



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0577

Introduced 2/8/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

625 ILCS 5/2-118	from Ch. 95 1/2, par. 2-118
625 ILCS 5/6-206	from Ch. 95 1/2, par. 6-206
625 ILCS 5/11-501.8	

Amends the Illinois Vehicle Code. Provides that a petition to contest the imposition of a suspension of a person's driving privileges because of the person's refusal to undergo testing for alcohol, drugs, or intoxicating compounds, or because drugs, intoxicating compounds, or alcohol in excess of the legal limit were found in the person's blood, breath, or urine, must be filed within 90 days after the effective date of the suspension. Provides that if a petition is withdrawn, it must be refiled in 90 days. Provides that a petition that has been withdrawn more than twice may not be refiled. Provides that a person whose license has been suspended may subpoena the arresting officer or any other law enforcement officer who participated in the person's arrest to appear at the hearing to contest the suspension. Provides that the failure of a law enforcement officer to appear at the hearing is grounds for a continuance, if the hearing officer considers the continuance appropriate, but not grounds for rescission of the suspension. Makes other changes.

LRB095 04707 DRH 28347 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 Sections 2-118, 6-206, and 11-501.8 as follows:

6 (625 ILCS 5/2-118) (from Ch. 95 1/2, par. 2-118)
7 Sec. 2-118. Hearings.

8 (a) Upon the suspension, revocation or denial of the
9 issuance of a license, permit, registration or certificate of
10 title under this Code of any person the Secretary of State
11 shall immediately notify such person in writing and upon his
12 written request shall, within 20 days after receipt thereof,
13 set a date for a hearing to commence within 90 calendar days
14 from the date of the written request for all requests related
15 to a suspension, revocation, or the denial of the issuance of a
16 license, permit, registration, or certificate of title
17 occurring after July 1, 2002, in the County of Sangamon, the
18 County of Jefferson, or the County of Cook, as such person may
19 specify, unless both parties agree that such hearing may be
20 held in some other county. The Secretary may require the
21 payment of a fee of not more than \$50 for the filing of any
22 petition, motion, or request for hearing conducted pursuant to
23 this Section. These fees must be deposited into the Secretary

1 of State DUI Administration Fund, a special fund created in the
2 State treasury, and, subject to appropriation and as directed
3 by the Secretary of State, shall be used for operation of the
4 Department of Administrative Hearings of the Office of the
5 Secretary of State and for no other purpose. The Secretary
6 shall establish by rule the amount and the procedures, terms,
7 and conditions relating to these fees.

8 (b) At any time after the suspension, revocation or denial
9 of a license, permit, registration or certificate of title of
10 any person as hereinbefore referred to, the Secretary of State,
11 in his or her discretion and without the necessity of a request
12 by such person, may hold such a hearing, upon not less than 10
13 days' notice in writing, in the Counties of Sangamon,
14 Jefferson, or Cook or in any other county agreed to by the
15 parties.

16 (c) Upon any such hearing, the Secretary of State, or his
17 authorized agent may administer oaths and issue subpoenas for
18 the attendance of witnesses and the production of relevant
19 books and records and may require an examination of such
20 person. Upon any such hearing, the Secretary of State shall
21 either rescind or, good cause appearing therefor, continue,
22 change or extend the Order of Revocation or Suspension, or upon
23 petition therefore and subject to the provisions of this Code,
24 issue a restricted driving permit or reinstate the license or
25 permit of such person.

26 (c-5) When any counselor or attorney at law, licensed in

1 any other state or territory, desires to appear at a hearing,
2 that counselor or attorney shall be allowed to appear at the
3 hearing upon the same terms and in the same manner that
4 counselors and attorneys at law licensed in this State are
5 admitted to appear in that other state or territory at
6 administrative hearings adjudicating matters the same as or
7 similar to those under the jurisdiction of the Secretary of
8 State.

9 (d) All hearings and hearing procedures shall comply with
10 requirements of the Constitution, so that no person is deprived
11 of due process of law nor denied equal protection of the laws.
12 All hearings shall be held before the Secretary of State or
13 before such persons as may be designated by the Secretary of
14 State and appropriate records of such hearings shall be kept.
15 Where a transcript of the hearing is taken, the person
16 requesting the hearing shall have the opportunity to order a
17 copy thereof at his own expense. The Secretary of State shall
18 enter an order upon any hearing conducted under this Section,
19 related to a suspension, revocation, or the denial of the
20 issuance of a license, permit, registration, or certificate of
21 title occurring after July 1, 2002, within 90 days of its
22 conclusion and shall immediately notify the person in writing
23 of his or her action.

