

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 1-129.1, 6-206.1, and 6-208.1 as follows:

6 (625 ILCS 5/1-129.1)

7 Sec. 1-129.1. Ignition interlock device, breath alcohol
8 ignition interlock device (BAIID). A device installed in a
9 motor vehicle that prevents the vehicle from starting until the
10 device has determined by an analysis of the driver's breath
11 that the driver's breath ~~blood~~ alcohol is below a certain
12 preset level.

13 (Source: P.A. 91-127, eff. 1-1-00.)

14 (625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

15 Sec. 6-206.1. Monitoring Device Driving Permit.
16 Declaration of Policy. It is hereby declared a policy of the
17 State of Illinois that the driver who is impaired by alcohol,
18 other drug or drugs, or intoxicating compound or compounds is a
19 threat to the public safety and welfare. Therefore, to provide
20 a deterrent to such practice, a statutory summary driver's
21 license suspension is appropriate. It is also recognized that
22 driving is a privilege and therefore, that the granting of

1 driving privileges, in a manner consistent with public safety,
2 is warranted during the period of suspension in the form of a
3 monitoring device driving permit. A person who drives and fails
4 to comply with the requirements of the monitoring device
5 driving permit commits a violation of Section 6-303 of this
6 Code.

7 The following procedures shall apply whenever a first
8 offender, as defined in Section 11-500 of this Code, is
9 arrested for any offense as defined in Section 11-501 or a
10 similar provision of a local ordinance and is subject to the
11 provisions of Section 11-501.1:

12 (a) Upon mailing of the notice of suspension of driving
13 privileges as provided in subsection (h) of Section 11-501.1 of
14 this Code, the Secretary shall also send written notice
15 informing the person that he or she will be issued a monitoring
16 device driving permit (MDDP). The notice shall include, at
17 minimum, information summarizing the procedure to be followed
18 for issuance of the MDDP, installation of the breath alcohol
19 ignition installation device (BAIID), as provided in this
20 Section, exemption from BAIID installation requirements, and
21 procedures to be followed by those seeking indigent status, as
22 provided in this Section. The notice shall also include
23 information summarizing the procedure to be followed if the
24 person wishes to decline issuance of the MDDP. A copy of the
25 notice shall also be sent to the court of venue together with
26 the notice of suspension of driving privileges, as provided in

1 subsection (h) of Section 11-501. However, a MDDP shall not be
2 issued if the Secretary finds that: ~~Subsequent to a~~
3 ~~notification of a statutory summary suspension of driving~~
4 ~~privileges as provided in Section 11-501.1, the court, after~~
5 ~~informing the first offender, as defined in Section 11-500, of~~
6 ~~his or her right to a monitoring device driving permit,~~
7 ~~hereinafter referred to as a MDDP, and of the obligations of~~
8 ~~the MDDP, shall enter an order directing the Secretary of State~~
9 ~~(hereinafter referred to as the Secretary) to issue a MDDP to~~
10 ~~the offender, unless the offender has opted, in writing, not to~~
11 ~~have a MDDP issued. After opting out of having a MDDP issued,~~
12 ~~at any time during the summary suspension, the offender may~~
13 ~~petition the court for an order directing the Secretary to~~
14 ~~issue a MDDP. However, the court shall not enter the order~~
15 ~~directing the Secretary to issue the MDDP, in any instance, if~~
16 ~~the court finds:~~

17 (1) The offender's driver's license is otherwise
18 invalid;

19 (2) Death or great bodily harm resulted from the arrest
20 for Section 11-501;

21 (3) The ~~That~~ the offender has been previously convicted
22 of reckless homicide or aggravated driving under the
23 influence involving death; or

24 (4) The ~~That~~ the offender is less than 18 years of age.

