



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4304

by Rep. William Davis

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-206.1
625 ILCS 5/6-208.1

from Ch. 95 1/2, par. 6-206.1
from Ch. 95 1/2, par. 6-208.1

Amends the Illinois Vehicle Code. Provides that individuals that injure themselves but not another person as a result of driving under the influence are still eligible to receive a monitoring device driving permit. Limits statutory suspensions of a driver's license (rather than revocation of the driver's license) for refusing or failing a test to determine the concentration of alcohol, drug, or intoxicating compound to situations where the driver was not involved in an accident that caused injury or death to another person. Removes statutory summary suspension of a driver's license provisions for failing to submit to standardized field sobriety tests under the Compassionate Use of Medical Cannabis Pilot Program Act. Makes other changes necessary to resolve a statutory split in Section 6-208.1 of the Illinois Vehicle Code. Effective immediately.

LRB098 15245 MLW 50252 b

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-206.1 and 6-208.1 as follows:

6 (625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

7 Sec. 6-206.1. Monitoring Device Driving Permit.
8 Declaration of Policy. It is hereby declared a policy of the
9 State of Illinois that the driver who is impaired by alcohol,
10 other drug or drugs, or intoxicating compound or compounds is a
11 threat to the public safety and welfare. Therefore, to provide
12 a deterrent to such practice, a statutory summary driver's
13 license suspension is appropriate. It is also recognized that
14 driving is a privilege and therefore, that the granting of
15 driving privileges, in a manner consistent with public safety,
16 is warranted during the period of suspension in the form of a
17 monitoring device driving permit. A person who drives and fails
18 to comply with the requirements of the monitoring device
19 driving permit commits a violation of Section 6-303 of this
20 Code.

21 The following procedures shall apply whenever a first
22 offender, as defined in Section 11-500 of this Code, is
23 arrested for any offense as defined in Section 11-501 or a

1 similar provision of a local ordinance and is subject to the
2 provisions of Section 11-501.1:

3 (a) Upon mailing of the notice of suspension of driving
4 privileges as provided in subsection (h) of Section 11-501.1 of
5 this Code, the Secretary shall also send written notice
6 informing the person that he or she will be issued a monitoring
7 device driving permit (MDDP). The notice shall include, at
8 minimum, information summarizing the procedure to be followed
9 for issuance of the MDDP, installation of the breath alcohol
10 ignition installation device (BAIID), as provided in this
11 Section, exemption from BAIID installation requirements, and
12 procedures to be followed by those seeking indigent status, as
13 provided in this Section. The notice shall also include
14 information summarizing the procedure to be followed if the
15 person wishes to decline issuance of the MDDP. A copy of the
16 notice shall also be sent to the court of venue together with
17 the notice of suspension of driving privileges, as provided in
18 subsection (h) of Section 11-501. However, a MDDP shall not be
19 issued if the Secretary finds that:

20 (1) The offender's driver's license is otherwise
21 invalid;

22 (2) Death or great bodily harm to another resulted from
23 the arrest for Section 11-501;

24 (3) The offender has been previously convicted of
25 reckless homicide or aggravated driving under the
26 influence involving death;

1 (4) The offender is less than 18 years of age; or

2 (5) The offender is a qualifying patient licensed under
3 the Compassionate Use of Medical Cannabis Pilot Program Act
4 who is in possession of a valid registry card issued under
5 that Act and refused to submit to standardized field
6 sobriety tests as required by subsection (a-5) of Section
7 11-501.1 or did submit to testing and failed the test or
8 tests.

9 Any offender participating in the MDDP program must pay the
10 Secretary a MDDP Administration Fee in an amount not to exceed
11 \$30 per month, to be deposited into the Monitoring Device
12 Driving Permit Administration Fee Fund. The Secretary shall
13 establish by rule the amount and the procedures, terms, and
14 conditions relating to these fees. The offender must have an
15 ignition interlock device installed within 14 days of the date
16 the Secretary issues the MDDP. The ignition interlock device
17 provider must notify the Secretary, in a manner and form
18 prescribed by the Secretary, of the installation. If the
19 Secretary does not receive notice of installation, the
20 Secretary shall cancel the MDDP.