24 (d-3) In regard to any hearing over which the Secretary of
25 State has jurisdiction because of a person's implied consent to
26 testing of the person's blood, breath, or urine for the

1 presence of alcohol, drugs, or intoxicating compounds,
2 petitions to contest the imposition of a suspension based on
3 the person's refusal to undergo the required testing, or on a
4 finding that the person's blood, breath, or urine contained
5 drugs, intoxicating compounds, or alcohol in an amount
6 exceeding the legal limit, must be filed within 90 days after
7 the effective date of the suspension (unless the petitioner is
8 able to show that the Notice of Suspension was not sent at
9 least 21 days before the termination date of the suspension, in
10 which case the petition may be filed within 90 days after the
11 notice was issued). If a petitioner withdraws a petition, the
12 petition must be refiled within 90 days after the date of
13 withdrawal. A petition which is withdrawn more than twice shall
14 not be considered by the Secretary of State.

15 (d-5) Any hearing over which the Secretary of State has
16 jurisdiction because of a person's implied consent to testing
17 of the person's blood, breath, or urine for the presence of
18 alcohol, drugs, or intoxicating compounds may be conducted upon
19 a review of the official police reports. Either party, however,
20 may subpoena the arresting officer and any other law
21 enforcement officer who was involved in the petitioner's arrest
22 or processing after arrest, as well as any other person whose
23 testimony may be probative to the issues at the hearing. The
24 failure of a law enforcement officer to answer the subpoena
25 shall be considered grounds for a continuance if, in the
26 hearing officer's discretion, the continuance is appropriate.

1 The failure of the arresting officer to answer a subpoena shall
2 not, in and of itself, be considered grounds for the rescission
3 of an implied consent suspension. Rather, the hearing shall
4 proceed on the basis of the other evidence available, and the
5 hearing officer shall assign this evidence whatever probative
6 value is deemed appropriate. The decision to rescind shall be
7 based upon the totality of the evidence.

8 (e) The action of the Secretary of State in suspending,
9 revoking or denying any license, permit, registration, or
10 certificate of title shall be subject to judicial review in the
11 Circuit Court of Sangamon County, in the Circuit Court of
12 Jefferson County, or in the Circuit Court of Cook County, and
13 the provisions of the Administrative Review Law, and all
14 amendments and modifications thereto, and the rules adopted
15 pursuant thereto, are hereby adopted and shall apply to and
16 govern every action for the judicial review of final acts or
17 decisions of the Secretary of State hereunder.

18 (Source: P.A. 91-823, eff. 1-1-01; 92-418, eff. 8-17-01.)

19 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

20 Sec. 6-206. Discretionary authority to suspend or revoke
21 license or permit; Right to a hearing.

22 (a) The Secretary of State is authorized to suspend or
23 revoke the driving privileges of any person without preliminary
24 hearing upon a showing of the person's records or other
25 sufficient evidence that the person:

1 1. Has committed an offense for which mandatory
2 revocation of a driver's license or permit is required upon
3 conviction;

4 2. Has been convicted of not less than 3 offenses
5 against traffic regulations governing the movement of
6 vehicles committed within any 12 month period. No
7 revocation or suspension shall be entered more than 6
8 months after the date of last conviction;

9 3. Has been repeatedly involved as a driver in motor
10 vehicle collisions or has been repeatedly convicted of
11 offenses against laws and ordinances regulating the
12 movement of traffic, to a degree that indicates lack of
13 ability to exercise ordinary and reasonable care in the
14 safe operation of a motor vehicle or disrespect for the
15 traffic laws and the safety of other persons upon the
16 highway;

17 4. Has by the unlawful operation of a motor vehicle
18 caused or contributed to an accident resulting in death or
19 injury requiring immediate professional treatment in a
20 medical facility or doctor's office to any person, except
21 that any suspension or revocation imposed by the Secretary
22 of State under the provisions of this subsection shall
23 start no later than 6 months after being convicted of
24 violating a law or ordinance regulating the movement of
25 traffic, which violation is related to the accident, or
26 shall start not more than one year after the date of the

1 accident, whichever date occurs later;

