1 AN ACT concerning transportation.

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

Section 5. The Illinois Vehicle Code is amended by changing
Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)
7 (Text of Section before amendment by P.A. 95-400 and
8 95-578)

9 (Text of Section from P.A. 93-1093, 94-963, 95-149, and 10 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physicalcontrol of any vehicle within this State while:

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

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(2) under the influence of alcohol;

20 (3) under the influence of any intoxicating compound or 21 combination of intoxicating compounds to a degree that 22 renders the person incapable of driving safely;

(4) under the influence of any other drug or

combination of drugs to a degree that renders the person incapable of safely driving;

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

there is any amount of a drug, substance, or 6 (6) 7 compound in the person's breath, blood, or urine resulting 8 from the unlawful use or consumption of cannabis listed in 9 the Cannabis Control Act, a controlled substance listed in 10 the Illinois Controlled Substances Act, an intoxicating 11 compound listed in the Use of Intoxicating Compounds Act, 12 methamphetamine as listed in the Methamphetamine or Control and Community Protection Act. 13

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

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

(1) Any reference to a prior violation of subsection
(a) or a similar provision includes any violation of a
provision of a local ordinance or a provision of a law of
another state or an offense committed on a military
installation that is similar to a violation of subsection
(a) of this Section.

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(2) Any penalty imposed for driving with a license that

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has been revoked for a previous violation of subsection (a)
 of this Section shall be in addition to the penalty imposed
 for any subsequent violation of subsection (a).

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

7 (b-3) In addition to any other criminal or administrative 8 sanction for any second conviction of violating subsection (a) 9 or a similar provision committed within 5 years of a previous 10 violation of subsection (a) or a similar provision, the 11 defendant shall be sentenced to a mandatory minimum of 5 days 12 of imprisonment or assigned a mandatory minimum of 240 hours of 13 community service as may be determined by the court.

14 (b-4) In the case of a third or subsequent violation 15 committed within 5 years of a previous violation of subsection 16 (a) or a similar provision, in addition to any other criminal 17 or administrative sanction, a mandatory minimum term of either 18 10 days of imprisonment or 480 hours of community service shall 19 be imposed.

20 (b-5) The imprisonment or assignment of community service 21 under subsections (b-3) and (b-4) shall not be subject to 22 suspension, nor shall the person be eligible for a reduced 23 sentence.

24 (c) (Blank).

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

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

6 (2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his 7 or her driving privileges are revoked or suspended where 8 9 the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 10 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 felony; and if the person receives a term of probation or 13 14 conditional discharge, he or she shall be required to serve 15 a mandatory minimum of 10 days of imprisonment or shall be 16 assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition 17 of the probation or conditional discharge. This mandatory 18 19 minimum term of imprisonment or assignment of community 20 service shall not be suspended or reduced by the court.

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

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imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

6 (3) A person who violates subsection (a) a fourth or 7 subsequent time, if the fourth or subsequent violation 8 occurs during a period in which his or her driving 9 privileges are revoked or suspended where the revocation or 10 suspension was for a violation of subsection (a), Section 11 11-501.1, paragraph (b) of Section 11-401, or for reckless 12 homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for 13 14 a sentence of probation or conditional discharge.

15 (c-2) (Blank).

16 (c-3) (Blank).

17 (c-4) (Blank).

(c-5)(1) A person who violates subsection (a), if the 18 19 person was transporting a person under the age of 16 at the time of the violation, is subject to an additional 20 mandatory minimum fine of \$1,000, an additional mandatory 21 22 minimum 140 hours of community service, which shall include 23 40 hours of community service in a program benefiting 24 children, and an additional 2 days of imprisonment. The 25 imprisonment or assignment of community service under this 26 subdivision (c-5)(1) is not subject to suspension, nor is SB2494 Enrolled - 6 - LRB095 17436 RLC 43508 b

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the person eligible for a reduced sentence.

2 (2) Except as provided in subdivisions (c-5)(3) and 3 (c-5)(4) a person who violates subsection (a) a second time, if at the time of the second violation the person was 4 5 transporting a person under the age of 16, is subject to an 10 6 additional days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional 7 8 mandatory minimum 140 hours of community service, which 9 shall include 40 hours of community service in a program 10 benefiting children. The imprisonment or assignment of 11 community service under this subdivision (c-5)(2) is not 12 subject to suspension, nor is the person eligible for a reduced sentence. 13

14 (3) Except as provided in subdivision (c-5)(4), any 15 person convicted of violating subdivision (c-5)(2) or a 16 similar provision within 10 years of a previous violation 17 of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 18 19 12 days imprisonment, an additional 40 hours of mandatory 20 community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or 21 22 assignment of community service under this subdivision 23 (c-5)(3) is not subject to suspension, nor is the person 24 eligible for a reduced sentence.

(4) Any person convicted of violating subdivision
(c-5)(2) or a similar provision within 5 years of a

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previous violation of subsection (a) or a similar provision 1 2 shall receive, in addition to any other penalty imposed, an 3 additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory 4 5 minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community 6 7 service under this subdivision (c-5)(4) is not subject to 8 suspension, nor is the person eligible for a reduced 9 sentence.

10 (5) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of 11 12 the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and 13 14 shall receive, in addition to any other penalty imposed, an 15 additional mandatory fine of \$1,000, an additional 16 mandatory 140 hours of community service, which shall 17 include 40 hours in a program benefiting children, and a 30 18 mandatory minimum days of imprisonment. The 19 imprisonment or assignment of community service under this 20 subdivision (c-5)(5) is not subject to suspension, nor is 21 the person eligible for a reduced sentence.

(6) Any person convicted of violating subdivision
(c-5)(5) or a similar provision a third time within 20
years of a previous violation of subsection (a) or a
similar provision is guilty of a Class 4 felony and shall
receive, in addition to any other penalty imposed, an

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additional mandatory 40 hours of community service in a 1 2 program benefiting children, an additional mandatory fine 3 \$3,000, and a mandatory minimum 120 days of of imprisonment. The imprisonment or assignment of community 4 5 service under this subdivision (c-5)(6) is not subject to 6 suspension, nor is the person eligible for a reduced 7 sentence.

8 (7) Any person convicted a fourth or subsequent time 9 for violating subsection (a) or a similar provision, if at 10 the time of the fourth or subsequent violation the person 11 was transporting a person under the age of 16, and if the 12 person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the 13 14 age of 16 or while the alcohol concentration in his or her 15 blood, breath, or urine was 0.16 or more based on the 16 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible 17 for probation or conditional discharge, and is subject to a 18 minimum fine of \$3,000. 19

20 (c-6)(1) Any person convicted of a first violation of 21 subsection (a) or a similar provision, if the alcohol 22 concentration in his or her blood, breath, or urine was 23 0.16 or more based on the definition of blood, breath, or 24 urine units in Section 11-501.2, shall be subject, in 25 addition to any other penalty that may be imposed, to a 26 mandatory minimum of 100 hours of community service and a SB2494 Enrolled - 9 - LRB095 17436 RLC 43508 b

1 mandatory minimum fine of \$500.

2 (2) Any person convicted of a second violation of 3 subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a 4 5 similar provision, if at the time of the second violation subsection (a) or a similar provision the alcohol 6 of 7 concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or 8 9 urine units in Section 11-501.2, shall be subject, in 10 addition to any other penalty that may be imposed, to a 11 mandatory minimum of 2 days of imprisonment and a mandatory 12 minimum fine of \$1,250.

(3) Any person convicted of a third violation of 13 subsection (a) or a similar provision within 20 years of a 14 15 previous violation of subsection (a) or a similar 16 provision, if at the time of the third violation of 17 subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 18 19 0.16 or more based on the definition of blood, breath, or 20 urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other 21 22 penalty that may be imposed, to a mandatory minimum of 90 23 days of imprisonment and a mandatory minimum fine of \$2,500. 24

(4) Any person convicted of a fourth or subsequent
 violation of subsection (a) or a similar provision, if at

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the time of the fourth or subsequent violation the alcohol 1 concentration in his or her blood, breath, or urine was 2 0.16 or more based on the definition of blood, breath, or 3 urine units in Section 11-501.2, and if the person's 3 4 prior violations of subsection (a) or a similar provision 5 6 occurred while transporting a person under the age of 16 or 7 while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition 8 9 of blood, breath, or urine units in Section 11-501.2, is 10 quilty of a Class 2 felony and is not eligible for a 11 sentence of probation or conditional discharge and is 12 subject to a minimum fine of \$2,500.

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

18 (A) the person committed a violation of subsection
19 (a) or a similar provision for the third or subsequent
20 time;

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

(C) the person in committing a violation of
 subsection (a) was involved in a motor vehicle accident
 that resulted in great bodily harm or permanent

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disability or disfigurement to another, when the violation was a proximate cause of the injuries;

3 (D) the person committed a violation of subsection (a) for a second time and has been previously convicted 4 5 of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state 6 7 relating to reckless homicide in which the person was 8 determined to have been under the influence of alcohol, 9 other drug or drugs, or intoxicating compound or 10 compounds as an element of the offense or the person 11 has previously been convicted under subparagraph (C) 12 or subparagraph (F) of this paragraph (1);

13 (E) the person, in committing a violation of 14 subsection (a) while driving at any speed in a school 15 speed zone at a time when a speed limit of 20 miles per 16 hour was in effect under subsection (a) of Section 17 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great 18 19 bodily harm or permanent disability or disfigurement, 20 to another person, when the violation of subsection (a) 21 was a proximate cause of the bodily harm; or

22 (F) the person, in committing a violation of 23 subsection (a), was involved in a motor vehicle, watercraft 24 snowmobile, all-terrain vehicle, or 25 accident that resulted in the death of another person, 26 when the violation of subsection (a) was a proximate SB2494 Enrolled - 12 - LRB095 17436 RLC 43508 b

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cause of the death.

2 (2) Except as provided in this paragraph (2), a person 3 convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or 4 5 compounds, or any combination thereof is quilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph 6 7 (1) of this subsection (d), the defendant, if sentenced to 8 a term of imprisonment, shall be sentenced to not less than 9 one year nor more than 12 years. Aggravated driving under 10 the influence of alcohol, other drug or drugs, or 11 intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of 12 this subsection (d) is a Class 2 felony, for which the 13 14 defendant, if sentenced to a term of imprisonment, shall be 15 sentenced to: (A) a term of imprisonment of not less than 3 16 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment 17 of not less than 6 years and not more than 28 years if the 18 violation resulted in the deaths of 2 or more persons. For 19 20 any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted 21 22 as proof of any prior conviction. Any person sentenced 23 under this subsection (d) who receives a term of probation 24 or conditional discharge must serve a minimum term of 25 either 480 hours of community service or 10 days of 26 imprisonment as a condition of the probation or conditional SB2494 Enrolled - 13 - LRB095 17436 RLC 43508 b

discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final 4 5 sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar 6 7 provision of a local ordinance, individuals shall be required 8 to undergo a professional evaluation to determine if an 9 alcohol, drug, or intoxicating compound abuse problem exists 10 and the extent of the problem, and undergo the imposition of 11 treatment appropriate. Programs conducting these as 12 evaluations shall be licensed by the Department of Human 13 Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional 14 15 evaluation.

16 (e-1) Any person who is found guilty of or pleads guilty to 17 violating this Section, including any person receiving a disposition of court supervision for violating this Section, 18 may be required by the Court to attend a victim impact panel 19 20 offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers 21 22 Against Drunk Driving, or the Alliance Against Intoxicated 23 Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be 24 25 determined by the court.

26 (f) Every person found guilty of violating this Section,

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whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

6 (g) The Secretary of State shall revoke the driving 7 privileges of any person convicted under this Section or a 8 similar provision of a local ordinance.

9 (h) (Blank).

10 (i) The Secretary of State shall require the use of 11 ignition interlock devices on all vehicles owned by an 12 individual who has been convicted of a second or subsequent 13 offense of this Section or a similar provision of a local 14 ordinance. The Secretary shall establish by rule and regulation 15 the procedures for certification and use of the interlock 16 system.

17 (j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating 18 19 subsection (a), including any person placed on court 20 supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as 21 22 follows: 20% to the law enforcement agency that made the arrest 23 and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been 24 25 previously convicted of violating subsection (a) or a similar 26 provision of a local ordinance, the fine shall be \$1,000. In

the event that more than one agency is responsible for the 1 arrest, the amount payable to law enforcement agencies shall be 2 3 shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and 4 prevention of driving while under the influence of alcohol, 5 6 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 7 8 not limited to the purchase of law enforcement equipment and 9 commodities that will assist in the prevention of alcohol 10 related criminal violence throughout the State; police officer 11 training and education in areas related to alcohol related 12 crime, including but not limited to DUI training; and police 13 officer salaries, including but not limited to salaries for 14 hire back funding for safety checkpoints, saturation patrols, 15 and liquor store sting operations. Equipment and commodities 16 shall include, but are not limited to, in-car video cameras, 17 radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police 18 19 under this subsection (j) shall be deposited into the State 20 Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, 21 22 other drug or drugs, intoxicating compound or compounds or any 23 combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and 24 commodities that will assist in the prevention of alcohol 25 26 related criminal violence throughout the State; police officer training and education in areas related to alcohol related crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations.

6 (k) The Secretary of State Police DUI Fund is created as a 7 special fund in the State treasury. All moneys received by the 8 Secretary of State Police under subsection (j) of this Section 9 shall be deposited into the Secretary of State Police DUI Fund 10 and, subject to appropriation, shall be used for enforcement 11 and prevention of driving while under the influence of alcohol, 12 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 13 14 not limited to the purchase of law enforcement equipment and 15 commodities to assist in the prevention of alcohol related 16 criminal violence throughout the State; police officer 17 training and education in areas related to alcohol related crime, including but not limited to DUI training; and police 18 officer salaries, including but not limited to salaries for 19 20 hire back funding for safety checkpoints, saturation patrols, 21 and liquor store sting operations.

