

1 AN ACT in relation to 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
24 that renders the person incapable of safely driving; or

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

31 (b) The fact that any person charged with violating this
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any
2 combination thereof, shall not constitute a defense against any
3 charge of violating this Section.

4 (b-1) With regard to penalties imposed under this Section:

5 (1) Any reference to a prior violation of subsection
6 (a) or a similar provision includes any violation of a
7 provision of a local ordinance or a provision of a law of
8 another state that is similar to a violation of subsection
9 (a) of this Section.

10 (2) Any penalty imposed for driving with a license that
11 has been revoked for a previous violation of subsection (a)
12 of this Section shall be in addition to the penalty imposed
13 for any subsequent violation of subsection (a).

14 (b-2) Except as otherwise provided in this Section, any
15 person convicted of violating subsection (a) of this Section is
16 guilty of a Class A misdemeanor.

17 (b-3) In addition to any other criminal or administrative
18 sanction for any second conviction of violating subsection (a)
19 or a similar provision committed within 5 years of a previous
20 violation of subsection (a) or a similar provision, the
21 defendant shall be sentenced to a mandatory minimum of 5 days
22 of imprisonment or assigned a mandatory minimum of 240 hours of
23 community service as may be determined by the court.

24 (b-4) In the case of a third or subsequent violation
25 committed within 5 years of a previous violation of subsection
26 (a) or a similar provision, in addition to any other criminal
27 or administrative sanction, a mandatory minimum term of either
28 10 days of imprisonment or 480 hours of community service shall
29 be imposed.

30 (b-5) The imprisonment or assignment of community service
31 under subsections (b-3) and (b-4) shall not be subject to
32 suspension, nor shall the person be eligible for a reduced
33 sentence.

34 (c) (Blank).

35 (c-1) (1) A person who violates subsection (a) during a
36 period in which his or her driving privileges are revoked

1 or suspended, where the revocation or suspension was for a
2 violation of subsection (a), Section 11-501.1, paragraph
3 (b) of Section 11-401, or for reckless homicide as defined
4 in Section 9-3 of the Criminal Code of 1961 is guilty of a
5 Class 4 felony.

6 (2) A person who violates subsection (a) a third time,
7 if the third violation occurs during a period in which his
8 or her driving privileges are revoked or suspended where
9 the revocation or suspension was for a violation of
10 subsection (a), Section 11-501.1, paragraph (b) of Section
11 11-401, or for reckless homicide as defined in Section 9-3
12 of the Criminal Code of 1961, is guilty of a Class 3
13 felony. ~~(2.1) A person who violates subsection (a) a third
14 time, if the third violation occurs during a period in
15 which his or her driving privileges are revoked or
16 suspended where the revocation or suspension was for a
17 violation of subsection (a), Section 11-501.1, subsection
18 (b) of Section 11-401, or for reckless homicide as defined
19 in Section 9-3 of the Criminal Code of 1961, is guilty of a
20 Class 3 felony;~~ and if the person receives a term of
21 probation or conditional discharge, he or she shall be
22 required to serve a mandatory minimum of 10 days of
23 imprisonment or shall be assigned a mandatory minimum of
24 480 hours of community service, as may be determined by the
25 court, as a condition of the probation or conditional
26 discharge. This mandatory minimum term of imprisonment or
27 assignment of community service shall not be suspended or
28 reduced by the court.

29 (2.2) A person who violates subsection (a), if the
30 violation occurs during a period in which his or her
31 driving privileges are revoked or suspended where the
32 revocation or suspension was for a violation of subsection
33 (a) or Section 11-501.1, shall also be sentenced to an
34 additional mandatory minimum term of 30 consecutive days of
35 imprisonment, 40 days of 24-hour periodic imprisonment, or
36 720 hours of community service, as may be determined by the

1 court. This mandatory term of imprisonment or assignment of
2 community service shall not be suspended or reduced by the
3 court.

4 (3) A person who violates subsection (a) a fourth or
5 subsequent time, if the fourth or subsequent violation
6 occurs during a period in which his or her driving
7 privileges are revoked or suspended where the revocation or
8 suspension was for a violation of subsection (a), Section
9 11-501.1, paragraph (b) of Section 11-401, or for reckless
10 homicide as defined in Section 9-3 of the Criminal Code of
11 1961, is guilty of a Class 2 felony and is not eligible for
12 a sentence of probation or conditional discharge.

13 (c-2) (Blank).

14 (c-3) (Blank).

15 (c-4) (Blank).