2 5. Has permitted an unlawful or fraudulent use of a
3 driver's license, identification card, or permit;

4 6. Has been lawfully convicted of an offense or
5 offenses in another state, including the authorization
6 contained in Section 6-203.1, which if committed within
7 this State would be grounds for suspension or revocation;

8 7. Has refused or failed to submit to an examination
9 provided for by Section 6-207 or has failed to pass the
10 examination;

11 8. Is ineligible for a driver's license or permit under
12 the provisions of Section 6-103;

13 9. Has made a false statement or knowingly concealed a
14 material fact or has used false information or
15 identification in any application for a license,
16 identification card, or permit;

17 10. Has possessed, displayed, or attempted to
18 fraudulently use any license, identification card, or
19 permit not issued to the person;

20 11. Has operated a motor vehicle upon a highway of this
21 State when the person's driving privilege or privilege to
22 obtain a driver's license or permit was revoked or
23 suspended unless the operation was authorized by a judicial
24 driving permit, probationary license to drive, or a
25 restricted driving permit issued under this Code;

26 12. Has submitted to any portion of the application

1 process for another person or has obtained the services of
2 another person to submit to any portion of the application
3 process for the purpose of obtaining a license,
4 identification card, or permit for some other person;

5 13. Has operated a motor vehicle upon a highway of this
6 State when the person's driver's license or permit was
7 invalid under the provisions of Sections 6-107.1 and 6-110;

8 14. Has committed a violation of Section 6-301,
9 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B
10 of the Illinois Identification Card Act;

11 15. Has been convicted of violating Section 21-2 of the
12 Criminal Code of 1961 relating to criminal trespass to
13 vehicles in which case, the suspension shall be for one
14 year;

15 16. Has been convicted of violating Section 11-204 of
16 this Code relating to fleeing from a peace officer;

17 17. Has refused to submit to a test, or tests, as
18 required under Section 11-501.1 of this Code and the person
19 has not sought a hearing as provided for in Section
20 11-501.1;

21 18. Has, since issuance of a driver's license or
22 permit, been adjudged to be afflicted with or suffering
23 from any mental disability or disease;

24 19. Has committed a violation of paragraph (a) or (b)
25 of Section 6-101 relating to driving without a driver's
26 license;

1 20. Has been convicted of violating Section 6-104
2 relating to classification of driver's license;

3 21. Has been convicted of violating Section 11-402 of
4 this Code relating to leaving the scene of an accident
5 resulting in damage to a vehicle in excess of \$1,000, in
6 which case the suspension shall be for one year;

7 22. Has used a motor vehicle in violating paragraph
8 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
9 the Criminal Code of 1961 relating to unlawful use of
10 weapons, in which case the suspension shall be for one
11 year;

12 23. Has, as a driver, been convicted of committing a
13 violation of paragraph (a) of Section 11-502 of this Code
14 for a second or subsequent time within one year of a
15 similar violation;

16 24. Has been convicted by a court-martial or punished
17 by non-judicial punishment by military authorities of the
18 United States at a military installation in Illinois of or
19 for a traffic related offense that is the same as or
20 similar to an offense specified under Section 6-205 or
21 6-206 of this Code;

22 25. Has permitted any form of identification to be used
23 by another in the application process in order to obtain or
24 attempt to obtain a license, identification card, or
25 permit;

26 26. Has altered or attempted to alter a license or has

1 possessed an altered license, identification card, or
2 permit;

3 27. Has violated Section 6-16 of the Liquor Control Act
4 of 1934;

5 28. Has been convicted of the illegal possession, while
6 operating or in actual physical control, as a driver, of a
7 motor vehicle, of any controlled substance prohibited
8 under the Illinois Controlled Substances Act, any cannabis
9 prohibited under the Cannabis Control Act, or any
10 methamphetamine prohibited under the Methamphetamine
11 Control and Community Protection Act, in which case the
12 person's driving privileges shall be suspended for one
13 year, and any driver who is convicted of a second or
14 subsequent offense, within 5 years of a previous
15 conviction, for the illegal possession, while operating or
16 in actual physical control, as a driver, of a motor
17 vehicle, of any controlled substance prohibited under the
18 Illinois Controlled Substances Act, any cannabis
19 prohibited under the Cannabis Control Act, or any
20 methamphetamine prohibited under the Methamphetamine
21 Control and Community Protection Act shall be suspended for
22 5 years. Any defendant found guilty of this offense while
23 operating a motor vehicle, shall have an entry made in the
24 court record by the presiding judge that this offense did
25 occur while the defendant was operating a motor vehicle and
26 order the clerk of the court to report the violation to the

