



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB6885**

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.2  
625 ILCS 5/11-501.6

from Ch. 95 1/2, par. 11-501.2  
from Ch. 95 1/2, par. 11-501.6

Amends the Illinois Vehicle Code. Provides that if a law enforcement officer has probable cause to believe a person involved in a motor vehicle accident causing personal injury or death was under the influence of alcohol or drugs, the law enforcement officer shall request a chemical test. Effective immediately.

LRB096 22404 AJT 41554 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 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  
17 shall apply:

18 1. Chemical analyses of the person's blood, urine,  
19 breath or other bodily substance to be considered valid  
20 under the provisions of this Section shall have been  
21 performed according to standards promulgated by the  
22 Department of State Police by a licensed physician,  
23 registered nurse, trained phlebotomist, certified

1 paramedic, or other individual possessing a valid permit  
2 issued by that Department for this purpose. The Director of  
3 State Police is authorized to approve satisfactory  
4 techniques or methods, to ascertain the qualifications and  
5 competence of individuals to conduct such analyses, to  
6 issue permits which shall be subject to termination or  
7 revocation at the discretion of that Department and to  
8 certify the accuracy of breath testing equipment. The  
9 Department of State Police shall prescribe regulations as  
10 necessary to implement this Section.

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

21 When a blood test of a person who has been taken to an  
22 adjoining state for medical treatment is requested by an  
23 Illinois law enforcement officer, the blood may be  
24 withdrawn only by a physician authorized to practice  
25 medicine in the adjoining state, a registered nurse, a  
26 trained phlebotomist acting under the direction of the

1 physician, or certified paramedic. The law enforcement  
2 officer requesting the test shall take custody of the blood  
3 sample, and the blood sample shall be analyzed by a  
4 laboratory certified by the Department of State Police for  
5 that purpose.

6 3. The person tested may have a physician, or a  
7 qualified technician, chemist, registered nurse, or other  
8 qualified person of their own choosing administer a  
9 chemical test or tests in addition to any administered at  
10 the direction of a law enforcement officer. The failure or  
11 inability to obtain an additional test by a person shall  
12 not preclude the admission of evidence relating to the test  
13 or tests taken at the direction of a law enforcement  
14 officer.

15 4. Upon the request of the person who shall submit to a  
16 chemical test or tests at the request of a law enforcement  
17 officer, full information concerning the test or tests  
18 shall be made available to the person or such person's  
19 attorney.

20 5. Alcohol concentration shall mean either grams of  
21 alcohol per 100 milliliters of blood or grams of alcohol  
22 per 210 liters of breath.

23 (b) Upon the trial of any civil or criminal action or  
24 proceeding arising out of acts alleged to have been committed  
25 by any person while driving or in actual physical control of a  
26 vehicle while under the influence of alcohol, the concentration

1 of alcohol in the person's blood or breath at the time alleged  
2 as shown by analysis of the person's blood, urine, breath, or  
3 other bodily substance shall give rise to the following  
4 presumptions:

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

8 2. If there was at that time an alcohol concentration  
9 in excess of 0.05 but less than 0.08, such facts shall not  
10 give rise to any presumption that the person was or was not  
11 under the influence of alcohol, but such fact may be  
12 considered with other competent evidence in determining  
13 whether the person was under the influence of alcohol.

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

17 4. The foregoing provisions of this Section shall not  
18 be construed as limiting the introduction of any other  
19 relevant evidence bearing upon the question whether the  
20 person was under the influence of alcohol.

21 (c) 1. If a person under arrest refuses to submit to a  
22 chemical test under the provisions of Section 11-501.1,  
23 evidence of refusal shall be admissible in any civil or  
24 criminal action or proceeding arising out of acts alleged to  
25 have been committed while the person under the influence of  
26 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof was driving or in actual  
2 physical control of a motor vehicle.

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

16 This provision does not affect the applicability of or  
17 imposition of driver's license sanctions under Section  
18 11-501.1 of this Code.

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

26 (Source: P.A. 96-289, eff. 8-11-09.)