21 A MDDP shall not become effective prior to the 31st day of
22 the original statutory summary suspension.

23 Upon receipt of the notice, as provided in paragraph (a) of
24 this Section, the person may file a petition to decline
25 issuance of the MDDP with the court of venue. The court shall
26 admonish the offender of all consequences of declining issuance

1 of the MDDP including, but not limited to, the enhanced
2 penalties for driving while suspended. After being so
3 admonished, the offender shall be permitted, in writing, to
4 execute a notice declining issuance of the MDDP. This notice
5 shall be filed with the court and forwarded by the clerk of the
6 court to the Secretary. The offender may, at any time
7 thereafter, apply to the Secretary for issuance of a MDDP.

8 (a-1) A person issued a MDDP may drive for any purpose and
9 at any time, subject to the rules adopted by the Secretary
10 under subsection (g). The person must, at his or her own
11 expense, drive only vehicles equipped with an ignition
12 interlock device as defined in Section 1-129.1, but in no event
13 shall such person drive a commercial motor vehicle.

14 (a-2) Persons who are issued a MDDP and must drive
15 employer-owned vehicles in the course of their employment
16 duties may seek permission to drive an employer-owned vehicle
17 that does not have an ignition interlock device. The employer
18 shall provide to the Secretary a form, as prescribed by the
19 Secretary, completed by the employer verifying that the
20 employee must drive an employer-owned vehicle in the course of
21 employment. If approved by the Secretary, the form must be in
22 the driver's possession while operating an employer-owner
23 vehicle not equipped with an ignition interlock device. No
24 person may use this exemption to drive a school bus, school
25 vehicle, or a vehicle designed to transport more than 15
26 passengers. No person may use this exemption to drive an

1 employer-owned motor vehicle that is owned by an entity that is
2 wholly or partially owned by the person holding the MDDP, or by
3 a family member of the person holding the MDDP. No person may
4 use this exemption to drive an employer-owned vehicle that is
5 made available to the employee for personal use. No person may
6 drive the exempted vehicle more than 12 hours per day, 6 days
7 per week.

8 (a-3) Persons who are issued a MDDP and who must drive a
9 farm tractor to and from a farm, within 50 air miles from the
10 originating farm are exempt from installation of a BAIID on the
11 farm tractor, so long as the farm tractor is being used for the
12 exclusive purpose of conducting farm operations.

13 (b) (Blank).

14 (c) (Blank).

15 (c-1) If the holder of the MDDP is convicted of or receives
16 court supervision for a violation of Section 6-206.2, 6-303,
17 11-204, 11-204.1, 11-401, 11-501, 11-503, 11-506 or a similar
18 provision of a local ordinance or a similar out-of-state
19 offense or is convicted of or receives court supervision for
20 any offense for which alcohol or drugs is an element of the
21 offense and in which a motor vehicle was involved (for an
22 arrest other than the one for which the MDDP is issued), or
23 de-installs the BAIID without prior authorization from the
24 Secretary, the MDDP shall be cancelled.

25 (c-5) If the Secretary determines that the person seeking
26 the MDDP is indigent, the Secretary shall provide the person

1 with a written document as evidence of that determination, and
2 the person shall provide that written document to an ignition
3 interlock device provider. The provider shall install an
4 ignition interlock device on that person's vehicle without
5 charge to the person, and seek reimbursement from the Indigent
6 BAIID Fund. If the Secretary has deemed an offender indigent,
7 the BAIID provider shall also provide the normal monthly
8 monitoring services and the de-installation without charge to
9 the offender and seek reimbursement from the Indigent BAIID
10 Fund. Any other monetary charges, such as a lockout fee or
11 reset fee, shall be the responsibility of the MDDP holder. A
12 BAIID provider may not seek a security deposit from the
13 Indigent BAIID Fund.

14 (d) MDDP information shall be available only to the courts,
15 police officers, and the Secretary, except during the actual
16 period the MDDP is valid, during which time it shall be a
17 public record.

18 (e) (Blank).

19 (f) (Blank).