16 (c-5)(1) A person who violates subsection (a), if the
17 person was transporting a person under the age of 16 at the
18 time of the violation, is subject to an additional
19 mandatory minimum fine of \$1,000, an additional mandatory
20 minimum 140 hours of community service, which shall include
21 40 hours of community service in a program benefiting
22 children, and an additional 2 days of imprisonment. The
23 imprisonment or assignment of community service under this
24 subdivision (c-5)(1) ~~subsection (c-5)~~ is not subject to
25 suspension, nor is the person eligible for a reduced
26 sentence.

27 (2) ~~(c-6)~~ Except as provided in subdivisions (c-5)(3)
28 and (c-5)(4) ~~subsections (c-7) and (c-8)~~ a person who
29 violates subsection (a) a second time, if at the time of
30 the second violation the person was transporting a person
31 under the age of 16, is subject to an additional 10 days of
32 imprisonment, an additional mandatory minimum fine of
33 \$1,000, and an additional mandatory minimum 140 hours of
34 community service, which shall include 40 hours of
35 community service in a program benefiting children. The
36 imprisonment or assignment of community service under this

1 subdivision (c-5)(2) ~~subsection (e-6)~~ is not subject to
2 suspension, nor is the person eligible for a reduced
3 sentence.

4 (3) ~~(e-7)~~ Except as provided in subdivision (c-5)(4)
5 ~~subsection (e-8)~~, any person convicted of violating
6 subdivision (c-5)(2) ~~subsection (e-6)~~ or a similar
7 provision within 10 years of a previous violation of
8 subsection (a) or a similar provision shall receive, in
9 addition to any other penalty imposed, a mandatory minimum
10 12 days imprisonment, an additional 40 hours of mandatory
11 community service in a program benefiting children, and a
12 mandatory minimum fine of \$1,750. The imprisonment or
13 assignment of community service under this subdivision
14 (c-5)(3) ~~subsection (e-7)~~ is not subject to suspension, nor
15 is the person eligible for a reduced sentence.

16 (4) ~~(e-8)~~ Any person convicted of violating
17 subdivision (c-5)(2) ~~subsection (e-6)~~ or a similar
18 provision within 5 years of a previous violation of
19 subsection (a) or a similar provision shall receive, in
20 addition to any other penalty imposed, an additional 80
21 hours of mandatory community service in a program
22 benefiting children, an additional mandatory minimum 12
23 days of imprisonment, and a mandatory minimum fine of
24 \$1,750. The imprisonment or assignment of community
25 service under this subdivision (c-5)(4) ~~subsection (e-8)~~
26 is not subject to suspension, nor is the person eligible
27 for a reduced sentence.

28 (5) ~~(e-9)~~ Any person convicted a third time for
29 violating subsection (a) or a similar provision, if at the
30 time of the third violation the person was transporting a
31 person under the age of 16, is guilty of a Class 4 felony
32 and shall receive, in addition to any other penalty
33 imposed, an additional mandatory fine of \$1,000, an
34 additional mandatory 140 hours of community service, which
35 shall include 40 hours in a program benefiting children,
36 and a mandatory minimum 30 days of imprisonment. The

1 imprisonment or assignment of community service under this
2 subdivision (c-5) (5) ~~subsection (e-9)~~ is not subject to
3 suspension, nor is the person eligible for a reduced
4 sentence.

5 (6) ~~(e-10)~~ Any person convicted of violating
6 subdivision (c-5) (5) ~~subsection (e-9)~~ or a similar
7 provision a third time within 20 years of a previous
8 violation of subsection (a) or a similar provision is
9 guilty of a Class 4 felony and shall receive, in addition
10 to any other penalty imposed, an additional mandatory 40
11 hours of community service in a program benefiting
12 children, an additional mandatory fine of \$3,000 ~~\$3000~~, and
13 a mandatory minimum 120 days of imprisonment. The
14 imprisonment or assignment of community service under this
15 subdivision (c-5) (6) ~~subsection (e-10)~~ is not subject to
16 suspension, nor is the person eligible for a reduced
17 sentence.

18 (7) ~~(e-11)~~ Any person convicted a fourth or subsequent
19 time for violating subsection (a) or a similar provision,
20 if at the time of the fourth or subsequent violation the
21 person was transporting a person under the age of 16, and
22 if the person's 3 prior violations of subsection (a) or a
23 similar provision occurred while transporting a person
24 under the age of 16 or while the alcohol concentration in
25 his or her blood, breath, or urine was 0.16 or more based
26 on the definition of blood, breath, or urine units in
27 Section 11-501.2, is guilty of a Class 2 felony, is not
28 eligible for probation or conditional discharge, and is
29 subject to a minimum fine of \$3,000.

30 (c-6) (1) ~~(e-12)~~ Any person convicted of a first violation
31 of subsection (a) or a similar provision, if the alcohol
32 concentration in his or her blood, breath, or urine was
33 0.16 or more based on the definition of blood, breath, or
34 urine units in Section 11-501.2, shall be subject, in
35 addition to any other penalty that may be imposed, to a
36 mandatory minimum of 100 hours of community service and a

1 mandatory minimum fine of \$500.