25 Any offender participating in the MDDP program must ~~Any~~
26 ~~court order for a MDDP shall order the person to pay the~~

1 Secretary a MDDP Administration Fee in an amount not to exceed
2 \$30 per month, to be deposited into the Monitoring Device
3 Driving Permit Administration Fee Fund. The Secretary shall
4 establish by rule the amount and the procedures, terms, and
5 conditions relating to these fees. ~~The order shall further~~
6 ~~specify that the~~ offender must have an ignition interlock
7 device installed within 14 days of the date the Secretary
8 issues the MDDP. The ignition interlock device provider must
9 notify the Secretary, in a manner and form prescribed by the
10 Secretary, of the installation. If the Secretary does not
11 receive notice of installation, the Secretary shall cancel the
12 MDDP.

13 A MDDP shall not become effective prior to the 31st day of
14 the original statutory summary suspension.

15 Upon receipt of the notice, as provided in paragraph (a) of
16 this Section, the person may file a petition to decline
17 issuance of the MDDP with the court of venue. The court shall
18 admonish the offender of all consequences of declining issuance
19 of the MDDP including, but not limited to, the enhanced
20 penalties for driving while suspended. After being so
21 admonished, the offender shall be permitted, in writing, to
22 execute a notice declining issuance of the MDDP. This notice
23 shall be filed with the court and forwarded by the clerk of the
24 court to the Secretary. The offender may, at any time
25 thereafter, apply to the Secretary for issuance of a MDDP.

26 (a-1) A person issued a MDDP may drive for any purpose and

1 at any time, subject to the rules adopted by the Secretary
2 under subsection (g). The person must, at his or her own
3 expense, drive only vehicles equipped with an ignition
4 interlock device as defined in Section 1-129.1, but in no event
5 shall such person drive a commercial motor vehicle.

6 (a-2) Persons who are issued a MDDP and must drive
7 employer-owned vehicles in the course of their employment
8 duties may seek permission to drive an employer-owned vehicle
9 that does not have an ignition interlock device. The employer
10 shall provide to the Secretary a form, as prescribed by the
11 Secretary, completed by the employer verifying that the
12 employee must drive an employer-owned vehicle in the course of
13 employment. If approved by the Secretary, the form must be in
14 the driver's possession while operating an employer-owner
15 vehicle not equipped with an ignition interlock device. No
16 person may use this exemption to drive a school bus, school
17 vehicle, or a vehicle designed to transport more than 15
18 passengers. No person may use this exemption to drive an
19 employer-owned motor vehicle that is owned by an entity that is
20 wholly or partially owned by the person holding the MDDP, or by
21 a family member of the person holding the MDDP. No person may
22 use this exemption to drive an employer-owned vehicle that is
23 made available to the employee for personal use. No person may
24 drive the exempted vehicle more than 12 hours per day, 6 days
25 per week.

26 (a-3) Persons who are issued a MDDP and who must drive a

1 farm tractor to and from a farm, within 50 air miles from the
2 originating farm are exempt from installation of a BAIID on the
3 farm tractor, so long as the farm tractor is being used for the
4 exclusive purpose of conducting farm operations.

5 (b) (Blank).

6 (c) (Blank).

7 (c-1) If the holder of the MDDP is convicted of or receives
8 court supervision for a violation of Section 6-206.2, 6-303,
9 11-204, 11-204.1, 11-401, 11-501, 11-503, 11-506 or a similar
10 provision of a local ordinance or a similar out-of-state
11 offense or is convicted of or receives court supervision for
12 any offense for which alcohol or drugs is an element of the
13 offense and in which a motor vehicle was involved (for an
14 arrest other than the one for which the MDDP is issued), or
15 de-installs the BAIID without prior authorization from the
16 Secretary, the MDDP shall be cancelled.