20 (g) The Secretary shall adopt rules for implementing this
21 Section. The rules adopted shall address issues including, but
22 not limited to: compliance with the requirements of the MDDP;
23 methods for determining compliance with those requirements;
24 the consequences of noncompliance with those requirements;
25 what constitutes a violation of the MDDP; methods for
26 determining indigency; and the duties of a person or entity

1 that supplies the ignition interlock device.

2 (h) The rules adopted under subsection (g) shall provide,
3 at a minimum, that the person is not in compliance with the
4 requirements of the MDDP if he or she:

5 (1) tampers or attempts to tamper with or circumvent
6 the proper operation of the ignition interlock device;

7 (2) provides valid breath samples that register blood
8 alcohol levels in excess of the number of times allowed
9 under the rules;

10 (3) fails to provide evidence sufficient to satisfy the
11 Secretary that the ignition interlock device has been
12 installed in the designated vehicle or vehicles; or

13 (4) fails to follow any other applicable rules adopted
14 by the Secretary.

15 (i) Any person or entity that supplies an ignition
16 interlock device as provided under this Section shall, in
17 addition to supplying only those devices which fully comply
18 with all the rules adopted under subsection (g), provide the
19 Secretary, within 7 days of inspection, all monitoring reports
20 of each person who has had an ignition interlock device
21 installed. These reports shall be furnished in a manner or form
22 as prescribed by the Secretary.

23 (j) Upon making a determination that a violation of the
24 requirements of the MDDP has occurred, the Secretary shall
25 extend the summary suspension period for an additional 3 months
26 beyond the originally imposed summary suspension period,

1 during which time the person shall only be allowed to drive
2 vehicles equipped with an ignition interlock device; provided
3 further there are no limitations on the total number of times
4 the summary suspension may be extended. The Secretary may,
5 however, limit the number of extensions imposed for violations
6 occurring during any one monitoring period, as set forth by
7 rule. Any person whose summary suspension is extended pursuant
8 to this Section shall have the right to contest the extension
9 through a hearing with the Secretary, pursuant to Section 2-118
10 of this Code. If the summary suspension has already terminated
11 prior to the Secretary receiving the monitoring report that
12 shows a violation, the Secretary shall be authorized to suspend
13 the person's driving privileges for 3 months, provided that the
14 Secretary may, by rule, limit the number of suspensions to be
15 entered pursuant to this paragraph for violations occurring
16 during any one monitoring period. Any person whose license is
17 suspended pursuant to this paragraph, after the summary
18 suspension had already terminated, shall have the right to
19 contest the suspension through a hearing with the Secretary,
20 pursuant to Section 2-118 of this Code. The only permit the
21 person shall be eligible for during this new suspension period
22 is a MDDP.

23 (k) A person who has had his or her summary suspension
24 extended for the third time, or has any combination of 3
25 extensions and new suspensions, entered as a result of a
26 violation that occurred while holding the MDDP, so long as the

1 extensions and new suspensions relate to the same summary
2 suspension, shall have his or her vehicle impounded for a
3 period of 30 days, at the person's own expense. A person who
4 has his or her summary suspension extended for the fourth time,
5 or has any combination of 4 extensions and new suspensions,
6 entered as a result of a violation that occurred while holding
7 the MDDP, so long as the extensions and new suspensions relate
8 to the same summary suspension, shall have his or her vehicle
9 subject to seizure and forfeiture. The Secretary shall notify
10 the prosecuting authority of any third or fourth extensions or
11 new suspension entered as a result of a violation that occurred
12 while the person held a MDDP. Upon receipt of the notification,
13 the prosecuting authority shall impound or forfeit the vehicle.
14 The impoundment or forfeiture of a vehicle shall be conducted
15 pursuant to the procedure specified in Article 36 of the
16 Criminal Code of 2012.

17 (1) A person whose driving privileges have been suspended
18 under Section 11-501.1 of this Code and who had a MDDP that was
19 cancelled, or would have been cancelled had notification of a
20 violation been received prior to expiration of the MDDP,
21 pursuant to subsection (c-1) of this Section, shall not be
22 eligible for reinstatement when the summary suspension is
23 scheduled to terminate. Instead, the person's driving
24 privileges shall be suspended for a period of not less than
25 twice the original summary suspension period, or for the length
26 of any extensions entered under subsection (j), whichever is

1 longer. During the period of suspension, the person shall be
2 eligible only to apply for a restricted driving permit. If a
3 restricted driving permit is granted, the offender may only
4 operate vehicles equipped with a BAIID in accordance with this
5 Section.

