

HB2427



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2427

Introduced 2/19/2009, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-206

from Ch. 95 1/2, par. 6-206

Amends the Illinois Vehicle Code. Provides that the Secretary of State may suspend the driving privileges of a person that violates or receives court supervision for certain provisions of the Liquor Control Act related to underage purchasing, consumption, and possession of alcoholic beverages for a second time, rather than for the first time.

LRB096 08874 AJT 19009 b

FISCAL NOTE ACT
MAY APPLY

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 6-206 as follows:

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

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

9 (a) The Secretary of State is authorized to suspend or
10 revoke the driving privileges of any person without preliminary
11 hearing upon a showing of the person's records or other
12 sufficient evidence that the person:

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

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

21 3. Has been repeatedly involved as a driver in motor
22 vehicle collisions or has been repeatedly convicted of
23 offenses against laws and ordinances regulating the

1 movement of traffic, to a degree that indicates lack of
2 ability to exercise ordinary and reasonable care in the
3 safe operation of a motor vehicle or disrespect for the
4 traffic laws and the safety of other persons upon the
5 highway;

6 4. Has by the unlawful operation of a motor vehicle
7 caused or contributed to an accident resulting in death or
8 injury requiring immediate professional treatment in a
9 medical facility or doctor's office to any person, except
10 that any suspension or revocation imposed by the Secretary
11 of State under the provisions of this subsection shall
12 start no later than 6 months after being convicted of
13 violating a law or ordinance regulating the movement of
14 traffic, which violation is related to the accident, or
15 shall start not more than one year after the date of the
16 accident, whichever date occurs later;

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

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

23 7. Has refused or failed to submit to an examination
24 provided for by Section 6-207 or has failed to pass the
25 examination;

26 8. Is ineligible for a driver's license or permit under

1 the provisions of Section 6-103;

2 9. Has made a false statement or knowingly concealed a
3 material fact or has used false information or
4 identification in any application for a license,
5 identification card, or permit;

6 10. Has possessed, displayed, or attempted to
7 fraudulently use any license, identification card, or
8 permit not issued to the person;

9 11. Has operated a motor vehicle upon a highway of this
10 State when the person's driving privilege or privilege to
11 obtain a driver's license or permit was revoked or
12 suspended unless the operation was authorized by a
13 monitoring device driving permit, judicial driving permit
14 issued prior to January 1, 2009, probationary license to
15 drive, or a restricted driving permit issued under this
16 Code;

17 12. Has submitted to any portion of the application
18 process for another person or has obtained the services of
19 another person to submit to any portion of the application
20 process for the purpose of obtaining a license,
21 identification card, or permit for some other person;

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

25 14. Has committed a violation of Section 6-301,
26 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B

1 of the Illinois Identification Card Act;

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

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

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

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

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

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

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

24 22. Has used a motor vehicle in violating paragraph
25 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
26 the Criminal Code of 1961 relating to unlawful use of

1 weapons, in which case the suspension shall be for one
2 year;

3 23. Has, as a driver, been convicted of committing a
4 violation of paragraph (a) of Section 11-502 of this Code
5 for a second or subsequent time within one year of a
6 similar violation;

7 24. Has been convicted by a court-martial or punished
8 by non-judicial punishment by military authorities of the
9 United States at a military installation in Illinois of or
10 for a traffic related offense that is the same as or
11 similar to an offense specified under Section 6-205 or
12 6-206 of this Code;

13 25. Has permitted any form of identification to be used
14 by another in the application process in order to obtain or
15 attempt to obtain a license, identification card, or
16 permit;

17 26. Has altered or attempted to alter a license or has
18 possessed an altered license, identification card, or
19 permit;

20 27. Has violated Section 6-16 of the Liquor Control Act
21 of 1934;

22 28. Has been convicted of the illegal possession, while
23 operating or in actual physical control, as a driver, of a
24 motor vehicle, of any controlled substance prohibited
25 under the Illinois Controlled Substances Act, any cannabis
26 prohibited under the Cannabis Control Act, or any