(1) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the SB2494 Enrolled - 17 - LRB095 17436 RLC 43508 b

sole disposition and either or both may be imposed only in 1 2 conjunction with another disposition. The court shall monitor any remedial education 3 compliance with or treatment recommendations contained in the professional evaluation. 4 5 Programs conducting alcohol or other drug evaluation or 6 remedial education must be licensed by the Department of Human 7 Services. If the individual is not a resident of Illinois, 8 however, the court may accept an alcohol or other drug 9 evaluation or remedial education program in the individual's 10 state of residence. Programs providing treatment must be 11 licensed under existing applicable alcoholism and druq 12 treatment licensure standards.

13 (m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), 14 15 Section 5-7 of the Snowmobile Registration and Safety Act, 16 Section 5-16 of the Boat Registration and Safety Act, or a 17 similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), 18 19 Section 5-7 of the Snowmobile Registration and Safety Act, 20 Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in 21 22 an appropriate emergency response, shall be required to make 23 restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public 24 25 agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a 26

SB2494 Enrolled - 18 - LRB095 17436 RLC 43508 b response by a police officer, a firefighter carried on the 1 2 rolls of a regularly constituted fire department, or an 3 ambulance. (Source: P.A. 93-1093, eff. 3-29-05; 94-963, eff. 6-28-06; 4 5 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.) 6 (Text of Section from P.A. 94-110, 94-963, 95-149, and 7 95-355) 8 Sec. 11-501. Driving while under the influence of alcohol, 9 other drug or drugs, intoxicating compound or compounds or any 10 combination thereof. 11 (a) A person shall not drive or be in actual physical 12 control of any vehicle within this State while: (1) the alcohol concentration in the person's blood or 13 14 breath is 0.08 or more based on the definition of blood and 15 breath units in Section 11-501.2; 16 (2) under the influence of alcohol; (3) under the influence of any intoxicating compound or 17 18 combination of intoxicating compounds to a degree that 19 renders the person incapable of driving safely; 20 (4) under the influence of any other drug or 21 combination of drugs to a degree that renders the person 22 incapable of safely driving; 23 (5) under the combined influence of alcohol, other drug 24 or drugs, or intoxicating compound or compounds to a degree 25 that renders the person incapable of safely driving; or

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(6) there is any amount of a drug, substance, or 1 2 compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in 3 the Cannabis Control Act, a controlled substance listed in 4 5 the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, 6 7 methamphetamine as listed in the Methamphetamine or 8 Control and Community Protection Act.

9 (b) The fact that any person charged with violating this 10 Section is or has been legally entitled to use alcohol, other 11 drug or drugs, or intoxicating compound or compounds, or any 12 combination thereof, shall not constitute a defense against any 13 charge of violating this Section.

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

(1) Any reference to a prior violation of subsection
(a) or a similar provision includes any violation of a
provision of a local ordinance or a provision of a law of
another state or an offense committed on a military
installation that is similar to a violation of subsection
(a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any
 person convicted of violating subsection (a) of this Section is

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1 guilty of a Class A misdemeanor.

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

9 (b-4) In the case of a third or subsequent violation 10 committed within 5 years of a previous violation of subsection 11 (a) or a similar provision, in addition to any other criminal 12 or administrative sanction, a mandatory minimum term of either 13 10 days of imprisonment or 480 hours of community service shall 14 be imposed.

15 (b-5) The imprisonment or assignment of community service 16 under subsections (b-3) and (b-4) shall not be subject to 17 suspension, nor shall the person be eligible for a reduced 18 sentence.

19 (c) (Blank).

(c-1) (1) A person who violates subsection (a) during a
period in which his or her driving privileges are revoked
or suspended, where the revocation or suspension was for a
violation of subsection (a) <u>or a similar provision</u>, Section
11-501.1, paragraph (b) of Section 11-401, or for reckless
homicide as defined in Section 9-3 of the Criminal Code of
1961 is guilty of a Class 4 felony.

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1 (2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his 2 3 or her driving privileges are revoked or suspended where revocation or suspension was for a violation of 4 the 5 subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 6 7 of the Criminal Code of 1961, is guilty of a Class 3 8 felony; and if the person receives a term of probation or 9 conditional discharge, he or she shall be required to serve 10 a mandatory minimum of 10 days of imprisonment or shall be 11 assigned a mandatory minimum of 480 hours of community 12 service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory 13 14 minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court. 15

16 (2.2) A person who violates subsection (a), if the violation occurs during a period in which his or 17 her driving privileges are revoked or suspended where 18 the 19 revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an 20 21 additional mandatory minimum term of 30 consecutive days of 22 imprisonment, 40 days of 24-hour periodic imprisonment, or 23 720 hours of community service, as may be determined by the 24 court. This mandatory term of imprisonment or assignment of 25 community service shall not be suspended or reduced by the 26 court.

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(3) A person who violates subsection (a) a fourth or 1 2 subsequent time, if the fourth or subsequent violation 3 occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or 4 5 suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless 6 7 homicide as defined in Section 9-3 of the Criminal Code of 8 1961, is guilty of a Class 2 felony and is not eligible for 9 a sentence of probation or conditional discharge.

10 (c-2) (Blank).

11 (c-3) (Blank).

12 (c-4) (Blank).

13 (c-5) Except as provided in subsection (c-5.1), a person 21 14 years of age or older who violates subsection (a), if the 15 person was transporting a person under the age of 16 at the 16 time of the violation, is subject to 6 months of imprisonment, 17 an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children. 18 The imprisonment or assignment of community service under this 19 20 subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence. 21

(c-5.1) A person 21 years of age or older who is convicted of violating subsection (a) of this Section a first time and who in committing that violation was involved in a motor vehicle accident that resulted in bodily harm to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury, is guilty of a Class 4 felony and is subject to one year of imprisonment, a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children. The imprisonment or assignment to community service under this subsection (c-5.1) shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-6) Except as provided in subsections (c-7) and (c-7.1), 8 9 a person 21 years of age or older who violates subsection (a) a 10 second time, if at the time of the second violation the person 11 was transporting a person under the age of 16, is subject to 6 12 months of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of 13 community service, which shall include 40 hours of community 14 service in a program benefiting children. The imprisonment or 15 16 assignment of community service under this subsection (c-6) is 17 not subject to suspension, nor is the person eligible for a reduced sentence. 18

19 (c-7) Except as provided in subsection (c-7.1), any person 20 21 years of age or older convicted of violating subsection (c-6) or a similar provision within 10 years of a previous 21 22 violation of subsection (a) or a similar provision is quilty of 23 a Class 4 felony and, in addition to any other penalty imposed, is subject to one year of imprisonment, 25 days of mandatory 24 community service in a program benefiting children, and a 25 mandatory fine of \$2,500. The imprisonment or assignment of 26

1 2 community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7.1) A person 21 years of age or older who is convicted 3 of violating subsection (a) of this Section a second time 4 5 within 10 years and who in committing that violation was 6 involved in a motor vehicle accident that resulted in bodily 7 harm to the child under the age of 16 being transported, if the 8 violation was the proximate cause of the injury, is quilty of a 9 Class 4 felony and is subject to 18 months of imprisonment, a 10 mandatory fine of \$5,000, and 25 days of community service in a 11 program benefiting children. The imprisonment or assignment to 12 community service under this subsection (c-7.1) shall not be 13 subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment. 14

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(c-8) (Blank).

16 (c-9) Any person 21 years of age or older convicted a third 17 time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a 18 person under the age of 16, is guilty of a Class 4 felony and is 19 20 subject to 18 months of imprisonment, a mandatory fine of \$2,500, and 25 days of community service in a program 21 22 benefiting children. The imprisonment or assignment of 23 community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence. 24

(c-10) Any person 21 years of age or older convicted of
 violating subsection (c-9) or a similar provision a third time

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within 20 years of a previous violation of subsection (a) or a 1 2 similar provision is guilty of a Class 3 felony and, in 3 addition to any other penalty imposed, is subject to 3 years of imprisonment, 25 days of community service in a program 4 5 benefiting children, and a mandatory fine of \$25,000. The 6 imprisonment or assignment of community service under this 7 subsection (c-10) is not subject to suspension, nor is the 8 person eligible for a reduced sentence.

9 (c-11) Any person 21 years of age or older convicted a 10 fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent 11 12 violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or 13 14 a similar provision occurred while transporting a person under 15 the age of 16 or while the alcohol concentration in his or her 16 blood, breath, or urine was 0.16 or more based on the 17 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for 18 19 probation or conditional discharge, and is subject to a minimum 20 fine of \$25,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 SB2494 Enrolled - 26 - LRB095 17436 RLC 43508 b

1 hours of community service and a mandatory minimum fine of 2 \$500.

(c-13) Any person convicted of a second violation of 3 subsection (a) or a similar provision committed within 10 years 4 5 of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection 6 7 (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the 8 9 definition of blood, breath, or urine units in Section 10 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of 11 12 imprisonment and a mandatory minimum fine of \$1,250.

13 (c-14) Any person convicted of a third violation of 14 subsection (a) or a similar provision within 20 years of a 15 previous violation of subsection (a) or a similar provision, if 16 at the time of the third violation of subsection (a) or a 17 similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on 18 the 19 definition of blood, breath, or urine units in Section 20 11-501.2, is quilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a 21 22 mandatory minimum of 90 days of imprisonment and a mandatory 23 minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol SB2494 Enrolled - 27 - LRB095 17436 RLC 43508 b

concentration in his or her blood, breath, or urine was 0.16 or 1 2 more based on the definition of blood, breath, or urine units 3 in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred 4 while 5 transporting a person under the age of 16 or while the alcohol 6 concentration in his or her blood, breath, or urine was 0.16 or 7 more based on the definition of blood, breath, or urine units 8 in Section 11-501.2, is guilty of a Class 2 felony and is not 9 eligible for a sentence of probation or conditional discharge 10 and is subject to a minimum fine of \$2,500.

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

16 (A) the person committed a violation of subsection
17 (a) or a similar provision for the third or subsequent
18 time;

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

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries; SB2494 Enrolled

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(D) the person committed a violation of subsection 1 2 (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 3 or a similar provision of a law of another state 4 5 relating to reckless homicide in which the person was 6 determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or 7 compounds as an element of the offense or the person 8 9 has previously been convicted under subparagraph (C) 10 or subparagraph (F) of this paragraph (1);

11 (E) the person, in committing a violation of 12 subsection (a) while driving at any speed in a school 13 speed zone at a time when a speed limit of 20 miles per 14 hour was in effect under subsection (a) of Section 15 11-605 of this Code, was involved in a motor vehicle 16 accident that resulted in bodily harm, other than great 17 bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) 18 19 was a proximate cause of the bodily harm; or

20 (F) the person, in committing a violation of 21 subsection (a), was involved in a motor vehicle, 22 snowmobile, all-terrain vehicle, or watercraft 23 accident that resulted in the death of another person, 24 when the violation of subsection (a) was a proximate 25 cause of the death.

(2) Except as provided in this paragraph (2), a person

convicted of aggravated driving under the influence of 1 alcohol, other drug or drugs, or intoxicating compound or 2 3 compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph 4 5 (1) of this subsection (d), the defendant, if sentenced to 6 a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. Aggravated driving under 7 influence of alcohol, other drug or 8 drugs, the or 9 intoxicating compound or compounds, or any combination 10 thereof as defined in subparagraph (F) of paragraph (1) of 11 this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be 12 sentenced to: (A) a term of imprisonment of not less than 3 13 14 years and not more than 14 years if the violation resulted 15 in the death of one person; or (B) a term of imprisonment 16 of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For 17 any prosecution under this subsection (d), a certified copy 18 19 of the driving abstract of the defendant shall be admitted 20 as proof of any prior conviction. Any person sentenced 21 under this subsection (d) who receives a term of probation 22 or conditional discharge must serve a minimum term of 23 either 480 hours of community service or 10 days of 24 imprisonment as a condition of the probation or conditional 25 discharge. This mandatory minimum term of imprisonment or 26 assignment of community service may not be suspended or SB2494 Enrolled - 30 - LRB095 17436 RLC 43508 b

1 reduced by the court.

2 (e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based 3 upon an arrest for a violation of this Section or a similar 4 provision of a local ordinance, individuals shall be required 5 to undergo a professional evaluation to determine if an 6 7 alcohol, drug, or intoxicating compound abuse problem exists 8 and the extent of the problem, and undergo the imposition of 9 treatment appropriate. Programs conducting as these 10 evaluations shall be licensed by the Department of Human 11 Services. The cost of any professional evaluation shall be paid 12 for by the individual required to undergo the professional 13 evaluation.

(e-1) Any person who is found guilty of or pleads guilty to 14 15 violating this Section, including any person receiving a 16 disposition of court supervision for violating this Section, 17 may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's 18 19 office, a probation and court services department, Mothers 20 Against Drunk Driving, or the Alliance Against Intoxicated 21 Motorists. All costs generated by the victim impact panel shall 22 be paid from fees collected from the offender or as may be 23 determined by the court.

(f) Every person found guilty of violating this Section,
 whose operation of a motor vehicle while in violation of this
 Section proximately caused any incident resulting in an

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appropriate emergency response, shall be liable for the expense
 of an emergency response as provided in subsection (m) of this
 Section.

4 (g) The Secretary of State shall revoke the driving 5 privileges of any person convicted under this Section or a 6 similar provision of a local ordinance.

(h) (Blank).

7

8 (i) The Secretary of State shall require the use of 9 ignition interlock devices on all vehicles owned by an 10 individual who has been convicted of a second or subsequent 11 offense of this Section or a similar provision of a local 12 ordinance. The Secretary shall establish by rule and regulation 13 the procedures for certification and use of the interlock 14 system.

