

1 incapable of safely driving;

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

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

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

18 (c) Except as provided under paragraphs (c-3), (c-4),
19 and (d) of this Section, every person convicted of violating
20 this Section or a similar provision of a local ordinance,
21 shall be guilty of a Class A misdemeanor and, in addition to
22 any other criminal or administrative action, for any second
23 conviction of violating this Section or a similar provision
24 of a law of another state or local ordinance committed within
25 5 years of a previous violation of this Section or a similar
26 provision of a local ordinance shall be mandatorily sentenced
27 to a minimum of 5 days of imprisonment or assigned to a
28 minimum of 30 days of community service as may be determined
29 by the court. Every person convicted of violating this
30 Section or a similar provision of a local ordinance shall be
31 subject to an additional mandatory minimum fine of \$500 and
32 an additional mandatory 5 days of community service in a
33 program benefiting children if the person committed a
34 violation of paragraph (a) or a similar provision of a local
35 ordinance while transporting a person under age 16. Every

1 person convicted a second time for violating this Section or
2 a similar provision of a local ordinance within 5 years of a
3 previous violation of this Section or a similar provision of
4 a law of another state or local ordinance shall be subject to
5 an additional mandatory minimum fine of \$500 and an
6 additional 10 days of mandatory community service in a
7 program benefiting children if the current offense was
8 committed while transporting a person under age 16. The
9 imprisonment or assignment under this subsection shall not be
10 subject to suspension nor shall the person be eligible for
11 probation in order to reduce the sentence or assignment.

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

18 (2) A person who violates this Section a third time
19 during a period in which his or her driving privileges
20 are revoked or suspended where the revocation or
21 suspension was for a violation of this Section, Section
22 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
23 of the Criminal Code of 1961 is guilty of a Class 3
24 felony.

25 (3) A person who violates this Section a fourth or
26 subsequent time during a period in which his or her
27 driving privileges are revoked or suspended where the
28 revocation or suspension was for a violation of this
29 Section, Section 11-501.1, paragraph (b) of Section
30 11-401, or Section 9-3 of the Criminal Code of 1961 is
31 guilty of a Class 2 felony.

32 (c-2) (Blank).

33 (c-3) Every person convicted of violating this Section
34 or a similar provision of a local ordinance who had a
35 child under age 16 in the vehicle at the time of the

1 offense shall have his or her punishment under this Act
2 enhanced by 2 days of imprisonment for a first offense,
3 10 days of imprisonment for a second offense, 30 days of
4 imprisonment for a third offense, and 90 days of
5 imprisonment for a fourth or subsequent offense, in
6 addition to the fine and community service required under
7 subsection (c) and the possible imprisonment required
8 under subsection (d). The imprisonment or assignment
9 under this subsection shall not be subject to suspension
10 nor shall the person be eligible for probation in order
11 to reduce the sentence or assignment.

12 (c-4) When a person is convicted of violating Section
13 11-501 of this Code or a similar provision of a local
14 ordinance, the following penalties apply when his or her
15 blood, breath, or urine was .16 or more based on the
16 definition of blood, breath, or urine units in Section
17 11-501.2 or when that person is convicted of violating this
18 Section while transporting a child under the age of 16:

19 (1) A person who is convicted of violating
20 subsection (a) of Section 11-501 of this Code a first
21 time, in addition to any other penalty that may be
22 imposed under subsection (c), is subject to a mandatory
23 minimum of 100 hours of community service and a minimum
24 fine of \$500.

25 (2) A person who is convicted of violating
26 subsection (a) of Section 11-501 of this Code a second
27 time within 10 years, in addition to any other penalty
28 that may be imposed under subsection (c), is subject to a
29 mandatory minimum of 2 days of imprisonment and a minimum
30 fine of \$1,250.

31 (3) A person who is convicted of violating
32 subsection (a) of Section 11-501 of this Code a third
33 time within 20 years is guilty of a Class 4 felony and,
34 in addition to any other penalty that may be imposed
35 under subsection (c), is subject to a mandatory minimum

1 of 90 days of imprisonment and a minimum fine of \$2,500.

2 (4) A person who is convicted of violating this
3 subsection (c-4) a fourth or subsequent time is guilty of
4 a Class 2 felony and, in addition to any other penalty
5 that may be imposed under subsection (c), is not eligible
6 for a sentence of probation or conditional discharge and
7 is subject to a minimum fine of \$2,500.

