



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3648

Introduced 2/24/2005, by Rep. Joe Dunn - James H. Meyer

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.6	from Ch. 95 1/2, par. 11-501.6
625 ILCS 5/11-503	from Ch. 95 1/2, par. 11-503
730 ILCS 5/5-6-1	from Ch. 38, par. 1005-6-1

Amends the Illinois Vehicle Code and the Unified Code of Corrections. Provides that a person involved as a driver in an a fatal accident or an accident involving severely bleeding wounds, distorted extremities, or injuries that required the injured party to be carried from the scene (rather than any person arrested after being involved as a driver in a fatal accident or an accident involving personal injury) is deemed to have consented to undergo chemical testing for alcohol, drugs, or intoxicating compounds. Provides that unlawful operation of a vehicle that is 25 or 40 miles per hour in excess of the applicable speed limit, depending on the type of highway involved, is prima facie evidence of reckless driving. Provides that a person previously convicted of a misdemeanor or felony under the Illinois Vehicle Code or reckless homicide under the Criminal Code of 1961 is not eligible for probation or conditional discharge if convicted of reckless homicide or a misdemeanor or felony under the Vehicle Code committed within one year of the date of the previous conviction.

LRB094 11229 DRH 41956 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning driving offenses, which may be referred
2 to as Matt's Law.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 5. The Illinois Vehicle Code is amended by changing
6 Sections 11-501.6 and 11-503 as follows:

7 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

8 Sec. 11-501.6. Driver involvement in serious personal
9 injury or fatal motor vehicle accident - chemical test.

10 (a) Any person who drives or is in actual control of a
11 motor vehicle upon the public highways of this State and who
12 has been involved in a ~~personal injury or~~ fatal motor vehicle
13 accident or in an accident in which one or more persons
14 suffered injuries that included severely bleeding wounds,
15 distorted extremities, or injuries that require the injured
16 party to be carried from the scene, shall be deemed to have
17 given consent to a breath test using a portable device as
18 approved by the Department of State Police or to a chemical
19 test or tests of blood, breath, or urine for the purpose of
20 determining the content of alcohol, other drug or drugs, or
21 intoxicating compound or compounds of such person's blood ~~if~~
22 ~~arrested as evidenced by the issuance of a Uniform Traffic~~
23 ~~Ticket for any violation of the Illinois Vehicle Code or a~~
24 ~~similar provision of a local ordinance, with the exception of~~
25 ~~equipment violations contained in Chapter 12 of this Code, or~~
26 ~~similar provisions of local ordinances.~~ The test or tests must
27 ~~shall~~ be administered at the direction of a law enforcement ~~the~~
28 ~~arresting~~ officer to any person who has driven or been in
29 actual control of a motor vehicle upon the public highways of
30 this State that has been involved in a fatal motor vehicle
31 accident or in an accident in which one or more persons
32 suffered injuries that included severely bleeding wounds,

1 distorted extremities, or injuries that require the injured
2 party to be carried from the scene. The law enforcement agency
3 employing the officer shall designate which of the aforesaid
4 tests shall be administered. A urine test may be administered
5 even after a blood or breath test or both has been
6 administered. Compliance with this Section does not relieve
7 such person from the requirements of Section 11-501.1 of this
8 Code.

9 (b) Any person who is dead, unconscious or who is otherwise
10 in a condition rendering such person incapable of refusal shall
11 be deemed not to have withdrawn the consent provided by
12 subsection (a) of this Section. In addition, if a driver of a
13 vehicle is receiving medical treatment as a result of a motor
14 vehicle accident, any physician licensed to practice medicine,
15 registered nurse or a phlebotomist acting under the direction
16 of a licensed physician shall withdraw blood for testing
17 purposes to ascertain the presence of alcohol, other drug or
18 drugs, or intoxicating compound or compounds, upon the specific
19 request of a law enforcement officer. However, no such testing
20 shall be performed until, in the opinion of the medical
21 personnel on scene, the withdrawal can be made without
22 interfering with or endangering the well-being of the patient.

23 (c) A person requested to submit to a test as provided
24 above shall be warned by the law enforcement officer requesting
25 the test that a refusal to submit to the test, or submission to
26 the test resulting in an alcohol concentration of 0.08 or more,
27 or any amount of a drug, substance, or intoxicating compound
28 resulting from the unlawful use or consumption of cannabis, as
29 covered by the Cannabis Control Act, a controlled substance
30 listed in the Illinois Controlled Substances Act, or an
31 intoxicating compound listed in the Use of Intoxicating
32 Compounds Act as detected in such person's blood or urine, may
33 result in the suspension of such person's privilege to operate
34 a motor vehicle. The length of the suspension shall be the same
35 as outlined in Section 6-208.1 of this Code regarding statutory
36 summary suspensions.