1 Secretary of State;

2 29. Has been convicted of the following offenses that
3 were committed while the person was operating or in actual
4 physical control, as a driver, of a motor vehicle: criminal
5 sexual assault, predatory criminal sexual assault of a
6 child, aggravated criminal sexual assault, criminal sexual
7 abuse, aggravated criminal sexual abuse, juvenile pimping,
8 soliciting for a juvenile prostitute and the manufacture,
9 sale or delivery of controlled substances or instruments
10 used for illegal drug use or abuse in which case the
11 driver's driving privileges shall be suspended for one
12 year;

13 30. Has been convicted a second or subsequent time for
14 any combination of the offenses named in paragraph 29 of
15 this subsection, in which case the person's driving
16 privileges shall be suspended for 5 years;

17 31. Has refused to submit to a test as required by
18 Section 11-501.6 or has submitted to a test resulting in an
19 alcohol concentration of 0.08 or more or any amount of a
20 drug, substance, or compound resulting from the unlawful
21 use or consumption of cannabis as listed in the Cannabis
22 Control Act, a controlled substance as listed in the
23 Illinois Controlled Substances Act, or an intoxicating
24 compound as listed in the Use of Intoxicating Compounds
25 Act, in which case the penalty shall be as prescribed in
26 Section 6-208.1;

1 32. Has been convicted of Section 24-1.2 of the
2 Criminal Code of 1961 relating to the aggravated discharge
3 of a firearm if the offender was located in a motor vehicle
4 at the time the firearm was discharged, in which case the
5 suspension shall be for 3 years;

6 33. Has as a driver, who was less than 21 years of age
7 on the date of the offense, been convicted a first time of
8 a violation of paragraph (a) of Section 11-502 of this Code
9 or a similar provision of a local ordinance;

10 34. Has committed a violation of Section 11-1301.5 of
11 this Code;

12 35. Has committed a violation of Section 11-1301.6 of
13 this Code;

14 36. Is under the age of 21 years at the time of arrest
15 and has been convicted of not less than 2 offenses against
16 traffic regulations governing the movement of vehicles
17 committed within any 24 month period. No revocation or
18 suspension shall be entered more than 6 months after the
19 date of last conviction;

20 37. Has committed a violation of subsection (c) of
21 Section 11-907 of this Code;

22 38. Has been convicted of a violation of Section 6-20
23 of the Liquor Control Act of 1934 or a similar provision of
24 a local ordinance;

25 39. Has committed a second or subsequent violation of
26 Section 11-1201 of this Code;

1 40. Has committed a violation of subsection (a-1) of
2 Section 11-908 of this Code;

3 41. Has committed a second or subsequent violation of
4 Section 11-605.1 of this Code within 2 years of the date of
5 the previous violation, in which case the suspension shall
6 be for 90 days; ~~or~~

7 42. Has committed a violation of subsection (a-1) of
8 Section 11-1301.3 of this Code; or ~~or~~

9 43. Has, in connection with or during the course of a
10 formal hearing conducted under Section 2-118 of this Code:
11 (i) committed perjury; (ii) submitted fraudulent or
12 falsified documents; (iii) submitted documents that have
13 been materially altered; or (iv), submitted as his or her
14 own, documents that were in fact prepared or composed for
15 another person.

16 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
17 and 27 of this subsection, license means any driver's license,
18 any traffic ticket issued when the person's driver's license is
19 deposited in lieu of bail, a suspension notice issued by the
20 Secretary of State, a duplicate or corrected driver's license,
21 a probationary driver's license or a temporary driver's
22 license.

23 (b) If any conviction forming the basis of a suspension or
24 revocation authorized under this Section is appealed, the
25 Secretary of State may rescind or withhold the entry of the
26 order of suspension or revocation, as the case may be, provided

1 that a certified copy of a stay order of a court is filed with
2 the Secretary of State. If the conviction is affirmed on
3 appeal, the date of the conviction shall relate back to the
4 time the original judgment of conviction was entered and the 6
5 month limitation prescribed shall not apply.