17 (c-5) If the Secretary ~~court~~ determines that the person
18 seeking the MDDP is indigent, the Secretary ~~court~~ shall provide
19 the person with a written document, ~~in a form prescribed by the~~
20 ~~Secretary,~~ as evidence of that determination, and the person
21 shall provide that written document to an ignition interlock
22 device provider. The provider shall install an ignition
23 interlock device on that person's vehicle without charge to the
24 person, and seek reimbursement from the Indigent BAIID Fund. If
25 the Secretary ~~court~~ has deemed an offender indigent, the BAIID
26 provider shall also provide the normal monthly monitoring

1 services and the de-installation without charge to the offender
2 and seek reimbursement from the Indigent BAIID Fund. Any other
3 monetary charges, such as a lockout fee or reset fee, shall be
4 the responsibility of the MDDP holder. A BAIID provider may not
5 seek a security deposit from the Indigent BAIID Fund. ~~The court~~
6 ~~shall also forward a copy of the indigent determination to the~~
7 ~~Secretary, in a manner and form as prescribed by the Secretary.~~

8 (d) MDDP ~~The Secretary shall, upon receiving a court order,~~
9 ~~issue a MDDP to a person who applies for a MDDP under this~~
10 ~~Section. Such court order shall contain the name, driver's~~
11 ~~license number, and legal address of the applicant. This~~
12 information shall be available only to the courts, police
13 officers, and the Secretary, except during the actual period
14 the MDDP is valid, during which time it shall be a public
15 record. ~~The Secretary shall design and furnish to the courts an~~
16 ~~official court order form to be used by the courts when~~
17 ~~directing the Secretary to issue a MDDP.~~

18 ~~Any submitted court order that contains insufficient data~~
19 ~~or fails to comply with this Code shall not be utilized for~~
20 ~~MDDP issuance or entered to the driver record but shall be~~
21 ~~returned to the issuing court indicating why the MDDP cannot be~~
22 ~~so entered. A notice of this action shall also be sent to the~~
23 ~~MDDP applicant by the Secretary.~~

24 (e) (Blank).

25 (f) (Blank).

26 (g) The Secretary shall adopt rules for implementing this

1 Section. The rules adopted shall address issues including, but
2 not limited to: compliance with the requirements of the MDDP;
3 methods for determining compliance with those requirements;
4 the consequences of noncompliance with those requirements;
5 what constitutes a violation of the MDDP; methods for
6 determining indigency; and the duties of a person or entity
7 that supplies the ignition interlock device.

8 (h) The rules adopted under subsection (g) shall provide,
9 at a minimum, that the person is not in compliance with the
10 requirements of the MDDP if he or she:

11 (1) tampers or attempts to tamper with or circumvent
12 the proper operation of the ignition interlock device;

13 (2) provides valid breath samples that register blood
14 alcohol levels in excess of the number of times allowed
15 under the rules;

16 (3) fails to provide evidence sufficient to satisfy the
17 Secretary that the ignition interlock device has been
18 installed in the designated vehicle or vehicles; or

19 (4) fails to follow any other applicable rules adopted
20 by the Secretary.

21 (i) Any person or entity that supplies an ignition
22 interlock device as provided under this Section shall, in
23 addition to supplying only those devices which fully comply
24 with all the rules adopted under subsection (g), provide the
25 Secretary, within 7 days of inspection, all monitoring reports
26 of each person who has had an ignition interlock device

1 installed. These reports shall be furnished in a manner or form
2 as prescribed by the Secretary.

3 (j) Upon making a determination that a violation of the
4 requirements of the MDDP has occurred, the Secretary shall
5 extend the summary suspension period for an additional 3 months
6 beyond the originally imposed summary suspension period,
7 during which time the person shall only be allowed to drive
8 vehicles equipped with an ignition interlock device; provided
9 further there are no limitations on the total number of times
10 the summary suspension may be extended. The Secretary may,
11 however, limit the number of extensions imposed for violations
12 occurring during any one monitoring period, as set forth by
13 rule. Any person whose summary suspension is extended pursuant
14 to this Section shall have the right to contest the extension
15 through a hearing with the Secretary, pursuant to Section 2-118
16 of this Code. If the summary suspension has already terminated
17 prior to the Secretary receiving the monitoring report that
18 shows a violation, the Secretary shall be authorized to suspend
19 the person's driving privileges for 3 months, provided that the
20 Secretary may, by rule, limit the number of suspensions to be
21 entered pursuant to this paragraph for violations occurring
22 during any one monitoring period. Any person whose license is
23 suspended pursuant to this paragraph, after the summary
24 suspension had already terminated, shall have the right to
25 contest the suspension through a hearing with the Secretary,
26 pursuant to Section 2-118 of this Code. The only permit the

1 person shall be eligible for during this new suspension period
2 is a MDDP.

