



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1081

Introduced 02/08/05, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Provides that, if a defendant is convicted of aggravated driving under the influence of alcohol, drugs, or intoxicating compounds because his or her DUI violation was the cause of the death of one or more persons, the defendant shall be sentenced to a term of imprisonment, unless the court determines that extraordinary circumstances exist and require probation.

LRB094 08834 DRH 39052 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning transportation.

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 this State while:

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

15 (2) under the influence of alcohol;

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

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

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

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

31 (b) The fact that any person charged with violating this
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any
2 combination thereof, shall not constitute a defense against any
3 charge of violating this Section.

4 (b-1) With regard to penalties imposed under this Section:

5 (1) Any reference to a prior violation of subsection
6 (a) or a similar provision includes any violation of a
7 provision of a local ordinance or a provision of a law of
8 another state that is similar to a violation of subsection
9 (a) of this Section.

10 (2) Any penalty imposed for driving with a license that
11 has been revoked for a previous violation of subsection (a)
12 of this Section shall be in addition to the penalty imposed
13 for any subsequent violation of subsection (a).

14 (b-2) Except as otherwise provided in this Section, any
15 person convicted of violating subsection (a) of this Section is
16 guilty of a Class A misdemeanor.

17 (b-3) In addition to any other criminal or administrative
18 sanction for any second conviction of violating subsection (a)
19 or a similar provision committed within 5 years of a previous
20 violation of subsection (a) or a similar provision, the
21 defendant shall be sentenced to a mandatory minimum of 5 days
22 of imprisonment or assigned a mandatory minimum of 240 hours of
23 community service as may be determined by the court.

24 (b-4) In the case of a third or subsequent violation
25 committed within 5 years of a previous violation of subsection
26 (a) or a similar provision, in addition to any other criminal
27 or administrative sanction, a mandatory minimum term of either
28 10 days of imprisonment or 480 hours of community service shall
29 be imposed.

30 (b-5) The imprisonment or assignment of community service
31 under subsections (b-3) and (b-4) shall not be subject to
32 suspension, nor shall the person be eligible for a reduced
33 sentence.

34 (c) (Blank).

35 (c-1) (1) A person who violates subsection (a) during a
36 period in which his or her driving privileges are revoked

1 or suspended, where the revocation or suspension was for a
2 violation of subsection (a), Section 11-501.1, paragraph
3 (b) of Section 11-401, or for reckless homicide as defined
4 in Section 9-3 of the Criminal Code of 1961 is guilty of a
5 Class 4 felony.

6 (2) A person who violates subsection (a) a third time,
7 if the third violation occurs during a period in which his
8 or her driving privileges are revoked or suspended where
9 the revocation or suspension was for a violation of
10 subsection (a), Section 11-501.1, paragraph (b) of Section
11 11-401, or for reckless homicide as defined in Section 9-3
12 of the Criminal Code of 1961, is guilty of a Class 3
13 felony.

14 (2.1) A person who violates subsection (a) a third
15 time, if the third violation occurs during a period in
16 which his or her driving privileges are revoked or
17 suspended where the revocation or suspension was for a
18 violation of subsection (a), Section 11-501.1, subsection
19 (b) of Section 11-401, or for reckless homicide as defined
20 in Section 9-3 of the Criminal Code of 1961, is guilty of a
21 Class 3 felony; and if the person receives a term of
22 probation or conditional discharge, he or she shall be
23 required to serve a mandatory minimum of 10 days of
24 imprisonment or shall be assigned a mandatory minimum of
25 480 hours of community service, as may be determined by the
26 court, as a condition of the probation or conditional
27 discharge. This mandatory minimum term of imprisonment or
28 assignment of community service shall not be suspended or
29 reduced by the court.

30 (2.2) A person who violates subsection (a), if the
31 violation occurs during a period in which his or her
32 driving privileges are revoked or suspended where the
33 revocation or suspension was for a violation of subsection
34 (a) or Section 11-501.1, shall also be sentenced to an
35 additional mandatory minimum term of 30 consecutive days of
36 imprisonment, 40 days of 24-hour periodic imprisonment, or

1 720 hours of community service, as may be determined by the
2 court. This mandatory term of imprisonment or assignment of
3 community service shall not be suspended or reduced by the
4 court.