1 (d) If the person refuses testing or submits to a test
2 which discloses an alcohol concentration of 0.08 or more, or
3 any amount of a drug, substance, or intoxicating compound in
4 such person's blood or urine resulting from the unlawful use or
5 consumption of cannabis listed in the Cannabis Control Act, a
6 controlled substance listed in the Illinois Controlled
7 Substances Act, or an intoxicating compound listed in the Use
8 of Intoxicating Compounds Act, the law enforcement officer
9 shall immediately submit a sworn report to the Secretary of
10 State on a form prescribed by the Secretary, certifying that
11 the test or tests were requested pursuant to subsection (a) and
12 the person refused to submit to a test or tests or submitted to
13 testing which disclosed an alcohol concentration of 0.08 or
14 more, or any amount of a drug, substance, or intoxicating
15 compound in such person's blood or urine, resulting from the
16 unlawful use or consumption of cannabis listed in the Cannabis
17 Control Act, a controlled substance listed in the Illinois
18 Controlled Substances Act, or an intoxicating compound listed
19 in the Use of Intoxicating Compounds Act.

20 Upon receipt of the sworn report of a law enforcement
21 officer, the Secretary shall enter the suspension to the
22 individual's driving record and the suspension shall be
23 effective on the 46th day following the date notice of the
24 suspension was given to the person.

25 The law enforcement officer submitting the sworn report
26 shall serve immediate notice of this suspension on the person
27 and such suspension shall be effective on the 46th day
28 following the date notice was given.

29 In cases where the blood alcohol concentration of 0.08 or
30 more, or any amount of a drug, substance, or intoxicating
31 compound resulting from the unlawful use or consumption of
32 cannabis as listed in the Cannabis Control Act, a controlled
33 substance listed in the Illinois Controlled Substances Act, or
34 an intoxicating compound listed in the Use of Intoxicating
35 Compounds Act, is established by a subsequent analysis of blood
36 or urine collected at the time of arrest, the arresting officer

1 shall give notice as provided in this Section or by deposit in
2 the United States mail of such notice in an envelope with
3 postage prepaid and addressed to such person at his address as
4 shown on the Uniform Traffic Ticket and the suspension shall be
5 effective on the 46th day following the date notice was given.

6 Upon receipt of the sworn report of a law enforcement
7 officer, the Secretary shall also give notice of the suspension
8 to the driver by mailing a notice of the effective date of the
9 suspension to the individual. However, should the sworn report
10 be defective by not containing sufficient information or be
11 completed in error, the notice of the suspension shall not be
12 mailed to the person or entered to the driving record, but
13 rather the sworn report shall be returned to the issuing law
14 enforcement agency.

15 (e) A driver may contest this suspension of his driving
16 privileges by requesting an administrative hearing with the
17 Secretary in accordance with Section 2-118 of this Code. At the
18 conclusion of a hearing held under Section 2-118 of this Code,
19 the Secretary may rescind, continue, or modify the order of
20 suspension. If the Secretary does not rescind the order, a
21 restricted driving permit may be granted by the Secretary upon
22 application being made and good cause shown. A restricted
23 driving permit may be granted to relieve undue hardship to
24 allow driving for employment, educational, and medical
25 purposes as outlined in Section 6-206 of this Code. The
26 provisions of Section 6-206 of this Code shall apply.

27 (f) (Blank).

28 (g) (Blank.) ~~For the purposes of this Section, a personal~~
29 ~~injury shall include any type A injury as indicated on the~~
30 ~~traffic accident report completed by a law enforcement officer~~
31 ~~that requires immediate professional attention in either a~~
32 ~~doctor's office or a medical facility. A type A injury shall~~
33 ~~include severely bleeding wounds, distorted extremities, and~~
34 ~~injuries that require the injured party to be carried from the~~
35 ~~scene.~~

36 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99; 91-357,

1 eff. 7-29-99; 91-828, eff. 1-1-01.)

2 (625 ILCS 5/11-503) (from Ch. 95 1/2, par. 11-503)

3 Sec. 11-503. Reckless driving; aggravated reckless
4 driving.

5 (a) A person commits reckless driving if he or she:

6 (1) drives any vehicle with a willful or wanton
7 disregard for the safety of persons or property; or

8 (2) knowingly drives a vehicle and uses an incline in a
9 roadway, such as a railroad crossing, bridge approach, or
10 hill, to cause the vehicle to become airborne.

