



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0503

Introduced 02/01/07, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-206 from Ch. 95 1/2, par. 6-206
625 ILCS 5/12-610.1
30 ILCS 805/8.31 new

Amends the Illinois Vehicle Code. Provides that a person not otherwise prohibited from driving a vehicle on a roadway while using a wireless telephone may do so only if that wireless telephone is specifically designed and configured to allow hands-free operation, and is used in that manner while driving. Provides that any person who violates the provision regarding wireless telephone use shall be fined \$150. Provides that any person who violates the provision a second or subsequent time within one year of the date of a previous violation shall have his or her driving privileges suspended for a period of 90 days. Provides for the issuance of a restricted driving permit to prevent undue hardship. Amends the State Mandates Act to require implementation without reimbursement by the State.

LRB095 04364 DRH 24407 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Sections 6-206 and 12-610.1 as follows:

6 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

7 Sec. 6-206. Discretionary authority to suspend or revoke
8 license or permit; Right to a hearing.

9 (a) The Secretary of State is authorized to suspend or
10 revoke the driving privileges of any person without preliminary
11 hearing upon a showing of the person's records or other
12 sufficient evidence that the person:

13 1. Has committed an offense for which mandatory
14 revocation of a driver's license or permit is required upon
15 conviction;

16 2. Has been convicted of not less than 3 offenses
17 against traffic regulations governing the movement of
18 vehicles committed within any 12 month period. No
19 revocation or suspension shall be entered more than 6
20 months after the date of last conviction;

21 3. Has been repeatedly involved as a driver in motor
22 vehicle collisions or has been repeatedly convicted of
23 offenses against laws and ordinances regulating the

1 movement of traffic, to a degree that indicates lack of
2 ability to exercise ordinary and reasonable care in the
3 safe operation of a motor vehicle or disrespect for the
4 traffic laws and the safety of other persons upon the
5 highway;

6 4. Has by the unlawful operation of a motor vehicle
7 caused or contributed to an accident resulting in death or
8 injury requiring immediate professional treatment in a
9 medical facility or doctor's office to any person, except
10 that any suspension or revocation imposed by the Secretary
11 of State under the provisions of this subsection shall
12 start no later than 6 months after being convicted of
13 violating a law or ordinance regulating the movement of
14 traffic, which violation is related to the accident, or
15 shall start not more than one year after the date of the
16 accident, whichever date occurs later;

17 5. Has permitted an unlawful or fraudulent use of a
18 driver's license, identification card, or permit;

19 6. Has been lawfully convicted of an offense or
20 offenses in another state, including the authorization
21 contained in Section 6-203.1, which if committed within
22 this State would be grounds for suspension or revocation;

23 7. Has refused or failed to submit to an examination
24 provided for by Section 6-207 or has failed to pass the
25 examination;

26 8. Is ineligible for a driver's license or permit under

1 the provisions of Section 6-103;

2 9. Has made a false statement or knowingly concealed a
3 material fact or has used false information or
4 identification in any application for a license,
5 identification card, or permit;

6 10. Has possessed, displayed, or attempted to
7 fraudulently use any license, identification card, or
8 permit not issued to the person;

9 11. Has operated a motor vehicle upon a highway of this
10 State when the person's driving privilege or privilege to
11 obtain a driver's license or permit was revoked or
12 suspended unless the operation was authorized by a judicial
13 driving permit, probationary license to drive, or a
14 restricted driving permit issued under this Code;

15 12. Has submitted to any portion of the application
16 process for another person or has obtained the services of
17 another person to submit to any portion of the application
18 process for the purpose of obtaining a license,
19 identification card, or permit for some other person;

20 13. Has operated a motor vehicle upon a highway of this
21 State when the person's driver's license or permit was
22 invalid under the provisions of Sections 6-107.1 and 6-110;

23 14. Has committed a violation of Section 6-301,
24 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B
25 of the Illinois Identification Card Act;

26 15. Has been convicted of violating Section 21-2 of the

1 Criminal Code of 1961 relating to criminal trespass to
2 vehicles in which case, the suspension shall be for one
3 year;

4 16. Has been convicted of violating Section 11-204 of
5 this Code relating to fleeing from a peace officer;

6 17. Has refused to submit to a test, or tests, as
7 required under Section 11-501.1 of this Code and the person
8 has not sought a hearing as provided for in Section
9 11-501.1;

10 18. Has, since issuance of a driver's license or
11 permit, been adjudged to be afflicted with or suffering
12 from any mental disability or disease;

13 19. Has committed a violation of paragraph (a) or (b)
14 of Section 6-101 relating to driving without a driver's
15 license;

16 20. Has been convicted of violating Section 6-104
17 relating to classification of driver's license;

18 21. Has been convicted of violating Section 11-402 of
19 this Code relating to leaving the scene of an accident
20 resulting in damage to a vehicle in excess of \$1,000, in
21 which case the suspension shall be for one year;

