

HB4795



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4795

by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-206

Amends the Illinois Vehicle Code. Provides that violations of local ordinances that prohibit the operation of a vehicle in a negligent manner are not offenses against traffic regulations governing the movement of vehicles for the purpose of the suspension or revocation of a driver's license.

LRB098 13314 MLW 47834 b

HOME RULE 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 6-206 as follows:

6 (625 ILCS 5/6-206)

7 Sec. 6-206. Discretionary authority to suspend or revoke
8 license or permit; Right to a hearing.

9 (a) The Secretary of State is authorized to suspend or
10 revoke the driving privileges of any person without preliminary
11 hearing upon a showing of the person's records or other
12 sufficient evidence that the person:

13 1. Has committed an offense for which mandatory
14 revocation of a driver's license or permit is required upon
15 conviction;

16 2. Has been convicted of not less than 3 offenses
17 against traffic regulations governing the movement of
18 vehicles committed within any 12 month period. Offenses
19 against traffic regulations governing the movement of
20 vehicles do not include a conviction of a local ordinance
21 that prohibits the operation of a vehicle in a negligent
22 manner. No revocation or suspension shall be entered more
23 than 6 months after the date of last conviction;

1 3. Has been repeatedly involved as a driver in motor
2 vehicle collisions or has been repeatedly convicted of
3 offenses against laws and ordinances regulating the
4 movement of traffic, to a degree that indicates lack of
5 ability to exercise ordinary and reasonable care in the
6 safe operation of a motor vehicle or disrespect for the
7 traffic laws and the safety of other persons upon the
8 highway;

9 4. Has by the unlawful operation of a motor vehicle
10 caused or contributed to an accident resulting in injury
11 requiring immediate professional treatment in a medical
12 facility or doctor's office to any person, except that any
13 suspension or revocation imposed by the Secretary of State
14 under the provisions of this subsection shall start no
15 later than 6 months after being convicted of violating a
16 law or ordinance regulating the movement of traffic, which
17 violation is related to the accident, or shall start not
18 more than one year after the date of the accident,
19 whichever date occurs later;

20 5. Has permitted an unlawful or fraudulent use of a
21 driver's license, identification card, or permit;

22 6. Has been lawfully convicted of an offense or
23 offenses in another state, including the authorization
24 contained in Section 6-203.1, which if committed within
25 this State would be grounds for suspension or revocation;

26 7. Has refused or failed to submit to an examination

1 provided for by Section 6-207 or has failed to pass the
2 examination;

3 8. Is ineligible for a driver's license or permit under
4 the provisions of Section 6-103;

5 9. Has made a false statement or knowingly concealed a
6 material fact or has used false information or
7 identification in any application for a license,
8 identification card, or permit;

9 10. Has possessed, displayed, or attempted to
10 fraudulently use any license, identification card, or
11 permit not issued to the person;

12 11. Has operated a motor vehicle upon a highway of this
13 State when the person's driving privilege or privilege to
14 obtain a driver's license or permit was revoked or
15 suspended unless the operation was authorized by a
16 monitoring device driving permit, judicial driving permit
17 issued prior to January 1, 2009, probationary license to
18 drive, or a restricted driving permit issued under this
19 Code;

20 12. Has submitted to any portion of the application
21 process for another person or has obtained the services of
22 another person to submit to any portion of the application
23 process for the purpose of obtaining a license,
24 identification card, or permit for some other person;

25 13. Has operated a motor vehicle upon a highway of this
26 State when the person's driver's license or permit was

1 invalid under the provisions of Sections 6-107.1 and 6-110;

2 14. Has committed a violation of Section 6-301,
3 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B
4 of the Illinois Identification Card Act;

5 15. Has been convicted of violating Section 21-2 of the
6 Criminal Code of 1961 or the Criminal Code of 2012 relating
7 to criminal trespass to vehicles in which case, the
8 suspension shall be for one year;

9 16. Has been convicted of violating Section 11-204 of
10 this Code relating to fleeing from a peace officer;

11 17. Has refused to submit to a test, or tests, as
12 required under Section 11-501.1 of this Code and the person
13 has not sought a hearing as provided for in Section
14 11-501.1;

