

1 AMENDMENT TO SENATE BILL 96

2 AMENDMENT NO. _____. Amend Senate Bill 96, AS AMENDED, by
3 replacing Section 5 with the following:

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;

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

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

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

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

1 under age 16 in the vehicle at the time of the offense shall
2 have his or her punishment under this Act enhanced by 2 days
3 of imprisonment for a first offense, 10 days of imprisonment
4 for a second offense, 30 days of imprisonment for a third
5 offense, and 90 days of imprisonment for a fourth or
6 subsequent offense, in addition to the fine and community
7 service required under subsection (c) and the possible
8 imprisonment required under subsection (d). The imprisonment
9 or assignment under this subsection shall not be subject to
10 suspension nor shall the person be eligible for probation in
11 order 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

1 under subsection (c), is subject to a mandatory minimum
2 of 90 days of imprisonment and a minimum fine of \$2,500.

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

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

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

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

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

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

1 of the offense or the person has previously been
2 convicted under subparagraph (C) or subparagraph (F)
3 of this paragraph (1); or

4 (E) the person, in committing a violation of
5 paragraph (a) while driving at any speed in a school
6 speed zone at a time when a speed limit of 20 miles
7 per hour was in effect under subsection (a) of
8 Section 11-605 of this Code, was involved in a motor
9 vehicle accident that resulted in bodily harm, other
10 than great bodily harm or permanent disability or
11 disfigurement, to another person, when the violation
12 of paragraph (a) was a proximate cause of the bodily
13 harm; or-

14 (F) the person, in committing a violation of
15 paragraph (a), was involved in a motor vehicle,
16 snowmobile, all-terrain vehicle, or watercraft
17 accident that resulted in the death of another
18 person, when the violation of paragraph (a) was a
19 proximate cause of the death.

20 (2) Except as provided in this paragraph (2),
21 aggravated driving under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, or
23 any combination thereof is a Class 4 felony. For a
24 violation of subparagraph (C) of paragraph (1) of this
25 subsection (d), the defendant, if sentenced to a term of
26 imprisonment, shall be sentenced to not less than one
27 year nor more than 12 years. Aggravated driving under the
28 influence of alcohol, other drug or drugs, or
29 intoxicating compound or compounds, or any combination
30 thereof as defined in subparagraph (F) of paragraph (1)
31 of this subsection (d) is a Class 2 felony, for which the
32 defendant, if sentenced to a term of imprisonment, shall
33 be sentenced to: (A) a term of imprisonment of not less
34 than 3 years and not more than 14 years if the violation

1 resulted in the death of one person; or (B) a term of
2 imprisonment of not less than 6 years and not more than
3 28 years if the violation resulted in the deaths of 2 or
4 more persons. For any prosecution under this subsection
5 (d), a certified copy of the driving abstract of the
6 defendant shall be admitted as proof of any prior
7 conviction.

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

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

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

29 (h) Every person sentenced under paragraph (2) or (3) of
30 subsection (c-1) of this Section or subsection (d) of this
31 Section and who receives a term of probation or conditional
32 discharge shall be required to serve a minimum term of either
33 60 days community service or 10 days of imprisonment as a
34 condition of the probation or conditional discharge. This

1 mandatory minimum term of imprisonment or assignment of
2 community service shall not be suspended and shall not be
3 subject to reduction by the court.

4 (i) The Secretary of State shall require the use of
5 ignition interlock devices on all vehicles owned by an
6 individual who has been convicted of a second or subsequent
7 offense of this Section or a similar provision of a local
8 ordinance. The Secretary shall establish by rule and
9 regulation the procedures for certification and use of the
10 interlock system.

11 (j) In addition to any other penalties and liabilities,
12 a person who is found guilty of or pleads guilty to violating
13 this Section, including any person placed on court
14 supervision for violating this Section, shall be fined \$100,
15 payable to the circuit clerk, who shall distribute the money
16 to the law enforcement agency that made the arrest. If the
17 person has been previously convicted of violating this
18 Section or a similar provision of a local ordinance, the fine
19 shall be \$200. In the event that more than one agency is
20 responsible for the arrest, the \$100 or \$200 shall be shared
21 equally. Any moneys received by a law enforcement agency
22 under this subsection (j) shall be used to purchase law
23 enforcement equipment that will assist in the prevention of
24 alcohol related criminal violence throughout the State. This
25 shall include, but is not limited to, in-car video cameras,
26 radar and laser speed detection devices, and alcohol breath
27 testers. Any moneys received by the Department of State
28 Police under this subsection (j) shall be deposited into the
29 State Police DUI Fund and shall be used to purchase law
30 enforcement equipment that will assist in the prevention of
31 alcohol related criminal violence throughout the State.