3 (k) A person who has had his or her summary suspension
4 extended for the third time, or has any combination of 3
5 extensions and new suspensions, entered as a result of a
6 violation that occurred while holding the MDDP, so long as the
7 extensions and new suspensions relate to the same summary
8 suspension, shall have his or her vehicle impounded for a
9 period of 30 days, at the person's own expense. A person who
10 has his or her summary suspension extended for the fourth time,
11 or has any combination of 4 extensions and new suspensions,
12 entered as a result of a violation that occurred while holding
13 the MDDP, so long as the extensions and new suspensions relate
14 to the same summary suspension, shall have his or her vehicle
15 subject to seizure and forfeiture. The Secretary shall notify
16 the prosecuting authority of any third or fourth extensions or
17 new suspension entered as a result of a violation that occurred
18 while the person held a MDDP. Upon receipt of the notification,
19 the prosecuting authority shall impound or forfeit the vehicle.

20 (l) A person whose driving privileges have been suspended
21 under Section 11-501.1 of this Code and who had a MDDP that was
22 cancelled, or would have been cancelled had notification of a
23 violation been received prior to expiration of the MDDP,
24 pursuant to subsection (c-1) of this Section, shall not be
25 eligible for reinstatement when the summary suspension is
26 scheduled to terminate. Instead, the person's driving

1 privileges shall be suspended for a period of not less than
2 twice the original summary suspension period, or for the length
3 of any extensions entered under subsection (j), whichever is
4 longer. During the period of suspension, the person shall be
5 eligible only to apply for a restricted driving permit. If a
6 restricted driving permit is granted, the offender may only
7 operate vehicles equipped with a BAIID in accordance with this
8 Section.

9 (m) Any person or entity that supplies an ignition
10 interlock device under this Section shall, for each ignition
11 interlock device installed, pay 5% of the total gross revenue
12 received for the device, including monthly monitoring fees,
13 into the Indigent BAIID Fund. This 5% shall be clearly
14 indicated as a separate surcharge on each invoice that is
15 issued. The Secretary shall conduct an annual review of the
16 fund to determine whether the surcharge is sufficient to
17 provide for indigent users. The Secretary may increase or
18 decrease this surcharge requirement as needed.

19 (n) Any person or entity that supplies an ignition
20 interlock device under this Section that is requested to
21 provide an ignition interlock device to a person who presents
22 written documentation of indigency from the Secretary ~~court~~, as
23 provided in subsection (c-5) of this Section, shall install the
24 device on the person's vehicle without charge to the person and
25 shall seek reimbursement from the Indigent BAIID Fund.

26 (o) The Indigent BAIID Fund is created as a special fund in

1 the State treasury. The Secretary shall, subject to
2 appropriation by the General Assembly, use all money in the
3 Indigent BAIID Fund to reimburse ignition interlock device
4 providers who have installed devices in vehicles of indigent
5 persons ~~pursuant to court orders issued under this Section~~. The
6 Secretary shall make payments to such providers every 3 months.
7 If the amount of money in the fund at the time payments are
8 made is not sufficient to pay all requests for reimbursement
9 submitted during that 3 month period, the Secretary shall make
10 payments on a pro-rata basis, and those payments shall be
11 considered payment in full for the requests submitted.

12 (p) The Monitoring Device Driving Permit Administration
13 Fee Fund is created as a special fund in the State treasury.
14 The Secretary shall, subject to appropriation by the General
15 Assembly, use the money paid into this fund to offset its
16 administrative costs for administering MDDPs.

17 (q) The Secretary is authorized to prescribe such forms as
18 it deems necessary to carry out the provisions of this Section.

19 (Source: P.A. 95-400, eff. 1-1-09; 95-578, eff. 1-1-09; 95-855,
20 eff. 1-1-09; 95-876, eff. 8-21-08; 96-184, eff. 8-10-09.)