15 18. Has, since issuance of a driver's license or
16 permit, been adjudged to be afflicted with or suffering
17 from any mental disability or disease;

18 19. Has committed a violation of paragraph (a) or (b)
19 of Section 6-101 relating to driving without a driver's
20 license;

21 20. Has been convicted of violating Section 6-104
22 relating to classification of driver's license;

23 21. Has been convicted of violating Section 11-402 of
24 this Code relating to leaving the scene of an accident
25 resulting in damage to a vehicle in excess of \$1,000, in
26 which case the suspension shall be for one year;

1 22. Has used a motor vehicle in violating paragraph
2 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
3 the Criminal Code of 1961 or the Criminal Code of 2012
4 relating to unlawful use of weapons, in which case the
5 suspension shall be for one year;

6 23. Has, as a driver, been convicted of committing a
7 violation of paragraph (a) of Section 11-502 of this Code
8 for a second or subsequent time within one year of a
9 similar violation;

10 24. Has been convicted by a court-martial or punished
11 by non-judicial punishment by military authorities of the
12 United States at a military installation in Illinois of or
13 for a traffic related offense that is the same as or
14 similar to an offense specified under Section 6-205 or
15 6-206 of this Code;

16 25. Has permitted any form of identification to be used
17 by another in the application process in order to obtain or
18 attempt to obtain a license, identification card, or
19 permit;

20 26. Has altered or attempted to alter a license or has
21 possessed an altered license, identification card, or
22 permit;

23 27. Has violated Section 6-16 of the Liquor Control Act
24 of 1934;

25 28. Has been convicted for a first time of the illegal
26 possession, while operating or in actual physical control,

1 as a driver, of a motor vehicle, of any controlled
2 substance prohibited under the Illinois Controlled
3 Substances Act, any cannabis prohibited under the Cannabis
4 Control Act, or any methamphetamine prohibited under the
5 Methamphetamine Control and Community Protection Act, in
6 which case the person's driving privileges shall be
7 suspended for one year. Any defendant found guilty of this
8 offense while operating a motor vehicle, shall have an
9 entry made in the court record by the presiding judge that
10 this offense did occur while the defendant was operating a
11 motor vehicle and order the clerk of the court to report
12 the violation to the Secretary of State;

13 29. Has been convicted of the following offenses that
14 were committed while the person was operating or in actual
15 physical control, as a driver, of a motor vehicle: criminal
16 sexual assault, predatory criminal sexual assault of a
17 child, aggravated criminal sexual assault, criminal sexual
18 abuse, aggravated criminal sexual abuse, juvenile pimping,
19 soliciting for a juvenile prostitute, promoting juvenile
20 prostitution as described in subdivision (a)(1), (a)(2),
21 or (a)(3) of Section 11-14.4 of the Criminal Code of 1961
22 or the Criminal Code of 2012, and the manufacture, sale or
23 delivery of controlled substances or instruments used for
24 illegal drug use or abuse in which case the driver's
25 driving privileges shall be suspended for one year;

26 30. Has been convicted a second or subsequent time for

1 any combination of the offenses named in paragraph 29 of
2 this subsection, in which case the person's driving
3 privileges shall be suspended for 5 years;

4 31. Has refused to submit to a test as required by
5 Section 11-501.6 of this Code or Section 5-16c of the Boat
6 Registration and Safety Act or has submitted to a test
7 resulting in an alcohol concentration of 0.08 or more or
8 any amount of a drug, substance, or compound resulting from
9 the unlawful use or consumption of cannabis as listed in
10 the Cannabis Control Act, a controlled substance as listed
11 in the Illinois Controlled Substances Act, an intoxicating
12 compound as listed in the Use of Intoxicating Compounds
13 Act, or methamphetamine as listed in the Methamphetamine
14 Control and Community Protection Act, in which case the
15 penalty shall be as prescribed in Section 6-208.1;

16 32. Has been convicted of Section 24-1.2 of the
17 Criminal Code of 1961 or the Criminal Code of 2012 relating
18 to the aggravated discharge of a firearm if the offender
19 was located in a motor vehicle at the time the firearm was
20 discharged, in which case the suspension shall be for 3
21 years;

