

HB3630



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3630

by Rep. Tom Cross - Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Provides that it is a factor in aggravation of driving under the influence to do so while transporting passengers of any age in a school bus or vehicle for-hire.

LRB098 12088 MLW 45877 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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 one or more
5 passengers ~~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) and has been previously convicted of violating
13 Section 9-3 of the Criminal Code of 1961 or the
14 Criminal Code of 2012 or a similar provision of a law
15 of another state relating to reckless homicide in which
16 the person was determined to have been under the
17 influence of alcohol, other drug or drugs, or
18 intoxicating compound or compounds as an element of the
19 offense or the person has previously been convicted
20 under subparagraph (C) or subparagraph (F) of this
21 paragraph (1);

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

1 accident that resulted in bodily harm, other than great
2 bodily harm or permanent disability or disfigurement,
3 to another person, when the violation of subsection (a)
4 was a proximate cause of the bodily harm;

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

11 (G) the person committed a violation of subsection
12 (a) during a period in which the defendant's driving
13 privileges are revoked or suspended, where the
14 revocation or suspension was for a violation of
15 subsection (a) or a similar provision, Section
16 11-501.1, paragraph (b) of Section 11-401, or for
17 reckless homicide as defined in Section 9-3 of the
18 Criminal Code of 1961 or the Criminal Code of 2012;

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

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

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

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

10 (L) the person committed a violation of subsection
11 (a) of this Section while transporting one or more
12 passengers in a vehicle for-hire.

13 (2) (A) Except as provided otherwise, a person
14 convicted of aggravated driving under the influence of
15 alcohol, other drug or drugs, or intoxicating compound or
16 compounds, or any combination thereof is guilty of a Class
17 4 felony.

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

1 transporting a person under the age of 16, a mandatory fine
2 of \$25,000 and 25 days of community service in a program
3 benefiting children shall be imposed in addition to any
4 other criminal or administrative sanction.

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

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

1 administrative sanction. If at the time of the fifth
2 violation, the defendant was transporting a person under
3 the age of 16, a mandatory fine of \$25,000, and 25 days of
4 community service in a program benefiting children shall be
5 imposed in addition to any other criminal or administrative
6 sanction.

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

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

24 (G) A violation of subparagraph (F) of paragraph (1) of
25 this subsection (d) is a Class 2 felony, for which the
26 defendant, unless the court determines that extraordinary

1 circumstances exist and require probation, shall be
2 sentenced to: (i) a term of imprisonment of not less than 3
3 years and not more than 14 years if the violation resulted
4 in the death of one person; or (ii) a term of imprisonment
5 of not less than 6 years and not more than 28 years if the
6 violation resulted in the deaths of 2 or more persons.

7 (H) For a violation of subparagraph (J) of paragraph
8 (1) of this subsection (d), a mandatory fine of \$2,500, and
9 25 days of community service in a program benefiting
10 children shall be imposed in addition to any other criminal
11 or administrative sanction.

12 (I) A violation of subparagraph (K) of paragraph (1) of
13 this subsection (d), is a Class 2 felony and a mandatory
14 fine of \$2,500, and 25 days of community service in a
15 program benefiting children shall be imposed in addition to
16 any other criminal or administrative sanction. If the child
17 being transported suffered bodily harm, but not great
18 bodily harm, in a motor vehicle accident, and the violation
19 was the proximate cause of that injury, a mandatory fine of
20 \$5,000 and 25 days of community service in a program
21 benefiting children shall be imposed in addition to any
22 other criminal or administrative sanction.

23 (J) A violation of subparagraph (D) of paragraph (1) of
24 this subsection (d) is a Class 3 felony, for which a
25 sentence of probation or conditional discharge may not be
26 imposed.

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

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

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

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

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

22 (Source: P.A. 96-289, eff. 8-11-09; 97-1150, eff. 1-25-13.)