6 (c) 1. Upon suspending or revoking the driver's license or
7 permit of any person as authorized in this Section, the
8 Secretary of State shall immediately notify the person in
9 writing of the revocation or suspension. The notice to be
10 deposited in the United States mail, postage prepaid, to
11 the last known address of the person.

12 2. If the Secretary of State suspends the driver's
13 license of a person under subsection 2 of paragraph (a) of
14 this Section, a person's privilege to operate a vehicle as
15 an occupation shall not be suspended, provided an affidavit
16 is properly completed, the appropriate fee received, and a
17 permit issued prior to the effective date of the
18 suspension, unless 5 offenses were committed, at least 2 of
19 which occurred while operating a commercial vehicle in
20 connection with the driver's regular occupation. All other
21 driving privileges shall be suspended by the Secretary of
22 State. Any driver prior to operating a vehicle for
23 occupational purposes only must submit the affidavit on
24 forms to be provided by the Secretary of State setting
25 forth the facts of the person's occupation. The affidavit
26 shall also state the number of offenses committed while

1 operating a vehicle in connection with the driver's regular
2 occupation. The affidavit shall be accompanied by the
3 driver's license. Upon receipt of a properly completed
4 affidavit, the Secretary of State shall issue the driver a
5 permit to operate a vehicle in connection with the driver's
6 regular occupation only. Unless the permit is issued by the
7 Secretary of State prior to the date of suspension, the
8 privilege to drive any motor vehicle shall be suspended as
9 set forth in the notice that was mailed under this Section.
10 If an affidavit is received subsequent to the effective
11 date of this suspension, a permit may be issued for the
12 remainder of the suspension period.

13 The provisions of this subparagraph shall not apply to
14 any driver required to possess a CDL for the purpose of
15 operating a commercial motor vehicle.

16 Any person who falsely states any fact in the affidavit
17 required herein shall be guilty of perjury under Section
18 6-302 and upon conviction thereof shall have all driving
19 privileges revoked without further rights.

20 3. At the conclusion of a hearing under Section 2-118
21 of this Code, the Secretary of State shall either rescind
22 or continue an order of revocation or shall substitute an
23 order of suspension; or, good cause appearing therefor,
24 rescind, continue, change, or extend the order of
25 suspension. If the Secretary of State does not rescind the
26 order, the Secretary may upon application, to relieve undue

1 hardship, issue a restricted driving permit granting the
2 privilege of driving a motor vehicle between the
3 petitioner's residence and petitioner's place of
4 employment or within the scope of his employment related
5 duties, or to allow transportation for the petitioner, or a
6 household member of the petitioner's family, to receive
7 necessary medical care and if the professional evaluation
8 indicates, provide transportation for alcohol remedial or
9 rehabilitative activity, or for the petitioner to attend
10 classes, as a student, in an accredited educational
11 institution; if the petitioner is able to demonstrate that
12 no alternative means of transportation is reasonably
13 available and the petitioner will not endanger the public
14 safety or welfare.

15 If a person's license or permit has been revoked or
16 suspended due to 2 or more convictions of violating Section
17 11-501 of this Code or a similar provision of a local
18 ordinance or a similar out-of-state offense, arising out of
19 separate occurrences, that person, if issued a restricted
20 driving permit, may not operate a vehicle unless it has
21 been equipped with an ignition interlock device as defined
22 in Section 1-129.1.

23 If a person's license or permit has been revoked or
24 suspended 2 or more times within a 10 year period due to a
25 single conviction of violating Section 11-501 of this Code
26 or a similar provision of a local ordinance or a similar

1 out-of-state offense, and a statutory summary suspension
2 under Section 11-501.1, or 2 or more statutory summary
3 suspensions, or combination of 2 offenses, or of an offense
4 and a statutory summary suspension, arising out of separate
5 occurrences, that person, if issued a restricted driving
6 permit, may not operate a vehicle unless it has been
7 equipped with an ignition interlock device as defined in
8 Section 1-129.1. The person must pay to the Secretary of
9 State DUI Administration Fund an amount not to exceed \$20
10 per month. The Secretary shall establish by rule the amount
11 and the procedures, terms, and conditions relating to these
12 fees. If the restricted driving permit was issued for
13 employment purposes, then this provision does not apply to
14 the operation of an occupational vehicle owned or leased by
15 that person's employer. In each case the Secretary may
16 issue a restricted driving permit for a period deemed
17 appropriate, except that all permits shall expire within
18 one year from the date of issuance. The Secretary may not,
19 however, issue a restricted driving permit to any person
20 whose current revocation is the result of a second or
21 subsequent conviction for a violation of Section 11-501 of
22 this Code or a similar provision of a local ordinance
23 relating to the offense of operating or being in physical
24 control of a motor vehicle while under the influence of
25 alcohol, other drug or drugs, intoxicating compound or
26 compounds, or any similar out-of-state offense, or any