5 (3) A person who violates subsection (a) a fourth or
6 subsequent time, if the fourth or subsequent violation
7 occurs during a period in which his or her driving
8 privileges are revoked or suspended where the revocation or
9 suspension was for a violation of subsection (a), Section
10 11-501.1, paragraph (b) of Section 11-401, or for reckless
11 homicide as defined in Section 9-3 of the Criminal Code of
12 1961, is guilty of a Class 2 felony and is not eligible for
13 a sentence of probation or conditional discharge.

14 (c-2) (Blank).

15 (c-3) (Blank).

16 (c-4) (Blank).

17 (c-5) A person who violates subsection (a), if the person
18 was transporting a person under the age of 16 at the time of
19 the violation, is subject to an additional mandatory minimum
20 fine of \$1,000, an additional mandatory minimum 140 hours of
21 community service, which shall include 40 hours of community
22 service in a program benefiting children, and an additional 2
23 days of imprisonment. The imprisonment or assignment of
24 community service under this subsection (c-5) is not subject to
25 suspension, nor is the person eligible for a reduced sentence.

26 (c-6) Except as provided in subsections (c-7) and (c-8) a
27 person who violates subsection (a) a second time, if at the
28 time of the second violation the person was transporting a
29 person under the age of 16, is subject to an additional 10 days
30 of imprisonment, an additional mandatory minimum fine of
31 \$1,000, and an additional mandatory minimum 140 hours of
32 community service, which shall include 40 hours of community
33 service in a program benefiting children. The imprisonment or
34 assignment of community service under this subsection (c-6) is
35 not subject to suspension, nor is the person eligible for a
36 reduced sentence.

1 (c-7) Except as provided in subsection (c-8), any person
2 convicted of violating subsection (c-6) or a similar provision
3 within 10 years of a previous violation of subsection (a) or a
4 similar provision shall receive, in addition to any other
5 penalty imposed, a mandatory minimum 12 days imprisonment, an
6 additional 40 hours of mandatory community service in a program
7 benefiting children, and a mandatory minimum fine of \$1,750.
8 The imprisonment or assignment of community service under this
9 subsection (c-7) is not subject to suspension, nor is the
10 person eligible for a reduced sentence.

11 (c-8) Any person convicted of violating subsection (c-6) or
12 a similar provision within 5 years of a previous violation of
13 subsection (a) or a similar provision shall receive, in
14 addition to any other penalty imposed, an additional 80 hours
15 of mandatory community service in a program benefiting
16 children, an additional mandatory minimum 12 days of
17 imprisonment, and a mandatory minimum fine of \$1,750. The
18 imprisonment or assignment of community service under this
19 subsection (c-8) is not subject to suspension, nor is the
20 person eligible for a reduced sentence.

21 (c-9) Any person convicted a third time for violating
22 subsection (a) or a similar provision, if at the time of the
23 third violation the person was transporting a person under the
24 age of 16, is guilty of a Class 4 felony and shall receive, in
25 addition to any other penalty imposed, an additional mandatory
26 fine of \$1,000, an additional mandatory 140 hours of community
27 service, which shall include 40 hours in a program benefiting
28 children, and a mandatory minimum 30 days of imprisonment. The
29 imprisonment or assignment of community service under this
30 subsection (c-9) is not subject to suspension, nor is the
31 person eligible for a reduced sentence.

32 (c-10) Any person convicted of violating subsection (c-9)
33 or a similar provision a third time within 20 years of a
34 previous violation of subsection (a) or a similar provision is
35 guilty of a Class 4 felony and shall receive, in addition to
36 any other penalty imposed, an additional mandatory 40 hours of

1 community service in a program benefiting children, an
2 additional mandatory fine of \$3,000 ~~\$3000~~, and a mandatory
3 minimum 120 days of imprisonment. The imprisonment or
4 assignment of community service under this subsection (c-10) is
5 not subject to suspension, nor is the person eligible for a
6 reduced sentence.

