



Sen. A. J. Wilhelmi

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09600SB3775sam002

LRB096 18655 AJT 39843 a

1 AMENDMENT TO SENATE BILL 3775

2 AMENDMENT NO. _____. Amend Senate Bill 3775 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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.

1 Declaration of Policy. It is hereby declared a policy of the
2 State of Illinois that the driver who is impaired by alcohol,
3 other drug or drugs, or intoxicating compound or compounds is a
4 threat to the public safety and welfare. Therefore, to provide
5 a deterrent to such practice, a statutory summary driver's
6 license suspension is appropriate. It is also recognized that
7 driving is a privilege and therefore, that the granting of
8 driving privileges, in a manner consistent with public safety,
9 is warranted during the period of suspension in the form of a
10 monitoring device driving permit. A person who drives and fails
11 to comply with the requirements of the monitoring device
12 driving permit commits a violation of Section 6-303 of this
13 Code.

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

19 (a) Upon mailing of the notice of suspension of driving
20 privileges as provided in subsection (h) of Section 11-501.1 of
21 this Code, the Secretary shall also send written notice
22 informing the person that he or she will be issued a monitoring
23 device driving permit (MDDP). The notice shall include, at
24 minimum, information summarizing the procedure to be followed
25 for issuance of the MDDP, installation of the breath alcohol
26 ignition installation device (BAIID), as provided in this

1 Section, exemption from BAIID installation requirements, and
2 procedures to be followed by those seeking indigent status, as
3 provided in this Section. The notice shall also include
4 information summarizing the procedure to be followed if the
5 person wishes to decline issuance of the MDDP. A copy of the
6 notice shall also be sent to the court of venue together with
7 the notice of suspension of driving privileges, as provided in
8 subsection (h) of Section 11-501. However, a MPPD shall not be
9 issued if the Secretary finds that: ~~Subsequent to a~~
10 ~~notification of a statutory summary suspension of driving~~
11 ~~privileges as provided in Section 11-501.1, the court, after~~
12 ~~informing the first offender, as defined in Section 11-500, of~~
13 ~~his or her right to a monitoring device driving permit,~~
14 ~~hereinafter referred to as a MDDP, and of the obligations of~~
15 ~~the MDDP, shall enter an order directing the Secretary of State~~
16 ~~(hereinafter referred to as the Secretary) to issue a MDDP to~~
17 ~~the offender, unless the offender has opted, in writing, not to~~
18 ~~have a MDDP issued. After opting out of having a MDDP issued,~~
19 ~~at any time during the summary suspension, the offender may~~
20 ~~petition the court for an order directing the Secretary to~~
21 ~~issue a MDDP. However, the court shall not enter the order~~
22 ~~directing the Secretary to issue the MDDP, in any instance, if~~
23 ~~the court finds:~~

24 (1) The offender's driver's license is otherwise
25 invalid;

26 (2) Death or great bodily harm resulted from the arrest

1 for Section 11-501;

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

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

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

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

22 Upon receipt of the notice, as provided in paragraph (a) of
23 this Section, the person may file a petition to decline
24 issuance of the MDDP with the court of venue. The court shall
25 admonish the offender of all consequences of declining issuance
26 of the MPPD including, but not limited to, the enhanced

1 penalties for driving while suspended. After being so
2 admonished, the offender shall be permitted, in writing, to
3 execute a notice declining issuance of the MDDP. This notice
4 shall be filed with the court and forwarded by the clerk of the
5 court to the Secretary. The offender may, at any time
6 thereafter, apply to the Secretary of issuance of a MDDP.

7 (a-1) A person issued a MDDP may drive for any purpose and
8 at any time, subject to the rules adopted by the Secretary
9 under subsection (g). The person must, at his or her own
10 expense, drive only vehicles equipped with an ignition
11 interlock device as defined in Section 1-129.1, but in no event
12 shall such person drive a commercial motor vehicle.

13 (a-2) Persons who are issued a MDDP and must drive
14 employer-owned vehicles in the course of their employment
15 duties may seek permission to drive an employer-owned vehicle
16 that does not have an ignition interlock device. The employer
17 shall provide to the Secretary a form, as prescribed by the
18 Secretary, completed by the employer verifying that the
19 employee must drive an employer-owned vehicle in the course of
20 employment. If approved by the Secretary, the form must be in
21 the driver's possession while operating an employer-owner
22 vehicle not equipped with an ignition interlock device. No
23 person may use this exemption to drive a school bus, school
24 vehicle, or a vehicle designed to transport more than 15
25 passengers. No person may use this exemption to drive an
26 employer-owned motor vehicle that is owned by an entity that is

1 wholly or partially owned by the person holding the MDDP, or by
2 a family member of the person holding the MDDP. No person may
3 use this exemption to drive an employer-owned vehicle that is
4 made available to the employee for personal use. No person may
5 drive the exempted vehicle more than 12 hours per day, 6 days
6 per week.

7 (a-3) Persons who are issued a MDDP and who must drive a
8 farm tractor to and from a farm, within 50 air miles from the
9 originating farm are exempt from installation of a BAIID on the
10 farm tractor, so long as the farm tractor is being used for the
11 exclusive purpose of conducting farm operations.

12 (b) (Blank).

13 (c) (Blank).