15 (j) In addition to any other penalties and liabilities, a 16 person who is found guilty of or pleads guilty to violating 17 subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, 18 payable to the circuit clerk, who shall distribute the money as 19 20 follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit 21 22 into the General Revenue Fund. If the person has been 23 previously convicted of violating subsection (a) or a similar 24 provision of a local ordinance, the fine shall be \$1,000. In 25 the event that more than one agency is responsible for the 26 arrest, the amount payable to law enforcement agencies shall be

shared equally. Any moneys received by a law enforcement agency 1 2 under this subsection (j) shall be used for enforcement and prevention of driving while under the influence of alcohol, 3 other drug or drugs, intoxicating compound or compounds or any 4 5 combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and 6 7 commodities that will assist in the prevention of alcohol 8 related criminal violence throughout the State; police officer 9 training and education in areas related to alcohol related 10 crime, including but not limited to DUI training; and police 11 officer salaries, including but not limited to salaries for 12 hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities 13 14 shall include, but are not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath 15 16 testers. Any moneys received by the Department of State Police 17 under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used for enforcement 18 and prevention of driving while under the influence of alcohol, 19 20 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 21 22 not limited to the purchase of law enforcement equipment and 23 commodities that will assist in the prevention of alcohol 24 related criminal violence throughout the State; police officer 25 training and education in areas related to alcohol related 26 crime, including but not limited to DUI training; and police

officer salaries, including but not limited to salaries for
 hire back funding for safety checkpoints, saturation patrols,
 and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a 4 5 special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section 6 shall be deposited into the Secretary of State Police DUI Fund 7 8 and, subject to appropriation, shall be used for enforcement 9 and prevention of driving while under the influence of alcohol, 10 other drug or drugs, intoxicating compound or compounds or any 11 combination thereof, as defined by this Section, including but 12 not limited to the purchase of law enforcement equipment and commodities to assist in the prevention of alcohol related 13 14 criminal violence throughout the State; police officer 15 training and education in areas related to alcohol related 16 crime, including but not limited to DUI training; and police 17 officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, 18 19 and liquor store sting operations.

(1) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor SB2494 Enrolled - 34 - LRB095 17436 RLC 43508 b

1 any remedial compliance with education or treatment 2 recommendations contained in the professional evaluation. 3 Programs conducting alcohol or other drug evaluation or 4 remedial education must be licensed by the Department of Human 5 Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug 6 evaluation or remedial education program in the individual's 7 8 state of residence. Programs providing treatment must be 9 licensed under existing applicable alcoholism and drug 10 treatment licensure standards.

11 (m) In addition to any other fine or penalty required by 12 law, an individual convicted of a violation of subsection (a), 13 Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a 14 15 similar provision, whose operation of a motor vehicle, 16 snowmobile, or watercraft while in violation of subsection (a), 17 Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a 18 19 similar provision proximately caused an incident resulting in 20 an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency 21 22 response. The restitution may not exceed \$1,000 per public 23 agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a 24 25 response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an 26

SB2494 Enrolled - 35 - LRB095 17436 RLC 43508 b 1 ambulance. (Source: P.A. 94-110, eff. 1-1-06; 94-963, eff. 6-28-06; 2 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.) 3 (Text of Section from P.A. 94-113, 94-609, 94-963, 95-149, 4 5 and 95-355) 6 Sec. 11-501. Driving while under the influence of alcohol, 7 other drug or drugs, intoxicating compound or compounds or any combination thereof. 8 9 (a) A person shall not drive or be in actual physical 10 control of any vehicle within this State while: 11 (1) the alcohol concentration in the person's blood or 12 breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2; 13 14 (2) under the influence of alcohol; 15 (3) under the influence of any intoxicating compound or 16 combination of intoxicating compounds to a degree that renders the person incapable of driving safely; 17 18 (4) under the influence of any other druq or 19 combination of drugs to a degree that renders the person incapable of safely driving; 20 21 (5) under the combined influence of alcohol, other drug 22 or drugs, or intoxicating compound or compounds to a degree 23 that renders the person incapable of safely driving; or 24 (6) there is any amount of a drug, substance, or 25 compound in the person's breath, blood, or urine resulting SB2494 Enrolled - 36 - LRB095 17436 RLC 43508 b

from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

7 (b) The fact that any person charged with violating this 8 Section is or has been legally entitled to use alcohol, other 9 drug or drugs, or intoxicating compound or compounds, or any 10 combination thereof, shall not constitute a defense against any 11 charge of violating this Section.

12

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

(1) Any reference to a prior violation of subsection
(a) or a similar provision includes any violation of a
provision of a local ordinance or a provision of a law of
another state or an offense committed on a military
installation that is similar to a violation of subsection
(a) of this Section.

19 (2) Any penalty imposed for driving with a license that
20 has been revoked for a previous violation of subsection (a)
21 of this Section shall be in addition to the penalty imposed
22 for any subsequent violation of subsection (a).

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

26 (b-3) In addition to any other criminal or administrative

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1 sanction for any second conviction of violating subsection (a) 2 or a similar provision committed within 5 years of a previous 3 violation of subsection (a) or a similar provision, the 4 defendant shall be sentenced to a mandatory minimum of 5 days 5 of imprisonment or assigned a mandatory minimum of 240 hours of 6 community service as may be determined by the court.

7 (b-4) In the case of a third or subsequent violation 8 committed within 5 years of a previous violation of subsection 9 (a) or a similar provision, in addition to any other criminal 10 or administrative sanction, a mandatory minimum term of either 11 10 days of imprisonment or 480 hours of community service shall 12 be imposed.

13 (b-5) The imprisonment or assignment of community service 14 under subsections (b-3) and (b-4) shall not be subject to 15 suspension, nor shall the person be eligible for a reduced 16 sentence.

17 (c) (Blank).

18 (c-1) (1) A person who violates subsection (a) during a
19 period in which his or her driving privileges are revoked
20 or suspended, where the revocation or suspension was for a
21 violation of subsection (a) <u>or a similar provision</u>, Section
22 11-501.1, paragraph (b) of Section 11-401, or for reckless
23 homicide as defined in Section 9-3 of the Criminal Code of
24 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time,
if the third violation occurs during a period in which his

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

7 (2.1) A person who violates subsection (a) a third 8 time, if the third violation occurs during a period in 9 which his or her driving privileges are revoked or 10 suspended where the revocation or suspension was for a 11 violation of subsection (a), Section 11-501.1, subsection 12 (b) of Section 11-401, or for reckless homicide as defined 13 in Section 9-3 of the Criminal Code of 1961, is guilty of a 14 Class 3 felony; and if the person receives a term of 15 probation or conditional discharge, he or she shall be 16 required to serve a mandatory minimum of 10 days of 17 imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the 18 19 court, as a condition of the probation or conditional 20 discharge. This mandatory minimum term of imprisonment or 21 assignment of community service shall not be suspended or 22 reduced by the court.

23 (2.2) A person who violates subsection (a), if the 24 violation occurs during a period in which his or her 25 driving privileges are revoked or suspended where the 26 revocation or suspension was for a violation of subsection SB2494 Enrolled - 39 - LRB095 17436 RLC 43508 b

1 (a) or Section 11-501.1, shall also be sentenced to an 2 additional mandatory minimum term of 30 consecutive days of 3 imprisonment, 40 days of 24-hour periodic imprisonment, or 4 720 hours of community service, as may be determined by the 5 court. This mandatory term of imprisonment or assignment of 6 community service shall not be suspended or reduced by the 7 court.

8 (3) A person who violates subsection (a) a fourth or 9 subsequent time, if the fourth or subsequent violation 10 occurs during a period in which his or her driving 11 privileges are revoked or suspended where the revocation or 12 suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless 13 homicide as defined in Section 9-3 of the Criminal Code of 14 1961, is guilty of a Class 2 felony and is not eligible for 15 16 a sentence of probation or conditional discharge.

- 17 (c-2) (Blank).
- 18 (c-3) (Blank).
- 19 (c-4) (Blank).

20 (c-5) A person who violates subsection (a), if the person 21 was transporting a person under the age of 16 at the time of 22 the violation, is subject to an additional mandatory minimum 23 fine of \$1,000, an additional mandatory minimum 140 hours of 24 community service, which shall include 40 hours of community 25 service in a program benefiting children, and an additional 2 26 days of imprisonment. The imprisonment or assignment of 1 2 community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a 3 person who violates subsection (a) a second time, if at the 4 5 time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days 6 of imprisonment, an additional mandatory minimum fine of 7 8 \$1,000, and an additional mandatory minimum 140 hours of 9 community service, which shall include 40 hours of community 10 service in a program benefiting children. The imprisonment or 11 assignment of community service under this subsection (c-6) is 12 not subject to suspension, nor is the person eligible for a 13 reduced sentence.

(c-7) Except as provided in subsection (c-8), any person 14 15 convicted of violating subsection (c-6) or a similar provision 16 within 10 years of a previous violation of subsection (a) or a 17 similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an 18 additional 40 hours of mandatory community service in a program 19 20 benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this 21 22 subsection (c-7) is not subject to suspension, nor is the 23 person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or
a similar provision within 5 years of a previous violation of
subsection (a) or a similar provision shall receive, in

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addition to any other penalty imposed, an additional 80 hours 1 2 of mandatory community service in a program benefiting additional mandatory minimum 12 3 children, an days of imprisonment, and a mandatory minimum fine of \$1,750. The 4 5 imprisonment or assignment of community service under this 6 subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence. 7

8 (c-9) Any person convicted a third time for violating 9 subsection (a) or a similar provision, if at the time of the 10 third violation the person was transporting a person under the 11 age of 16, is guilty of a Class 4 felony and shall receive, in 12 addition to any other penalty imposed, an additional mandatory 13 fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting 14 15 children, and a mandatory minimum 30 days of imprisonment. The 16 imprisonment or assignment of community service under this 17 subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence. 18

(c-10) Any person convicted of violating subsection (c-9) 19 20 or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is 21 22 quilty of a Class 4 felony and shall receive, in addition to 23 any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, 24 an 25 additional mandatory fine of \$3,000, and a mandatory minimum 26 120 days of imprisonment. The imprisonment or assignment of SB2494 Enrolled - 42 - LRB095 17436 RLC 43508 b

1 community service under this subsection (c-10) is not subject 2 to suspension, nor is the person eligible for a reduced 3 sentence.

(c-11) Any person convicted a fourth or subsequent time for 4 5 violating subsection (a) or a similar provision, if at the time subsequent violation the person 6 of the fourth or was 7 transporting a person under the age of 16, and if the person's 8 3 prior violations of subsection (a) or a similar provision 9 occurred while transporting a person under the age of 16 or 10 while the alcohol concentration in his or her blood, breath, or 11 urine was 0.16 or more based on the definition of blood, 12 breath, or urine units in Section 11-501.2, is guilty of a 13 Class 2 felony, is not eligible for probation or conditional 14 discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of 15 16 subsection (a) or a similar provision, if the alcohol 17 concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units 18 in Section 11-501.2, shall be subject, in addition to any other 19 penalty that may be imposed, to a mandatory minimum of 100 20 hours of community service and a mandatory minimum fine of 21 22 \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of SB2494 Enrolled - 43 - LRB095 17436 RLC 43508 b

1 subsection (a) or a similar provision, if at the time of the 2 second violation of subsection (a) the alcohol concentration in 3 his or her blood, breath, or urine was 0.16 or more based on 4 the definition of blood, breath, or urine units in Section 5 11-501.2, shall be subject, in addition to any other penalty 6 that may be imposed, to a mandatory minimum of 2 days of 7 imprisonment and a mandatory minimum fine of \$1,250.

8 (c-14) Any person convicted of a third violation of 9 subsection (a) or a similar provision within 20 years of a 10 previous violation of subsection (a) or a similar provision, if 11 at the time of the third violation of subsection (a) or a 12 similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on 13 the 14 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, 15 16 in addition to any other penalty that may be imposed, to a 17 mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500. 18

19 (c-15) Any person convicted of a fourth or subsequent 20 violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol 21 22 concentration in his or her blood, breath, or urine was 0.16 or 23 more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of 24 25 subsection (a) or a similar provision occurred while 26 transporting a person under the age of 16 or while the alcohol SB2494 Enrolled - 44 - LRB095 17436 RLC 43508 b

1 concentration in his or her blood, breath, or urine was 0.16 or 2 more based on the definition of blood, breath, or urine units 3 in Section 11-501.2, is guilty of a Class 2 felony and is not 4 eligible for a sentence of probation or conditional discharge 5 and is subject to a minimum fine of \$2,500.

6 (d) (1) Every person convicted of committing a violation of 7 this Section shall be guilty of aggravated driving under 8 the influence of alcohol, other drug or drugs, or 9 intoxicating compound or compounds, or any combination 10 thereof if:

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

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

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

(D) the person committed a violation of subsection
(a) for a second time and has been previously convicted
of violating Section 9-3 of the Criminal Code of 1961
or a similar provision of a law of another state
relating to reckless homicide in which the person was

determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

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6 (E) the person, in committing a violation of 7 subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per 8 9 hour was in effect under subsection (a) of Section 10 11-605 of this Code, was involved in a motor vehicle 11 accident that resulted in bodily harm, other than great 12 bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) 13 14 was a proximate cause of the bodily harm; or

15 (F) the person, in committing a violation of 16 subsection (a), was involved in a motor vehicle, 17 snowmobile, all-terrain vehicle, or watercraft 18 accident that resulted in the death of another person, 19 when the violation of subsection (a) was a proximate 20 cause of the death.

