



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0886

Introduced 2/2/2005, by Rep. John J. Millner

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.2

from Ch. 95 1/2, par. 11-501.2

Amends the Illinois Vehicle Code. Provides that, if a law enforcement officer has probable cause to believe that a vehicle driven by a person suspected of driving under the influence of alcohol, drugs, or intoxicating compounds has caused death or personal injury (rather than the death of or personal injury to another) or if the officer has probable cause to believe that the suspect has committed a previous DUI violation, the suspect shall submit to chemical testing at the officer's request. Provides that the provision does not restrict the ability of a law enforcement officer to obtain a search warrant upon a showing of probable cause and does not restrict the ability of a law enforcement officer to rely on any recognized exception to the warrant requirement.

LRB094 05939 DRH 35994 b

1 AN ACT concerning 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 11-501.2 as follows:

6 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)

7 Sec. 11-501.2. Chemical and other tests.

8 (a) Upon the trial of any civil or criminal action or  
9 proceeding arising out of an arrest for an offense as defined  
10 in Section 11-501 or a similar local ordinance or proceedings  
11 pursuant to Section 2-118.1, evidence of the concentration of  
12 alcohol, other drug or drugs, or intoxicating compound or  
13 compounds, or any combination thereof in a person's blood or  
14 breath at the time alleged, as determined by analysis of the  
15 person's blood, urine, breath or other bodily substance, shall  
16 be admissible. Where such test is made the following provisions  
17 shall apply:

18 1. Chemical analyses of the person's blood, urine,  
19 breath or other bodily substance to be considered valid  
20 under the provisions of this Section shall have been  
21 performed according to standards promulgated by the  
22 Department of State Police by a licensed physician,  
23 registered nurse, trained phlebotomist acting under the  
24 direction of a licensed physician, certified paramedic, or  
25 other individual possessing a valid permit issued by that  
26 Department for this purpose. The Director of State Police  
27 is authorized to approve satisfactory techniques or  
28 methods, to ascertain the qualifications and competence of  
29 individuals to conduct such analyses, to issue permits  
30 which shall be subject to termination or revocation at the  
31 discretion of that Department and to certify the accuracy  
32 of breath testing equipment. The Department of State Police

1 shall prescribe regulations as necessary to implement this  
2 Section.

3 2. When a person in this State shall submit to a blood  
4 test at the request of a law enforcement officer under the  
5 provisions of Section 11-501.1, only a physician  
6 authorized to practice medicine, a registered nurse,  
7 trained phlebotomist, or certified paramedic, or other  
8 qualified person approved by the Department of State Police  
9 may withdraw blood for the purpose of determining the  
10 alcohol, drug, or alcohol and drug content therein. This  
11 limitation shall not apply to the taking of breath or urine  
12 specimens.

13 When a blood test of a person who has been taken to an  
14 adjoining state for medical treatment is requested by an  
15 Illinois law enforcement officer, the blood may be  
16 withdrawn only by a physician authorized to practice  
17 medicine in the adjoining state, a registered nurse, a  
18 trained phlebotomist acting under the direction of the  
19 physician, or certified paramedic. The law enforcement  
20 officer requesting the test shall take custody of the blood  
21 sample, and the blood sample shall be analyzed by a  
22 laboratory certified by the Department of State Police for  
23 that purpose.

24 3. The person tested may have a physician, or a  
25 qualified technician, chemist, registered nurse, or other  
26 qualified person of their own choosing administer a  
27 chemical test or tests in addition to any administered at  
28 the direction of a law enforcement officer. The failure or  
29 inability to obtain an additional test by a person shall  
30 not preclude the admission of evidence relating to the test  
31 or tests taken at the direction of a law enforcement  
32 officer.

33 4. Upon the request of the person who shall submit to a  
34 chemical test or tests at the request of a law enforcement  
35 officer, full information concerning the test or tests  
36 shall be made available to the person or such person's

1 attorney.

2 5. Alcohol concentration shall mean either grams of  
3 alcohol per 100 milliliters of blood or grams of alcohol  
4 per 210 liters of breath.

5 (b) Upon the trial of any civil or criminal action or  
6 proceeding arising out of acts alleged to have been committed  
7 by any person while driving or in actual physical control of a  
8 vehicle while under the influence of alcohol, the concentration  
9 of alcohol in the person's blood or breath at the time alleged  
10 as shown by analysis of the person's blood, urine, breath, or  
11 other bodily substance shall give rise to the following  
12 presumptions:

13 1. If there was at that time an alcohol concentration  
14 of 0.05 or less, it shall be presumed that the person was  
15 not under the influence of alcohol.

16 2. If there was at that time an alcohol concentration  
17 in excess of 0.05 but less than 0.08, such facts shall not  
18 give rise to any presumption that the person was or was not  
19 under the influence of alcohol, but such fact may be  
20 considered with other competent evidence in determining  
21 whether the person was under the influence of alcohol.

22 3. If there was at that time an alcohol concentration  
23 of 0.08 or more, it shall be presumed that the person was  
24 under the influence of alcohol.

25 4. The foregoing provisions of this Section shall not  
26 be construed as limiting the introduction of any other  
27 relevant evidence bearing upon the question whether the  
28 person was under the influence of alcohol.

29 (c) 1. If a person under arrest refuses to submit to a  
30 chemical test under the provisions of Section 11-501.1,  
31 evidence of refusal shall be admissible in any civil or  
32 criminal action or proceeding arising out of acts alleged to  
33 have been committed while the person under the influence of  
34 alcohol, other drug or drugs, or intoxicating compound or  
35 compounds, or any combination thereof was driving or in actual  
36 physical control of a motor vehicle.

1           2. Notwithstanding any ability to refuse under this  
2 Code to submit to these tests or any ability to revoke the  
3 implied consent to these tests, if a law enforcement  
4 officer has probable cause to believe that a motor vehicle  
5 driven by or in actual physical control of a person under  
6 the influence of alcohol, other drug or drugs, or  
7 intoxicating compound or compounds, or any combination  
8 thereof has caused ~~the~~ death or personal injury or has  
9 previously violated Section 11-501 or a similar provision  
10 of a law of another state or a local ordinance ~~to another,~~  
11 that person shall submit, upon the request of a law  
12 enforcement officer, to a chemical test or tests of his or  
13 her blood, breath or urine for the purpose of determining  
14 the alcohol content thereof or the presence of any other  
15 drug or combination of both.

16           This provision does not affect the applicability of or  
17 imposition of driver's license sanctions under Section  
18 11-501.1 of this Code. This paragraph 2 does not restrict  
19 the ability of a law enforcement officer to obtain a search  
20 warrant from a neutral magistrate upon a showing of  
21 constitutionally sufficient probable cause and does not  
22 restrict the ability of a law enforcement officer to rely  
23 on any recognized exception to the warrant requirement.

24           3. For purposes of this Section, a personal injury  
25 includes any Type A injury as indicated on the traffic  
26 accident report completed by a law enforcement officer that  
27 requires immediate professional attention in either a  
28 doctor's office or a medical facility. A Type A injury  
29 includes severe bleeding wounds, distorted extremities,  
30 and injuries that require the injured party to be carried  
31 from the scene.

32           (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99; 91-828,  
33 eff. 1-1-01.)