

1 AN ACT in relation to vehicles.

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
5 changing 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
8 alcohol, other drug or drugs, intoxicating compound or
9 compounds or any 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
13 or breath is 0.08 or more based on the definition of
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

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

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

23 (5) under the combined influence of alcohol, other
24 drug or drugs, or intoxicating compound or compounds to a
25 degree that renders the person incapable of safely
26 driving; or

27 (6) there is any amount of a drug, substance, or
28 compound in the person's breath, blood, or urine
29 resulting from the unlawful use or consumption of
30 cannabis listed in the Cannabis Control Act, a controlled
31 substance listed in the Illinois Controlled Substances

1 Act, or an intoxicating compound listed in the Use of
2 Intoxicating Compounds Act.

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

8 (c) Except as provided under paragraphs (c-3) and (d) of
9 this Section, every person convicted of violating this
10 Section or a similar provision of a local ordinance, shall be
11 guilty of a Class A misdemeanor and, in addition to any other
12 criminal or administrative action, for any second conviction
13 of violating this Section or a similar provision of a law of
14 another state or local ordinance committed within 5 years of
15 a previous violation of this Section or a similar provision
16 of a local ordinance shall be mandatorily sentenced to a
17 minimum of 48 consecutive hours of imprisonment or assigned
18 to a minimum of 100 hours of community service as may be
19 determined by the court. Every person convicted of violating
20 this Section or a similar provision of a local ordinance
21 shall be subject to a mandatory minimum fine of \$500 and a
22 mandatory 5 days of community service in a program benefiting
23 children if the person committed a violation of paragraph (a)
24 or a similar provision of a local ordinance while
25 transporting a person under age 16. Every person convicted a
26 second time for violating this Section or a similar provision
27 of a local ordinance within 5 years of a previous violation
28 of this Section or a similar provision of a law of another
29 state or local ordinance shall be subject to a mandatory
30 minimum fine of \$500 and 10 days of mandatory community
31 service in a program benefiting children if the current
32 offense was committed while transporting a person under age
33 16. The imprisonment or assignment under this subsection
34 shall not be subject to suspension nor shall the person be

1 eligible for probation in order to reduce the sentence or
2 assignment.

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

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

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

23 (c-2) (Blank).

24 (c-3) Every person convicted of violating this Section
25 or a similar provision of a local ordinance who had a child
26 under age 16 in the vehicle at the time of the offense shall
27 have his or her punishment under this Act enhanced by 2 days
28 of imprisonment for a first offense, 10 days of imprisonment
29 for a second offense, 30 days of imprisonment for a third
30 offense, and 90 days of imprisonment for a fourth or
31 subsequent offense, in addition to the fine and community
32 service required under subsection (c) and the possible
33 imprisonment required under subsection (d). The imprisonment
34 or assignment under this subsection shall not be subject to

1 suspension nor shall the person be eligible for probation in
2 order to reduce the sentence or assignment.

3 (d) (1) Every person convicted of committing a violation
4 of this Section shall be guilty of aggravated driving under
5 the influence of alcohol, other drug or drugs, or
6 intoxicating compound or compounds, or any combination
7 thereof if:

8 (A) the person committed a violation of this
9 Section, or a similar provision of a law of another state
10 or a local ordinance when the cause of action is the same
11 as or substantially similar to this Section, for the
12 third or subsequent time;

13 (B) the person committed a violation of paragraph
14 (a) while driving a school bus with children on board;

15 (C) the person in committing a violation of
16 paragraph (a) was involved in a motor vehicle accident
17 that resulted in great bodily harm or permanent
18 disability or disfigurement to another, when the
19 violation was a proximate cause of the injuries; or

20 (D) the person committed a violation of paragraph
21 (a) for a second time and has been previously convicted
22 of violating Section 9-3 of the Criminal Code of 1961
23 relating to reckless homicide in which the person was
24 determined to have been under the influence of alcohol,
25 other drug or drugs, or intoxicating compound or
26 compounds as an element of the offense or the person has
27 previously been convicted under subparagraph (C) of this
28 paragraph (1).

29 (2) Aggravated driving under the influence of alcohol,
30 other drug or drugs, or intoxicating compound or compounds,
31 or any combination thereof is a Class 4 felony for which a
32 person, if sentenced to a term of imprisonment, shall be
33 sentenced to not less than one year and not more than 3 years
34 for a violation of subparagraph (A), (B) or (D) of paragraph

1 (1) of this subsection (d) and not less than one year and not
2 more than 12 years for a violation of subparagraph (C) of
3 paragraph (1) of this subsection (d). For any prosecution
4 under this subsection (d), a certified copy of the driving
5 abstract of the defendant shall be admitted as proof of any
6 prior conviction.

7 (e) After a finding of guilt and prior to any final
8 sentencing, or an order for supervision, for an offense based
9 upon an arrest for a violation of this Section or a similar
10 provision of a local ordinance, individuals shall be required
11 to undergo a professional evaluation to determine if an
12 alcohol, drug, or intoxicating compound abuse problem exists
13 and the extent of the problem. Programs conducting these
14 evaluations shall be licensed by the Department of Human
15 Services and if participation in treatment programs
16 recommended by these evaluations is a part of sentencing,
17 individuals shall complete these treatment programs in
18 accordance with rules adopted by the Department of Human
19 Services; however, for a first violation, the court, in its
20 discretion, may waive this requirement of participation in
21 treatment programs as part of the sentence. The cost of any
22 professional evaluation and the costs of any treatment
23 programs shall be paid for by the individual required to
24 undergo the professional evaluation.

25 (f) Every person found guilty of violating this Section,
26 whose operation of a motor vehicle while in violation of this
27 Section proximately caused any incident resulting in an
28 appropriate emergency response, shall be liable for the
29 expense of an emergency response as provided under Section
30 5-5-3 of the Unified Code of Corrections.

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

34 (h) Every person sentenced under subsection (d) of this

1 Section and who receives a term of probation or conditional
2 discharge shall be required to serve a minimum term of either
3 30 days community service or, beginning July 1, 1993, 48
4 consecutive hours of imprisonment as a condition of the
5 probation or conditional discharge. This mandatory minimum
6 term of imprisonment or assignment of community service shall
7 not be suspended and shall not be subject to reduction by the
8 court.

9 (i) The Secretary of State may use ignition interlock
10 device requirements when granting driving relief to
11 individuals who have been arrested for a second or subsequent
12 offense of this Section or a similar provision of a local
13 ordinance. The Secretary shall establish by rule and
14 regulation the procedures for use of the interlock system.

15 (j) In addition to any other penalties and liabilities,
16 a person who is found guilty of or pleads guilty to violating
17 this Section, including any person placed on court
18 supervision for violating this Section, shall be fined \$100,
19 payable to the circuit clerk, who shall distribute the money
20 to the law enforcement agency that made the arrest. In the
21 event that more than one agency is responsible for the
22 arrest, the \$100 shall be shared equally. Any moneys
23 received by a law enforcement agency under this subsection
24 (j) shall be used to purchase law enforcement equipment that
25 will assist in the prevention of alcohol related criminal
26 violence throughout the State. This shall include, but is
27 not limited to, in-car video cameras, radar and laser speed
28 detection devices, and alcohol breath testers. Any moneys
29 received by the Department of State Police under this
30 subsection (j) shall be deposited into the State Police DUI
31 Fund and shall be used to purchase law enforcement equipment
32 that will assist in the prevention of alcohol related
33 criminal violence throughout the State.

34 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;

1 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.
2 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,
3 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)