6 (m) Any person or entity that supplies an ignition
7 interlock device under this Section shall, for each ignition
8 interlock device installed, pay 5% of the total gross revenue
9 received for the device, including monthly monitoring fees,
10 into the Indigent BAIID Fund. This 5% shall be clearly
11 indicated as a separate surcharge on each invoice that is
12 issued. The Secretary shall conduct an annual review of the
13 fund to determine whether the surcharge is sufficient to
14 provide for indigent users. The Secretary may increase or
15 decrease this surcharge requirement as needed.

16 (n) Any person or entity that supplies an ignition
17 interlock device under this Section that is requested to
18 provide an ignition interlock device to a person who presents
19 written documentation of indigency from the Secretary, as
20 provided in subsection (c-5) of this Section, shall install the
21 device on the person's vehicle without charge to the person and
22 shall seek reimbursement from the Indigent BAIID Fund.

23 (o) The Indigent BAIID Fund is created as a special fund in
24 the State treasury. The Secretary shall, subject to
25 appropriation by the General Assembly, use all money in the
26 Indigent BAIID Fund to reimburse ignition interlock device

1 providers who have installed devices in vehicles of indigent
2 persons. The Secretary shall make payments to such providers
3 every 3 months. If the amount of money in the fund at the time
4 payments are made is not sufficient to pay all requests for
5 reimbursement submitted during that 3 month period, the
6 Secretary shall make payments on a pro-rata basis, and those
7 payments shall be considered payment in full for the requests
8 submitted.

9 (p) The Monitoring Device Driving Permit Administration
10 Fee Fund is created as a special fund in the State treasury.
11 The Secretary shall, subject to appropriation by the General
12 Assembly, use the money paid into this fund to offset its
13 administrative costs for administering MDDPs.

14 (q) The Secretary is authorized to prescribe such forms as
15 it deems necessary to carry out the provisions of this Section.
16 (Source: P.A. 97-229; 97-813, eff. 7-13-12; 97-1150, eff.
17 1-25-13; 98-122, eff. 1-1-14.)

18 (625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)

19 (Text of Section from P.A. 96-1526 and 98-122)

20 Sec. 6-208.1. Period of statutory summary alcohol, other
21 drug, or intoxicating compound related suspension or
22 revocation.

23 (a) Unless the statutory summary suspension has been
24 rescinded, any person whose privilege to drive a motor vehicle
25 on the public highways has been summarily suspended, pursuant

1 to Section 11-501.1, shall not be eligible for restoration of
2 the privilege until the expiration of:

3 1. Twelve months from the effective date of the
4 statutory summary suspension for a refusal or failure to
5 complete a test or tests to determine the alcohol, drug, or
6 intoxicating compound concentration ~~authorized~~ under
7 Section 11-501.1, if the person was not involved in a motor
8 vehicle accident that caused personal injury or death to
9 another; or

10 2. Six months from the effective date of the statutory
11 summary suspension imposed following the person's
12 submission to a chemical test which disclosed an alcohol
13 concentration of 0.08 or more, or any amount of a drug,
14 substance, or intoxicating compound in such person's
15 breath, blood, or urine resulting from the unlawful use or
16 consumption of cannabis listed in the Cannabis Control Act,
17 a controlled substance listed in the Illinois Controlled
18 Substances Act, an intoxicating compound listed in the Use
19 of Intoxicating Compounds Act, or methamphetamine as
20 listed in the Methamphetamine Control and Community
21 Protection Act, pursuant to Section 11-501.1; or

22 3. Three years from the effective date of the statutory
23 summary suspension for any person other than a first
24 offender who refuses or fails to complete a test or tests
25 to determine the alcohol, drug, or intoxicating compound
26 concentration pursuant to Section 11-501.1; or