32 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
33 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
34 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,

1 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

2 Section 7. The Criminal Code of 1961 is amended by
3 changing Section 9-3 as follows:

4 (720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

5 Sec. 9-3. Involuntary Manslaughter and Reckless
6 Homicide.

7 (a) A person who unintentionally kills an individual
8 without lawful justification commits involuntary manslaughter
9 if his acts whether lawful or unlawful which cause the death
10 are such as are likely to cause death or great bodily harm to
11 some individual, and he performs them recklessly, except in
12 cases in which the cause of the death consists of the driving
13 of a motor vehicle or operating a snowmobile, all-terrain
14 vehicle, or watercraft, in which case the person commits
15 reckless homicide.

16 (b) (Blank). ~~In-cases-involving-reckless-homicide, being~~
17 ~~under-the-influence-of-alcohol-or-any-other-drug-or-drugs--at~~
18 ~~the--time--of--the--alleged-violation-shall-be-presumed-to-be~~
19 ~~evidence-of-a-reckless-act-unless-disproved--by--evidence--to~~
20 ~~the-contrary.~~

21 (c) (Blank). ~~For-the-purposes-of-this-Section, a person~~
22 ~~shall-be-considered-to-be-under-the-influence-of--alcohol--or~~
23 ~~other-drugs-while:~~

24 1. ~~The--alcohol-concentration-in-the-person's-blood~~
25 ~~or-breath-is-0.08-or-more--based--on--the--definition--of~~
26 ~~blood--and--breath--units--in--Section--11-501.2--of--the~~
27 ~~Illinois-Vehicle-Code;~~

28 2. ~~Under--the-influence-of-alcohol-to-a-degree-that~~
29 ~~renders-the-person-incapable-of-safely--driving--a--motor~~
30 ~~vehicle--or--operating-a-snowmobile, all-terrain-vehicle,~~
31 ~~or-watercraft;~~

32 3. ~~Under--the--influence--of--any--other--drug--or~~

1 combination--of--drugs--to--a--degree--that--renders--the--person
2 incapable--of--safely--driving--a--motor--vehicle--or--operating
3 a--snowmobile,--all--terrain--vehicle,--or--watercraft;--or

4 4.--Under--the--combined--influence--of--alcohol--and--any
5 other--drug--or--drugs--to--a--degree--which--renders--the--person
6 incapable--of--safely--driving--a--motor--vehicle--or--operating
7 a--snowmobile,--all--terrain--vehicle,--or--watercraft.

8 (d) Sentence.

9 (1) Involuntary manslaughter is a Class 3 felony.

10 (2) Reckless homicide is a Class 3 felony.

11 (e) (Blank). Except--as--otherwise--provided--in--subsection
12 (e-5),--in--cases--involving--reckless--homicide--in--which--the
13 defendant--was--determined--to--have--been--under--the--influence--of
14 alcohol--or--any--other--drug--or--drugs--as--an--element--of--the
15 offense,--or--in--cases--in--which--the--defendant--is--proven--beyond
16 a--reasonable--doubt--to--have--been--under--the--influence--of
17 alcohol--or--any--other--drug--or--drugs,--the--penalty--shall--be--a
18 Class--2--felony,--for--which--a--person,--if--sentenced--to--a--term--of
19 imprisonment,--shall--be--sentenced--to--a--term--of--not--less--than--3
20 years--and--not--more--than--14--years.

21 (e-5) (Blank). In--cases--involving--reckless--homicide--in
22 which--the--defendant--was--determined--to--have--been--under--the
23 influence--of--alcohol--or--any--other--drug--or--drugs--as--an--element
24 of--the--offense,--or--in--cases--in--which--the--defendant--is--proven
25 beyond--a--reasonable--doubt--to--have--been--under--the--influence--of
26 alcohol--or--any--other--drug--or--drugs,--if--the--defendant--kills--2
27 or--more--individuals--as--part--of--a--single--course--of--conduct,
28 the--penalty--is--a--Class--2--felony,--for--which--a--person,--if
29 sentenced--to--a--term--of--imprisonment,--shall--be--sentenced--to--a
30 term--of--not--less--than--6--years--and--not--more--than--28--years.

31 (f) In cases involving involuntary manslaughter in which
32 the victim was a family or household member as defined in
33 paragraph (3) of Section 112A-3 of the Code of Criminal
34 Procedure of 1963, the penalty shall be a Class 2 felony, for

1 which a person if sentenced to a term of imprisonment, shall
2 be sentenced to a term of not less than 3 years and not more
3 than 14 years.

4 (Source: P.A. 91-6, eff. 1-1-00; 91-122, eff. 1-1-00; 92-16,
5 eff. 6-28-01.)".