22 33. Has as a driver, who was less than 21 years of age
23 on the date of the offense, been convicted a first time of
24 a violation of paragraph (a) of Section 11-502 of this Code
25 or a similar provision of a local ordinance;

26 34. Has committed a violation of Section 11-1301.5 of

1 this Code or a similar provision of a local ordinance;

2 35. Has committed a violation of Section 11-1301.6 of
3 this Code or a similar provision of a local ordinance;

4 36. Is under the age of 21 years at the time of arrest
5 and has been convicted of not less than 2 offenses against
6 traffic regulations governing the movement of vehicles
7 committed within any 24 month period. No revocation or
8 suspension shall be entered more than 6 months after the
9 date of last conviction;

10 37. Has committed a violation of subsection (c) of
11 Section 11-907 of this Code that resulted in damage to the
12 property of another or the death or injury of another;

13 38. Has been convicted of a violation of Section 6-20
14 of the Liquor Control Act of 1934 or a similar provision of
15 a local ordinance;

16 39. Has committed a second or subsequent violation of
17 Section 11-1201 of this Code;

18 40. Has committed a violation of subsection (a-1) of
19 Section 11-908 of this Code;

20 41. Has committed a second or subsequent violation of
21 Section 11-605.1 of this Code, a similar provision of a
22 local ordinance, or a similar violation in any other state
23 within 2 years of the date of the previous violation, in
24 which case the suspension shall be for 90 days;

25 42. Has committed a violation of subsection (a-1) of
26 Section 11-1301.3 of this Code or a similar provision of a

1 local ordinance;

2 43. Has received a disposition of court supervision for
3 a violation of subsection (a), (d), or (e) of Section 6-20
4 of the Liquor Control Act of 1934 or a similar provision of
5 a local ordinance, in which case the suspension shall be
6 for a period of 3 months;

7 44. Is under the age of 21 years at the time of arrest
8 and has been convicted of an offense against traffic
9 regulations governing the movement of vehicles after
10 having previously had his or her driving privileges
11 suspended or revoked pursuant to subparagraph 36 of this
12 Section;

13 45. Has, in connection with or during the course of a
14 formal hearing conducted under Section 2-118 of this Code:
15 (i) committed perjury; (ii) submitted fraudulent or
16 falsified documents; (iii) submitted documents that have
17 been materially altered; or (iv) submitted, as his or her
18 own, documents that were in fact prepared or composed for
19 another person;

20 46. Has committed a violation of subsection (j) of
21 Section 3-413 of this Code; or

22 47. Has committed a violation of Section 11-502.1 of
23 this Code.

24 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
25 and 27 of this subsection, license means any driver's license,
26 any traffic ticket issued when the person's driver's license is

1 deposited in lieu of bail, a suspension notice issued by the
2 Secretary of State, a duplicate or corrected driver's license,
3 a probationary driver's license or a temporary driver's
4 license.

5 (b) If any conviction forming the basis of a suspension or
6 revocation authorized under this Section is appealed, the
7 Secretary of State may rescind or withhold the entry of the
8 order of suspension or revocation, as the case may be, provided
9 that a certified copy of a stay order of a court is filed with
10 the Secretary of State. If the conviction is affirmed on
11 appeal, the date of the conviction shall relate back to the
12 time the original judgment of conviction was entered and the 6
13 month limitation prescribed shall not apply.

14 (c) 1. Upon suspending or revoking the driver's license or
15 permit of any person as authorized in this Section, the
16 Secretary of State shall immediately notify the person in
17 writing of the revocation or suspension. The notice to be
18 deposited in the United States mail, postage prepaid, to the
19 last known address of the person.