(2) Except as provided in this paragraph (2), a person
convicted of aggravated driving under the influence of
alcohol, other drug or drugs, or intoxicating compound or
compounds, or any combination thereof is guilty of a Class
4 felony. For a violation of subparagraph (C) of paragraph
(1) of this subsection (d), the defendant, if sentenced to

a term of imprisonment, shall be sentenced to not less than 1 2 one year nor more than 12 years. Appravated driving under influence of alcohol, other drug or 3 the drugs, or intoxicating compound or compounds, or any combination 4 5 thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the 6 7 defendant, unless the court determines that extraordinary 8 circumstances exist and require probation, shall be 9 sentenced to: (A) a term of imprisonment of not less than 3 10 years and not more than 14 years if the violation resulted 11 in the death of one person; or (B) a term of imprisonment 12 of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For 13 14 any prosecution under this subsection (d), a certified copy 15 of the driving abstract of the defendant shall be admitted 16 as proof of any prior conviction. Any person sentenced 17 under this subsection (d) who receives a term of probation 18 or conditional discharge must serve a minimum term of 19 either 480 hours of community service or 10 days of 20 imprisonment as a condition of the probation or conditional 21 discharge. This mandatory minimum term of imprisonment or 22 assignment of community service may not be suspended or 23 reduced by the court.

(e) After a finding of guilt and prior to any final
sentencing, or an order for supervision, for an offense based
upon an arrest for a violation of this Section or a similar

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provision of a local ordinance, individuals shall be required 1 2 to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists 3 and the extent of the problem, and undergo the imposition of 4 Programs 5 treatment as appropriate. conducting these 6 evaluations shall be licensed by the Department of Human 7 Services. The cost of any professional evaluation shall be paid 8 for by the individual required to undergo the professional 9 evaluation.

10 (e-1) Any person who is found quilty of or pleads quilty to 11 violating this Section, including any person receiving a 12 disposition of court supervision for violating this Section, 13 may be required by the Court to attend a victim impact panel 14 offered by, or under contract with, a County State's Attorney's 15 office, a probation and court services department, Mothers 16 Against Drunk Driving, or the Alliance Against Intoxicated 17 Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be 18 19 determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

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(g) The Secretary of State shall revoke the driving

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privileges of any person convicted under this Section or a
 similar provision of a local ordinance.

(h) (Blank).

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4 (i) The Secretary of State shall require the use of 5 ignition interlock devices on all vehicles owned by an 6 individual who has been convicted of a second or subsequent 7 offense of this Section or a similar provision of a local 8 ordinance. The Secretary shall establish by rule and regulation 9 the procedures for certification and use of the interlock 10 system.

11 (j) In addition to any other penalties and liabilities, a 12 person who is found guilty of or pleads guilty to violating 13 (a), including any person placed subsection on court 14 supervision for violating subsection (a), shall be fined \$500, 15 payable to the circuit clerk, who shall distribute the money as 16 follows: 20% to the law enforcement agency that made the arrest 17 and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been 18 19 previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In 20 21 the event that more than one agency is responsible for the 22 arrest, the amount payable to law enforcement agencies shall be 23 shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used for enforcement and 24 25 prevention of driving while under the influence of alcohol, 26 other drug or drugs, intoxicating compound or compounds or any

combination thereof, as defined by this Section, including but 1 2 not limited to the purchase of law enforcement equipment and 3 commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer 4 5 training and education in areas related to alcohol related crime, including but not limited to DUI training; and police 6 7 officer salaries, including but not limited to salaries for 8 hire back funding for safety checkpoints, saturation patrols, 9 and liquor store sting operations. Equipment and commodities 10 shall include, but are not limited to, in-car video cameras, 11 radar and laser speed detection devices, and alcohol breath 12 testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State 13 Police DUI Fund and shall be used for enforcement and 14 15 prevention of driving while under the influence of alcohol, 16 other drug or drugs, intoxicating compound or compounds or any 17 combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and 18 commodities that will assist in the prevention of alcohol 19 20 related criminal violence throughout the State; police officer training and education in areas related to alcohol related 21 22 crime, including but not limited to DUI training; and police 23 officer salaries, including but not limited to salaries for 24 hire back funding for safety checkpoints, saturation patrols, 25 and liquor store sting operations.

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(k) The Secretary of State Police DUI Fund is created as a

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special fund in the State treasury. All moneys received by the 1 2 Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund 3 and, subject to appropriation, shall be used for enforcement 4 5 and prevention of driving while under the influence of alcohol, 6 other drug or drugs, intoxicating compound or compounds or any 7 combination thereof, as defined by this Section, including but 8 not limited to the purchase of law enforcement equipment and 9 commodities to assist in the prevention of alcohol related 10 criminal violence throughout the State; police officer 11 training and education in areas related to alcohol related 12 crime, including but not limited to DUI training; and police 13 officer salaries, including but not limited to salaries for 14 hire back funding for safety checkpoints, saturation patrols, 15 and liquor store sting operations.

16 (1) Whenever an individual is sentenced for an offense 17 based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional 18 evaluation recommends remedial or rehabilitative treatment or 19 20 education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in 21 22 conjunction with another disposition. The court shall monitor 23 with remedial education compliance any or treatment 24 recommendations contained in the professional evaluation. 25 Programs conducting alcohol or other drug evaluation or 26 remedial education must be licensed by the Department of Human SB2494 Enrolled - 51 - LRB095 17436 RLC 43508 b

1 Services. If the individual is not a resident of Illinois, 2 however, the court may accept an alcohol or other drug 3 evaluation or remedial education program in the individual's 4 state of residence. Programs providing treatment must be 5 licensed under existing applicable alcoholism and drug 6 treatment licensure standards.

7 (m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), 8 9 Section 5-7 of the Snowmobile Registration and Safety Act, 10 Section 5-16 of the Boat Registration and Safety Act, or a 11 similar provision, whose operation of a motor vehicle, 12 snowmobile, or watercraft while in violation of subsection (a), 13 Section 5-7 of the Snowmobile Registration and Safety Act, 14 Section 5-16 of the Boat Registration and Safety Act, or a 15 similar provision proximately caused an incident resulting in 16 an appropriate emergency response, shall be required to make 17 restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public 18 19 agency for each emergency response. As used in this subsection 20 (m), "emergency response" means any incident requiring a 21 response by a police officer, a firefighter carried on the 22 rolls of a regularly constituted fire department, or an 23 ambulance.

24 (Source: P.A. 94-113, eff. 1-1-06; 94-609, eff. 1-1-06; 94-963, 25 eff. 6-28-06; 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; 26 revised 11-28-07.) SB2494 Enrolled

1 (Text of Section from P.A. 94-114, 94-963, 95-149, and 2 95-355)

3 Sec. 11-501. Driving while under the influence of alcohol,
4 other drug or drugs, intoxicating compound or compounds or any
5 combination thereof.

6 (a) A person shall not drive or be in actual physical7 control of any vehicle within this State while:

8 (1) the alcohol concentration in the person's blood or 9 breath is 0.08 or more based on the definition of blood and 10 breath units in Section 11-501.2;

11

(2) under the influence of alcohol;

12 (3) under the influence of any intoxicating compound or 13 combination of intoxicating compounds to a degree that 14 renders the person incapable of driving safely;

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act,
 or methamphetamine as listed in the Methamphetamine
 Control and Community Protection Act.

4 (b) The fact that any person charged with violating this 5 Section is or has been legally entitled to use alcohol, other 6 drug or drugs, or intoxicating compound or compounds, or any 7 combination thereof, shall not constitute a defense against any 8 charge of violating this Section.

9

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

10 (1) Any reference to a prior violation of subsection 11 (a) or a similar provision includes any violation of a 12 provision of a local ordinance or a provision of a law of 13 another state or an offense committed on a military 14 installation that is similar to a violation of subsection 15 (a) of this Section.

16 (2) Any penalty imposed for driving with a license that
17 has been revoked for a previous violation of subsection (a)
18 of this Section shall be in addition to the penalty imposed
19 for any subsequent violation of subsection (a).

20 (b-2) Except as otherwise provided in this Section, any 21 person convicted of violating subsection (a) of this Section is 22 guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the SB2494 Enrolled - 54 - LRB095 17436 RLC 43508 b

defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

4 (b-4) In the case of a third or subsequent violation 5 committed within 5 years of a previous violation of subsection 6 (a) or a similar provision, in addition to any other criminal 7 or administrative sanction, a mandatory minimum term of either 8 10 days of imprisonment or 480 hours of community service shall 9 be imposed.

10 (b-5) The imprisonment or assignment of community service 11 under subsections (b-3) and (b-4) shall not be subject to 12 suspension, nor shall the person be eligible for a reduced 13 sentence.

14 (c) (Blank).

15 (c-1) (1) A person who violates subsection (a) during a 16 period in which his or her driving privileges are revoked 17 or suspended, where the revocation or suspension was for a 18 violation of subsection (a) <u>or a similar provision</u>, Section 19 11-501.1, paragraph (b) of Section 11-401, or for reckless 20 homicide as defined in Section 9-3 of the Criminal Code of 21 1961 is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time,
if the third violation occurs during a period in which his
or her driving privileges are revoked or suspended where
the revocation or suspension was for a violation of
subsection (a), Section 11-501.1, paragraph (b) of Section

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11-401, or for reckless homicide as defined in Section 9-3
 of the Criminal Code of 1961, is guilty of a Class 3
 felony.

(2.1) A person who violates subsection (a) a third 4 5 time, if the third violation occurs during a period in which his or her driving privileges are revoked or 6 7 suspended where the revocation or suspension was for a 8 violation of subsection (a), Section 11-501.1, subsection 9 (b) of Section 11-401, or for reckless homicide as defined 10 in Section 9-3 of the Criminal Code of 1961, is quilty of a 11 Class 3 felony; and if the person receives a term of 12 probation or conditional discharge, he or she shall be 13 required to serve a mandatory minimum of 10 days of 14 imprisonment or shall be assigned a mandatory minimum of 15 480 hours of community service, as may be determined by the 16 court, as a condition of the probation or conditional 17 discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or 18 19 reduced by the court.

20 (2.2) A person who violates subsection (a), if the 21 violation occurs during a period in which his or her 22 driving privileges are revoked or suspended where the 23 revocation or suspension was for a violation of subsection 24 (a) or Section 11-501.1, shall also be sentenced to an 25 additional mandatory minimum term of 30 consecutive days of 26 imprisonment, 40 days of 24-hour periodic imprisonment, or SB2494 Enrolled

- 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 fifth time, if the fourth or fifth violation occurs during 7 a period in which his or her driving privileges are revoked 8 or suspended where the revocation or suspension was for a 9 violation of subsection (a), Section 11-501.1, paragraph 10 (b) of Section 11-401, or for reckless homicide as defined 11 in Section 9-3 of the Criminal Code of 1961, is guilty of a 12 Class 2 felony and is not eligible for a sentence of probation or conditional discharge. 13
- 14 (c-2) (Blank).
- 15 (c-3) (Blank).
- 16 (c-4) (Blank).

17 (c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of 18 19 the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of 20 community service, which shall include 40 hours of community 21 22 service in a program benefiting children, and an additional 2 23 imprisonment. The imprisonment or assignment of davs 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 SB2494 Enrolled - 57 - LRB095 17436 RLC 43508 b

person who violates subsection (a) a second time, if at the 1 2 time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days 3 of imprisonment, an additional mandatory minimum fine of 4 5 \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community 6 7 service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is 8 9 not subject to suspension, nor is the person eligible for a 10 reduced sentence.

11 (c-7) Except as provided in subsection (c-8), any person 12 convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a 13 similar provision shall receive, in addition to any other 14 15 penalty imposed, a mandatory minimum 12 days imprisonment, an 16 additional 40 hours of mandatory community service in a program 17 benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this 18 subsection (c-7) is not subject to suspension, nor is the 19 20 person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or 21 22 a similar provision within 5 years of a previous violation of 23 subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours 24 25 of mandatory community service in a program benefiting 26 children, an additional mandatory minimum 12 days of

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imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

5 (c-9) Any person convicted a third time for violating 6 subsection (a) or a similar provision, if at the time of the 7 third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in 8 9 addition to any other penalty imposed, an additional mandatory 10 fine of \$1,000, an additional mandatory 140 hours of community 11 service, which shall include 40 hours in a program benefiting 12 children, and a mandatory minimum 30 days of imprisonment. The 13 imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the 14 15 person eligible for a reduced sentence.

16 (c-10) Any person convicted of violating subsection (c-9)17 or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is 18 guilty of a Class 4 felony and shall receive, in addition to 19 20 any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, 21 an 22 additional mandatory fine of \$3,000, and a mandatory minimum 23 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject 24 25 to suspension, nor is the person eligible for a reduced 26 sentence.

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(c-11) Any person convicted a fourth or fifth time for 1 2 violating subsection (a) or a similar provision, if at the time of the fourth or fifth violation the person was transporting a 3 person under the age of 16, and if the person's 3 prior 4 5 violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the 6 7 alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine 8 9 units in Section 11-501.2, is quilty of a Class 2 felony, is 10 not eligible for probation or conditional discharge, and is 11 subject to a minimum fine of \$3,000.

12 (c-12) Any person convicted of a first violation of 13 similar provision, if the alcohol subsection (a) or a 14 concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units 15 16 in Section 11-501.2, shall be subject, in addition to any other 17 penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of 18 \$500. 19

20 (c-13) Any person convicted of a second violation of 21 subsection (a) or a similar provision committed within 10 years 22 of a previous violation of subsection (a) or a similar 23 provision committed within 10 years of a previous violation of 24 subsection (a) or a similar provision, if at the time of the 25 second violation of subsection (a) the alcohol concentration in 26 his or her blood, breath, or urine was 0.16 or more based on SB2494 Enrolled - 60 - LRB095 17436 RLC 43508 b

the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

5 (c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a 6 previous violation of subsection (a) or a similar provision, if 7 at the time of the third violation of subsection (a) or a 8 9 similar provision the alcohol concentration in his or her 10 blood, breath, or urine was 0.16 or more based on the 11 definition of blood, breath, or urine units in Section 12 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a 13 mandatory minimum of 90 days of imprisonment and a mandatory 14 15 minimum fine of \$2,500.

16 (c-15) Any person convicted of a fourth or fifth violation 17 of subsection (a) or a similar provision, if at the time of the fourth or fifth violation the alcohol concentration in his or 18 her blood, breath, or urine was 0.16 or more based on the 19 20 definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection 21 22 (a) or a similar provision occurred while transporting a person 23 under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the 24 25 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for 26

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- a sentence of probation or conditional discharge and is subject
   to a minimum fine of \$2,500.
- 3

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(c-16) Any person convicted of a sixth or subsequent violation of subsection (a) is guilty of a Class X felony.

