

HB1076



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1076

Introduced 02/08/05, by Rep. Wyvetter H. Younge

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Makes technical changes in a Section regarding driving under the influence of alcohol, drugs, or intoxicating compounds.

LRB094 09659 DRH 39914 b

A BILL FOR

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

25 (c-6) Except as provided in subsections (c-7) and (c-8) a
26 person who violates subsection (a) a second time, if at the
27 time of the second violation the person was transporting a
28 person under the age of 16, is subject to an additional 10 days
29 of imprisonment, an additional mandatory minimum fine of
30 \$1,000, and an additional mandatory minimum 140 hours of
31 community service, which shall include 40 hours of community
32 service in a program benefiting children. The imprisonment or
33 assignment of community service under this subsection (c-6) is
34 not subject to suspension, nor is the person eligible for a
35 reduced sentence.

36 (c-7) Except as provided in subsection (c-8), any person

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

10 (c-8) Any person convicted of violating subsection (c-6) or
11 a similar provision within 5 years of a previous violation of
12 subsection (a) or a similar provision shall receive, in
13 addition to any other penalty imposed, an additional 80 hours
14 of mandatory community service in a program benefiting
15 children, an additional mandatory minimum 12 days of
16 imprisonment, and a mandatory minimum fine of \$1,750. The
17 imprisonment or assignment of community service under this
18 subsection (c-8) is not subject to suspension, nor is the
19 person eligible for a reduced sentence.

20 (c-9) Any person convicted a third time for violating
21 subsection (a) or a similar provision, if at the time of the
22 third violation the person was transporting a person under the
23 age of 16, is guilty of a Class 4 felony and shall receive, in
24 addition to any other penalty imposed, an additional mandatory
25 fine of \$1,000, an additional mandatory 140 hours of community
26 service, which shall include 40 hours in a program benefiting
27 children, and a mandatory minimum 30 days of imprisonment. The
28 imprisonment or assignment of community service under this
29 subsection (c-9) is not subject to suspension, nor is the
30 person eligible for a reduced sentence.

31 (c-10) Any person convicted of violating subsection (c-9)
32 or a similar provision a third time within 20 years of a
33 previous violation of subsection (a) or a similar provision is
34 guilty of a Class 4 felony and shall receive, in addition to
35 any other penalty imposed, an additional mandatory 40 hours of
36 community service in a program benefiting children, an

1 additional mandatory fine of \$3,000 ~~\$3000~~, and a mandatory
2 minimum 120 days of imprisonment. The imprisonment or
3 assignment of community service under this subsection (c-10) is
4 not subject to suspension, nor is the person eligible for a
5 reduced sentence.

6 (c-11) Any person convicted a fourth or subsequent time for
7 violating subsection (a) or a similar provision, if at the time
8 of the fourth or subsequent violation the person was
9 transporting a person under the age of 16, and if the person's
10 3 prior violations of subsection (a) or a similar provision
11 occurred while transporting a person under the age of 16 or
12 while the alcohol concentration in his or her blood, breath, or
13 urine was 0.16 or more based on the definition of blood,
14 breath, or urine units in Section 11-501.2, is guilty of a
15 Class 2 felony, is not eligible for probation or conditional
16 discharge, and is subject to a minimum fine of \$3,000.

17 (c-12) Any person convicted of a first violation of
18 subsection (a) or a similar provision, if the alcohol
19 concentration in his or her blood, breath, or urine was 0.16 or
20 more based on the definition of blood, breath, or urine units
21 in Section 11-501.2, shall be subject, in addition to any other
22 penalty that may be imposed, to a mandatory minimum of 100
23 hours of community service and a mandatory minimum fine of
24 \$500.

25 (c-13) Any person convicted of a second violation of
26 subsection (a) or a similar provision committed within 10 years
27 of a previous violation of subsection (a) or a similar
28 provision ~~committed within 10 years of a previous violation of~~
29 ~~subsection (a) or a similar provision~~, if at the time of the
30 second violation of subsection (a) or a similar provision the
31 alcohol concentration in his or her blood, breath, or urine was
32 0.16 or more based on the definition of blood, breath, or urine
33 units in Section 11-501.2, shall be subject, in addition to any
34 other penalty that may be imposed, to a mandatory minimum of 2
35 days of imprisonment and a mandatory minimum fine of \$1,250.

36 (c-14) Any person convicted of a third violation of

1 subsection (a) or a similar provision within 20 years of a
2 previous violation of subsection (a) or a similar provision, if
3 at the time of the third violation of subsection (a) or a
4 similar provision the alcohol concentration in his or her
5 blood, breath, or urine was 0.16 or more based on the
6 definition of blood, breath, or urine units in Section
7 11-501.2, is guilty of a Class 4 felony and shall be subject,
8 in addition to any other penalty that may be imposed, to a
9 mandatory minimum of 90 days of imprisonment and a mandatory
10 minimum fine of \$2,500.