20 2. If the Secretary of State suspends the driver's
21 license of a person under subsection 2 of paragraph (a) of
22 this Section, a person's privilege to operate a vehicle as
23 an occupation shall not be suspended, provided an affidavit
24 is properly completed, the appropriate fee received, and a
25 permit issued prior to the effective date of the
26 suspension, unless 5 offenses were committed, at least 2 of

1 which occurred while operating a commercial vehicle in
2 connection with the driver's regular occupation. All other
3 driving privileges shall be suspended by the Secretary of
4 State. Any driver prior to operating a vehicle for
5 occupational purposes only must submit the affidavit on
6 forms to be provided by the Secretary of State setting
7 forth the facts of the person's occupation. The affidavit
8 shall also state the number of offenses committed while
9 operating a vehicle in connection with the driver's regular
10 occupation. The affidavit shall be accompanied by the
11 driver's license. Upon receipt of a properly completed
12 affidavit, the Secretary of State shall issue the driver a
13 permit to operate a vehicle in connection with the driver's
14 regular occupation only. Unless the permit is issued by the
15 Secretary of State prior to the date of suspension, the
16 privilege to drive any motor vehicle shall be suspended as
17 set forth in the notice that was mailed under this Section.
18 If an affidavit is received subsequent to the effective
19 date of this suspension, a permit may be issued for the
20 remainder of the suspension period.

21 The provisions of this subparagraph shall not apply to
22 any driver required to possess a CDL for the purpose of
23 operating a commercial motor vehicle.

24 Any person who falsely states any fact in the affidavit
25 required herein shall be guilty of perjury under Section
26 6-302 and upon conviction thereof shall have all driving

1 privileges revoked without further rights.

2 3. At the conclusion of a hearing under Section 2-118
3 of this Code, the Secretary of State shall either rescind
4 or continue an order of revocation or shall substitute an
5 order of suspension; or, good cause appearing therefor,
6 rescind, continue, change, or extend the order of
7 suspension. If the Secretary of State does not rescind the
8 order, the Secretary may upon application, to relieve undue
9 hardship (as defined by the rules of the Secretary of
10 State), issue a restricted driving permit granting the
11 privilege of driving a motor vehicle between the
12 petitioner's residence and petitioner's place of
13 employment or within the scope of the petitioner's
14 employment related duties, or to allow the petitioner to
15 transport himself or herself, or a family member of the
16 petitioner's household to a medical facility, to receive
17 necessary medical care, to allow the petitioner to
18 transport himself or herself to and from alcohol or drug
19 remedial or rehabilitative activity recommended by a
20 licensed service provider, or to allow the petitioner to
21 transport himself or herself or a family member of the
22 petitioner's household to classes, as a student, at an
23 accredited educational institution, or to allow the
24 petitioner to transport children, elderly persons, or
25 disabled persons who do not hold driving privileges and are
26 living in the petitioner's household to and from daycare.

1 The petitioner must demonstrate that no alternative means
2 of transportation is reasonably available and that the
3 petitioner will not endanger the public safety or welfare.
4 Those multiple offenders identified in subdivision (b)4 of
5 Section 6-208 of this Code, however, shall not be eligible
6 for the issuance of a restricted driving permit.

7 (A) If a person's license or permit is revoked or
8 suspended due to 2 or more convictions of violating
9 Section 11-501 of this Code or a similar provision of a
10 local ordinance or a similar out-of-state offense, or
11 Section 9-3 of the Criminal Code of 1961 or the
12 Criminal Code of 2012, where the use of alcohol or
13 other drugs is recited as an element of the offense, or
14 a similar out-of-state offense, or a combination of
15 these offenses, arising out of separate occurrences,
16 that person, if issued a restricted driving permit, may
17 not operate a vehicle unless it has been equipped with
18 an ignition interlock device as defined in Section
19 1-129.1.

20 (B) If a person's license or permit is revoked or
21 suspended 2 or more times within a 10 year period due
22 to any combination of:

23 (i) a single conviction of violating Section
24 11-501 of this Code or a similar provision of a
25 local ordinance or a similar out-of-state offense
26 or Section 9-3 of the Criminal Code of 1961 or the

1 Criminal Code of 2012, where the use of alcohol or
2 other drugs is recited as an element of the
3 offense, or a similar out-of-state offense; or

4 (ii) a statutory summary suspension or
5 revocation under Section 11-501.1; or

6 (iii) a suspension under Section 6-203.1;
7 arising out of separate occurrences; that person, if
8 issued a restricted driving permit, may not operate a
9 vehicle unless it has been equipped with an ignition
10 interlock device as defined in Section 1-129.1.