1 combination of those offenses, until the expiration of at
2 least one year from the date of the revocation. A
3 restricted driving permit issued under this Section shall
4 be subject to cancellation, revocation, and suspension by
5 the Secretary of State in like manner and for like cause as
6 a driver's license issued under this Code may be cancelled,
7 revoked, or suspended; except that a conviction upon one or
8 more offenses against laws or ordinances regulating the
9 movement of traffic shall be deemed sufficient cause for
10 the revocation, suspension, or cancellation of a
11 restricted driving permit. The Secretary of State may, as a
12 condition to the issuance of a restricted driving permit,
13 require the applicant to participate in a designated driver
14 remedial or rehabilitative program. The Secretary of State
15 is authorized to cancel a restricted driving permit if the
16 permit holder does not successfully complete the program.

17 (c-5) The Secretary of State may, as a condition of the
18 reissuance of a driver's license or permit to an applicant
19 whose driver's license or permit has been suspended before he
20 or she reached the age of 18 years pursuant to any of the
21 provisions of this Section, require the applicant to
22 participate in a driver remedial education course and be
23 retested under Section 6-109 of this Code.

24 (d) This Section is subject to the provisions of the
25 Drivers License Compact.

26 (e) The Secretary of State shall not issue a restricted

1 driving permit to a person under the age of 16 years whose
2 driving privileges have been suspended or revoked under any
3 provisions of this Code.

4 (f) In accordance with 49 C.F.R. 384, the Secretary of
5 State may not issue a restricted driving permit for the
6 operation of a commercial motor vehicle to a person holding a
7 CDL whose driving privileges have been suspended or revoked
8 under any provisions of this Code.

9 (Source: P.A. 93-120, eff. 1-1-04; 93-667, eff. 3-19-04;
10 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; 94-307, eff.
11 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06.)

12 (625 ILCS 5/11-501.8)

13 Sec. 11-501.8. Suspension of driver's license; persons
14 under age 21.

15 (a) A person who is less than 21 years of age and who
16 drives or is in actual physical control of a motor vehicle upon
17 the public highways of this State shall be deemed to have given
18 consent to a chemical test or tests of blood, breath, or urine
19 for the purpose of determining the alcohol content of the
20 person's blood if arrested, as evidenced by the issuance of a
21 Uniform Traffic Ticket for any violation of the Illinois
22 Vehicle Code or a similar provision of a local ordinance, if a
23 police officer has probable cause to believe that the driver
24 has consumed any amount of an alcoholic beverage based upon
25 evidence of the driver's physical condition or other first hand

1 knowledge of the police officer. The test or tests shall be
2 administered at the direction of the arresting officer. The law
3 enforcement agency employing the officer shall designate which
4 of the aforesaid tests shall be administered. A urine test may
5 be administered even after a blood or breath test or both has
6 been administered.

7 (b) A person who is dead, unconscious, or who is otherwise
8 in a condition rendering that person incapable of refusal,
9 shall be deemed not to have withdrawn the consent provided by
10 paragraph (a) of this Section and the test or tests may be
11 administered subject to the following provisions:

12 (i) Chemical analysis of the person's blood, urine,
13 breath, or other bodily substance, to be considered valid
14 under the provisions of this Section, shall have been
15 performed according to standards promulgated by the
16 Department of State Police by an individual possessing a
17 valid permit issued by that Department for this purpose.
18 The Director of State Police is authorized to approve
19 satisfactory techniques or methods, to ascertain the
20 qualifications and competence of individuals to conduct
21 analyses, to issue permits that shall be subject to
22 termination or revocation at the direction of that
23 Department, and to certify the accuracy of breath testing
24 equipment. The Department of State Police shall prescribe
25 regulations as necessary.

26 (ii) When a person submits to a blood test at the

1 request of a law enforcement officer under the provisions
2 of this Section, only a physician authorized to practice
3 medicine, a registered nurse, or other qualified person
4 trained in venipuncture and acting under the direction of a
5 licensed physician may withdraw blood for the purpose of
6 determining the alcohol content therein. This limitation
7 does not apply to the taking of breath or urine specimens.