1 4. One year from the effective date of the summary
2 suspension imposed for any person other than a first
3 offender following submission to a chemical test which
4 disclosed an alcohol concentration of 0.08 or more pursuant
5 to Section 11-501.1 or any amount of a drug, substance or
6 compound in such person's blood or urine resulting from the
7 unlawful use or consumption of cannabis listed in the
8 Cannabis Control Act, a controlled substance listed in the
9 Illinois Controlled Substances Act, an intoxicating
10 compound listed in the Use of Intoxicating Compounds Act,
11 or methamphetamine as listed in the Methamphetamine
12 Control and Community Protection Act; or

13 5. (Blank). ~~Six months from the effective date of the~~
14 ~~statutory summary suspension imposed for any person~~
15 ~~following submission to a standardized field sobriety test~~
16 ~~that disclosed impairment if the person is a qualifying~~
17 ~~patient licensed under the Compassionate Use of Medical~~
18 ~~Cannabis Pilot Program Act who is in possession of a valid~~
19 ~~registry card issued under that Act and submitted to~~
20 ~~testing under subsection (a-5) of Section 11-501.1.~~

21 (a-1) Unless the statutory summary revocation has been
22 rescinded, any person whose privilege to drive has been
23 summarily revoked under Section 11-501.1 may not make
24 application for a license or permit until the expiration of one
25 year from the effective date of the summary revocation.

26 (b) Following a statutory summary suspension of the

1 privilege to drive a motor vehicle under Section 11-501.1,
2 driving privileges shall be restored unless the person is
3 otherwise suspended, revoked, or cancelled by this Code. If the
4 court has reason to believe that the person's driving privilege
5 should not be restored, the court shall notify the Secretary of
6 State prior to the expiration of the statutory summary
7 suspension so appropriate action may be taken pursuant to this
8 Code.

9 (c) Driving privileges may not be restored until all
10 applicable reinstatement fees, as provided by this Code, have
11 been paid to the Secretary of State and the appropriate entry
12 made to the driver's record.

13 (d) Where a driving privilege has been summarily suspended
14 or revoked under Section 11-501.1 and the person is
15 subsequently convicted of violating Section 11-501, or a
16 similar provision of a local ordinance, for the same incident,
17 any period served on statutory summary suspension or revocation
18 shall be credited toward the minimum period of revocation of
19 driving privileges imposed pursuant to Section 6-205.

20 (e) A first offender who refused chemical testing and whose
21 driving privileges were summarily revoked under Section
22 11-501.1 shall not be eligible for a monitoring device driving
23 permit, but may make application for reinstatement or for a
24 restricted driving permit after a period of one year has
25 elapsed from the effective date of the revocation ~~(Blank)~~.

26 (f) (Blank).

1 (g) Following a statutory summary suspension of driving
2 privileges pursuant to Section 11-501.1 where the person was
3 not a first offender, as defined in Section 11-500, the
4 Secretary of State may not issue a restricted driving permit.

5 (h) (Blank).

6 (Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876,
7 eff. 8-21-08; 96-1526, eff. 2-14-11; 98-122, eff. 1-1-14.)

8 (Text of Section from P.A. 96-1344, 97-229, and 98-122)

9 Sec. 6-208.1. Period of statutory summary alcohol, other
10 drug, or intoxicating compound related suspension or
11 revocation.

12 (a) Unless the statutory summary suspension has been
13 rescinded, any person whose privilege to drive a motor vehicle
14 on the public highways has been summarily suspended, pursuant
15 to Section 11-501.1, shall not be eligible for restoration of
16 the privilege until the expiration of:

17 1. Twelve months from the effective date of the
18 statutory summary suspension for a refusal or failure to
19 complete a test or tests to determine the alcohol, drug, or
20 intoxicating compound concentration ~~authorized~~ under
21 Section 11-501.1, if the person was not involved in a motor
22 vehicle accident ~~crash~~ that caused personal injury or death
23 to another; or

24 2. Six months from the effective date of the statutory
25 summary suspension imposed following the person's

1 submission to a chemical test which disclosed an alcohol
2 concentration of 0.08 or more, or any amount of a drug,
3 substance, or intoxicating compound in such person's
4 breath, blood, or urine resulting from the unlawful use or
5 consumption of cannabis listed in the Cannabis Control Act,
6 a controlled substance listed in the Illinois Controlled
7 Substances Act, an intoxicating compound listed in the Use
8 of Intoxicating Compounds Act, or methamphetamine as
9 listed in the Methamphetamine Control and Community
10 Protection Act, pursuant to Section 11-501.1; or

