the person has been
30 previously convicted of violating this Section or a similar
31 provision of a local ordinance, the fine shall be \$200. In the
32 event that more than one agency is responsible for the arrest,
33 the \$100 or \$200 shall be shared equally. Any moneys received
34 by a law enforcement agency under this subsection (j) shall be
35 used to purchase law enforcement equipment that will assist in
36 the prevention of alcohol related criminal violence throughout

1 the State. This shall include, but is not limited to, in-car
2 video cameras, radar and laser speed detection devices, and
3 alcohol breath testers. Any moneys received by the Department
4 of State Police under this subsection (j) shall be deposited
5 into the State Police DUI Fund and shall be used to purchase
6 law enforcement equipment that will assist in the prevention of
7 alcohol related criminal violence throughout the State.

8 (k) The Secretary of State Police DUI Fund is created as a
9 special fund in the State treasury. All moneys received by the
10 Secretary of State Police under subsection (j) of this Section
11 shall be deposited into the Secretary of State Police DUI Fund
12 and, subject to appropriation, shall be used to purchase law
13 enforcement equipment to assist in the prevention of alcohol
14 related criminal violence throughout the State.

15 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
16 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
17 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
18 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)