8 (iii) The person tested may have a physician, qualified
9 technician, chemist, registered nurse, or other qualified
10 person of his or her own choosing administer a chemical
11 test or tests in addition to any test or tests administered
12 at the direction of a law enforcement officer. The failure
13 or inability to obtain an additional test by a person shall
14 not preclude the consideration of the previously performed
15 chemical test.

16 (iv) Upon a request of the person who submits to a
17 chemical test or tests at the request of a law enforcement
18 officer, full information concerning the test or tests
19 shall be made available to the person or that person's
20 attorney.

21 (v) Alcohol concentration means either grams of
22 alcohol per 100 milliliters of blood or grams of alcohol
23 per 210 liters of breath.

24 (vi) If a driver is receiving medical treatment as a
25 result of a motor vehicle accident, a physician licensed to
26 practice medicine, registered nurse, or other qualified

1 person trained in venipuncture and acting under the
2 direction of a licensed physician shall withdraw blood for
3 testing purposes to ascertain the presence of alcohol upon
4 the specific request of a law enforcement officer. However,
5 that testing shall not be performed until, in the opinion
6 of the medical personnel on scene, the withdrawal can be
7 made without interfering with or endangering the
8 well-being of the patient.

9 (c) A person requested to submit to a test as provided
10 above shall be warned by the law enforcement officer requesting
11 the test that a refusal to submit to the test, or submission to
12 the test resulting in an alcohol concentration of more than
13 0.00, may result in the loss of that person's privilege to
14 operate a motor vehicle. The loss of driving privileges shall
15 be imposed in accordance with Section 6-208.2 of this Code.

16 (d) If the person refuses testing or submits to a test that
17 discloses an alcohol concentration of more than 0.00, the law
18 enforcement officer shall immediately submit a sworn report to
19 the Secretary of State on a form prescribed by the Secretary of
20 State, certifying that the test or tests were requested under
21 subsection (a) and the person refused to submit to a test or
22 tests or submitted to testing which disclosed an alcohol
23 concentration of more than 0.00. The law enforcement officer
24 shall submit the same sworn report when a person under the age
25 of 21 submits to testing under Section 11-501.1 of this Code
26 and the testing discloses an alcohol concentration of more than

1 0.00 and less than 0.08.

2 Upon receipt of the sworn report of a law enforcement
3 officer, the Secretary of State shall enter the driver's
4 license sanction on the individual's driving record and the
5 sanctions shall be effective on the 46th day following the date
6 notice of the sanction was given to the person. If this
7 sanction is the individual's first driver's license suspension
8 under this Section, reports received by the Secretary of State
9 under this Section shall, except during the time the suspension
10 is in effect, be privileged information and for use only by the
11 courts, police officers, prosecuting authorities, the
12 Secretary of State, or the individual personally.

13 The law enforcement officer submitting the sworn report
14 shall serve immediate notice of this driver's license sanction
15 on the person and the sanction shall be effective on the 46th
16 day following the date notice was given.

17 In cases where the blood alcohol concentration of more than
18 0.00 is established by a subsequent analysis of blood or urine,
19 the police officer or arresting agency shall give notice as
20 provided in this Section or by deposit in the United States
21 mail of that notice in an envelope with postage prepaid and
22 addressed to that person at his last known address and the loss
23 of driving privileges shall be effective on the 46th day
24 following the date notice was given.

25 Upon receipt of the sworn report of a law enforcement
26 officer, the Secretary of State shall also give notice of the

1 driver's license sanction to the driver by mailing a notice of
2 the effective date of the sanction to the individual. However,
3 should the sworn report be defective by not containing
4 sufficient information or be completed in error, the notice of
5 the driver's license sanction may not be mailed to the person
6 or entered to the driving record, but rather the sworn report
7 shall be returned to the issuing law enforcement agency.