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

19 29. Has been convicted of the following offenses that
20 were committed while the person was operating or in actual
21 physical control, as a driver, of a motor vehicle: criminal
22 sexual assault, predatory criminal sexual assault of a
23 child, aggravated criminal sexual assault, criminal sexual
24 abuse, aggravated criminal sexual abuse, juvenile pimping,
25 soliciting for a juvenile prostitute and the manufacture,
26 sale or delivery of controlled substances or instruments

1 used for illegal drug use or abuse in which case the
2 driver's driving privileges shall be suspended for one
3 year;

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

8 31. Has refused to submit to a test as required by
9 Section 11-501.6 or has submitted to a test resulting in an
10 alcohol concentration of 0.08 or more or any amount of a
11 drug, substance, or compound resulting from the unlawful
12 use or consumption of cannabis as listed in the Cannabis
13 Control Act, a controlled substance as listed in the
14 Illinois Controlled Substances Act, an intoxicating
15 compound as listed in the Use of Intoxicating Compounds
16 Act, or methamphetamine as listed in the Methamphetamine
17 Control and Community Protection Act, in which case the
18 penalty shall be as prescribed in Section 6-208.1;

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

24 33. Has as a driver, who was less than 21 years of age
25 on the date of the offense, been convicted a first time of
26 a violation of paragraph (a) of Section 11-502 of this Code

1 or a similar provision of a local ordinance;

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

4 35. Has committed a violation of Section 11-1301.6 of
5 this Code;

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

12 37. Has committed a violation of subsection (c) of
13 Section 11-907 of this Code that resulted in damage to the
14 property of another or the death or injury of another;

15 38. Has been convicted of a violation of subsection (b)
16 or (c) of Section 6-20 of the Liquor Control Act of 1934 or
17 a similar provision of a local ordinance;

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

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

22 41. Has committed a second or subsequent violation of
23 Section 11-605.1 of this Code within 2 years of the date of
24 the previous violation, in which case the suspension shall
25 be for 90 days;

26 42. Has committed a violation of subsection (a-1) of

1 Section 11-1301.3 of this Code;

2 43. Has committed a second or subsequent violation of
3 subsection (a), (d), or (e) of Section 6-20 of the Liquor
4 Control Act of 1934 or a similar provision of a local
5 ordinance or received a disposition of court supervision
6 for a violation of subsection (a), (d), or (e) of Section
7 6-20 of the Liquor Control Act of 1934 or a similar
8 provision of a local ordinance for a second or subsequent
9 time, in which case the suspension shall be for a period of
10 3 months;

11 44. Is under the age of 21 years at the time of arrest
12 and has been convicted of an offense against traffic
13 regulations governing the movement of vehicles after
14 having previously had his or her driving privileges
15 suspended or revoked pursuant to subparagraph 36 of this
16 Section; or

17 45. Has, in connection with or during the course of a
18 formal hearing conducted under Section 2-118 of this Code:
19 (i) committed perjury; (ii) submitted fraudulent or
20 falsified documents; (iii) submitted documents that have
21 been materially altered; or (iv) submitted, as his or her
22 own, documents that were in fact prepared or composed for
23 another person.

24 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
25 and 27 of this subsection, license means any driver's license,
26 any traffic ticket issued when the person's driver's license is

1 deposited in lieu of bail, a suspension notice issued by the
2 Secretary of State, a duplicate or corrected driver's license,
3 a probationary driver's license or a temporary driver's
4 license.

5 (b) If any conviction forming the basis of a suspension or
6 revocation authorized under this Section is appealed, the
7 Secretary of State may rescind or withhold the entry of the
8 order of suspension or revocation, as the case may be, provided
9 that a certified copy of a stay order of a court is filed with
10 the Secretary of State. If the conviction is affirmed on
11 appeal, the date of the conviction shall relate back to the
12 time the original judgment of conviction was entered and the 6
13 month limitation prescribed shall not apply.