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

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

4 (a) Any person who drives or is in actual control of a  
5 motor vehicle upon the public highways of this State and who  
6 has been involved in a personal injury or fatal motor vehicle  
7 accident, shall be deemed to have given consent to a breath  
8 test using a portable device as approved by the Department of  
9 State Police or to a chemical test or tests of blood, breath,  
10 or urine for the purpose of determining the content of alcohol,  
11 other drug or drugs, or intoxicating compound or compounds of  
12 such person's blood if arrested as evidenced by the issuance of  
13 a Uniform Traffic Ticket for any violation of the Illinois  
14 Vehicle Code or a similar provision of a local ordinance, with  
15 the exception of equipment violations contained in Chapter 12  
16 of this Code, or similar provisions of local ordinances. If a  
17 law enforcement officer has probable cause to believe the  
18 person was under the influence of alcohol, other drug or drugs,  
19 intoxicating compound or compounds, or any combination  
20 thereof, the law enforcement officer shall request a chemical  
21 test or tests which ~~The test or tests~~ shall be administered at  
22 the direction of the arresting officer. The law enforcement  
23 agency employing the officer shall designate which of the  
24 aforesaid tests shall be administered. A urine test may be  
25 administered even after a blood or breath test or both has been

1 administered. Compliance with this Section does not relieve  
2 such person from the requirements of Section 11-501.1 of this  
3 Code.

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

18 (c) A person requested to submit to a test as provided  
19 above shall be warned by the law enforcement officer requesting  
20 the test that a refusal to submit to the test, or submission to  
21 the test resulting in an alcohol concentration of 0.08 or more,  
22 or any amount of a drug, substance, or intoxicating compound  
23 resulting from the unlawful use or consumption of cannabis, as  
24 covered by the Cannabis Control Act, a controlled substance  
25 listed in the Illinois Controlled Substances Act, an  
26 intoxicating compound listed in the Use of Intoxicating



1 Compounds Act, or methamphetamine as listed in the  
2 Methamphetamine Control and Community Protection Act as  
3 detected in such person's blood or urine, may result in the  
4 suspension of such person's privilege to operate a motor  
5 vehicle and may result in the disqualification of the person's  
6 privilege to operate a commercial motor vehicle, as provided in  
7 Section 6-514 of this Code, if the person is a CDL holder. The  
8 length of the suspension shall be the same as outlined in  
9 Section 6-208.1 of this Code regarding statutory summary  
10 suspensions.

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

1 urine, resulting from the unlawful use or consumption of  
2 cannabis listed in the Cannabis Control Act, a controlled  
3 substance listed in the Illinois Controlled Substances Act, an  
4 intoxicating compound listed in the Use of Intoxicating  
5 Compounds Act, or methamphetamine as listed in the  
6 Methamphetamine Control and Community Protection Act.

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

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

17 In cases where the blood alcohol concentration of 0.08 or  
18 more, or any amount of a drug, substance, or intoxicating  
19 compound resulting from the unlawful use or consumption of  
20 cannabis as listed in the Cannabis Control Act, a controlled  
21 substance listed in the Illinois Controlled Substances Act, an  
22 intoxicating compound listed in the Use of Intoxicating  
23 Compounds Act, or methamphetamine as listed in the  
24 Methamphetamine Control and Community Protection Act, is  
25 established by a subsequent analysis of blood or urine  
26 collected at the time of arrest, the arresting officer shall

1 give notice as provided in this Section or by deposit in the  
2 United States mail of such notice in an envelope with postage  
3 prepaid and addressed to such person at his address as shown on  
4 the Uniform Traffic Ticket and the suspension and  
5 disqualification shall be effective on the 46th day following  
6 the date notice was given.

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

17 (e) A driver may contest this suspension of his or her  
18 driving privileges and disqualification of his or her CDL  
19 privileges by requesting an administrative hearing with the  
20 Secretary in accordance with Section 2-118 of this Code. At the  
21 conclusion of a hearing held under Section 2-118 of this Code,  
22 the Secretary may rescind, continue, or modify the orders of  
23 suspension and disqualification. If the Secretary does not  
24 rescind the orders of suspension and disqualification, a  
25 restricted driving permit may be granted by the Secretary upon  
26 application being made and good cause shown. A restricted

1 driving permit may be granted to relieve undue hardship to  
2 allow driving for employment, educational, and medical  
3 purposes as outlined in Section 6-206 of this Code. The  
4 provisions of Section 6-206 of this Code shall apply. In  
5 accordance with 49 C.F.R. 384, the Secretary of State may not  
6 issue a restricted driving permit for the operation of a  
7 commercial motor vehicle to a person holding a CDL whose  
8 driving privileges have been suspended, revoked, cancelled, or  
9 disqualified.

10 (f) (Blank).

11 (g) For the purposes of this Section, a personal injury  
12 shall include any type A injury as indicated on the traffic  
13 accident report completed by a law enforcement officer that  
14 requires immediate professional attention in either a doctor's  
15 office or a medical facility. A type A injury shall include  
16 severely bleeding wounds, distorted extremities, and injuries  
17 that require the injured party to be carried from the scene.

18 (Source: P.A. 95-382, eff. 8-23-07.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.