11 (a-1) The unlawful operation of a vehicle, on a Class I or
12 Class II highway as defined in Section 1-126.1 of this Code, at
13 a speed that is 40 miles per hour or more in excess of the
14 applicable speed maximum speed limit established under this
15 Chapter or a similar provision of a local ordinance is prima
16 facie evidence of reckless driving.

17 (a-2) The unlawful operation of a vehicle, on a Class III
18 or non-designated highway as defined in Section 1-126.1 of this
19 Code, at a speed that is 25 miles per hour or more in excess of
20 the applicable maximum speed limit established under this
21 Chapter or a similar provision of a local ordinance is prima
22 facie evidence of reckless driving.

23 (b) Every person convicted of reckless driving shall be
24 guilty of a Class A misdemeanor, except as provided under
25 subsection (c) of this Section.

26 (c) Every person convicted of committing a violation of
27 subsection (a) shall be guilty of aggravated reckless driving
28 if the violation results in great bodily harm or permanent
29 disability or disfigurement to another. Aggravated reckless
30 driving is a Class 4 felony.

31 (Source: P.A. 93-682, eff. 1-1-05.)

32 Section 10. The Unified Code of Corrections is amended by
33 changing Section 5-6-1 as follows:

1 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

2 Sec. 5-6-1. Sentences of Probation and of Conditional
3 Discharge and Disposition of Supervision. The General Assembly
4 finds that in order to protect the public, the criminal justice
5 system must compel compliance with the conditions of probation
6 by responding to violations with swift, certain and fair
7 punishments and intermediate sanctions. The Chief Judge of each
8 circuit shall adopt a system of structured, intermediate
9 sanctions for violations of the terms and conditions of a
10 sentence of probation, conditional discharge or disposition of
11 supervision.

12 (a) Except where specifically prohibited by other
13 provisions of this Code, the court shall impose a sentence of
14 probation or conditional discharge upon an offender unless,
15 having regard to the nature and circumstance of the offense,
16 and to the history, character and condition of the offender,
17 the court is of the opinion that:

18 (1) his imprisonment or periodic imprisonment is
19 necessary for the protection of the public; or

20 (2) probation or conditional discharge would deprecate
21 the seriousness of the offender's conduct and would be
22 inconsistent with the ends of justice; or

23 (3) a combination of imprisonment with concurrent or
24 consecutive probation when an offender has been admitted
25 into a drug court program under Section 20 of the Drug
26 Court Treatment Act is necessary for the protection of the
27 public and for the rehabilitation of the offender.

28 The court shall impose as a condition of a sentence of
29 probation, conditional discharge, or supervision, that the
30 probation agency may invoke any sanction from the list of
31 intermediate sanctions adopted by the chief judge of the
32 circuit court for violations of the terms and conditions of the
33 sentence of probation, conditional discharge, or supervision,
34 subject to the provisions of Section 5-6-4 of this Act.

35 (b) The court may impose a sentence of conditional
36 discharge for an offense if the court is of the opinion that

1 neither a sentence of imprisonment nor of periodic imprisonment
2 nor of probation supervision is appropriate.

3 (b-1) Subsections (a) and (b) of this Section do not apply
4 to a defendant charged with a misdemeanor or felony under the
5 Illinois Vehicle Code or reckless homicide under Section 9-3 of
6 the Criminal Code of 1961 if the defendant within the past 12
7 months has been convicted of or pleaded guilty to a misdemeanor
8 or felony under the Illinois Vehicle Code or reckless homicide
9 under Section 9-3 of the Criminal Code of 1961.

10 (c) The court may, upon a plea of guilty or a stipulation
11 by the defendant of the facts supporting the charge or a
12 finding of guilt, defer further proceedings and the imposition
13 of a sentence, and enter an order for supervision of the
14 defendant, if the defendant is not charged with: (i) a Class A
15 misdemeanor, as defined by the following provisions of the
16 Criminal Code of 1961: Sections 12-3.2; 12-15; 26-5; 31-1;
17 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph
18 (1) through (5), (8), (10), and (11) of subsection (a) of
19 Section 24-1; (ii) a Class A misdemeanor violation of Section
20 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or
21 (iii) felony. If the defendant is not barred from receiving an
22 order for supervision as provided in this subsection, the court
23 may enter an order for supervision after considering the
24 circumstances of the offense, and the history, character and
25 condition of the offender, if the court is of the opinion that:

26 (1) the offender is not likely to commit further
27 crimes;

28 (2) the defendant and the public would be best served
29 if the defendant were not to receive a criminal record; and

30 (3) in the best interests of justice an order of
31 supervision is more appropriate than a sentence otherwise
32 permitted under this Code.