22 22. Has used a motor vehicle in violating paragraph
23 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
24 the Criminal Code of 1961 relating to unlawful use of
25 weapons, in which case the suspension shall be for one
26 year;

1 23. Has, as a driver, been convicted of committing a
2 violation of paragraph (a) of Section 11-502 of this Code
3 for a second or subsequent time within one year of a
4 similar violation;

5 24. Has been convicted by a court-martial or punished
6 by non-judicial punishment by military authorities of the
7 United States at a military installation in Illinois of or
8 for a traffic related offense that is the same as or
9 similar to an offense specified under Section 6-205 or
10 6-206 of this Code;

11 25. Has permitted any form of identification to be used
12 by another in the application process in order to obtain or
13 attempt to obtain a license, identification card, or
14 permit;

15 26. Has altered or attempted to alter a license or has
16 possessed an altered license, identification card, or
17 permit;

18 27. Has violated Section 6-16 of the Liquor Control Act
19 of 1934;

20 28. Has been convicted of the illegal possession, while
21 operating or in actual physical control, as a driver, of a
22 motor vehicle, of any controlled substance prohibited
23 under the Illinois Controlled Substances Act, any cannabis
24 prohibited under the Cannabis Control Act, or any
25 methamphetamine prohibited under the Methamphetamine
26 Control and Community Protection Act, in which case the

1 person's driving privileges shall be suspended for one
2 year, and any driver who is convicted of a second or
3 subsequent offense, within 5 years of a previous
4 conviction, for the illegal possession, while operating or
5 in actual physical control, as a driver, of a motor
6 vehicle, of any controlled substance prohibited under the
7 Illinois Controlled Substances Act, any cannabis
8 prohibited under the Cannabis Control Act, or any
9 methamphetamine prohibited under the Methamphetamine
10 Control and Community Protection Act shall be suspended for
11 5 years. Any defendant found guilty of this offense while
12 operating a motor vehicle, shall have an entry made in the
13 court record by the presiding judge that this offense did
14 occur while the defendant was operating a motor vehicle and
15 order the clerk of the court to report the violation to the
16 Secretary of State;

17 29. Has been convicted of the following offenses that
18 were committed while the person was operating or in actual
19 physical control, as a driver, of a motor vehicle: criminal
20 sexual assault, predatory criminal sexual assault of a
21 child, aggravated criminal sexual assault, criminal sexual
22 abuse, aggravated criminal sexual abuse, juvenile pimping,
23 soliciting for a juvenile prostitute and the manufacture,
24 sale or delivery of controlled substances or instruments
25 used for illegal drug use or abuse in which case the
26 driver's driving privileges shall be suspended for one

1 year;

2 30. Has been convicted a second or subsequent time for
3 any combination of the offenses named in paragraph 29 of
4 this subsection, in which case the person's driving
5 privileges shall be suspended for 5 years;

6 31. Has refused to submit to a test as required by
7 Section 11-501.6 or has submitted to a test resulting in an
8 alcohol concentration of 0.08 or more or any amount of a
9 drug, substance, or compound resulting from the unlawful
10 use or consumption of cannabis as listed in the Cannabis
11 Control Act, a controlled substance as listed in the
12 Illinois Controlled Substances Act, or an intoxicating
13 compound as listed in the Use of Intoxicating Compounds
14 Act, in which case the penalty shall be as prescribed in
15 Section 6-208.1;

16 32. Has been convicted of Section 24-1.2 of the
17 Criminal Code of 1961 relating to the aggravated discharge
18 of a firearm if the offender was located in a motor vehicle
19 at the time the firearm was discharged, in which case the
20 suspension shall be for 3 years;

21 33. Has as a driver, who was less than 21 years of age
22 on the date of the offense, been convicted a first time of
23 a violation of paragraph (a) of Section 11-502 of this Code
24 or a similar provision of a local ordinance;

25 34. Has committed a violation of Section 11-1301.5 of
26 this Code;

1 35. Has committed a violation of Section 11-1301.6 of
2 this Code;

3 36. Is under the age of 21 years at the time of arrest
4 and has been convicted of not less than 2 offenses against
5 traffic regulations governing the movement of vehicles
6 committed within any 24 month period. No revocation or
7 suspension shall be entered more than 6 months after the
8 date of last conviction;

9 37. Has committed a violation of subsection (c) of
10 Section 11-907 of this Code;

11 38. Has been convicted of a violation of Section 6-20
12 of the Liquor Control Act of 1934 or a similar provision of
13 a local ordinance;

14 39. Has committed a second or subsequent violation of
15 Section 11-1201 of this Code;

16 40. Has committed a violation of subsection (a-1) of
17 Section 11-908 of this Code;

18 41. Has committed a second or subsequent violation of
19 Section 11-605.1 of this Code within 2 years of the date of
20 the previous violation, in which case the suspension shall
21 be for 90 days; ~~or~~

22 42. Has committed a violation of subsection (a-1) of
23 Section 11-1301.3 of this Code; or ~~or~~

24 43. Has committed a second or subsequent violation of
25 Section 12-610.1 of this Code within one year of the date
26 of the previous violation, in which case the suspension

1 shall be for 90 days.

