



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by John J. Millner

**SYNOPSIS AS INTRODUCED:**

725 ILCS 5/108-1

from Ch. 38, par. 108-1

Amends the Code of Criminal Procedure of 1963. Provides that probable cause for a traffic stop must be specific to the person for whom there is probable cause to make the stop and not to other persons in the motor vehicle. Provides that if an item of contraband is in plain view in the motor vehicle after a peace officer makes the stop of the vehicle, the officer may search other persons in the motor vehicle for whom there is probable cause to search based upon the discovery of the contraband or to protect the officer from attack.

LRB093 18416 RLC 44124 b

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 108-1 as follows:

6 (725 ILCS 5/108-1) (from Ch. 38, par. 108-1)

7 Sec. 108-1. Search without warrant.

8 (1) When a lawful arrest is effected a peace officer may  
9 reasonably search the person arrested and the area within such  
10 person's immediate presence for the purpose of:

11 (a) protecting the officer from attack; or

12 (b) preventing the person from escaping; or

13 (c) discovering the fruits of the crime; or

14 (d) discovering any instruments, articles, or things  
15 which may have been used in the commission of, or which may  
16 constitute evidence of, an offense.

17 (2) (Blank).

18 (3) A peace law enforcement officer may not search or  
19 inspect a motor vehicle, its contents, the driver, or a  
20 passenger solely because of a violation of Section 12-603.1 of  
21 the Illinois Vehicle Code.

22 (4) A peace officer who has probable cause to stop a motor  
23 vehicle for a violation of the Illinois Vehicle Code or a  
24 similar provision of a local ordinance may not search or arrest  
25 a person in the motor vehicle other than the person for whom  
26 there was probable cause to stop the motor vehicle. Nothing in  
27 this subsection (4) prevents a peace officer who has probable  
28 cause to stop a motor vehicle for an alleged violation of the  
29 Illinois Vehicle Code or a similar provision of a local  
30 ordinance from searching and arresting any person in the motor  
31 vehicle if contraband is found in plain view in the motor  
32 vehicle and there is probable cause to search and arrest that

1 person for the possession of that contraband or, if the officer  
2 reasonably expects that an occupant of the vehicle will attack  
3 the peace officer, to search that person for weapons.

4 (Source: P.A. 93-99, eff. 7-3-03.)