11 (c-15) Any person convicted of a fourth or subsequent
12 violation of subsection (a) or a similar provision, if at the
13 time of the fourth or subsequent violation the alcohol
14 concentration in his or her blood, breath, or urine was 0.16 or
15 more based on the definition of blood, breath, or urine units
16 in Section 11-501.2, and if the person's 3 prior violations of
17 subsection (a) or a similar provision occurred while
18 transporting a person under the age of 16 or while the alcohol
19 concentration in his or her blood, breath, or urine was 0.16 or
20 more based on the definition of blood, breath, or urine units
21 in Section 11-501.2, is guilty of a Class 2 felony and is not
22 eligible for a sentence of probation or conditional discharge
23 and is subject to a minimum fine of \$2,500.

24 (d) (1) Every person convicted of committing a violation of
25 this Section shall be guilty of aggravated driving under
26 the influence of alcohol, other drug or drugs, or
27 intoxicating compound or compounds, or any combination
28 thereof if:

29 (A) the person committed a violation of subsection
30 (a) or a similar provision for the third or subsequent
31 time;

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

35 (C) the person in committing a violation of
36 subsection (a) was involved in a motor vehicle accident

1 that resulted in great bodily harm or permanent
2 disability or disfigurement to another, when the
3 violation was a proximate cause of the injuries;

4 (D) the person committed a violation of subsection
5 (a) for a second time and has been previously convicted
6 of violating Section 9-3 of the Criminal Code of 1961
7 or a similar provision of a law of another state
8 relating to reckless homicide in which the person was
9 determined to have been under the influence of alcohol,
10 other drug or drugs, or intoxicating compound or
11 compounds as an element of the offense or the person
12 has previously been convicted under subparagraph (C)
13 or subparagraph (F) of this paragraph (1);

14 (E) the person, in committing a violation of
15 subsection (a) while driving at any speed in a school
16 speed zone at a time when a speed limit of 20 miles per
17 hour was in effect under subsection (a) of Section
18 11-605 of this Code, was involved in a motor vehicle
19 accident that resulted in bodily harm, other than great
20 bodily harm or permanent disability or disfigurement,
21 to another person, when the violation of subsection (a)
22 was a proximate cause of the bodily harm; or

23 (F) the person, in committing a violation of
24 subsection (a), was involved in a motor vehicle,
25 snowmobile, all-terrain vehicle, or watercraft
26 accident that resulted in the death of another person,
27 when the violation of subsection (a) was a proximate
28 cause of the death.

29 (2) Except as provided in this paragraph (2), a person
30 convicted of aggravated driving under the influence of
31 alcohol, other drug or drugs, or intoxicating compound or
32 compounds, or any combination thereof is guilty of a Class
33 4 felony. For a violation of subparagraph (C) of paragraph
34 (1) of this subsection (d), the defendant, if sentenced to
35 a term of imprisonment, shall be sentenced to not less than
36 one year nor more than 12 years. Aggravated driving under

1 the influence of alcohol, other drug or drugs, or
2 intoxicating compound or compounds, or any combination
3 thereof as defined in subparagraph (F) of paragraph (1) of
4 this subsection (d) is a Class 2 felony, for which the
5 defendant, if sentenced to a term of imprisonment, shall be
6 sentenced to: (A) a term of imprisonment of not less than 3
7 years and not more than 14 years if the violation resulted
8 in the death of one person; or (B) a term of imprisonment
9 of not less than 6 years and not more than 28 years if the
10 violation resulted in the deaths of 2 or more persons. For
11 any prosecution under this subsection (d), a certified copy
12 of the driving abstract of the defendant shall be admitted
13 as proof of any prior conviction. Any person sentenced
14 under this subsection (d) who receives a term of probation
15 or conditional discharge must serve a minimum term of
16 either 480 hours of community service or 10 days of
17 imprisonment as a condition of the probation or conditional
18 discharge. This mandatory minimum term of imprisonment or
19 assignment of community service may not be suspended or
20 reduced by the court.

21 (e) After a finding of guilt and prior to any final
22 sentencing, or an order for supervision, for an offense based
23 upon an arrest for a violation of this Section or a similar
24 provision of a local ordinance, individuals shall be required
25 to undergo a professional evaluation to determine if an
26 alcohol, drug, or intoxicating compound abuse problem exists
27 and the extent of the problem, and undergo the imposition of
28 treatment as appropriate. Programs conducting these
29 evaluations shall be licensed by the Department of Human
30 Services. The cost of any professional evaluation shall be paid
31 for by the individual required to undergo the professional
32 evaluation.