2 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
3 and 27 of this subsection, license means any driver's license,
4 any traffic ticket issued when the person's driver's license is
5 deposited in lieu of bail, a suspension notice issued by the
6 Secretary of State, a duplicate or corrected driver's license,
7 a probationary driver's license or a temporary driver's
8 license.

9 (b) If any conviction forming the basis of a suspension or
10 revocation authorized under this Section is appealed, the
11 Secretary of State may rescind or withhold the entry of the
12 order of suspension or revocation, as the case may be, provided
13 that a certified copy of a stay order of a court is filed with
14 the Secretary of State. If the conviction is affirmed on
15 appeal, the date of the conviction shall relate back to the
16 time the original judgment of conviction was entered and the 6
17 month limitation prescribed shall not apply.

18 (c) 1. Upon suspending or revoking the driver's license or
19 permit of any person as authorized in this Section, the
20 Secretary of State shall immediately notify the person in
21 writing of the revocation or suspension. The notice to be
22 deposited in the United States mail, postage prepaid, to
23 the last known address of the person.

24 2. If the Secretary of State suspends the driver's
25 license of a person under subsection 2 of paragraph (a) of
26 this Section, a person's privilege to operate a vehicle as

1 an occupation shall not be suspended, provided an affidavit
2 is properly completed, the appropriate fee received, and a
3 permit issued prior to the effective date of the
4 suspension, unless 5 offenses were committed, at least 2 of
5 which occurred while operating a commercial vehicle in
6 connection with the driver's regular occupation. All other
7 driving privileges shall be suspended by the Secretary of
8 State. Any driver prior to operating a vehicle for
9 occupational purposes only must submit the affidavit on
10 forms to be provided by the Secretary of State setting
11 forth the facts of the person's occupation. The affidavit
12 shall also state the number of offenses committed while
13 operating a vehicle in connection with the driver's regular
14 occupation. The affidavit shall be accompanied by the
15 driver's license. Upon receipt of a properly completed
16 affidavit, the Secretary of State shall issue the driver a
17 permit to operate a vehicle in connection with the driver's
18 regular occupation only. Unless the permit is issued by the
19 Secretary of State prior to the date of suspension, the
20 privilege to drive any motor vehicle shall be suspended as
21 set forth in the notice that was mailed under this Section.
22 If an affidavit is received subsequent to the effective
23 date of this suspension, a permit may be issued for the
24 remainder of the suspension period.

25 The provisions of this subparagraph shall not apply to
26 any driver required to possess a CDL for the purpose of

1 operating a commercial motor vehicle.

2 Any person who falsely states any fact in the affidavit
3 required herein shall be guilty of perjury under Section
4 6-302 and upon conviction thereof shall have all driving
5 privileges revoked without further rights.

6 3. At the conclusion of a hearing under Section 2-118
7 of this Code, the Secretary of State shall either rescind
8 or continue an order of revocation or shall substitute an
9 order of suspension; or, good cause appearing therefor,
10 rescind, continue, change, or extend the order of
11 suspension. If the Secretary of State does not rescind the
12 order, the Secretary may upon application, to relieve undue
13 hardship, issue a restricted driving permit granting the
14 privilege of driving a motor vehicle between the
15 petitioner's residence and petitioner's place of
16 employment or within the scope of his employment related
17 duties, or to allow transportation for the petitioner, or a
18 household member of the petitioner's family, to receive
19 necessary medical care and if the professional evaluation
20 indicates, provide transportation for alcohol remedial or
21 rehabilitative activity, or for the petitioner to attend
22 classes, as a student, in an accredited educational
23 institution; if the petitioner is able to demonstrate that
24 no alternative means of transportation is reasonably
25 available and the petitioner will not endanger the public
26 safety or welfare.

1 If a person's license or permit has been revoked or
2 suspended due to 2 or more convictions of violating Section
3 11-501 of this Code or a similar provision of a local
4 ordinance or a similar out-of-state offense, arising out of
5 separate occurrences, that person, if issued a restricted
6 driving permit, may not operate a vehicle unless it has
7 been equipped with an ignition interlock device as defined
8 in Section 1-129.1.