5 (d) (1) Every person convicted of committing a violation of 6 this Section shall be guilty of aggravated driving under 7 the influence of alcohol, other drug or drugs, or 8 intoxicating compound or compounds, or any combination 9 thereof if:

10 (A) the person committed a violation of subsection 11 (a) or a similar provision for the third or subsequent 12 time;

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

16 (C) the person in committing a violation of 17 subsection (a) was involved in a motor vehicle accident 18 that resulted in great bodily harm or permanent 19 disability or disfigurement to another, when the 20 violation was a proximate cause of the injuries;

21 (D) the person committed a violation of subsection 22 (a) for a second time and has been previously convicted 23 of violating Section 9-3 of the Criminal Code of 1961 24 or a similar provision of a law of another state 25 relating to reckless homicide in which the person was 26 determined to have been under the influence of alcohol, SB2494 Enrolled

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other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

5 (E) the person, in committing a violation of subsection (a) while driving at any speed in a school 6 7 speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 8 9 11-605 of this Code, was involved in a motor vehicle 10 accident that resulted in bodily harm, other than great 11 bodily harm or permanent disability or disfigurement, 12 to another person, when the violation of subsection (a) was a proximate cause of the bodily harm; or 13

14 (F) the person, in committing a violation of 15 subsection (a), was involved in a motor vehicle, 16 snowmobile, all-terrain vehicle, or watercraft 17 accident that resulted in the death of another person, when the violation of subsection (a) was a proximate 18 19 cause of the death.

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

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

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an SB2494 Enrolled - 64 - LRB095 17436 RLC 43508 b

alcohol, drug, or intoxicating compound abuse problem exists 1 2 and the extent of the problem, and undergo the imposition of 3 treatment appropriate. Programs conducting as these evaluations shall be licensed by the Department of Human 4 5 Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional 6 7 evaluation.

8 (e-1) Any person who is found quilty of or pleads quilty to 9 violating this Section, including any person receiving a 10 disposition of court supervision for violating this Section, 11 may be required by the Court to attend a victim impact panel 12 offered by, or under contract with, a County State's Attorney's 13 office, a probation and court services department, Mothers 14 Against Drunk Driving, or the Alliance Against Intoxicated 15 Motorists. All costs generated by the victim impact panel shall 16 be paid from fees collected from the offender or as may be 17 determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

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

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1 (h) (Blank).

2 (i) The Secretary of State shall require the use of 3 ignition interlock devices on all vehicles owned by an 4 individual who has been convicted of a second or subsequent 5 offense of this Section or a similar provision of a local 6 ordinance. The Secretary shall establish by rule and regulation 7 the procedures for certification and use of the interlock 8 system.

9 (j) In addition to any other penalties and liabilities, a 10 person who is found quilty of or pleads quilty to violating 11 subsection (a), including any person placed on court 12 supervision for violating subsection (a), shall be fined \$500, 13 payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest 14 and 80% shall be forwarded to the State Treasurer for deposit 15 16 into the General Revenue Fund. If the person has been 17 previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In 18 19 the event that more than one agency is responsible for the 20 arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency 21 22 under this subsection (j) shall be used for enforcement and 23 prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any 24 25 combination thereof, as defined by this Section, including but 26 not limited to the purchase of law enforcement equipment and

commodities that will assist in the prevention of alcohol 1 2 related criminal violence throughout the State; police officer training and education in areas related to alcohol related 3 crime, including but not limited to DUI training; and police 4 5 officer salaries, including but not limited to salaries for hire back funding for safety checkpoints, saturation patrols, 6 7 and liquor store sting operations. Equipment and commodities 8 shall include, but are not limited to, in-car video cameras, 9 radar and laser speed detection devices, and alcohol breath 10 testers. Any moneys received by the Department of State Police 11 under this subsection (j) shall be deposited into the State 12 Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, 13 14 other drug or drugs, intoxicating compound or compounds or any 15 combination thereof, as defined by this Section, including but 16 not limited to the purchase of law enforcement equipment and 17 commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer 18 training and education in areas related to alcohol related 19 20 crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for 21 22 hire back funding for safety checkpoints, saturation patrols, 23 and liquor store sting operations.

(k) The Secretary of State Police DUI Fund is created as a
special fund in the State treasury. All moneys received by the
Secretary of State Police under subsection (j) of this Section

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shall be deposited into the Secretary of State Police DUI Fund 1 2 and, subject to appropriation, shall be used for enforcement and prevention of driving while under the influence of alcohol, 3 other drug or drugs, intoxicating compound or compounds or any 4 5 combination thereof, as defined by this Section, including but not limited to the purchase of law enforcement equipment and 6 7 commodities to assist in the prevention of alcohol related 8 criminal violence throughout the State; police officer 9 training and education in areas related to alcohol related 10 crime, including but not limited to DUI training; and police 11 officer salaries, including but not limited to salaries for 12 hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. 13

(1) Whenever an individual is sentenced for an offense 14 15 based upon an arrest for a violation of subsection (a) or a 16 similar provision of a local ordinance, and the professional 17 evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the 18 sole disposition and either or both may be imposed only in 19 20 conjunction with another disposition. The court shall monitor 21 compliance with any remedial education or treatment 22 recommendations contained in the professional evaluation. 23 Programs conducting alcohol or other drug evaluation or 24 remedial education must be licensed by the Department of Human 25 Services. If the individual is not a resident of Illinois, 26 however, the court may accept an alcohol or other drug SB2494 Enrolled - 68 - LRB095 17436 RLC 43508 b

evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

5 (m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), 6 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, whose operation of a motor vehicle, 10 snowmobile, or watercraft while in violation of subsection (a), 11 Section 5-7 of the Snowmobile Registration and Safety Act, 12 Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in 13 14 an appropriate emergency response, shall be required to make 15 restitution to a public agency for the costs of that emergency 16 response. The restitution may not exceed \$1,000 per public 17 agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a 18 19 response by a police officer, a firefighter carried on the 20 rolls of a regularly constituted fire department, or an 21 ambulance.

22 (Source: P.A. 94-114, eff. 1-1-06; 94-963, eff. 6-28-06;
23 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

24 (Text of Section from P.A. 94-116, 94-963, 95-149, and 25 95-355)

1	Sec. 11-501. Driving while under the influence of alcohol,
2	other drug or drugs, intoxicating compound or compounds or any
3	combination thereof.
4	(a) A person shall not drive or be in actual physical
5	control of any vehicle within this State while:
6	(1) the alcohol concentration in the person's blood or
7	breath is 0.08 or more based on the definition of blood and
8	breath units in Section 11-501.2;
9	(2) under the influence of alcohol;
10	(3) under the influence of any intoxicating compound or
11	combination of intoxicating compounds to a degree that
12	renders the person incapable of driving safely;
13	(4) under the influence of any other drug or
14	combination of drugs to a degree that renders the person
15	incapable of safely driving;
16	(5) under the combined influence of alcohol, other drug
17	or drugs, or intoxicating compound or compounds to a degree
18	that renders the person incapable of safely driving; or
19	(6) there is any amount of a drug, substance, or
20	compound in the person's breath, blood, or urine resulting
21	from the unlawful use or consumption of cannabis listed in
22	the Cannabis Control Act, a controlled substance listed in
23	the Illinois Controlled Substances Act, an intoxicating
24	compound listed in the Use of Intoxicating Compounds Act,
25	or methamphetamine as listed in the Methamphetamine
26	Control and Community Protection Act.

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1 (b) The fact that any person charged with violating this 2 Section is or has been legally entitled to use alcohol, other 3 drug or drugs, or intoxicating compound or compounds, or any 4 combination thereof, shall not constitute a defense against any 5 charge of violating this Section.

6

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

7 (1) Any reference to a prior violation of subsection 8 (a) or a similar provision includes any violation of a 9 provision of a local ordinance or a provision of a law of 10 another state or an offense committed on a military 11 installation that is similar to a violation of subsection 12 (a) of this Section.

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

17 (b-2) Except as otherwise provided in this Section, any 18 person convicted of violating subsection (a) of this Section is 19 guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court. SB2494 Enrolled - 71 - LRB095 17436 RLC 43508 b

1 (b-4) In the case of a third violation committed within 5 2 years of a previous violation of subsection (a) or a similar 3 provision, the defendant is guilty of a Class 2 felony, and in 4 addition to any other criminal or administrative sanction, a 5 mandatory minimum term of either 10 days of imprisonment or 480 6 hours of community service shall be imposed.

7 (b-5) The imprisonment or assignment of community service 8 under subsections (b-3) and (b-4) shall not be subject to 9 suspension, nor shall the person be eligible for a reduced 10 sentence.

11

(c) (Blank).

12 (c-1) (1) A person who violates subsection (a) during a 13 period in which his or her driving privileges are revoked 14 or suspended, where the revocation or suspension was for a 15 violation of subsection (a) <u>or a similar provision</u>, Section 16 11-501.1, paragraph (b) of Section 11-401, or for reckless 17 homicide as defined in Section 9-3 of the Criminal Code of 18 1961 is guilty of a Class 4 felony.

19 (2) A person who violates subsection (a) a third time20 is guilty of a Class 2 felony.

(2.1) A person who violates subsection (a) a third
time, if the third violation occurs during a period in
which his or her driving privileges are revoked or
suspended where the revocation or suspension was for a
violation of subsection (a), Section 11-501.1, subsection
(b) of Section 11-401, or for reckless homicide as defined

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in Section 9-3 of the Criminal Code of 1961, is quilty of a 1 2 Class 2 felony; and if the person receives a term of 3 probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of 4 5 imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the 6 court, as a condition of the probation or conditional 7 8 discharge. This mandatory minimum term of imprisonment or 9 assignment of community service shall not be suspended or 10 reduced by the court.

11 (2.2) A person who violates subsection (a), if the 12 violation occurs during a period in which his or her driving privileges are revoked or suspended where the 13 14 revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an 15 16 additional mandatory minimum term of 30 consecutive days of 17 imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the 18 19 court. This mandatory term of imprisonment or assignment of 20 community service shall not be suspended or reduced by the 21 court.

(3) A person who violates subsection (a) a fourth time
is guilty of a Class 2 felony and is not eligible for a
sentence of probation or conditional discharge.

(4) A person who violates subsection (a) a fifth or
 subsequent time is guilty of a Class 1 felony and is not

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eligible for a sentence of probation or conditional
 discharge.

3 (c-2) (Blank).

4 (c-3) (Blank).

5 (c-4) (Blank).

(c-5) A person who violates subsection (a), if the person 6 7 was transporting a person under the age of 16 at the time of 8 the violation, is subject to an additional mandatory minimum 9 fine of \$1,000, an additional mandatory minimum 140 hours of 10 community service, which shall include 40 hours of community 11 service in a program benefiting children, and an additional 2 12 imprisonment. The imprisonment or assignment of days of 13 community service under this subsection (c-5) is not subject to 14 suspension, nor is the person eligible for a reduced sentence.

15 (c-6) Except as provided in subsections (c-7) and (c-8) a 16 person who violates subsection (a) a second time, if at the 17 time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days 18 19 of imprisonment, an additional mandatory minimum fine of 20 \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community 21 22 service in a program benefiting children. The imprisonment or 23 assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a 24 25 reduced sentence.

26

(c-7) Except as provided in subsection (c-8), any person

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

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

20 (c-9) Any person convicted a third time for violating 21 subsection (a) or a similar provision, if at the time of the 22 third violation the person was transporting a person under the 23 age of 16, is guilty of a Class 2 felony and shall receive, in 24 addition to any other penalty imposed, an additional mandatory 25 fine of \$1,000, an additional mandatory 140 hours of community 26 service, which shall include 40 hours in a program benefiting SB2494 Enrolled - 75 - LRB095 17436 RLC 43508 b

children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

5 (c-10) Any person convicted of violating subsection (c-9)or a similar provision a third time within 20 years of a 6 7 previous violation of subsection (a) or a similar provision is quilty of a Class 2 felony and shall receive, in addition to 8 9 any other penalty imposed, an additional mandatory 40 hours of 10 community service in a program benefiting children, an 11 additional mandatory fine of \$3,000, and a mandatory minimum 12 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject 13 14 to suspension, nor is the person eligible for a reduced 15 sentence.

16 (c-11) Any person convicted a fourth time for violating 17 subsection (a) or a similar provision, if at the time of the fourth violation the person was transporting a person under the 18 age of 16, and if the person's 3 prior violations of subsection 19 20 (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his 21 22 or her blood, breath, or urine was 0.16 or more based on the 23 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for 24 25 probation or conditional discharge, and is subject to a minimum fine of \$3,000. 26

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(c-12) Any person convicted of a first violation of 1 2 similar provision, if the alcohol subsection (a) or a concentration in his or her blood, breath, or urine was 0.16 or 3 more based on the definition of blood, breath, or urine units 4 5 in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 6 7 hours of community service and a mandatory minimum fine of \$500. 8

9 (c-13) Any person convicted of a second violation of 10 subsection (a) or a similar provision committed within 10 years 11 of a previous violation of subsection (a) or a similar 12 provision committed within 10 years of a previous violation of 13 subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in 14 his or her blood, breath, or urine was 0.16 or more based on 15 16 the definition of blood, breath, or urine units in Section 17 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of 18 19 imprisonment and a mandatory minimum fine of \$1,250.

20 (c-14) Any person convicted of a third violation of 21 subsection (a) or a similar provision within 20 years of a 22 previous violation of subsection (a) or a similar provision, if 23 at the time of the third violation of subsection (a) or a 24 similar provision the alcohol concentration in his or her 25 blood, breath, or urine was 0.16 or more based on the 26 definition of blood, breath, or urine units in Section SB2494 Enrolled - 77 - LRB095 17436 RLC 43508 b

1 11-501.2, is guilty of a Class 2 felony and shall be subject, 2 in addition to any other penalty that may be imposed, to a 3 mandatory minimum of 90 days of imprisonment and a mandatory 4 minimum fine of \$2,500.

