

# HB2996



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB2996**

Introduced 2/23/2011, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Makes a technical change in a Section concerning driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

LRB097 09188 HEP 49323 b

A BILL FOR

1 AN ACT concerning transportation.

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

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

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

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

10 (a) A person shall not drive or be in actual physical  
11 control of any ~~any~~ vehicle within this State while:

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

15 (2) under the influence of alcohol;

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

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

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

1 that renders the person incapable of safely driving; or

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

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

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

3 (4) A person who violates subsection (a) a first time,  
4 if the alcohol concentration in his or her blood, breath,  
5 or urine was 0.16 or more based on the definition of blood,  
6 breath, or urine units in Section 11-501.2, shall be  
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  
13 0.16 or more based on the definition of blood, breath, or  
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.

18 (d) Aggravated driving under the influence of alcohol,  
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 guilty of aggravated driving under  
23 the influence of alcohol, other drug or drugs, or  
24 intoxicating compound or compounds, or any combination  
25 thereof if:

26 (A) the person committed a violation of subsection

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

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

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

1           bodily harm or permanent disability or disfigurement,  
2           to another person, when the violation of subsection (a)  
3           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;

10          (G) the person committed a violation of subsection  
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 (a) or a similar provision, Section  
15          11-501.1, paragraph (b) of Section 11-401, or for  
16          reckless homicide as defined in Section 9-3 of the  
17          Criminal Code of 1961;

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 permit  
21          or a monitoring device driving permit;

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

26          (J) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident  
2 that resulted in bodily harm, but not great bodily  
3 harm, to the child under the age of 16 being  
4 transported by the person, if the violation was the  
5 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.

14 (B) A third violation of this Section or a similar  
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  
18 of blood, breath, or urine units in Section 11-501.2, a  
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  
23 transporting a person under the age of 16, a mandatory fine  
24 of \$25,000 and 25 days of community service in a program  
25 benefiting children shall be imposed in addition to any  
26 other criminal or administrative sanction.

1 (C) A fourth violation of this Section or a similar  
2 provision is a Class 2 felony, for which a sentence of  
3 probation or conditional discharge may not be imposed. If  
4 at the time of the violation, the alcohol concentration in  
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 be imposed in addition to any other criminal 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  
13 imposed in addition to any other criminal or administrative  
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  
17 probation or conditional discharge may not be imposed. If  
18 at the time of the violation, the alcohol concentration in  
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  
21 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
22 be imposed in addition to any other criminal 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



1 imposed in addition to any other criminal or administrative  
2 sanction.

3 (E) A sixth or subsequent violation of this Section or  
4 similar provision is a Class X felony. If at the time of  
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 be imposed in addition to any other criminal 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  
13 service in a program benefiting children shall be imposed  
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  
21 this subsection (d) is a Class 2 felony, for which the  
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 of not less than 6 years and not more than 28 years if the  
2 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.

8 (I) A violation of subparagraph (K) of paragraph (1) of  
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  
17 benefiting children shall be imposed in addition to any  
18 other criminal or administrative sanction.

19 (J) A violation of subparagraph (D) of paragraph (1) of  
20 this subsection (d) is a Class 3 felony, for which a  
21 sentence of probation or conditional discharge may not be  
22 imposed.

23 (3) Any person sentenced under this subsection (d) who  
24 receives a term of probation or conditional discharge must  
25 serve a minimum term of either 480 hours of community  
26 service or 10 days of imprisonment as a condition of the

1           probation or conditional discharge in addition to any other  
2           criminal or administrative sanction.

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

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

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

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

18          (Source: P.A. 95-149, eff. 8-14-07; 95-355, eff. 1-1-08;  
19          95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-778, eff. 8-4-08;  
20          95-876, eff. 8-21-08; 96-289, eff. 8-11-09.)