21 (625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)

22 Sec. 6-208.1. Period of statutory summary alcohol, other
23 drug, or intoxicating compound related suspension.

24 (a) Unless the statutory summary suspension has been
25 rescinded, any person whose privilege to drive a motor vehicle

1 on the public highways has been summarily suspended, pursuant
2 to Section 11-501.1, shall not be eligible for restoration of
3 the privilege until the expiration of:

4 1. Twelve months from the effective date of the
5 statutory summary suspension for a refusal or failure to
6 complete a test or tests to determine the alcohol, drug, or
7 intoxicating compound concentration, pursuant to Section
8 11-501.1; or

9 2. Six months from the effective date of the statutory
10 summary suspension imposed following the person's
11 submission to a chemical test which disclosed an alcohol
12 concentration of 0.08 or more, or any amount of a drug,
13 substance, or intoxicating compound in such person's
14 breath, blood, or urine resulting from the unlawful use or
15 consumption of cannabis listed in the Cannabis Control Act,
16 a controlled substance listed in the Illinois Controlled
17 Substances Act, an intoxicating compound listed in the Use
18 of Intoxicating Compounds Act, or methamphetamine as
19 listed in the Methamphetamine Control and Community
20 Protection Act, pursuant to Section 11-501.1; or

21 3. Three years from the effective date of the statutory
22 summary suspension for any person other than a first
23 offender who refuses or fails to complete a test or tests
24 to determine the alcohol, drug, or intoxicating compound
25 concentration pursuant to Section 11-501.1; or

26 4. One year from the effective date of the summary

1 suspension imposed for any person other than a first
2 offender following submission to a chemical test which
3 disclosed an alcohol concentration of 0.08 or more pursuant
4 to Section 11-501.1 or any amount of a drug, substance or
5 compound in such person's blood or urine resulting from the
6 unlawful use or consumption of cannabis listed in the
7 Cannabis Control Act, a controlled substance listed in the
8 Illinois Controlled Substances Act, an intoxicating
9 compound listed in the Use of Intoxicating Compounds Act,
10 or methamphetamine as listed in the Methamphetamine
11 Control and Community Protection Act.

12 (b) Following a statutory summary suspension of the
13 privilege to drive a motor vehicle under Section 11-501.1,
14 driving privileges shall be restored unless the person is
15 otherwise suspended, revoked, or cancelled by this Code. If the
16 court has reason to believe that the person's driving privilege
17 should not be restored, the court shall notify the Secretary of
18 State prior to the expiration of the statutory summary
19 suspension so appropriate action may be taken pursuant to this
20 Code.

21 (c) Driving privileges may not be restored until all
22 applicable reinstatement fees, as provided by this Code, have
23 been paid to the Secretary of State and the appropriate entry
24 made to the driver's record.

25 (d) Where a driving privilege has been summarily suspended
26 under Section 11-501.1 and the person is subsequently convicted

1 of violating Section 11-501, or a similar provision of a local
2 ordinance, for the same incident, any period served on
3 statutory summary suspension shall be credited toward the
4 minimum period of revocation of driving privileges imposed
5 pursuant to Section 6-205.

6 (e) (Blank). ~~Following a statutory summary suspension of~~
7 ~~driving privileges pursuant to Section 11-501.1, for a first~~
8 ~~offender, the circuit court shall, unless the offender has~~
9 ~~opted in writing not to have a monitoring device driving permit~~
10 ~~issued, order the Secretary of State to issue a monitoring~~
11 ~~device driving permit as provided in Section 6-206.1. A~~
12 ~~monitoring device driving permit shall not be effective prior~~
13 ~~to the 31st day of the statutory summary suspension.~~

14 (f) (Blank).

15 (g) Following a statutory summary suspension of driving
16 privileges pursuant to Section 11-501.1 where the person was
17 not a first offender, as defined in Section 11-500, the
18 Secretary of State may not issue a restricted driving permit.

19 (h) (Blank).

20 (Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876,
21 eff. 8-21-08.)

22 Section 99. Effective date. This Act takes effect January
23 1, 2011.