8 (e) A driver may contest this driver's license sanction by
9 requesting an administrative hearing with the Secretary of
10 State in accordance with Section 2-118 of this Code. An
11 individual whose blood alcohol concentration is shown to be
12 more than 0.00 is not subject to this Section if he or she
13 consumed alcohol in the performance of a religious service or
14 ceremony. An individual whose blood alcohol concentration is
15 shown to be more than 0.00 shall not be subject to this Section
16 if the individual's blood alcohol concentration resulted only
17 from ingestion of the prescribed or recommended dosage of
18 medicine that contained alcohol. The petition for that hearing
19 shall not stay or delay the effective date of the impending
20 suspension. The scope of this hearing shall be limited to the
21 issues of:

22 (1) whether the police officer had probable cause to
23 believe that the person was driving or in actual physical
24 control of a motor vehicle upon the public highways of the
25 State and the police officer had reason to believe that the
26 person was in violation of any provision of the Illinois

1 Vehicle Code or a similar provision of a local ordinance;
2 and

3 (2) whether the person was issued a Uniform Traffic
4 Ticket for any violation of the Illinois Vehicle Code or a
5 similar provision of a local ordinance; and

6 (3) whether the police officer had probable cause to
7 believe that the driver had consumed any amount of an
8 alcoholic beverage based upon the driver's physical
9 actions or other first-hand knowledge of the police
10 officer; and

11 (4) whether the person, after being advised by the
12 officer that the privilege to operate a motor vehicle would
13 be suspended if the person refused to submit to and
14 complete the test or tests, did refuse to submit to or
15 complete the test or tests to determine the person's
16 alcohol concentration; and

17 (5) whether the person, after being advised by the
18 officer that the privileges to operate a motor vehicle
19 would be suspended if the person submits to a chemical test
20 or tests and the test or tests disclose an alcohol
21 concentration of more than 0.00, did submit to and complete
22 the test or tests that determined an alcohol concentration
23 of more than 0.00; and

24 (6) whether the test result of an alcohol concentration
25 of more than 0.00 was based upon the person's consumption
26 of alcohol in the performance of a religious service or

1 ceremony; and

2 (7) whether the test result of an alcohol concentration
3 of more than 0.00 was based upon the person's consumption
4 of alcohol through ingestion of the prescribed or
5 recommended dosage of medicine.

6 ~~Provided that the petitioner may subpoena the officer, the~~
7 ~~hearing may be conducted upon a review of the law enforcement~~
8 ~~officer's own official reports. Failure of the officer to~~
9 ~~answer the subpoena shall be grounds for a continuance if, in~~
10 ~~the hearing officer's discretion, the continuance is~~
11 ~~appropriate.~~ At the conclusion of the hearing held under
12 Section 2-118 of this Code, the Secretary of State may rescind,
13 continue, or modify the driver's license sanction. If the
14 Secretary of State does not rescind the sanction, a restricted
15 driving permit may be granted by the Secretary of State upon
16 application being made and good cause shown. A restricted
17 driving permit may be granted to relieve undue hardship by
18 allowing driving for employment, educational, and medical
19 purposes as outlined in item (3) of part (c) of Section 6-206
20 of this Code. The provisions of item (3) of part (c) of Section
21 6-206 of this Code and of subsection (f) of that Section shall
22 apply. The Secretary of State shall promulgate rules providing
23 for participation in an alcohol education and awareness program
24 or activity, a drug education and awareness program or
25 activity, or both as a condition to the issuance of a
26 restricted driving permit for suspensions imposed under this

1 Section.

2 (f) The results of any chemical testing performed in
3 accordance with subsection (a) of this Section are not
4 admissible in any civil or criminal proceeding, except that the
5 results of the testing may be considered at a hearing held
6 under Section 2-118 of this Code. However, the results of the
7 testing may not be used to impose driver's license sanctions
8 under Section 11-501.1 of this Code. A law enforcement officer
9 may, however, pursue a statutory summary suspension of driving
10 privileges under Section 11-501.1 of this Code if other
11 physical evidence or first hand knowledge forms the basis of
12 that suspension.

13 (g) This Section applies only to drivers who are under age
14 21 at the time of the issuance of a Uniform Traffic Ticket for
15 a violation of the Illinois Vehicle Code or a similar provision
16 of a local ordinance, and a chemical test request is made under
17 this Section.

18 (h) The action of the Secretary of State in suspending,
19 revoking, or denying any license, permit, registration, or
20 certificate of title shall be subject to judicial review in the
21 Circuit Court of Sangamon County or in the Circuit Court of
22 Cook County, and the provisions of the Administrative Review
23 Law and its rules are hereby adopted and shall apply to and
24 govern every action for the judicial review of final acts or
25 decisions of the Secretary of State under this Section.

26 (Source: P.A. 94-307, eff. 9-30-05.)