11 (C) The person issued a permit conditioned upon the
12 use of an ignition interlock device must pay to the
13 Secretary of State DUI Administration Fund an amount
14 not to exceed \$30 per month. The Secretary shall
15 establish by rule the amount and the procedures, terms,
16 and conditions relating to these fees.

17 (D) If the restricted driving permit is issued for
18 employment purposes, then the prohibition against
19 operating a motor vehicle that is not equipped with an
20 ignition interlock device does not apply to the
21 operation of an occupational vehicle owned or leased by
22 that person's employer when used solely for employment
23 purposes.

24 (E) In each case the Secretary may issue a
25 restricted driving permit for a period deemed
26 appropriate, except that all permits shall expire

1 within one year from the date of issuance. The
2 Secretary may not, however, issue a restricted driving
3 permit to any person whose current revocation is the
4 result of a second or subsequent conviction for a
5 violation of Section 11-501 of this Code or a similar
6 provision of a local ordinance or any similar
7 out-of-state offense, or Section 9-3 of the Criminal
8 Code of 1961 or the Criminal Code of 2012, where the
9 use of alcohol or other drugs is recited as an element
10 of the offense, or any similar out-of-state offense, or
11 any combination of those offenses, until the
12 expiration of at least one year from the date of the
13 revocation. A restricted driving permit issued under
14 this Section shall be subject to cancellation,
15 revocation, and suspension by the Secretary of State in
16 like manner and for like cause as a driver's license
17 issued under this Code may be cancelled, revoked, or
18 suspended; except that a conviction upon one or more
19 offenses against laws or ordinances regulating the
20 movement of traffic shall be deemed sufficient cause
21 for the revocation, suspension, or cancellation of a
22 restricted driving permit. The Secretary of State may,
23 as a condition to the issuance of a restricted driving
24 permit, require the applicant to participate in a
25 designated driver remedial or rehabilitative program.
26 The Secretary of State is authorized to cancel a

1 restricted driving permit if the permit holder does not
2 successfully complete the program.

3 (c-3) In the case of a suspension under paragraph 43 of
4 subsection (a), reports received by the Secretary of State
5 under this Section shall, except during the actual time the
6 suspension is in effect, be privileged information and for use
7 only by the courts, police officers, prosecuting authorities,
8 the driver licensing administrator of any other state, the
9 Secretary of State, or the parent or legal guardian of a driver
10 under the age of 18. However, beginning January 1, 2008, if the
11 person is a CDL holder, the suspension shall also be made
12 available to the driver licensing administrator of any other
13 state, the U.S. Department of Transportation, and the affected
14 driver or motor carrier or prospective motor carrier upon
15 request.

16 (c-4) In the case of a suspension under paragraph 43 of
17 subsection (a), the Secretary of State shall notify the person
18 by mail that his or her driving privileges and driver's license
19 will be suspended one month after the date of the mailing of
20 the notice.

21 (c-5) The Secretary of State may, as a condition of the
22 reissuance of a driver's license or permit to an applicant
23 whose driver's license or permit has been suspended before he
24 or she reached the age of 21 years pursuant to any of the
25 provisions of this Section, require the applicant to
26 participate in a driver remedial education course and be

1 retested under Section 6-109 of this Code.

2 (d) This Section is subject to the provisions of the
3 Drivers License Compact.

4 (e) The Secretary of State shall not issue a restricted
5 driving permit to a person under the age of 16 years whose
6 driving privileges have been suspended or revoked under any
7 provisions of this Code.

8 (f) In accordance with 49 C.F.R. 384, the Secretary of
9 State may not issue a restricted driving permit for the
10 operation of a commercial motor vehicle to a person holding a
11 CDL whose driving privileges have been suspended, revoked,
12 cancelled, or disqualified under any provisions of this Code.

13 (Source: P.A. 97-229, eff. 7-28-11; 97-333, eff. 8-12-11;
14 97-743, eff. 1-1-13; 97-838, eff. 1-1-13; 97-844, eff. 1-1-13;
15 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13; 98-103, eff.
16 1-1-14; 98-122, eff. 1-1-14; revised 9-19-13.)