2 (2) ~~(e-13)~~ Any person convicted of a second violation
3 of subsection (a) or a similar provision committed within
4 10 years of a previous violation of subsection (a) or a
5 similar provision ~~committed within 10 years of a previous~~
6 ~~violation of subsection (a) or a similar provision~~, if at
7 the time of the second violation of subsection (a) or a
8 similar provision the alcohol concentration in his or her
9 blood, breath, or urine was 0.16 or more based on the
10 definition of blood, breath, or urine units in Section
11 11-501.2, shall be subject, in addition to any other
12 penalty that may be imposed, to a mandatory minimum of 2
13 days of imprisonment and a mandatory minimum fine of
14 \$1,250.

15 (3) ~~(e-14)~~ Any person convicted of a third violation of
16 subsection (a) or a similar provision within 20 years of a
17 previous violation of subsection (a) or a similar
18 provision, if at the time of the third violation of
19 subsection (a) or a similar provision the alcohol
20 concentration in his or her blood, breath, or urine was
21 0.16 or more based on the definition of blood, breath, or
22 urine units in Section 11-501.2, is guilty of a Class 4
23 felony and shall be subject, in addition to any other
24 penalty that may be imposed, to a mandatory minimum of 90
25 days of imprisonment and a mandatory minimum fine of
26 \$2,500.

27 (4) ~~(e-15)~~ Any person convicted of a fourth or
28 subsequent violation of subsection (a) or a similar
29 provision, if at the time of the fourth or subsequent
30 violation the alcohol concentration in his or her blood,
31 breath, or urine was 0.16 or more based on the definition
32 of blood, breath, or urine units in Section 11-501.2, and
33 if the person's 3 prior violations of subsection (a) or a
34 similar provision occurred while transporting a person
35 under the age of 16 or while the alcohol concentration in
36 his or her blood, breath, or urine was 0.16 or more based

1 on the definition of blood, breath, or urine units in
2 Section 11-501.2, is guilty of a Class 2 felony and is not
3 eligible for a sentence of probation or conditional
4 discharge and is subject to a minimum fine of \$2,500.

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

10 (A) the person committed a violation of subsection
11 (a) or a similar provision for the third or subsequent
12 time;

13 (B) the person committed a violation of subsection
14 (a) while driving a school bus with persons 18 years of
15 age or younger on board;

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

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

31 (E) the person, in committing a violation of
32 subsection (a) while driving at any speed in a school
33 speed zone at a time when a speed limit of 20 miles per
34 hour was in effect under subsection (a) of Section
35 11-605 of this Code, was involved in a motor vehicle
36 accident that resulted in bodily harm, other than great

1 bodily harm or permanent disability or disfigurement,
2 to another person, when the violation of subsection (a)
3 was a proximate cause of the bodily harm; or

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

10 (2) Except as provided in this paragraph (2), a person
11 convicted of aggravated driving under the influence of
12 alcohol, other drug or drugs, or intoxicating compound or
13 compounds, or any combination thereof is guilty of a Class
14 4 felony. For a violation of subparagraph (C) of paragraph
15 (1) of this subsection (d), the defendant, if sentenced to
16 a term of imprisonment, shall be sentenced to not less than
17 one year nor more than 12 years. Aggravated driving under
18 the influence of alcohol, other drug or drugs, or
19 intoxicating compound or compounds, or any combination
20 thereof as defined in subparagraph (F) of paragraph (1) of
21 this subsection (d) is a Class 2 felony, for which the
22 defendant, if sentenced to a term of imprisonment, shall be
23 sentenced to: (A) a term of imprisonment of not less than 3
24 years and not more than 14 years if the violation resulted
25 in the death of one person; or (B) a term of imprisonment
26 of not less than 6 years and not more than 28 years if the
27 violation resulted in the deaths of 2 or more persons. For
28 any prosecution under this subsection (d), a certified copy
29 of the driving abstract of the defendant shall be admitted
30 as proof of any prior conviction. Any person sentenced
31 under this subsection (d) who receives a term of probation
32 or conditional discharge must serve a minimum term of
33 either 480 hours of community service or 10 days of
34 imprisonment as a condition of the probation or conditional
35 discharge. This mandatory minimum term of imprisonment or
36 assignment of community service may not be suspended or

1 reduced by the court.