14 (c) 1. Upon suspending or revoking the driver's license or
15 permit of any person as authorized in this Section, the
16 Secretary of State shall immediately notify the person in
17 writing of the revocation or suspension. The notice to be
18 deposited in the United States mail, postage prepaid, to the
19 last known address of the person.

20 2. If the Secretary of State suspends the driver's
21 license of a person under subsection 2 of paragraph (a) of
22 this Section, a person's privilege to operate a vehicle as
23 an occupation shall not be suspended, provided an affidavit
24 is properly completed, the appropriate fee received, and a
25 permit issued prior to the effective date of the
26 suspension, unless 5 offenses were committed, at least 2 of

1 which occurred while operating a commercial vehicle in
2 connection with the driver's regular occupation. All other
3 driving privileges shall be suspended by the Secretary of
4 State. Any driver prior to operating a vehicle for
5 occupational purposes only must submit the affidavit on
6 forms to be provided by the Secretary of State setting
7 forth the facts of the person's occupation. The affidavit
8 shall also state the number of offenses committed while
9 operating a vehicle in connection with the driver's regular
10 occupation. The affidavit shall be accompanied by the
11 driver's license. Upon receipt of a properly completed
12 affidavit, the Secretary of State shall issue the driver a
13 permit to operate a vehicle in connection with the driver's
14 regular occupation only. Unless the permit is issued by the
15 Secretary of State prior to the date of suspension, the
16 privilege to drive any motor vehicle shall be suspended as
17 set forth in the notice that was mailed under this Section.
18 If an affidavit is received subsequent to the effective
19 date of this suspension, a permit may be issued for the
20 remainder of the suspension period.

21 The provisions of this subparagraph shall not apply to
22 any driver required to possess a CDL for the purpose of
23 operating a commercial motor vehicle.

24 Any person who falsely states any fact in the affidavit
25 required herein shall be guilty of perjury under Section
26 6-302 and upon conviction thereof shall have all driving

1 privileges revoked without further rights.

2 3. At the conclusion of a hearing under Section 2-118
3 of this Code, the Secretary of State shall either rescind
4 or continue an order of revocation or shall substitute an
5 order of suspension; or, good cause appearing therefor,
6 rescind, continue, change, or extend the order of
7 suspension. If the Secretary of State does not rescind the
8 order, the Secretary may upon application, to relieve undue
9 hardship (as defined by the rules of the Secretary of
10 State), issue a restricted driving permit granting the
11 privilege of driving a motor vehicle between the
12 petitioner's residence and petitioner's place of
13 employment or within the scope of the petitioner's
14 employment related duties, or to allow the petitioner to
15 transport himself or herself, or a family member of the
16 petitioner's household to a medical facility, to receive
17 necessary medical care, to allow the petitioner to
18 transport himself or herself to and from alcohol or drug
19 remedial or rehabilitative activity recommended by a
20 licensed service provider, or to allow the petitioner to
21 transport himself or herself or a family member of the
22 petitioner's household to classes, as a student, at an
23 accredited educational institution, or to allow the
24 petitioner to transport children living in the
25 petitioner's household to and from daycare. The petitioner
26 must demonstrate that no alternative means of

1 transportation is reasonably available and that the
2 petitioner will not endanger the public safety or welfare.
3 Those multiple offenders identified in subdivision (b)4 of
4 Section 6-208 of this Code, however, shall not be eligible
5 for the issuance of a restricted driving permit.

6 (A) If a person's license or permit is revoked or
7 suspended due to 2 or more convictions of violating
8 Section 11-501 of this Code or a similar provision of a
9 local ordinance or a similar out-of-state offense, or
10 Section 9-3 of the Criminal Code of 1961, where the use
11 of alcohol or other drugs is recited as an element of
12 the offense, or a similar out-of-state offense, or a
13 combination of these offenses, arising out of separate
14 occurrences, that person, if issued a restricted
15 driving permit, may not operate a vehicle unless it has
16 been equipped with an ignition interlock device as
17 defined in Section 1-129.1.