33 (e-1) Any person who is found guilty of or pleads guilty to
34 violating this Section, including any person receiving a
35 disposition of court supervision for violating this Section,
36 may be required by the Court to attend a victim impact panel

1 offered by, or under contract with, a County State's Attorney's
2 office, a probation and court services department, Mothers
3 Against Drunk Driving, or the Alliance Against Intoxicated
4 Motorists. All costs generated by the victim impact panel shall
5 be paid from fees collected from the offender or as may be
6 determined by the court.

7 (f) Every person found guilty of violating this Section,
8 whose operation of a motor vehicle while in violation of this
9 Section proximately caused any incident resulting in an
10 appropriate emergency response, shall be liable for the expense
11 of an emergency response as provided under Section 5-5-3 of the
12 Unified Code of Corrections.

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

16 (h) (Blank).

17 (i) The Secretary of State shall require the use of
18 ignition interlock devices on all vehicles owned by an
19 individual who has been convicted of a second or subsequent
20 offense of this Section or a similar provision of a local
21 ordinance. The Secretary shall establish by rule and regulation
22 the procedures for certification and use of the interlock
23 system.

24 (j) In addition to any other penalties and liabilities, a
25 person who is found guilty of or pleads guilty to violating
26 subsection (a), including any person placed on court
27 supervision for violating subsection (a), shall be fined \$500,
28 payable to the circuit clerk, who shall distribute the money as
29 follows: 20% to the law enforcement agency that made the arrest
30 and 80% shall be forwarded to the State Treasurer for deposit
31 into the General Revenue Fund. If the person has been
32 previously convicted of violating subsection (a) or a similar
33 provision of a local ordinance, the fine shall be \$1,000. In
34 the event that more than one agency is responsible for the
35 arrest, the amount payable to law enforcement agencies shall be
36 shared equally. Any moneys received by a law enforcement agency

1 under this subsection (j) shall be used to purchase law
2 enforcement equipment that will assist in the prevention of
3 alcohol related criminal violence throughout the State. This
4 shall include, but is not limited to, in-car video cameras,
5 radar and laser speed detection devices, and alcohol breath
6 testers. Any moneys received by the Department of State Police
7 under this subsection (j) shall be deposited into the State
8 Police DUI Fund and shall be used to purchase law enforcement
9 equipment that will assist in the prevention of alcohol related
10 criminal violence throughout the State.

11 (k) The Secretary of State Police DUI Fund is created as a
12 special fund in the State treasury. All moneys received by the
13 Secretary of State Police under subsection (j) of this Section
14 shall be deposited into the Secretary of State Police DUI Fund
15 and, subject to appropriation, shall be used to purchase law
16 enforcement equipment to assist in the prevention of alcohol
17 related criminal violence throughout the State.

18 (l) Whenever an individual is sentenced for an offense
19 based upon an arrest for a violation of subsection (a) or a
20 similar provision of a local ordinance, and the professional
21 evaluation recommends remedial or rehabilitative treatment or
22 education, neither the treatment nor the education shall be the
23 sole disposition and either or both may be imposed only in
24 conjunction with another disposition. The court shall monitor
25 compliance with any remedial education or treatment
26 recommendations contained in the professional evaluation.
27 Programs conducting alcohol or other drug evaluation or
28 remedial education must be licensed by the Department of Human
29 Services. If the individual is not a resident of Illinois,
30 however, the court may accept an alcohol or other drug
31 evaluation or remedial education program in the individual's
32 state of residence. Programs providing treatment must be
33 licensed under existing applicable alcoholism and drug
34 treatment licensure standards.

35 (m) In addition to any other fine or penalty required by
36 law, an individual convicted of a violation of subsection (a),

1 Section 5-7 of the Snowmobile Registration and Safety Act,
2 Section 5-16 of the Boat Registration and Safety Act, or a
3 similar provision, whose operation of a motor vehicle,
4 snowmobile, or watercraft while in violation of subsection (a),
5 Section 5-7 of the Snowmobile Registration and Safety Act,
6 Section 5-16 of the Boat Registration and Safety Act, or a
7 similar provision proximately caused an incident resulting in
8 an appropriate emergency response, shall be required to make
9 restitution to a public agency for the costs of that emergency
10 response. The restitution may not exceed \$1,000 per public
11 agency for each emergency response. As used in this subsection
12 (m), "emergency response" means any incident requiring a
13 response by a police officer, a firefighter carried on the
14 rolls of a regularly constituted fire department, or an
15 ambulance.

16 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
17 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
18 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
19 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,
20 eff. 1-1-05; 93-840, eff. 7-30-04; revised 1-13-05.)