

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11 has been revoked for a previous violation of subsection (a)  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.)