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LRB095 07709 DRH 33855 a

1 AMENDMENT TO HOUSE BILL 592

2 AMENDMENT NO. _____. Amend House Bill 592 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 11-501.2 and 11-501.6 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

1 shall apply:

2 1. Chemical analyses of the person's blood, urine,
3 breath or other bodily substance to be considered valid
4 under the provisions of this Section shall have been
5 performed according to standards promulgated by the
6 Department of State Police by a licensed physician,
7 registered nurse, trained phlebotomist acting under the
8 direction of a licensed physician, certified paramedic, or
9 other individual possessing a valid permit issued by that
10 Department for this purpose. The Director of State Police
11 is authorized to approve satisfactory techniques or
12 methods, to ascertain the qualifications and competence of
13 individuals to conduct such analyses, to issue permits
14 which shall be subject to termination or revocation at the
15 discretion of that Department and to certify the accuracy
16 of breath testing equipment. The Department of State Police
17 shall prescribe regulations as necessary to implement this
18 Section, including rules providing for testing of saliva.

19 2. When a person in this State shall submit to a blood
20 test at the request of a law enforcement officer under the
21 provisions of Section 11-501.1, only a physician
22 authorized to practice medicine, a registered nurse,
23 trained phlebotomist, or certified paramedic, or other
24 qualified person approved by the Department of State Police
25 may withdraw blood for the purpose of determining the
26 alcohol, drug, or alcohol and drug content therein. This

1 limitation shall not apply to the taking of breath or urine
2 specimens.

3 When a blood test of a person who has been taken to an
4 adjoining state for medical treatment is requested by an
5 Illinois law enforcement officer, the blood may be
6 withdrawn only by a physician authorized to practice
7 medicine in the adjoining state, a registered nurse, a
8 trained phlebotomist acting under the direction of the
9 physician, or certified paramedic. The law enforcement
10 officer requesting the test shall take custody of the blood
11 sample, and the blood sample shall be analyzed by a
12 laboratory certified by the Department of State Police for
13 that purpose.

14 3. The person tested may have a physician, or a
15 qualified technician, chemist, registered nurse, or other
16 qualified person of their own choosing administer a
17 chemical test or tests in addition to any administered at
18 the direction of a law enforcement officer. The failure or
19 inability to obtain an additional test by a person shall
20 not preclude the admission of evidence relating to the test
21 or tests taken at the direction of a law enforcement
22 officer.

23 4. Upon the request of the person who shall submit to a
24 chemical test or tests at the request of a law enforcement
25 officer, full information concerning the test or tests
26 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

1 relevant evidence bearing upon the question whether the
2 person was under the influence of alcohol.

3 (c) 1. If a person under arrest refuses to submit to a
4 chemical test under the provisions of Section 11-501.1,
5 evidence of refusal shall be admissible in any civil or
6 criminal action or proceeding arising out of acts alleged to
7 have been committed while the person under the influence of
8 alcohol, other drug or drugs, or intoxicating compound or
9 compounds, or any combination thereof was driving or in actual
10 physical control of a motor vehicle.

11 2. Notwithstanding any ability to refuse under this
12 Code to submit to these tests or any ability to revoke the
13 implied consent to these tests, if a law enforcement
14 officer has probable cause to believe that a motor vehicle
15 driven by or in actual physical control of a person under
16 the influence of alcohol, other drug or drugs, or
17 intoxicating compound or compounds, or any combination
18 thereof has caused the death or personal injury to another,
19 that person shall submit, upon the request of a law
20 enforcement officer, to a chemical test or tests of his or
21 her blood, breath, saliva, or urine for the purpose of
22 determining the alcohol content thereof or the presence of
23 any other drug or combination of both.

24 This provision does not affect the applicability of or
25 imposition of driver's license sanctions under Section

1 11-501.1 of this Code.

2 3. For purposes of this Section, a personal injury
3 includes any Type A injury as indicated on the traffic
4 accident report completed by a law enforcement officer that
5 requires immediate professional attention in either a
6 doctor's office or a medical facility. A Type A injury
7 includes severe bleeding wounds, distorted extremities,
8 and injuries that require the injured party to be carried
9 from the scene.

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

12 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

13 Sec. 11-501.6. Driver involvement in personal injury or
14 fatal motor vehicle accident - chemical test.

15 (a) Any person who drives or is in actual control of a
16 motor vehicle upon the public highways of this State and who
17 has been involved in a personal injury or fatal motor vehicle
18 accident, shall be deemed to have given consent to a breath
19 test using a portable device as approved by the Department of
20 State Police or to a chemical test or tests of blood, breath,
21 saliva, or urine for the purpose of determining the content of
22 alcohol, other drug or drugs, or intoxicating compound or
23 compounds of such person's blood if arrested as evidenced by
24 the issuance of a Uniform Traffic Ticket for any violation of
25 the Illinois Vehicle Code or a similar provision of a local

1 ordinance, with the exception of equipment violations
2 contained in Chapter 12 of this Code, or similar provisions of
3 local ordinances. The test or tests shall be administered at
4 the direction of the arresting officer. The law enforcement
5 agency employing the officer shall designate which of the
6 aforesaid tests shall be administered. A urine test may be
7 administered even after a blood, saliva, or breath test or any
8 combination of those tests ~~both~~ has been administered.
9 Compliance with this Section does not relieve such person from
10 the requirements of Section 11-501.1 of this Code.