5 (c-15) Any person convicted of a fourth violation of subsection (a) or a similar provision, if at the time of the 6 7 fourth violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of 8 9 blood, breath, or urine units in Section 11-501.2, and if the 10 person's 3 prior violations of subsection (a) or a similar 11 provision occurred while transporting a person under the age of 12 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of 13 blood, breath, or urine units in Section 11-501.2, is guilty of 14 15 a Class 2 felony and is not eligible for a sentence of 16 probation or conditional discharge and is subject to a minimum 17 fine of \$2,500.

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

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

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(B) the person committed a violation of subsection

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(a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection 8 9 (a) for a second time and has been previously convicted 10 of violating Section 9-3 of the Criminal Code of 1961 11 or a similar provision of a law of another state 12 relating to reckless homicide in which the person was 13 determined to have been under the influence of alcohol, 14 other drug or drugs, or intoxicating compound or 15 compounds as an element of the offense or the person 16 has previously been convicted under subparagraph (C) 17 or subparagraph (F) of this paragraph (1);

18 (E) the person, in committing a violation of 19 subsection (a) while driving at any speed in a school 20 speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 21 22 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great 23 24 bodily harm or permanent disability or disfigurement, 25 to another person, when the violation of subsection (a) 26 was a proximate cause of the bodily harm; or

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the person, in committing a violation of 1 (F) subsection (a), was involved in a motor vehicle, 2 3 all-terrain vehicle, or watercraft snowmobile, accident that resulted in the death of another person, 4 5 when the violation of subsection (a) was a proximate cause of the death. 6

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7 (2) Except as provided in this paragraph (2) and in paragraphs (3) and (4) of subsection (c-1), a person 8 9 convicted of aggravated driving under the influence of 10 alcohol, other drug or drugs, or intoxicating compound or 11 compounds, or any combination thereof is guilty of a Class 12 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to 13 14 a term of imprisonment, shall be sentenced to not less than 15 one year nor more than 12 years. Except as provided in 16 paragraph (4) of subsection (c-1), aggravated driving 17 under the influence of alcohol, other drug, or drugs, intoxicating compounds or compounds, or any combination 18 19 thereof as defined in subparagraph (A) of paragraph (1) of 20 this subsection (d) is a Class 2 felony. Aggravated driving under the influence of alcohol, other drug or drugs, or 21 22 intoxicating compound or compounds, or any combination 23 thereof as defined in subparagraph (F) of paragraph (1) of 24 this subsection (d) is a Class 2 felony, for which the 25 defendant, if sentenced to a term of imprisonment, shall be 26 sentenced to: (A) a term of imprisonment of not less than 3

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years and not more than 14 years if the violation resulted 1 2 in the death of one person; or (B) a term of imprisonment 3 of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. For 4 5 any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted 6 7 as proof of any prior conviction. Any person sentenced 8 under this subsection (d) who receives a term of probation 9 or conditional discharge must serve a minimum term of 10 either 480 hours of community service or 10 days of 11 imprisonment as a condition of the probation or conditional 12 discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or 13 14 reduced by the court.

15 (e) After a finding of guilt and prior to any final 16 sentencing, or an order for supervision, for an offense based 17 upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required 18 19 to undergo a professional evaluation to determine if an 20 alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of 21 22 treatment Programs conducting as appropriate. these 23 evaluations shall be licensed by the Department of Human 24 Services. The cost of any professional evaluation shall be paid 25 for by the individual required to undergo the professional 26 evaluation.

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(e-1) Any person who is found quilty of or pleads quilty to 1 2 violating this Section, including any person receiving a disposition of court supervision for violating this Section, 3 may be required by the Court to attend a victim impact panel 4 5 offered by, or under contract with, a County State's Attorney's 6 office, a probation and court services department, Mothers 7 Against Drunk Driving, or the Alliance Against Intoxicated 8 Motorists. All costs generated by the victim impact panel shall 9 be paid from fees collected from the offender or as may be determined by the court. 10

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

17 (g) The Secretary of State shall revoke the driving 18 privileges of any person convicted under this Section or a 19 similar provision of a local ordinance.

20

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock SB2494 Enrolled

1 system.

2 (j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating 3 subsection (a), including any person placed on 4 court 5 supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as 6 follows: 20% to the law enforcement agency that made the arrest 7 and 80% shall be forwarded to the State Treasurer for deposit 8 9 into the General Revenue Fund. If the person has been 10 previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In 11 12 the event that more than one agency is responsible for the 13 arrest, the amount payable to law enforcement agencies shall be 14 shared equally. Any moneys received by a law enforcement agency 15 under this subsection (j) shall be used for enforcement and 16 prevention of driving while under the influence of alcohol, 17 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 18 not limited to the purchase of law enforcement equipment and 19 20 commodities that will assist in the prevention of alcohol related criminal violence throughout the State; police officer 21 22 training and education in areas related to alcohol related 23 crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for 24 25 hire back funding for safety checkpoints, saturation patrols, and liquor store sting operations. Equipment and commodities 26

shall include, but are not limited to, in-car video cameras, 1 2 radar and laser speed detection devices, and alcohol breath 3 testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State 4 5 Police DUI Fund and shall be used for enforcement and prevention of driving while under the influence of alcohol, 6 7 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 8 9 not limited to the purchase of law enforcement equipment and commodities that will assist in the prevention of alcohol 10 11 related criminal violence throughout the State; police officer 12 training and education in areas related to alcohol related 13 crime, including but not limited to DUI training; and police 14 officer salaries, including but not limited to salaries for 15 hire back funding for safety checkpoints, saturation patrols, 16 and liquor store sting operations.

17 (k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the 18 Secretary of State Police under subsection (j) of this Section 19 20 shall be deposited into the Secretary of State Police DUI Fund 21 and, subject to appropriation, shall be used for enforcement 22 and prevention of driving while under the influence of alcohol, 23 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 24 25 not limited to the purchase of law enforcement equipment and 26 commodities to assist in the prevention of alcohol related SB2494 Enrolled - 84 - LRB095 17436 RLC 43508 b

1 criminal violence throughout the State; police officer 2 training and education in areas related to alcohol related 3 crime, including but not limited to DUI training; and police 4 officer salaries, including but not limited to salaries for 5 hire back funding for safety checkpoints, saturation patrols, 6 and liquor store sting operations.

7 (1) Whenever an individual is sentenced for an offense 8 based upon an arrest for a violation of subsection (a) or a 9 similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or 10 11 education, neither the treatment nor the education shall be the 12 sole disposition and either or both may be imposed only in 13 conjunction with another disposition. The court shall monitor 14 compliance with any remedial education or treatment 15 recommendations contained in the professional evaluation. 16 Programs conducting alcohol or other drug evaluation or 17 remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, 18 19 however, the court may accept an alcohol or other drug 20 evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be 21 licensed under existing applicable alcoholism and drug 22 23 treatment licensure standards.

(m) In addition to any other fine or penalty required by
law, an individual convicted of a violation of subsection (a),
Section 5-7 of the Snowmobile Registration and Safety Act,

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

15 (Source: P.A. 94-116, eff. 1-1-06; 94-963, eff. 6-28-06;
16 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

17 (Text of Section from P.A. 94-329, 94-963, 95-149, and 18 95-355)

Sec. 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physicalcontrol of any vehicle within this State while:

(1) the alcohol concentration in the person's blood or
breath is 0.08 or more based on the definition of blood and

1 breath units in Section 11-501.2;

2

(2) under the influence of alcohol;

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

6 (4) under the influence of any other drug or 7 combination of drugs to a degree that renders the person 8 incapable of safely driving;

9 (5) under the combined influence of alcohol, other drug 10 or drugs, or intoxicating compound or compounds to a degree 11 that renders the person incapable of safely driving; or

12 (6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting 13 14 from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in 15 16 the Illinois Controlled Substances Act, an intoxicating 17 compound listed in the Use of Intoxicating Compounds Act, methamphetamine as listed in the Methamphetamine 18 or 19 Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:
(1) Any reference to a prior violation of subsection

1 (a) or a similar provision includes any violation of a 2 provision of a local ordinance or a provision of a law of 3 another state or an offense committed on a military 4 installation that is similar to a violation of subsection 5 (a) of this Section.

6 (2) Any penalty imposed for driving with a license that 7 has been revoked for a previous violation of subsection (a) 8 of this Section shall be in addition to the penalty imposed 9 for any subsequent violation of subsection (a).

10 (b-2) Except as otherwise provided in this Section, any 11 person convicted of violating subsection (a) of this Section is 12 guilty of a Class A misdemeanor.

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

20 (b-4) In the case of a third or subsequent violation 21 committed within 5 years of a previous violation of subsection 22 (a) or a similar provision, in addition to any other criminal 23 or administrative sanction, a mandatory minimum term of either 24 10 days of imprisonment or 480 hours of community service shall 25 be imposed.

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(b-5) The imprisonment or assignment of community service

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1 under subsections (b-3) and (b-4) shall not be subject to 2 suspension, nor shall the person be eligible for a reduced 3 sentence.

4 (c) (Blank).

5 (c-1) (1) A person who violates subsection (a) during a 6 period in which his or her driving privileges are revoked 7 or suspended, where the revocation or suspension was for a 8 violation of subsection (a) or a similar provision, Section 9 11-501.1, paragraph (b) of Section 11-401, or for reckless 10 homicide as defined in Section 9-3 of the Criminal Code of 11 1961 is guilty of aggravated driving under the influence of 12 alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a 13 14 Class 4 felony.

15 (2) A person who violates subsection (a) a third time, 16 if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where 17 revocation or suspension was for a violation of 18 the 19 subsection (a), Section 11-501.1, paragraph (b) of Section 20 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated 21 22 driving under the influence of alcohol, other drug or 23 intoxicating compound or compounds, drugs, or any 24 combination thereof and is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third
 time, if the third violation occurs during a period in

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which his or her driving privileges are revoked or 1 2 suspended where the revocation or suspension was for a 3 violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined 4 5 in Section 9-3 of the Criminal Code of 1961, is quilty of aggravated driving under the influence of alcohol, other 6 7 drug or drugs, intoxicating compound or compounds, or any 8 combination thereof and is quilty of a Class 3 felony; and 9 if the person receives a term of probation or conditional 10 discharge, he or she shall be required to serve a mandatory 11 minimum of 10 days of imprisonment or shall be assigned a 12 mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation 13 14 or conditional discharge. This mandatory minimum term of 15 imprisonment or assignment of community service shall not 16 be suspended or reduced by the court.

17 (2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her 18 19 driving privileges are revoked or suspended where the 20 revocation or suspension was for a violation of subsection (a) or Section 11-501.1, is guilty of aggravated driving 21 22 under the influence of alcohol, other drug or drugs, 23 intoxicating compound or compounds, or any combination thereof and shall also be sentenced to an additional 24 25 mandatory minimum term of 30 consecutive davs of 26 imprisonment, 40 days of 24-hour periodic imprisonment, or SB2494 Enrolled

- 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 aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or 13 14 compounds, or any combination thereof and is guilty of a 15 Class 2 felony, and is not eligible for a sentence of 16 probation or conditional discharge.
- 17 (c-2) (Blank).
- 18 (c-3) (Blank).
- 19 (c-4) (Blank).

20 (c-5) A person who violates subsection (a), if the person 21 was transporting a person under the age of 16 at the time of 22 the violation, is subject to an additional mandatory minimum 23 fine of \$1,000, an additional mandatory minimum 140 hours of 24 community service, which shall include 40 hours of community 25 service in a program benefiting children, and an additional 2 26 days of imprisonment. The imprisonment or assignment of 1 2 community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a 3 person who violates subsection (a) a second time, if at the 4 5 time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days 6 of imprisonment, an additional mandatory minimum fine of 7 8 \$1,000, and an additional mandatory minimum 140 hours of 9 community service, which shall include 40 hours of community 10 service in a program benefiting children. The imprisonment or 11 assignment of community service under this subsection (c-6) is 12 not subject to suspension, nor is the person eligible for a 13 reduced sentence.

(c-7) Except as provided in subsection (c-8), any person 14 15 convicted of violating subsection (c-6) or a similar provision 16 within 10 years of a previous violation of subsection (a) or a 17 similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an 18 additional 40 hours of mandatory community service in a program 19 20 benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this 21 22 subsection (c-7) is not subject to suspension, nor is the 23 person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or
a similar provision within 5 years of a previous violation of
subsection (a) or a similar provision shall receive, in

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addition to any other penalty imposed, an additional 80 hours 1 2 of mandatory community service in a program benefiting additional mandatory minimum 12 3 children, an days of imprisonment, and a mandatory minimum fine of \$1,750. The 4 5 imprisonment or assignment of community service under this 6 subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence. 7

8 (c-9) Any person convicted a third time for violating 9 subsection (a) or a similar provision, if at the time of the 10 third violation the person was transporting a person under the 11 age of 16, is guilty of a Class 4 felony and shall receive, in 12 addition to any other penalty imposed, an additional mandatory 13 fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting 14 15 children, and a mandatory minimum 30 days of imprisonment. The 16 imprisonment or assignment of community service under this 17 subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence. 18

(c-10) Any person convicted of violating subsection (c-9)19 20 or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is 21 22 quilty of a Class 4 felony and shall receive, in addition to 23 any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, 24 an 25 additional mandatory fine of \$3,000, and a mandatory minimum 26 120 days of imprisonment. The imprisonment or assignment of SB2494 Enrolled - 93 - LRB095 17436 RLC 43508 b

1 community service under this subsection (c-10) is not subject 2 to suspension, nor is the person eligible for a reduced 3 sentence.