7 (c-11) Any person convicted a fourth or subsequent time for
8 violating subsection (a) or a similar provision, if at the time
9 of the fourth or subsequent violation the person was
10 transporting a person under the age of 16, and if the person's
11 3 prior violations of subsection (a) or a similar provision
12 occurred while transporting a person under the age of 16 or
13 while the alcohol concentration in his or her blood, breath, or
14 urine was 0.16 or more based on the definition of blood,
15 breath, or urine units in Section 11-501.2, is guilty of a
16 Class 2 felony, is not eligible for probation or conditional
17 discharge, and is subject to a minimum fine of \$3,000.

18 (c-12) Any person convicted of a first violation of
19 subsection (a) or a similar provision, if the alcohol
20 concentration in his or her blood, breath, or urine was 0.16 or
21 more based on the definition of blood, breath, or urine units
22 in Section 11-501.2, shall be subject, in addition to any other
23 penalty that may be imposed, to a mandatory minimum of 100
24 hours of community service and a mandatory minimum fine of
25 \$500.

26 (c-13) Any person convicted of a second violation of
27 subsection (a) or a similar provision committed within 10 years
28 of a previous violation of subsection (a) or a similar
29 provision committed within 10 years of a previous violation of
30 subsection (a) or a similar provision, if at the time of the
31 second violation of subsection (a) the alcohol concentration in
32 his or her blood, breath, or urine was 0.16 or more based on
33 the definition of blood, breath, or urine units in Section
34 11-501.2, shall be subject, in addition to any other penalty
35 that may be imposed, to a mandatory minimum of 2 days of
36 imprisonment and a mandatory minimum fine of \$1,250.

1 (c-14) Any person convicted of a third violation of
2 subsection (a) or a similar provision within 20 years of a
3 previous violation of subsection (a) or a similar provision, if
4 at the time of the third violation of subsection (a) or a
5 similar provision the alcohol concentration in his or her
6 blood, breath, or urine was 0.16 or more based on the
7 definition of blood, breath, or urine units in Section
8 11-501.2, is guilty of a Class 4 felony and shall be subject,
9 in addition to any other penalty that may be imposed, to a
10 mandatory minimum of 90 days of imprisonment and a mandatory
11 minimum fine of \$2,500.

12 (c-15) Any person convicted of a fourth or subsequent
13 violation of subsection (a) or a similar provision, if at the
14 time of the fourth or subsequent violation the alcohol
15 concentration in his or her blood, breath, or urine was 0.16 or
16 more based on the definition of blood, breath, or urine units
17 in Section 11-501.2, and if the person's 3 prior violations of
18 subsection (a) or a similar provision occurred while
19 transporting a person under the age of 16 or while the alcohol
20 concentration in his or her blood, breath, or urine was 0.16 or
21 more based on the definition of blood, breath, or urine units
22 in Section 11-501.2, is guilty of a Class 2 felony and is not
23 eligible for a sentence of probation or conditional discharge
24 and is subject to a minimum fine of \$2,500.

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

30 (A) the person committed a violation of subsection
31 (a) or a similar provision for the third or subsequent
32 time;

33 (B) the person committed a violation of subsection
34 (a) while driving a school bus with persons 18 years of
35 age or younger on board;

36 (C) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident
2 that resulted in great bodily harm or permanent
3 disability or disfigurement to another, when the
4 violation was a proximate cause of the injuries;

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

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

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

30 (2) Except as provided in this paragraph (2), a person
31 convicted of aggravated driving under the influence of
32 alcohol, other drug or drugs, or intoxicating compound or
33 compounds, or any combination thereof is guilty of a Class
34 4 felony. For a violation of subparagraph (C) of paragraph
35 (1) of this subsection (d), the defendant, if sentenced to
36 a term of imprisonment, shall be sentenced to not less than