11 3. Three years from the effective date of the statutory
12 summary suspension for any person other than a first
13 offender who refuses or fails to complete a test or tests
14 to determine the alcohol, drug, or intoxicating compound
15 concentration pursuant to Section 11-501.1; or

16 4. One year from the effective date of the summary
17 suspension imposed for any person other than a first
18 offender following submission to a chemical test which
19 disclosed an alcohol concentration of 0.08 or more pursuant
20 to Section 11-501.1 or any amount of a drug, substance or
21 compound in such person's blood or urine resulting from the
22 unlawful use or consumption of cannabis listed in the
23 Cannabis Control Act, a controlled substance listed in the
24 Illinois Controlled Substances Act, an intoxicating
25 compound listed in the Use of Intoxicating Compounds Act,
26 or methamphetamine as listed in the Methamphetamine

1 Control and Community Protection Act; or

2 5. (Blank). ~~Six months from the effective date of the~~
3 ~~statutory summary suspension imposed for any person~~
4 ~~following submission to a standardized field sobriety test~~
5 ~~that disclosed impairment if the person is a qualifying~~
6 ~~patient licensed under the Compassionate Use of Medical~~
7 ~~Cannabis Pilot Program Act who is in possession of a valid~~
8 ~~registry card issued under that Act and submitted to~~
9 ~~testing under subsection (a 5) of Section 11-501.1.~~

10 (a-1) Unless the statutory summary revocation has been
11 rescinded, any person whose privilege to drive has been
12 summarily revoked pursuant to Section 11-501.1 may not make
13 application for a license or permit until the expiration of one
14 year from the effective date of the summary revocation.

15 (b) Following a statutory summary suspension of the
16 privilege to drive a motor vehicle under Section 11-501.1,
17 driving privileges shall be restored unless the person is
18 otherwise suspended, revoked, or cancelled by this Code. If the
19 court has reason to believe that the person's driving privilege
20 should not be restored, the court shall notify the Secretary of
21 State prior to the expiration of the statutory summary
22 suspension so appropriate action may be taken pursuant to this
23 Code.

24 (c) Driving privileges may not be restored until all
25 applicable reinstatement fees, as provided by this Code, have
26 been paid to the Secretary of State and the appropriate entry

1 made to the driver's record.

2 (d) Where a driving privilege has been summarily suspended
3 or revoked under Section 11-501.1 and the person is
4 subsequently convicted of violating Section 11-501, or a
5 similar provision of a local ordinance, for the same incident,
6 any period served on statutory summary suspension or revocation
7 shall be credited toward the minimum period of revocation of
8 driving privileges imposed pursuant to Section 6-205.

9 ~~(e) Following a statutory summary suspension of driving~~
10 ~~privileges pursuant to Section 11-501.1, for a first offender,~~
11 ~~the circuit court shall, unless the offender has opted in~~
12 ~~writing not to have a monitoring device driving permit issued,~~
13 ~~order the Secretary of State to issue a monitoring device~~
14 ~~driving permit as provided in Section 6-206.1. A monitoring~~
15 ~~device driving permit shall not be effective prior to the 31st~~
16 ~~day of the statutory summary suspension.~~ A first offender who
17 refused chemical testing and whose driving privileges were
18 summarily revoked pursuant to Section 11-501.1 shall not be
19 eligible for a monitoring device driving permit, but may make
20 application for reinstatement or for a restricted driving
21 permit after a period of one year has elapsed from the
22 effective date of the revocation.

23 (f) (Blank).

24 (g) Following a statutory summary suspension of driving
25 privileges pursuant to Section 11-501.1 where the person was
26 not a first offender, as defined in Section 11-500, the

1 Secretary of State may not issue a restricted driving permit.

2 (h) (Blank).

3 (Source: P.A. 96-1344, eff. 7-1-11; 97-229, eff. 7-28-11;

4 98-122, eff. 1-1-14.)

5 Section 99. Effective date. This Act takes effect upon

6 becoming law.