(c-11) Any person convicted a fourth or subsequent time for 4 5 violating subsection (a) or a similar provision, if at the time subsequent violation the person 6 of the fourth or was 7 transporting a person under the age of 16, and if the person's 8 3 prior violations of subsection (a) or a similar provision 9 occurred while transporting a person under the age of 16 or 10 while the alcohol concentration in his or her blood, breath, or 11 urine was 0.16 or more based on the definition of blood, 12 breath, or urine units in Section 11-501.2, is guilty of a 13 Class 2 felony, is not eligible for probation or conditional 14 discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of 15 16 subsection (a) or a similar provision, if the alcohol 17 concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units 18 in Section 11-501.2, shall be subject, in addition to any other 19 penalty that may be imposed, to a mandatory minimum of 100 20 hours of community service and a mandatory minimum fine of 21 22 \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of SB2494 Enrolled - 94 - LRB095 17436 RLC 43508 b

1 subsection (a) or a similar provision, if at the time of the 2 second violation of subsection (a) the alcohol concentration in 3 his or her blood, breath, or urine was 0.16 or more based on 4 the definition of blood, breath, or urine units in Section 5 11-501.2, shall be subject, in addition to any other penalty 6 that may be imposed, to a mandatory minimum of 2 days of 7 imprisonment and a mandatory minimum fine of \$1,250.

8 (c-14) Any person convicted of a third violation of 9 subsection (a) or a similar provision within 20 years of a 10 previous violation of subsection (a) or a similar provision, if 11 at the time of the third violation of subsection (a) or a 12 similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on 13 the 14 definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, 15 16 in addition to any other penalty that may be imposed, to a 17 mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500. 18

19 (c-15) Any person convicted of a fourth or subsequent 20 violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol 21 22 concentration in his or her blood, breath, or urine was 0.16 or 23 more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of 24 25 subsection (a) or a similar provision occurred while 26 transporting a person under the age of 16 or while the alcohol SB2494 Enrolled - 95 - LRB095 17436 RLC 43508 b

1 concentration in his or her blood, breath, or urine was 0.16 or 2 more based on the definition of blood, breath, or urine units 3 in Section 11-501.2, is guilty of a Class 2 felony and is not 4 eligible for a sentence of probation or conditional discharge 5 and is subject to a minimum fine of \$2,500.

6 (d) (1) Every person convicted of committing a violation of 7 this Section shall be guilty of aggravated driving under 8 the influence of alcohol, other drug or drugs, or 9 intoxicating compound or compounds, or any combination 10 thereof if:

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

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

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

(D) the person committed a violation of subsection
(a) for a second time and has been previously convicted
of violating Section 9-3 of the Criminal Code of 1961
or a similar provision of a law of another state
relating to reckless homicide in which the person was

determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

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6 (E) the person, in committing a violation of 7 subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per 8 9 hour was in effect under subsection (a) of Section 10 11-605 of this Code, was involved in a motor vehicle 11 accident that resulted in bodily harm, other than great 12 bodily harm or permanent disability or disfigurement, 13 to another person, when the violation of subsection (a) 14 was a proximate cause of the bodily harm; or

15 (F) the person, in committing a violation of 16 subsection (a), was involved in a motor vehicle, 17 snowmobile, all-terrain vehicle, or watercraft 18 accident that resulted in the death of another person, 19 when the violation of subsection (a) was a proximate 20 cause of the death;

(G) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit; or

(H) the person committed the violation while he orshe knew or should have known that the vehicle he or

1 2 she was driving was not covered by a liability insurance policy.

(2) Except as provided in this paragraph (2) and in 3 paragraphs (2), (2.1), and (3) of subsection (c-1), a 4 5 person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound 6 7 or compounds, or any combination thereof is guilty of a 8 Class 4 felony. For a violation of subparagraph (C) of 9 paragraph (1) of this subsection (d), the defendant, if 10 sentenced to a term of imprisonment, shall be sentenced to 11 not less than one year nor more than 12 years. Aggravated 12 driving under the influence of alcohol, other drug or 13 drugs, or intoxicating compound or compounds, or any 14 combination thereof as defined in subparagraph (F) of 15 paragraph (1) of this subsection (d) is a Class 2 felony, 16 for which the defendant, if sentenced to a term of 17 imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 18 19 years if the violation resulted in the death of one person; 20 or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the 21 22 deaths of 2 or more persons. For any prosecution under this 23 subsection (d), a certified copy of the driving abstract of 24 the defendant shall be admitted as proof of any prior 25 conviction. Any person sentenced under this subsection (d) 26 who receives a term of probation or conditional discharge SB2494 Enrolled - 98 - LRB095 17436 RLC 43508 b

1 must serve a minimum term of either 480 hours of community 2 service or 10 days of imprisonment as a condition of the 3 probation or conditional discharge. This mandatory minimum 4 term of imprisonment or assignment of community service may 5 not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final 6 sentencing, or an order for supervision, for an offense based 7 upon an arrest for a violation of this Section or a similar 8 9 provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an 10 11 alcohol, drug, or intoxicating compound abuse problem exists 12 and the extent of the problem, and undergo the imposition of 13 treatment as appropriate. Programs conducting these 14 evaluations shall be licensed by the Department of Human 15 Services. The cost of any professional evaluation shall be paid 16 for by the individual required to undergo the professional 17 evaluation.

(e-1) Any person who is found guilty of or pleads guilty to 18 19 violating this Section, including any person receiving a 20 disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel 21 22 offered by, or under contract with, a County State's Attorney's 23 office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated 24 25 Motorists. All costs generated by the victim impact panel shall 26 be paid from fees collected from the offender or as may be SB2494 Enrolled - 99 - LRB095 17436 RLC 43508 b

1 determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (m) of this Section.

8 (g) The Secretary of State shall revoke the driving 9 privileges of any person convicted under this Section or a 10 similar provision of a local ordinance.

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(h) (Blank).

12 The Secretary of State shall require the use of (i) 13 ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent 14 offense of this Section or a similar provision of a local 15 16 ordinance. The Secretary shall establish by rule and regulation 17 the procedures for certification and use of the interlock 18 system.

19 (j) In addition to any other penalties and liabilities, a 20 person who is found guilty of or pleads guilty to violating 21 subsection (a), including any person placed on court 22 supervision for violating subsection (a), shall be fined \$500, 23 payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest 24 25 and 80% shall be forwarded to the State Treasurer for deposit 26 into the General Revenue Fund. If the person has been

previously convicted of violating subsection (a) or a similar 1 2 provision of a local ordinance, the fine shall be \$1,000. In 3 the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be 4 5 shared equally. Any moneys received by a law enforcement agency 6 under this subsection (j) shall be used for enforcement and 7 prevention of driving while under the influence of alcohol, 8 other drug or drugs, intoxicating compound or compounds or any 9 combination thereof, as defined by this Section, including but 10 not limited to the purchase of law enforcement equipment and 11 commodities that will assist in the prevention of alcohol 12 related criminal violence throughout the State; police officer 13 training and education in areas related to alcohol related crime, including but not limited to DUI training; and police 14 officer salaries, including but not limited to salaries for 15 16 hire back funding for safety checkpoints, saturation patrols, 17 and liquor store sting operations. Equipment and commodities shall include, but are not limited to, in-car video cameras, 18 19 radar and laser speed detection devices, and alcohol breath 20 testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State 21 22 Police DUI Fund and shall be used for enforcement and 23 prevention of driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any 24 25 combination thereof, as defined by this Section, including but 26 not limited to the purchase of law enforcement equipment and

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1 commodities that will assist in the prevention of alcohol 2 related criminal violence throughout the State; police officer 3 training and education in areas related to alcohol related 4 crime, including but not limited to DUI training; and police 5 officer salaries, including but not limited to salaries for 6 hire back funding for safety checkpoints, saturation patrols, 7 and liquor store sting operations.

8 (k) The Secretary of State Police DUI Fund is created as a 9 special fund in the State treasury. All moneys received by the 10 Secretary of State Police under subsection (j) of this Section 11 shall be deposited into the Secretary of State Police DUI Fund 12 and, subject to appropriation, shall be used for enforcement 13 and prevention of driving while under the influence of alcohol, 14 other drug or drugs, intoxicating compound or compounds or any combination thereof, as defined by this Section, including but 15 16 not limited to the purchase of law enforcement equipment and 17 commodities to assist in the prevention of alcohol related criminal violence throughout the State; police officer 18 training and education in areas related to alcohol related 19 20 crime, including but not limited to DUI training; and police officer salaries, including but not limited to salaries for 21 22 hire back funding for safety checkpoints, saturation patrols, 23 and liquor store sting operations.

(1) Whenever an individual is sentenced for an offense
based upon an arrest for a violation of subsection (a) or a
similar provision of a local ordinance, and the professional

evaluation recommends remedial or rehabilitative treatment or 1 2 education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in 3 conjunction with another disposition. The court shall monitor 4 5 compliance with any remedial education or treatment 6 recommendations contained in the professional evaluation. 7 Programs conducting alcohol or other drug evaluation or 8 remedial education must be licensed by the Department of Human 9 Services. If the individual is not a resident of Illinois, 10 however, the court may accept an alcohol or other drug 11 evaluation or remedial education program in the individual's 12 state of residence. Programs providing treatment must be 13 under existing applicable alcoholism licensed and druq treatment licensure standards. 14

15 (m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), 16 17 Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a 18 19 similar provision, whose operation of a motor vehicle, 20 snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, 21 22 Section 5-16 of the Boat Registration and Safety Act, or a 23 similar provision proximately caused an incident resulting in 24 an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency 25 26 response. The restitution may not exceed \$1,000 per public SB2494 Enrolled - 103 - LRB095 17436 RLC 43508 b

agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

6 (Source: P.A. 94-329, eff. 1-1-06; 94-963, eff. 6-28-06;
7 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; revised 11-28-07.)

8 (Text of Section after amendment by P.A. 95-578)

9 Sec. 11-501. Driving while under the influence of alcohol,
10 other drug or drugs, intoxicating compound or compounds or any
11 combination thereof.

(a) A person shall not drive or be in actual physicalcontrol of any vehicle within this State while:

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

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(2) under the influence of alcohol;

18 (3) under the influence of any intoxicating compound or 19 combination of intoxicating compounds to a degree that 20 renders the person incapable of driving safely;

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

(5) under the combined influence of alcohol, other drug
 or drugs, or intoxicating compound or compounds to a degree

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that renders the person incapable of safely driving; or

(6) there is any amount of a drug, substance, or 2 3 compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in 4 5 the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating 6 7 compound listed in the Use of Intoxicating Compounds Act, 8 methamphetamine as listed in the Methamphetamine or 9 Control and Community Protection Act.

10 (b) The fact that any person charged with violating this 11 Section is or has been legally entitled to use alcohol, other 12 drug or drugs, or intoxicating compound or compounds, or any 13 combination thereof, shall not constitute a defense against any 14 charge of violating this Section.

15 (c) Penalties.

16 (1) Except as otherwise provided in this Section, any
17 person convicted of violating subsection (a) of this
18 Section is guilty of a Class A misdemeanor.

19 (2) A person who violates subsection (a) or a similar
20 provision a second time shall be sentenced to a mandatory
21 minimum term of either 5 days of imprisonment or 240 hours
22 of community service in addition to any other criminal or
23 administrative sanction.

(3) A person who violates subsection (a) is subject to
6 months of imprisonment, an additional mandatory minimum
fine of \$1,000, and 25 days of community service in a

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program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

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(4) A person who violates subsection (a) a first time, if the alcohol concentration in his or her blood, breath, 4 5 or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be 6 7 subject, in addition to any other penalty that may be 8 imposed, to a mandatory minimum of 100 hours of community 9 service and a mandatory minimum fine of \$500.

10 (5) A person who violates subsection (a) a second time, 11 if at the time of the second violation the alcohol 12 concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or 13 14 urine units in Section 11-501.2, shall be subject, in 15 addition to any other penalty that may be imposed, to a 16 mandatory minimum of 2 days of imprisonment and a mandatory 17 minimum fine of \$1,250.

(d) Aggravated driving under the influence of alcohol, 18 19 other drug or drugs, or intoxicating compound or compounds, or 20 any combination thereof.

21 (1) Every person convicted of committing a violation of 22 this Section shall be quilty of aggravated driving under 23 influence of alcohol, other drug or the drugs, or 24 intoxicating compound or compounds, or any combination 25 thereof if:

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(A) the person committed a violation of subsection

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(a) or a similar provision for the third or subsequent
 time;

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

6 (C) the person in committing a violation of 7 subsection (a) was involved in a motor vehicle accident 8 that resulted in great bodily harm or permanent 9 disability or disfigurement to another, when the 10 violation was a proximate cause of the injuries;

11 (D) the person committed a violation of subsection 12 (a) for a second time and has been previously convicted 13 of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state 14 15 relating to reckless homicide in which the person was 16 determined to have been under the influence of alcohol, 17 other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person 18 19 has previously been convicted under subparagraph (C) 20 or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of
subsection (a) while driving at any speed in a school
speed zone at a time when a speed limit of 20 miles per
hour was in effect under subsection (a) of Section
11-605 of this Code, was involved in a motor vehicle
accident that resulted in bodily harm, other than great

bodily harm or permanent disability or disfigurement,
 to another person, when the violation of subsection (a)
 was a proximate cause of the bodily harm;

4 (F) the person, in committing a violation of 5 subsection (a), was involved in a motor vehicle, 6 snowmobile, all-terrain vehicle, or watercraft 7 accident that resulted in the death of another person, 8 when the violation of subsection (a) was a proximate 9 cause of the death;

(G) the person committed a violation of subsection 10 11 (a) during a period in which the defendant's driving 12 privileges are revoked or suspended, where the 13 revocation or suspension was for a violation of 14 subsection or a similar provision, Section (a) 15 11-501.1, paragraph (b) of Section 11-401, or for 16 reckless homicide as defined in Section 9-3 of the Criminal Code of 1961; 17

18 (H) the person committed the violation while he or 19 she did not possess a driver's license or permit or a 20 restricted driving permit or a judicial driving 21 permit;

(I) the person committed the violation while he or
she knew or should have known that the vehicle he or
she was driving was not covered by a liability
insurance policy;

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(J) the person in committing a violation of

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subsection (a) was involved in a motor vehicle accident that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury; or

6 (K) the person in committing a second violation of 7 subsection (a) or a similar provision was transporting 8 a person under the age of 16.