1 one year nor more than 12 years. Aggravated driving under
2 the influence of alcohol, other drug or drugs, or
3 intoxicating compound or compounds, or any combination
4 thereof as defined in subparagraph (F) of paragraph (1) of
5 this subsection (d) is a Class 2 felony, for which the
6 defendant, unless the court determines that extraordinary
7 circumstances exist and require probation ~~if sentenced to a~~
8 ~~term of imprisonment~~, shall be sentenced to: (A) a term of
9 imprisonment of not less than 3 years and not more than 14
10 years if the violation resulted in the death of one person;
11 or (B) a term of imprisonment of not less than 6 years and
12 not more than 28 years if the violation resulted in the
13 deaths of 2 or more persons. For any prosecution under this
14 subsection (d), a certified copy of the driving abstract of
15 the defendant shall be admitted as proof of any prior
16 conviction. Any person sentenced under this subsection (d)
17 who receives a term of probation or conditional discharge
18 must serve a minimum term of either 480 hours of community
19 service or 10 days of imprisonment as a condition of the
20 probation or conditional discharge. This mandatory minimum
21 term of imprisonment or assignment of community service may
22 not be suspended or reduced by the court.

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

35 (e-1) Any person who is found guilty of or pleads guilty to
36 violating this Section, including any person receiving a

1 disposition of court supervision for violating this Section,
2 may be required by the Court to attend a victim impact panel
3 offered by, or under contract with, a County State's Attorney's
4 office, a probation and court services department, Mothers
5 Against Drunk Driving, or the Alliance Against Intoxicated
6 Motorists. All costs generated by the victim impact panel shall
7 be paid from fees collected from the offender or as may be
8 determined by the court.

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

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

18 (h) (Blank).

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

26 (j) In addition to any other penalties and liabilities, a
27 person who is found guilty of or pleads guilty to violating
28 subsection (a), including any person placed on court
29 supervision for violating subsection (a), shall be fined \$500,
30 payable to the circuit clerk, who shall distribute the money as
31 follows: 20% to the law enforcement agency that made the arrest
32 and 80% shall be forwarded to the State Treasurer for deposit
33 into the General Revenue Fund. If the person has been
34 previously convicted of violating subsection (a) or a similar
35 provision of a local ordinance, the fine shall be \$1,000. In
36 the event that more than one agency is responsible for the

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

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

20 (l) Whenever an individual is sentenced for an offense
21 based upon an arrest for a violation of subsection (a) or a
22 similar provision of a local ordinance, and the professional
23 evaluation recommends remedial or rehabilitative treatment or
24 education, neither the treatment nor the education shall be the
25 sole disposition and either or both may be imposed only in
26 conjunction with another disposition. The court shall monitor
27 compliance with any remedial education or treatment
28 recommendations contained in the professional evaluation.
29 Programs conducting alcohol or other drug evaluation or
30 remedial education must be licensed by the Department of Human
31 Services. If the individual is not a resident of Illinois,
32 however, the court may accept an alcohol or other drug
33 evaluation or remedial education program in the individual's
34 state of residence. Programs providing treatment must be
35 licensed under existing applicable alcoholism and drug
36 treatment licensure standards.

1 (m) In addition to any other fine or penalty required by
2 law, an individual convicted of a violation of subsection (a),
3 Section 5-7 of the Snowmobile Registration and Safety Act,
4 Section 5-16 of the Boat Registration and Safety Act, or a
5 similar provision, whose operation of a motor vehicle,
6 snowmobile, or watercraft while in violation of subsection (a),
7 Section 5-7 of the Snowmobile Registration and Safety Act,
8 Section 5-16 of the Boat Registration and Safety Act, or a
9 similar provision proximately caused an incident resulting in
10 an appropriate emergency response, shall be required to make
11 restitution to a public agency for the costs of that emergency
12 response. The restitution may not exceed \$1,000 per public
13 agency for each emergency response. As used in this subsection
14 (m), "emergency response" means any incident requiring a
15 response by a police officer, a firefighter carried on the
16 rolls of a regularly constituted fire department, or an
17 ambulance.

18 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
19 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
20 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
21 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,
22 eff. 1-1-05; 93-840, eff. 7-30-04; revised 1-13-05.)