



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1722

Introduced 2/9/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-10.6 new

Amends the Code of Criminal Procedure of 1963. Provides that if the defendant is accused of driving under the influence of alcohol, evidence of the defendant's commission of another offense or offenses of driving under the influence of alcohol, or a similar provision of a local ordinance or a provision of a law of another state that is similar to such an offense, or another refusal of chemical testing for driving under the influence of alcohol, or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant. Provides that in a criminal case in which the prosecution intends to offer evidence under this provision, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

LRB095 11081 RLC 31408 b

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-10.6 as follows:

6 (725 ILCS 5/115-10.6 new)

7 Sec. 115-10.6. Evidence in cases involving driving under
8 the influence of alcohol.

9 (a) This Section applies to criminal cases in which:

10 (1) the defendant is accused of driving while under the
11 influence of alcohol under Section 11-501 of the Illinois
12 Vehicle Code, or a similar provision of a local ordinance;
13 and

14 (2) the defendant has refused to submit to chemical
15 testing in violation of the provisions of Section 11-501.1
16 of the Illinois Vehicle Code.

17 (b) If the defendant is accused of an offense set forth in
18 paragraph (1) of subsection (a), evidence of the defendant's
19 commission of another offense or offenses set forth in
20 paragraph (1) of subsection (a), or a similar provision of a
21 local ordinance or a provision of a law of another state that
22 is similar to an offense set forth in paragraph (1) of
23 subsection (a), or another refusal of chemical testing as set

1 forth in paragraph (2) of subsection (a), or evidence to rebut
2 that proof or an inference from that proof, may be admissible
3 (if that evidence is otherwise admissible under the rules of
4 evidence) and may be considered for its bearing on any matter
5 to which it is relevant.

6 (c) In weighing the probative value of the evidence against
7 undue prejudice to the defendant, the court may consider:

8 (1) the proximity in time to the charged or predicate
9 offense;

10 (2) the degree of factual similarity to the charged or
11 predicate offense; or

12 (3) other relevant facts and circumstances.

13 (d) In a criminal case in which the prosecution intends to
14 offer evidence under this Section, it must disclose the
15 evidence, including statements of witnesses or a summary of the
16 substance of any testimony, at a reasonable time in advance of
17 trial, or during trial if the court excuses pretrial notice on
18 good cause shown.