

1 AMENDMENT TO SENATE BILL 96

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 96 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  
8 alcohol, other drug or drugs, intoxicating compound or  
9 compounds or any 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 or breath is 0.08 or more based on the definition of  
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

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

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

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

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

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

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

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

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

25 (3) A person who violates this Section a fourth or  
26 subsequent time during a period in which his or her  
27 driving privileges are revoked or suspended where the  
28 revocation or suspension was for a violation of this  
29 Section, Section 11-501.1, paragraph (b) of Section  
30 11-401, or Section 9-3 of the Criminal Code of 1961 is  
31 guilty of a Class 2 felony.

32 (c-2) (Blank).

33 (c-3) Every person convicted of violating this Section  
34 or a similar provision of a local ordinance who had a child

1 under age 16 in the vehicle at the time of the offense shall  
2 have his or her punishment under this Act enhanced by 2 days  
3 of imprisonment for a first offense, 10 days of imprisonment  
4 for a second offense, 30 days of imprisonment for a third  
5 offense, and 90 days of imprisonment for a fourth or  
6 subsequent offense, in addition to the fine and community  
7 service required under subsection (c) and the possible  
8 imprisonment required under subsection (d). The imprisonment  
9 or assignment under this subsection shall not be subject to  
10 suspension nor shall the person be eligible for probation in  
11 order to reduce the sentence or assignment.

12 (c-4) When a person is convicted of violating Section  
13 11-501 of this Code or a similar provision of a local  
14 ordinance, the following penalties apply when his or her  
15 blood, breath, or urine was .16 or more based on the  
16 definition of blood, breath, or urine units in Section  
17 11-501.2 or when that person is convicted of violating this  
18 Section while transporting a child under the age of 16:

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

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

31 (3) A person who is convicted of violating  
32 subsection (a) of Section 11-501 of this Code a third  
33 time within 20 years is guilty of a Class 4 felony and,  
34 in addition to any other penalty that may be imposed

1 under subsection (c), is subject to a mandatory minimum  
2 of 90 days of imprisonment and a minimum fine of \$2,500.

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

9 (d) (1) Every person convicted of committing a violation  
10 of this Section shall be guilty of aggravated driving  
11 under the influence of alcohol, other drug or drugs, or  
12 intoxicating compound or compounds, or any combination  
13 thereof if:

14 (A) the person committed a violation of this  
15 Section, or a similar provision of a law of another  
16 state or a local ordinance when the cause of action  
17 is the same as or substantially similar to this  
18 Section, for the third or subsequent time;

19 (B) the person committed a violation of  
20 paragraph (a) while driving a school bus with  
21 children on board;

22 (C) the person in committing a violation of  
23 paragraph (a) was involved in a motor vehicle  
24 accident that resulted in great bodily harm or  
25 permanent disability or disfigurement to another,  
26 when the violation was a proximate cause of the  
27 injuries;

28 (D) the person committed a violation of  
29 paragraph (a) for a second time and has been  
30 previously convicted of violating Section 9-3 of the  
31 Criminal Code of 1961 relating to reckless homicide  
32 in which the person was determined to have been  
33 under the influence of alcohol, other drug or drugs,  
34 or intoxicating compound or compounds as an element

1 of the offense or the person has previously been  
2 convicted under subparagraph (C) of this paragraph  
3 (1); ~~or~~

4 (E) the person, in committing a violation of  
5 paragraph (a) while driving at any speed in a school  
6 speed zone at a time when a speed limit of 20 miles  
7 per hour was in effect under subsection (a) of  
8 Section 11-605 of this Code, was involved in a motor  
9 vehicle accident that resulted in bodily harm, other  
10 than great bodily harm or permanent disability or  
11 disfigurement, to another person, when the violation  
12 of paragraph (a) was a proximate cause of the bodily  
13 harm; or-

14 (F) the person, in committing a violation of  
15 paragraph (a), was involved in a motor vehicle  
16 accident that resulted in the death of another  
17 person, when the violation of paragraph (a) was a  
18 proximate cause of the death.

19 (2) Except as provided in this paragraph (2),  
20 aggravated driving under the influence of alcohol, other  
21 drug or drugs, or intoxicating compound or compounds, or  
22 any combination thereof is a Class 4 felony. For a  
23 violation of subparagraph (C) of paragraph (1) of this  
24 subsection (d), the defendant, if sentenced to a term of  
25 imprisonment, shall be sentenced to not less than one  
26 year nor more than 12 years. Aggravated driving under the  
27 influence of alcohol, other drug or drugs, or  
28 intoxicating compound or compounds, or any combination  
29 thereof as defined in subparagraph (F) of paragraph (1)  
30 of this subsection (d) is a Class 2 felony, for which the  
31 defendant shall be sentenced to: (A) a mandatory term of  
32 imprisonment of not less than 3 years and not more than  
33 13 years if the violation resulted in the death of one  
34 person; or (B) a mandatory term of imprisonment of not

1 less than 6 years and not more than 26 years if the  
2 violation resulted in the deaths of 2 or more persons.

3 For any prosecution under this subsection (d), a  
4 certified copy of the driving abstract of the defendant  
5 shall be admitted as proof of any prior conviction.

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

18 (f) Every person found guilty of violating this Section,  
19 whose operation of a motor vehicle while in violation of this  
20 Section proximately caused any incident resulting in an  
21 appropriate emergency response, shall be liable for the  
22 expense of an emergency response as provided under Section  
23 5-5-3 of the Unified Code of Corrections.

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

27 (h) Every person sentenced under paragraph (2) or (3) of  
28 subsection (c-1) of this Section or subsection (d) of this  
29 Section and who receives a term of probation or conditional  
30 discharge shall be required to serve a minimum term of either  
31 60 days community service or 10 days of imprisonment as a  
32 condition of the probation or conditional discharge. This  
33 mandatory minimum term of imprisonment or assignment of  
34 community service shall not be suspended and shall not be

1 subject to reduction by the court.

2 (i) The Secretary of State shall require the use of  
3 ignition interlock devices on all vehicles owned by an  
4 individual who has been convicted of a second or subsequent  
5 offense of this Section or a similar provision of a local  
6 ordinance. The Secretary shall establish by rule and  
7 regulation the procedures for certification and use of the  
8 interlock system.

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

30 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;  
31 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.  
32 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,  
33 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)".