9 (2)(A) Except as provided otherwise, a person 10 convicted of aggravated driving under the influence of 11 alcohol, other drug or drugs, or intoxicating compound or 12 compounds, or any combination thereof is guilty of a Class 13 4 felony.

(B) A third violation of this Section or a similar 14 15 provision is a Class 2 felony. If at the time of the third 16 violation the alcohol concentration in his or her blood, 17 breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a 18 19 mandatory minimum of 90 days of imprisonment and a 20 mandatory minimum fine of \$2,500 shall be imposed in 21 addition to any other criminal or administrative sanction. 22 If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine 23 24 of \$25,000 and 25 days of community service in a program 25 benefiting children shall be imposed in addition to any other criminal or administrative sanction. 26

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(C) A fourth violation of this Section or a similar 1 2 provision is a Class 2 felony, for which a sentence of 3 probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in 4 5 the defendant's blood, breath, or urine was 0.16 or more 6 based on the definition of blood, breath, or urine units in 7 Section 11-501.2, a mandatory minimum fine of \$5,000 shall 8 imposed in addition to any other criminal be or 9 administrative sanction. If at the time of the fourth 10 violation, the defendant was transporting a person under 11 the age of 16 a mandatory fine of \$25,000 and 25 days of 12 community service in a program benefiting children shall be imposed in addition to any other criminal or administrative 13 14 sanction.

15 (D) A fifth violation of this Section or a similar 16 provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If 17 at the time of the violation, the alcohol concentration in 18 19 the defendant's blood, breath, or urine was 0.16 or more 20 based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall 21 22 imposed in addition to any other criminal be or 23 administrative sanction. If at the time of the fifth 24 violation, the defendant was transporting a person under 25 the age of 16, a mandatory fine of \$25,000, and 25 days of 26 community service in a program benefiting children shall be

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imposed in addition to any other criminal or administrative sanction.

3 (E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of 4 5 the violation, the alcohol concentration in the 6 defendant's blood, breath, or urine was 0.16 or more based 7 on the definition of blood, breath, or urine units in 8 Section 11-501.2, a mandatory minimum fine of \$5,000 shall 9 imposed in addition to any other criminal be or 10 administrative sanction. If at the time of the violation, 11 the defendant was transporting a person under the age of 12 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed 13 14 in addition to any other criminal or administrative 15 sanction.

16 (F) For a violation of subparagraph (C) of paragraph 17 (1) of this subsection (d), the defendant, if sentenced to 18 a term of imprisonment, shall be sentenced to not less than 19 one year nor more than 12 years.

20 (G) A violation of subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the 21 22 defendant, unless the court determines that extraordinary 23 circumstances exist and require probation, shall be 24 sentenced to: (i) a term of imprisonment of not less than 3 25 years and not more than 14 years if the violation resulted 26 in the death of one person; or (ii) a term of imprisonment

1 2 of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

3 (H) For a violation of subparagraph (J) of paragraph 4 (1) of this subsection (d), a mandatory fine of \$2,500, and 5 25 days of community service in a program benefiting 6 children shall be imposed in addition to any other criminal 7 or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of 8 9 this subsection (d), is a Class 2 felony and a mandatory 10 fine of \$2,500, and 25 days of community service in a 11 program benefiting children shall be imposed in addition to 12 any other criminal or administrative sanction. If the child 13 being transported suffered bodily harm, but not great 14 bodily harm, in a motor vehicle accident, and the violation 15 was the proximate cause of that injury, a mandatory fine of 16 \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any 17 other criminal or administrative sanction. 18

19 (3) Any person sentenced under this subsection (d) who 20 receives a term of probation or conditional discharge must 21 serve a minimum term of either 480 hours of community 22 service or 10 days of imprisonment as a condition of the 23 probation or conditional discharge in addition to any other 24 criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or
a similar provision includes any violation of a provision of a

local ordinance or a provision of a law of another state or an
 offense committed on a military installation that is similar to
 a violation of subsection (a) of this Section.

4 (f) The imposition of a mandatory term of imprisonment or
5 assignment of community service for a violation of this Section
6 shall not be suspended or reduced by the court.

7 (g) Any penalty imposed for driving with a license that has
8 been revoked for a previous violation of subsection (a) of this
9 Section shall be in addition to the penalty imposed for any
10 subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. in subsection (m) of this Section

15 (Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114,
16 eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609,
17 eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07;
18 95-355, eff. 1-1-08; 95-578, eff. 6-1-08; revised 11-28-07.)

(Text of Section after amendment by P.A. 95-400)

20 Sec. 11-501. Driving while under the influence of alcohol, 21 other drug or drugs, intoxicating compound or compounds or any 22 combination thereof.

(a) A person shall not drive or be in actual physicalcontrol of any vehicle within this State while:

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(1) the alcohol concentration in the person's blood or

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- breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;
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(2) under the influence of alcohol;

4 (3) under the influence of any intoxicating compound or
5 combination of intoxicating compounds to a degree that
6 renders the person incapable of driving safely;

7 (4) under the influence of any other drug or
8 combination of drugs to a degree that renders the person
9 incapable of safely driving;

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

13 (6) there is any amount of a drug, substance, or 14 compound in the person's breath, blood, or urine resulting 15 from the unlawful use or consumption of cannabis listed in 16 the Cannabis Control Act, a controlled substance listed in 17 the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, 18 19 methamphetamine as listed in the Methamphetamine or 20 Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

26 (c) Pena

(c) Penalties.

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(1) Except as otherwise provided in this Section, any
 person convicted of violating subsection (a) of this
 Section is guilty of a Class A misdemeanor.

4 (2) A person who violates subsection (a) or a similar
5 provision a second time shall be sentenced to a mandatory
6 minimum term of either 5 days of imprisonment or 240 hours
7 of community service in addition to any other criminal or
8 administrative sanction.

9 (3) A person who violates subsection (a) is subject to 10 6 months of imprisonment, an additional mandatory minimum 11 fine of \$1,000, and 25 days of community service in a 12 program benefiting children if the person was transporting 13 a person under the age of 16 at the time of the violation.

(4) A person who violates subsection (a) a first time,
if the alcohol concentration in his or her blood, breath,
or urine was 0.16 or more based on the definition of blood,
breath, or urine units in Section 11-501.2, shall be
subject, in addition to any other penalty that may be
imposed, to a mandatory minimum of 100 hours of community
service and a mandatory minimum fine of \$500.

(5) A person who violates subsection (a) a second time, if at the time of the second violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a SB2494 Enrolled - 115 - LRB095 17436 RLC 43508 b

1 mandatory minimum of 2 days of imprisonment and a mandatory
2 minimum fine of \$1,250.

3 (d) Aggravated driving under the influence of alcohol,
4 other drug or drugs, or intoxicating compound or compounds, or
5 any combination thereof.

6 (1) Every person convicted of committing a violation of 7 this Section shall be guilty of aggravated driving under 8 the influence of alcohol, other drug or drugs, or 9 intoxicating compound or compounds, or any combination 10 thereof if:

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

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

17 (C) the person in committing a violation of 18 subsection (a) was involved in a motor vehicle accident 19 that resulted in great bodily harm or permanent 20 disability or disfigurement to another, when the 21 violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection
(a) for a second time and has been previously convicted
of violating Section 9-3 of the Criminal Code of 1961
or a similar provision of a law of another state
relating to reckless homicide in which the person was

determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

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6 (E) the person, in committing a violation of 7 subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per 8 9 hour was in effect under subsection (a) of Section 10 11-605 of this Code, was involved in a motor vehicle 11 accident that resulted in bodily harm, other than great 12 bodily harm or permanent disability or disfigurement, 13 to another person, when the violation of subsection (a) 14 was a proximate cause of the bodily harm;

15 (F) the person, in committing a violation of 16 subsection (a), was involved in a motor vehicle, 17 snowmobile, all-terrain vehicle, or watercraft 18 accident that resulted in the death of another person, 19 when the violation of subsection (a) was a proximate 20 cause of the death;

(G) the person committed a violation of subsection 21 22 (a) during a period in which the defendant's driving 23 privileges are revoked or suspended, where the 24 revocation or suspension was for a violation of 25 or a similar provision, subsection (a) Section 26 11-501.1, paragraph (b) of Section 11-401, or for

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reckless homicide as defined in Section 9-3 of the
 Criminal Code of 1961;

(H) the person committed the violation while he or
she did not possess a driver's license or permit or a
restricted driving permit or a judicial driving permit
or a monitoring device driving permit;

7 (I) the person committed the violation while he or
8 she knew or should have known that the vehicle he or
9 she was driving was not covered by a liability
10 insurance policy;

11 (J) the person in committing a violation of 12 subsection (a) was involved in a motor vehicle accident 13 that resulted in bodily harm, but not great bodily 14 harm, to the child under the age of 16 being 15 transported by the person, if the violation was the 16 proximate cause of the injury; or

17 (K) the person in committing a second violation of
18 subsection (a) or a similar provision was transporting
19 a person under the age of 16.

(2) (A) Except as provided otherwise, a person
convicted of aggravated driving under the influence of
alcohol, other drug or drugs, or intoxicating compound or
compounds, or any combination thereof is guilty of a Class
4 felony.

(B) A third violation of this Section or a similar
provision is a Class 2 felony. If at the time of the third

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violation the alcohol concentration in his or her blood, 1 2 breath, or urine was 0.16 or more based on the definition 3 of blood, breath, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a 4 5 mandatory minimum fine of \$2,500 shall be imposed in 6 addition to any other criminal or administrative sanction. If at the time of the third violation, the defendant was 7 8 transporting a person under the age of 16, a mandatory fine 9 of \$25,000 and 25 days of community service in a program 10 benefiting children shall be imposed in addition to any 11 other criminal or administrative sanction.

12 (C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of 13 14 probation or conditional discharge may not be imposed. If 15 at the time of the violation, the alcohol concentration in 16 the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in 17 Section 11-501.2, a mandatory minimum fine of \$5,000 shall 18 19 imposed in addition to any other criminal be or 20 administrative sanction. If at the time of the fourth 21 violation, the defendant was transporting a person under 22 the age of 16 a mandatory fine of \$25,000 and 25 days of 23 community service in a program benefiting children shall be 24 imposed in addition to any other criminal or administrative 25 sanction.

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(D) A fifth violation of this Section or a similar

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provision is a Class 1 felony, for which a sentence of 1 2 probation or conditional discharge may not be imposed. If 3 at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more 4 5 based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall 6 7 imposed in addition to any other criminal be or 8 administrative sanction. If at the time of the fifth 9 violation, the defendant was transporting a person under 10 the age of 16, a mandatory fine of \$25,000, and 25 days of 11 community service in a program benefiting children shall be 12 imposed in addition to any other criminal or administrative sanction. 13

14 (E) A sixth or subsequent violation of this Section or 15 similar provision is a Class X felony. If at the time of 16 violation, the alcohol concentration in the the defendant's blood, breath, or urine was 0.16 or more based 17 on the definition of blood, breath, or urine units in 18 19 Section 11-501.2, a mandatory minimum fine of \$5,000 shall 20 be imposed in addition to any other criminal or administrative sanction. If at the time of the violation, 21 22 the defendant was transporting a person under the age of 23 16, a mandatory fine of \$25,000 and 25 days of community 24 service in a program benefiting children shall be imposed 25 in addition to any other criminal or administrative 26 sanction.

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1 (F) For a violation of subparagraph (C) of paragraph 2 (1) of this subsection (d), the defendant, if sentenced to 3 a term of imprisonment, shall be sentenced to not less than 4 one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of 5 this subsection (d) is a Class 2 felony, for which the 6 7 defendant, unless the court determines that extraordinary 8 circumstances exist and require probation, shall be 9 sentenced to: (i) a term of imprisonment of not less than 3 10 years and not more than 14 years if the violation resulted 11 in the death of one person; or (ii) a term of imprisonment 12 of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons. 13

(H) For a violation of subparagraph (J) of paragraph
(1) of this subsection (d), a mandatory fine of \$2,500, and
25 days of community service in a program benefiting
children shall be imposed in addition to any other criminal
or administrative sanction.

19 (I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory 20 21 fine of \$2,500, and 25 days of community service in a 22 program benefiting children shall be imposed in addition to 23 any other criminal or administrative sanction. If the child 24 being transported suffered bodily harm, but not great 25 bodily harm, in a motor vehicle accident, and the violation 26 was the proximate cause of that injury, a mandatory fine of

\$5,000 and 25 days of community service in a program
 benefiting children shall be imposed in addition to any
 other criminal or administrative sanction.

4 (3) Any person sentenced under this subsection (d) who
5 receives a term of probation or conditional discharge must
6 serve a minimum term of either 480 hours of community
7 service or 10 days of imprisonment as a condition of the
8 probation or conditional discharge in addition to any other
9 criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or
a similar provision includes any violation of a provision of a
local ordinance or a provision of a law of another state or an
offense committed on a military installation that is similar to
a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

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

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. in subsection (m) of this Section

26 (Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114,

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1 eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609, 2 eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07; 3 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 4 revised 11-28-07.)

5 Section 95. No acceleration or delay. Where this Act makes 6 changes in a statute that is represented in this Act by text 7 that is not yet or no longer in effect (for example, a Section 8 represented by multiple versions), the use of that text does 9 not accelerate or delay the taking effect of (i) the changes 10 made by this Act or (ii) provisions derived from any other 11 Public Act.

Section 99. Effective date. This Act takes effect upon becoming law.