9 If a person's license or permit has been revoked or
10 suspended 2 or more times within a 10 year period due to a
11 single conviction of violating Section 11-501 of this Code
12 or a similar provision of a local ordinance or a similar
13 out-of-state offense, and a statutory summary suspension
14 under Section 11-501.1, or 2 or more statutory summary
15 suspensions, or combination of 2 offenses, or of an offense
16 and a statutory summary suspension, arising out of separate
17 occurrences, that person, if issued a restricted driving
18 permit, may not operate a vehicle unless it has been
19 equipped with an ignition interlock device as defined in
20 Section 1-129.1. The person must pay to the Secretary of
21 State DUI Administration Fund an amount not to exceed \$20
22 per month. The Secretary shall establish by rule the amount
23 and the procedures, terms, and conditions relating to these
24 fees. If the restricted driving permit was issued for
25 employment purposes, then this provision does not apply to
26 the operation of an occupational vehicle owned or leased by

1 that person's employer. In each case the Secretary may
2 issue a restricted driving permit for a period deemed
3 appropriate, except that all permits shall expire within
4 one year from the date of issuance. The Secretary may not,
5 however, issue a restricted driving permit to any person
6 whose current revocation is the result of a second or
7 subsequent conviction for a violation of Section 11-501 of
8 this Code or a similar provision of a local ordinance
9 relating to the offense of operating or being in physical
10 control of a motor vehicle while under the influence of
11 alcohol, other drug or drugs, intoxicating compound or
12 compounds, or any similar out-of-state offense, or any
13 combination of those offenses, until the expiration of at
14 least one year from the date of the revocation. A
15 restricted driving permit issued under this Section shall
16 be subject to cancellation, revocation, and suspension by
17 the Secretary of State in like manner and for like cause as
18 a driver's license issued under this Code may be cancelled,
19 revoked, or suspended; except that a conviction upon one or
20 more offenses against laws or ordinances regulating the
21 movement of traffic shall be deemed sufficient cause for
22 the revocation, suspension, or cancellation of a
23 restricted driving permit. The Secretary of State may, as a
24 condition to the issuance of a restricted driving permit,
25 require the applicant to participate in a designated driver
26 remedial or rehabilitative program. The Secretary of State

1 is authorized to cancel a restricted driving permit if the
2 permit holder does not successfully complete the program.

3 (c-5) The Secretary of State may, as a condition of the
4 reissuance of a driver's license or permit to an applicant
5 whose driver's license or permit has been suspended before he
6 or she reached the age of 18 years pursuant to any of the
7 provisions of this Section, require the applicant to
8 participate in a driver remedial education course and be
9 retested under Section 6-109 of this Code.

10 (d) This Section is subject to the provisions of the
11 Drivers License Compact.

12 (e) The Secretary of State shall not issue a restricted
13 driving permit to a person under the age of 16 years whose
14 driving privileges have been suspended or revoked under any
15 provisions of this Code.

16 (f) In accordance with 49 C.F.R. 384, the Secretary of
17 State may not issue a restricted driving permit for the
18 operation of a commercial motor vehicle to a person holding a
19 CDL whose driving privileges have been suspended or revoked
20 under any provisions of this Code.

21 (Source: P.A. 93-120, eff. 1-1-04; 93-667, eff. 3-19-04;
22 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; 94-307, eff.
23 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06.)

24 (625 ILCS 5/12-610.1)

25 Sec. 12-610.1. Wireless telephones.

1 (a) As used in this Section, "wireless telephone" or
2 "wireless phone" means a device that is capable of transmitting
3 or receiving telephonic communications without a wire
4 connecting the device to the telephone network.

5 (b) A person under the age of 18 years who holds an
6 instruction permit issued under Section 6-105 or 6-107.1, or a
7 person under the age of 18 years who holds a graduated license
8 issued under Section 6-107, may not drive a vehicle on a
9 roadway while using a wireless phone.

10 (c) This Section does not apply to any ~~a person under the~~
11 ~~age of 18 years~~ using a wireless telephone for emergency
12 purposes, including, but not limited to, an emergency call to a
13 law enforcement agency, health care provider, fire department,
14 or other emergency services agency or entity.

15 (d) A person not subject to subsection (b) of this Section
16 may not drive a vehicle on a roadway while using a wireless
17 telephone unless that wireless telephone is specifically
18 designed and configured to allow hands-free operation, and is
19 used in that manner while driving.

20 (e) A person who violates this Section shall be fined \$150.

21 (f) A person who violates this Section a second or
22 subsequent time within one year of the date of a previous
23 violation of this Section shall have his or her driving
24 privileges suspended for a period of 90 days, as provided in
25 Section 6-206 of this Code.

26 (Source: P.A. 94-240, eff. 7-15-05.)

1 Section 90. The State Mandates Act is amended by adding
2 Section 8.31 as follows:

3 (30 ILCS 805/8.31 new)

4 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
5 of this Act, no reimbursement by the State is required for the
6 implementation of any mandate created by this amendatory Act of
7 the 95th General Assembly.