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

24 (c-5) If the Secretary ~~court~~ determines that the person
25 seeking the MDDP is indigent, the Secretary ~~court~~ shall provide
26 the person with a written document, ~~in a form prescribed by the~~

1 ~~Secretary,~~ as evidence of that determination, and the person
2 shall provide that written document to an ignition interlock
3 device provider. The provider shall install an ignition
4 interlock device on that person's vehicle without charge to the
5 person, and seek reimbursement from the Indigent BAIID Fund. If
6 the Secretary ~~court~~ has deemed an offender indigent, the BAIID
7 provider shall also provide the normal monthly monitoring
8 services and the de-installation without charge to the offender
9 and seek reimbursement from the Indigent BAIID Fund. Any other
10 monetary charges, such as a lockout fee or reset fee, shall be
11 the responsibility of the MDDP holder. A BAIID provider may not
12 seek a security deposit from the Indigent BAIID Fund. ~~The court~~
13 ~~shall also forward a copy of the indigent determination to the~~
14 ~~Secretary, in a manner and form as prescribed by the Secretary.~~

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

25 ~~Any submitted court order that contains insufficient data~~
26 ~~or fails to comply with this Code shall not be utilized for~~

1 ~~MDDP issuance or entered to the driver record but shall be~~
2 ~~returned to the issuing court indicating why the MDDP cannot be~~
3 ~~so entered. A notice of this action shall also be sent to the~~
4 ~~MDDP applicant by the Secretary.~~

5 (e) (Blank).

6 (f) (Blank).

7 (g) The Secretary shall adopt rules for implementing this
8 Section. The rules adopted shall address issues including, but
9 not limited to: compliance with the requirements of the MDDP;
10 methods for determining compliance with those requirements;
11 the consequences of noncompliance with those requirements;
12 what constitutes a violation of the MDDP; methods for
13 determining indigency; and the duties of a person or entity
14 that supplies the ignition interlock device.

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

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

20 (2) provides valid breath samples that register blood
21 alcohol levels in excess of the number of times allowed
22 under the rules;

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

26 (4) fails to follow any other applicable rules adopted

1 by the Secretary.

2 (i) Any person or entity that supplies an ignition
3 interlock device as provided under this Section shall, in
4 addition to supplying only those devices which fully comply
5 with all the rules adopted under subsection (g), provide the
6 Secretary, within 7 days of inspection, all monitoring reports
7 of each person who has had an ignition interlock device
8 installed. These reports shall be furnished in a manner or form
9 as prescribed by the Secretary.

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

1 Secretary may, by rule, limit the number of suspensions to be
2 entered pursuant to this paragraph for violations occurring
3 during any one monitoring period. Any person whose license is
4 suspended pursuant to this paragraph, after the summary
5 suspension had already terminated, shall have the right to
6 contest the suspension through a hearing with the Secretary,
7 pursuant to Section 2-118 of this Code. The only permit the
8 person shall be eligible for during this new suspension period
9 is a MDDP.

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

1 (1) A person whose driving privileges have been suspended
2 under Section 11-501.1 of this Code and who had a MDDP that was
3 cancelled, or would have been cancelled had notification of a
4 violation been received prior to expiration of the MDDP,
5 pursuant to subsection (c-1) of this Section, shall not be
6 eligible for reinstatement when the summary suspension is
7 scheduled to terminate. Instead, the person's driving
8 privileges shall be suspended for a period of not less than
9 twice the original summary suspension period, or for the length
10 of any extensions entered under subsection (j), whichever is
11 longer. During the period of suspension, the person shall be
12 eligible only to apply for a restricted driving permit. If a
13 restricted driving permit is granted, the offender may only
14 operate vehicles equipped with a BAIID in accordance with this
15 Section.

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

26 (n) Any person or entity that supplies an ignition

1 interlock device under this Section that is requested to
2 provide an ignition interlock device to a person who presents
3 written documentation of indigency from the Secretary ~~court~~, as
4 provided in subsection (c-5) of this Section, shall install the
5 device on the person's vehicle without charge to the person and
6 shall seek reimbursement from the Indigent BAIID Fund.

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

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

24 (q) The Secretary is authorized to prescribe such forms as
25 it deems necessary to carry out the provisions of this section.

26 (Source: P.A. 95-400, eff. 1-1-09; 95-578, eff. 1-1-09; 95-855,

1 eff. 1-1-09; 95-876, eff. 8-21-08; 96-184, eff. 8-10-09.)

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

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

5 (a) Unless the statutory summary suspension has been
6 rescinded, any person whose privilege to drive a motor vehicle
7 on the public highways has been summarily suspended, pursuant
8 to Section 11-501.1, shall not be eligible for restoration of
9 the privilege until the expiration of:

10 1. Twelve months from the effective date of the
11 statutory summary suspension for a refusal or failure to
12 complete a test or tests to determine the alcohol, drug, or
13 intoxicating compound concentration, pursuant to Section
14 11-501.1; or

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

1 Protection Act, pursuant to Section 11-501.1; or

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

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

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

1 Code.

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

6 (d) Where a driving privilege has been summarily suspended
7 under Section 11-501.1 and the person is subsequently convicted
8 of violating Section 11-501, or a similar provision of a local
9 ordinance, for the same incident, any period served on
10 statutory summary suspension shall be credited toward the
11 minimum period of revocation of driving privileges imposed
12 pursuant to Section 6-205.

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

21 (f) (Blank).

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

26 (h) (Blank).

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

3 Section 99. Effective date. This Act takes effect January
4 1, 2011."