11 (b) Any person who is dead, unconscious or who is otherwise
12 in a condition rendering such person incapable of refusal shall
13 be deemed not to have withdrawn the consent provided by
14 subsection (a) of this Section. In addition, if a driver of a
15 vehicle is receiving medical treatment as a result of a motor
16 vehicle accident, any physician licensed to practice medicine,
17 registered nurse or a phlebotomist acting under the direction
18 of a licensed physician shall withdraw blood for testing
19 purposes to ascertain the presence of alcohol, other drug or
20 drugs, or intoxicating compound or compounds, upon the specific
21 request of a law enforcement officer. However, no such testing
22 shall be performed until, in the opinion of the medical
23 personnel on scene, the withdrawal can be made without
24 interfering with or endangering the well-being of the patient.

25 (c) A person requested to submit to a test as provided
26 above shall be warned by the law enforcement officer requesting

1 the test that a refusal to submit to the test, or submission to
2 the test resulting in an alcohol concentration of 0.08 or more,
3 or any amount of a drug, substance, or intoxicating compound
4 resulting from the unlawful use or consumption of cannabis, as
5 covered by the Cannabis Control Act, a controlled substance
6 listed in the Illinois Controlled Substances Act, or an
7 intoxicating compound listed in the Use of Intoxicating
8 Compounds Act as detected in such person's blood, saliva, or
9 urine, may result in the suspension of such person's privilege
10 to operate a motor vehicle. The length of the suspension shall
11 be the same as outlined in Section 6-208.1 of this Code
12 regarding statutory summary suspensions.

13 (d) If the person refuses testing or submits to a test
14 which discloses an alcohol concentration of 0.08 or more, or
15 any amount of a drug, substance, or intoxicating compound in
16 such person's blood, saliva, or urine resulting from the
17 unlawful use or consumption of cannabis listed in the Cannabis
18 Control Act, a controlled substance listed in the Illinois
19 Controlled Substances Act, or an intoxicating compound listed
20 in the Use of Intoxicating Compounds Act, the law enforcement
21 officer shall immediately submit a sworn report to the
22 Secretary of State on a form prescribed by the Secretary,
23 certifying that the test or tests were requested pursuant to
24 subsection (a) and the person refused to submit to a test or
25 tests or submitted to testing which disclosed an alcohol
26 concentration of 0.08 or more, or any amount of a drug,

1 substance, or intoxicating compound in such person's blood,
2 saliva, or urine, resulting from the unlawful use or
3 consumption of cannabis listed in the Cannabis Control Act, a
4 controlled substance listed in the Illinois Controlled
5 Substances Act, or an intoxicating compound listed in the Use
6 of Intoxicating Compounds Act.

7 Upon receipt of the sworn report of a law enforcement
8 officer, the Secretary shall enter the suspension to the
9 individual's driving record and the suspension shall be
10 effective on the 46th day following the date notice of the
11 suspension was given to the person.

12 The law enforcement officer submitting the sworn report
13 shall serve immediate notice of this suspension on the person
14 and such suspension shall be effective on the 46th day
15 following the date notice was given.

16 In cases where the blood alcohol concentration of 0.08 or
17 more, or any amount of a drug, substance, or intoxicating
18 compound resulting from the unlawful use or consumption of
19 cannabis as listed in the Cannabis Control Act, a controlled
20 substance listed in the Illinois Controlled Substances Act, or
21 an intoxicating compound listed in the Use of Intoxicating
22 Compounds Act, is established by a subsequent analysis of
23 blood, saliva, or urine collected at the time of arrest, the
24 arresting officer shall give notice as provided in this Section
25 or by deposit in the United States mail of such notice in an
26 envelope with postage prepaid and addressed to such person at

1 his address as shown on the Uniform Traffic Ticket and the
2 suspension shall be effective on the 46th day following the
3 date notice was given.

4 Upon receipt of the sworn report of a law enforcement
5 officer, the Secretary shall also give notice of the suspension
6 to the driver by mailing a notice of the effective date of the
7 suspension to the individual. However, should the sworn report
8 be defective by not containing sufficient information or be
9 completed in error, the notice of the suspension shall not be
10 mailed to the person or entered to the driving record, but
11 rather the sworn report shall be returned to the issuing law
12 enforcement agency.

13 (e) A driver may contest this suspension of his driving
14 privileges by requesting an administrative hearing with the
15 Secretary in accordance with Section 2-118 of this Code. At the
16 conclusion of a hearing held under Section 2-118 of this Code,
17 the Secretary may rescind, continue, or modify the order of
18 suspension. If the Secretary does not rescind the order, a
19 restricted driving permit may be granted by the Secretary upon
20 application being made and good cause shown. A restricted
21 driving permit may be granted to relieve undue hardship to
22 allow driving for employment, educational, and medical
23 purposes as outlined in Section 6-206 of this Code. The
24 provisions of Section 6-206 of this Code shall apply.

25 (f) (Blank).

26 (g) For the purposes of this Section, a personal injury

1 shall include any type A injury as indicated on the traffic
2 accident report completed by a law enforcement officer that
3 requires immediate professional attention in either a doctor's
4 office or a medical facility. A type A injury shall include
5 severely bleeding wounds, distorted extremities, and injuries
6 that require the injured party to be carried from the scene.

7 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99; 91-357,
8 eff. 7-29-99; 91-828, eff. 1-1-01.)".