



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/06/04, 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 concerning driving under the influence of alcohol, drugs, or intoxicating compounds.

LRB093 15459 DRH 41062 b

1 AN ACT in regard to 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 thereof.

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within the State of Illinois ~~this State~~  
12 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.)