33 (d) The provisions of paragraph (c) shall not apply to a
34 defendant charged with violating Section 11-501 of the Illinois
35 Vehicle Code or a similar provision of a local ordinance when
36 the defendant has previously been:

1 (1) convicted for a violation of Section 11-501 of the
2 Illinois Vehicle Code or a similar provision of a local
3 ordinance or any similar law or ordinance of another state;
4 or

5 (2) assigned supervision for a violation of Section
6 11-501 of the Illinois Vehicle Code or a similar provision
7 of a local ordinance or any similar law or ordinance of
8 another state; or

9 (3) pleaded guilty to or stipulated to the facts
10 supporting a charge or a finding of guilty to a violation
11 of Section 11-503 of the Illinois Vehicle Code or a similar
12 provision of a local ordinance or any similar law or
13 ordinance of another state, and the plea or stipulation was
14 the result of a plea agreement.

15 The court shall consider the statement of the prosecuting
16 authority with regard to the standards set forth in this
17 Section.

18 (e) The provisions of paragraph (c) shall not apply to a
19 defendant charged with violating Section 16A-3 of the Criminal
20 Code of 1961 if said defendant has within the last 5 years
21 been:

22 (1) convicted for a violation of Section 16A-3 of the
23 Criminal Code of 1961; or

24 (2) assigned supervision for a violation of Section
25 16A-3 of the Criminal Code of 1961.

26 The court shall consider the statement of the prosecuting
27 authority with regard to the standards set forth in this
28 Section.

29 (f) The provisions of paragraph (c) shall not apply to a
30 defendant charged with violating Sections 15-111, 15-112,
31 15-301, paragraph (b) of Section 6-104, Section 11-605, or
32 Section 11-1414 of the Illinois Vehicle Code or a similar
33 provision of a local ordinance.

34 (g) Except as otherwise provided in paragraph (i) of this
35 Section, the provisions of paragraph (c) shall not apply to a
36 defendant charged with violating Section 3-707, 3-708, 3-710,

1 or 5-401.3 of the Illinois Vehicle Code or a similar provision
2 of a local ordinance if the defendant has within the last 5
3 years been:

4 (1) convicted for a violation of Section 3-707, 3-708,
5 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
6 provision of a local ordinance; or

7 (2) assigned supervision for a violation of Section
8 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
9 Code or a similar provision of a local ordinance.

10 The court shall consider the statement of the prosecuting
11 authority with regard to the standards set forth in this
12 Section.

13 (h) The provisions of paragraph (c) shall not apply to a
14 defendant under the age of 21 years charged with violating a
15 serious traffic offense as defined in Section 1-187.001 of the
16 Illinois Vehicle Code:

17 (1) unless the defendant, upon payment of the fines,
18 penalties, and costs provided by law, agrees to attend and
19 successfully complete a traffic safety program approved by
20 the court under standards set by the Conference of Chief
21 Circuit Judges. The accused shall be responsible for
22 payment of any traffic safety program fees. If the accused
23 fails to file a certificate of successful completion on or
24 before the termination date of the supervision order, the
25 supervision shall be summarily revoked and conviction
26 entered. The provisions of Supreme Court Rule 402 relating
27 to pleas of guilty do not apply in cases when a defendant
28 enters a guilty plea under this provision; or

29 (2) if the defendant has previously been sentenced
30 under the provisions of paragraph (c) on or after January
31 1, 1998 for any serious traffic offense as defined in
32 Section 1-187.001 of the Illinois Vehicle Code.

33 (i) The provisions of paragraph (c) shall not apply to a
34 defendant charged with violating Section 3-707 of the Illinois
35 Vehicle Code or a similar provision of a local ordinance if the
36 defendant has been assigned supervision for a violation of

1 Section 3-707 of the Illinois Vehicle Code or a similar
2 provision of a local ordinance.

3 (j) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Section 6-303 of the Illinois
5 Vehicle Code or a similar provision of a local ordinance when
6 the revocation or suspension was for a violation of Section
7 11-501 or a similar provision of a local ordinance, a violation
8 of Section 11-501.1 or paragraph (b) of Section 11-401 of the
9 Illinois Vehicle Code, or a violation of Section 9-3 of the
10 Criminal Code of 1961 if the defendant has within the last 10
11 years been:

12 (1) convicted for a violation of Section 6-303 of the
13 Illinois Vehicle Code or a similar provision of a local
14 ordinance; or

15 (2) assigned supervision for a violation of Section
16 6-303 of the Illinois Vehicle Code or a similar provision
17 of a local ordinance.

18 (Source: P.A. 93-388, eff. 7-25-03; 93-1014, eff. 1-1-05.)