2 (e) After a finding of guilt and prior to any final
3 sentencing, or an order for supervision, for an offense based
4 upon an arrest for a violation of this Section or a similar
5 provision of a local ordinance, individuals shall be required
6 to undergo a professional evaluation to determine if an
7 alcohol, drug, or intoxicating compound abuse problem exists
8 and the extent of the problem, and undergo the imposition of
9 treatment as appropriate. Programs conducting these
10 evaluations shall be licensed by the Department of Human
11 Services. The cost of any professional evaluation shall be paid
12 for by the individual required to undergo the professional
13 evaluation.

14 (e-1) Any person who is found guilty of or pleads guilty to
15 violating this Section, including any person receiving a
16 disposition of court supervision for violating this Section,
17 may be required by the Court to attend a victim impact panel
18 offered by, or under contract with, a County State's Attorney's
19 office, a probation and court services department, Mothers
20 Against Drunk Driving, or the Alliance Against Intoxicated
21 Motorists. All costs generated by the victim impact panel shall
22 be paid from fees collected from the offender or as may be
23 determined by the court.

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

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

33 (h) (Blank).

34 (i) The Secretary of State shall require the use of
35 ignition interlock devices on all vehicles owned by an
36 individual who has been convicted of a second or subsequent

1 offense of this Section or a similar provision of a local
2 ordinance. The Secretary shall establish by rule and regulation
3 the procedures for certification and use of the interlock
4 system.

5 (j) In addition to any other penalties and liabilities, a
6 person who is found guilty of or pleads guilty to violating
7 subsection (a), including any person placed on court
8 supervision for violating subsection (a), shall be fined \$500,
9 payable to the circuit clerk, who shall distribute the money as
10 follows: 20% to the law enforcement agency that made the arrest
11 and 80% shall be forwarded to the State Treasurer for deposit
12 into the General Revenue Fund. If the person has been
13 previously convicted of violating subsection (a) or a similar
14 provision of a local ordinance, the fine shall be \$1,000. In
15 the event that more than one agency is responsible for the
16 arrest, the amount payable to law enforcement agencies shall be
17 shared equally. Any moneys received by a law enforcement agency
18 under this subsection (j) shall be used to purchase law
19 enforcement equipment that will assist in the prevention of
20 alcohol related criminal violence throughout the State. This
21 shall include, but is not limited to, in-car video cameras,
22 radar and laser speed detection devices, and alcohol breath
23 testers. Any moneys received by the Department of State Police
24 under this subsection (j) shall be deposited into the State
25 Police DUI Fund and shall be used to purchase law enforcement
26 equipment that will assist in the prevention of alcohol related
27 criminal violence throughout the State.

28 (k) The Secretary of State Police DUI Fund is created as a
29 special fund in the State treasury. All moneys received by the
30 Secretary of State Police under subsection (j) of this Section
31 shall be deposited into the Secretary of State Police DUI Fund
32 and, subject to appropriation, shall be used to purchase law
33 enforcement equipment to assist in the prevention of alcohol
34 related criminal violence throughout the State.

35 (l) Whenever an individual is sentenced for an offense
36 based upon an arrest for a violation of subsection (a) or a

1 similar provision of a local ordinance, and the professional
2 evaluation recommends remedial or rehabilitative treatment or
3 education, neither the treatment nor the education shall be the
4 sole disposition and either or both may be imposed only in
5 conjunction with another disposition. The court shall monitor
6 compliance with any remedial education or treatment
7 recommendations contained in the professional evaluation.
8 Programs conducting alcohol or other drug evaluation or
9 remedial education must be licensed by the Department of Human
10 Services. If the individual is not a resident of Illinois,
11 however, the court may accept an alcohol or other drug
12 evaluation or remedial education program in the individual's
13 state of residence. Programs providing treatment must be
14 licensed under existing applicable alcoholism and drug
15 treatment licensure standards.

16 (m) In addition to any other fine or penalty required by
17 law, an individual convicted of a violation of subsection (a),
18 Section 5-7 of the Snowmobile Registration and Safety Act,
19 Section 5-16 of the Boat Registration and Safety Act, or a
20 similar provision, whose operation of a motor vehicle,
21 snowmobile, or watercraft while in violation of subsection (a),
22 Section 5-7 of the Snowmobile Registration and Safety Act,
23 Section 5-16 of the Boat Registration and Safety Act, or a
24 similar provision proximately caused an incident resulting in
25 an appropriate emergency response, shall be required to make
26 restitution to a public agency for the costs of that emergency
27 response. The restitution may not exceed \$1,000 per public
28 agency for each emergency response. As used in this subsection
29 (m), "emergency response" means any incident requiring a
30 response by a police officer, a firefighter carried on the
31 rolls of a regularly constituted fire department, or an
32 ambulance.

33 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
34 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
35 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
36 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,

1 eff. 1-1-05; 93-840, eff. 7-30-04; revised 10-21-04.)

2 Section 99. Effective date. This Act takes effect January
3 1, 2005.