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

13 (A) the person committed a violation of this
14 Section, or a similar provision of a law of another
15 state or a local ordinance when the cause of action
16 is the same as or substantially similar to this
17 Section, for the third or subsequent time;

18 (B) the person committed a violation of
19 paragraph (a) while driving a school bus with
20 children on board;

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

27 (D) the person committed a violation of
28 paragraph (a) for a second time and has been
29 previously convicted of violating Section 9-3 of the
30 Criminal Code of 1961 relating to reckless homicide
31 in which the person was determined to have been
32 under the influence of alcohol, other drug or drugs,
33 or intoxicating compound or compounds as an element
34 of the offense or the person has previously been
35 convicted under subparagraph (C) of this paragraph

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(1); or

(E) the person, in committing a violation of paragraph (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 paragraph (a) was a proximate cause of the bodily harm.

(2) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is a Class 4 felony. For ~~7-7-04-(E)~~ 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. For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(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 alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem; and as a part of final sentencing shall undergo the imposition of the evaluation recommendations, which shall be carried out and completed in accordance with the rules adopted by the Department of Human Services. Programs providing these evaluations and recommended interventions shall be licensed by the Department of Human Services. The cost of any such evaluation or compliance with the program's recommendation shall be paid

1 for by the person, subject to rules governing indigents as
2 provided for by the Department of Human Services ,and-undergo
3 the--imposition--of--treatment---as---appropriate.---Programs
4 conducting---these--evaluations--shall--be--licensed--by--the
5 Department-of-Human-Services.---The-cost-of--any--professional
6 evaluation--shall--be--paid-for-by-the-individual-required-to
7 undergo-the-professional-evaluation.

8 (f) Every person found guilty of violating this Section,
9 whose operation of a motor vehicle while in violation of this
10 Section proximately caused any incident resulting in an
11 appropriate emergency response, shall be liable for the
12 expense of an emergency response as provided under Section
13 5-5-3 of the Unified Code of Corrections.

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

17 (h) Every person sentenced under paragraph (2) or (3) of
18 subsection (c-1) of this Section or subsection (d) of this
19 Section and who receives a term of probation or conditional
20 discharge shall be required to serve a minimum term of either
21 60 days community service or 10 days of imprisonment as a
22 condition of the probation or conditional discharge. This
23 mandatory minimum term of imprisonment or assignment of
24 community service shall not be suspended and shall not be
25 subject to reduction by the court.

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

33 (j) In addition to any other penalties and liabilities,
34 a person who is found guilty of or pleads guilty to violating
35 this Section, including any person placed on court

1 supervision for violating this Section, shall be fined \$100,
 2 payable to the circuit clerk, who shall distribute the money
 3 to the law enforcement agency that made the arrest. If the
 4 person has been previously convicted of violating this
 5 Section or a similar provision of a local ordinance, the fine
 6 shall be \$200. In the event that more than one agency is
 7 responsible for the arrest, the \$100 or \$200 shall be shared
 8 equally. Any moneys received by a law enforcement agency
 9 under this subsection (j) shall be used to purchase law
 10 enforcement equipment that will assist in the prevention of
 11 alcohol related criminal violence throughout the State. This
 12 shall include, but is not limited to, in-car video cameras,
 13 radar and laser speed detection devices, and alcohol breath
 14 testers. Any moneys received by the Department of State
 15 Police under this subsection (j) shall be deposited into the
 16 State Police DUI Fund and shall be used to purchase law
 17 enforcement equipment that will assist in the prevention of
 18 alcohol related criminal violence throughout the State.

19 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
 20 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
 21 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
 22 eff. 1-1-02; 92-431, eff. 1-1-02; revised 10-12-01.)".

23 Submitted on May 31, 2002.

24 s/Sen. Car Hawkinson

25 s/Sen. Dick Klemm

26 s/Sen. Kirk Dillard

27 s/Sen. John Cullerton

28 Sen. Barack Obama

29 Committee for the Senate

s/Rep. Jack Franks

s/Rep. Mary K. O'Brien

s/Rep. Barbara Flynn Currie

s/Rep. Art Tenhouse

s/Rep. Rick Winkel

Committee for the House