18 (B) If a person's license or permit is revoked or
19 suspended 2 or more times within a 10 year period due
20 to any combination of:

21 (i) a single conviction of violating Section
22 11-501 of this Code or a similar provision of a
23 local ordinance or a similar out-of-state offense
24 or Section 9-3 of the Criminal Code of 1961, where
25 the use of alcohol or other drugs is recited as an
26 element of the offense, or a similar out-of-state

1 offense; or

2 (ii) a statutory summary suspension under
3 Section 11-501.1; or

4 (iii) a suspension under Section 6-203.1;

5 arising out of separate occurrences; that person, if
6 issued a restricted driving permit, may not operate a
7 vehicle unless it has been equipped with an ignition
8 interlock device as defined in Section 1-129.1.

9 (C) The person issued a permit conditioned upon the
10 use of an ignition interlock device must pay to the
11 Secretary of State DUI Administration Fund an amount
12 not to exceed \$30 per month. The Secretary shall
13 establish by rule the amount and the procedures, terms,
14 and conditions relating to these fees.

15 (D) If the restricted driving permit is issued for
16 employment purposes, then the prohibition against
17 operating a motor vehicle that is not equipped with an
18 ignition interlock device does not apply to the
19 operation of an occupational vehicle owned or leased by
20 that person's employer when used solely for employment
21 purposes.

22 (E) In each case the Secretary may issue a
23 restricted driving permit for a period deemed
24 appropriate, except that all permits shall expire
25 within one year from the date of issuance. The
26 Secretary may not, however, issue a restricted driving

1 permit to any person whose current revocation is the
2 result of a second or subsequent conviction for a
3 violation of Section 11-501 of this Code or a similar
4 provision of a local ordinance or any similar
5 out-of-state offense, or Section 9-3 of the Criminal
6 Code of 1961, where the use of alcohol or other drugs
7 is recited as an element of the offense, or any similar
8 out-of-state offense, or any combination of those
9 offenses, until the expiration of at least one year
10 from the date of the revocation. A restricted driving
11 permit issued under this Section shall be subject to
12 cancellation, revocation, and suspension by the
13 Secretary of State in like manner and for like cause as
14 a driver's license issued under this Code may be
15 cancelled, revoked, or suspended; except that a
16 conviction upon one or more offenses against laws or
17 ordinances regulating the movement of traffic shall be
18 deemed sufficient cause for the revocation,
19 suspension, or cancellation of a restricted driving
20 permit. The Secretary of State may, as a condition to
21 the issuance of a restricted driving permit, require
22 the applicant to participate in a designated driver
23 remedial or rehabilitative program. The Secretary of
24 State is authorized to cancel a restricted driving
25 permit if the permit holder does not successfully
26 complete the program.

1 (c-3) In the case of a suspension under paragraph 43 of
2 subsection (a), reports received by the Secretary of State
3 under this Section shall, except during the actual time the
4 suspension is in effect, be privileged information and for use
5 only by the courts, police officers, prosecuting authorities,
6 the driver licensing administrator of any other state, or the
7 Secretary of State. However, beginning January 1, 2008, if the
8 person is a CDL holder, the suspension shall also be made
9 available to the driver licensing administrator of any other
10 state, the U.S. Department of Transportation, and the affected
11 driver or motor carrier or prospective motor carrier upon
12 request.

13 (c-4) In the case of a suspension under paragraph 43 of
14 subsection (a), the Secretary of State shall notify the person
15 by mail that his or her driving privileges and driver's license
16 will be suspended one month after the date of the mailing of
17 the notice.

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

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

1 (e) The Secretary of State shall not issue a restricted
2 driving permit to a person under the age of 16 years whose
3 driving privileges have been suspended or revoked under any
4 provisions of this Code.

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

10 (Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05;
11 94-930, eff. 6-26-06; 95-166, eff. 1-1-08; 95-310, eff. 1-1-08;
12 95-382, eff. 8-23-07; 95-400, eff. 1-1-09; 95-627, eff. 6-1-08;
13 95-848, eff. 1-1-09; 95-876, eff. 8-21-08; 95-894, eff. 1-1-09;
14 revised 9-5-08.)