



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3876

Introduced 11/2/2011, by Rep. Jehan A. Gordon

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.6

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

Amends the Illinois Vehicle Code. Provides that any person who drives or is in actual control of a motor vehicle upon the public highways of this State and who has been involved in a fatal motor vehicle accident shall be deemed to have given consent, regardless of whether an arrest takes place, to tests of blood, breath, or urine to detect alcohol, drugs, or intoxicating compounds. Provides that both a test of the concentration of alcohol in the person's breath and a test of blood or urine for the purpose of determining the content of alcohol, drugs, or intoxicating compounds of the person's blood shall be administered. Provides that the required tests be conducted within one hour of the arrival of law enforcement personnel at the scene of the accident or, if the driver has fled the scene of the accident, within one hour of apprehending the driver.

LRB097 14249 HEP 58981 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 Sections 6-206 and 11-501.6 and by adding Section 11-501.6a as  
6 follows:

7 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

8 Sec. 11-501.6. Driver involvement in personal injury or  
9 fatal motor vehicle accident not involving an arrest for a  
10 violation of Section 11-501; driving under the influence of  
11 alcohol, other drug or drugs, intoxicating compounds, or any  
12 combination thereof; chemical test.

13 (a) Any person who drives or is in actual control of a  
14 motor vehicle upon the public highways of this State and who  
15 has been involved in a personal injury ~~or fatal~~ motor vehicle  
16 accident <sup>r</sup> shall be deemed to have given consent to a breath  
17 test using a portable device as approved by the Department of  
18 State Police or to a chemical test or tests of blood, breath,  
19 or urine for the purpose of determining the content of alcohol,  
20 other drug or drugs, or intoxicating compound or compounds of  
21 such person's blood if arrested as evidenced by the issuance of  
22 a Uniform Traffic Ticket for any violation of the Illinois  
23 Vehicle Code or a similar provision of a local ordinance, with

1 the exception of equipment violations contained in Chapter 12  
2 of this Code, or similar provisions of local ordinances. This  
3 Section shall not apply to those persons arrested for a  
4 violation of Section 11-501 or a similar violation of a local  
5 ordinance, in which case the provisions of Section 11-501.1  
6 shall apply. The test or tests shall be administered at the  
7 direction of the arresting officer within one hour of the  
8 arrival of law enforcement personnel at the scene of the  
9 accident or, if the driver has fled the scene of the accident,  
10 within one hour of apprehending the driver. The law enforcement  
11 agency employing the officer shall designate which of the  
12 aforesaid tests shall be administered. A urine test may be  
13 administered even after a blood or breath test or both have ~~has~~  
14 been administered. Compliance with this Section does not  
15 relieve such person from the requirements of Section 11-501.1  
16 of this Code.

17 (a-5) Any person who drives or is in actual control of a  
18 motor vehicle upon the public highways of this State and who  
19 has been involved in a fatal motor vehicle accident shall be  
20 deemed to have given consent to a breath test using a portable  
21 device as approved by the Department of State Police and to a  
22 chemical test or tests of blood, breath, or urine for the  
23 purpose of determining the content of alcohol, other drug or  
24 drugs, or intoxicating compound or compounds of such person's  
25 blood. This Section shall not apply to those persons arrested  
26 for a violation of Section 11-501 or a similar violation of a

1 local ordinance, in which case the provisions of Section  
2 11-501.1 shall apply. The tests shall be administered at the  
3 direction of the officer responding to the vehicle accident.  
4 Both a test of the concentration of alcohol in the person's  
5 breath and a test of blood or urine for the purpose of  
6 determining the content of alcohol, other drug or drugs, or  
7 intoxicating compound or compounds of the person's blood shall  
8 be administered. The test shall be administered within one hour  
9 of the arrival of law enforcement personnel at the scene of the  
10 accident or, if the driver has fled the scene of the accident,  
11 within one hour of apprehending the driver. A urine test may be  
12 administered even after a blood or breath test or both have  
13 been administered. Compliance with this Section does not  
14 relieve such person from the requirements of Section 11-501.1  
15 of this Code.

16 (b) Any person who is dead, unconscious or who is otherwise  
17 in a condition rendering such person incapable of refusal shall  
18 be deemed not to have withdrawn the consent provided by  
19 subsection (a) of this Section. In addition, if a driver of a  
20 vehicle is receiving medical treatment as a result of a motor  
21 vehicle accident, any physician licensed to practice medicine,  
22 licensed physician assistant, licensed advanced practice  
23 nurse, registered nurse or a phlebotomist acting under the  
24 direction of a licensed physician shall withdraw blood for  
25 testing purposes to ascertain the presence of alcohol, other  
26 drug or drugs, or intoxicating compound or compounds, upon the

1 specific request of a law enforcement officer. However, no such  
2 testing shall be performed until, in the opinion of the medical  
3 personnel on scene, the withdrawal can be made without  
4 interfering with or endangering the well-being of the patient.

5 (c) A person requested to submit to a test as provided  
6 above shall be warned by the law enforcement officer requesting  
7 the test that a refusal to submit to the test, or submission to  
8 the test resulting in an alcohol concentration of 0.08 or more,  
9 or any amount of a drug, substance, or intoxicating compound  
10 resulting from the unlawful use or consumption of cannabis, as  
11 covered by the Cannabis Control Act, a controlled substance  
12 listed in the Illinois Controlled Substances Act, an  
13 intoxicating compound listed in the Use of Intoxicating  
14 Compounds Act, or methamphetamine as listed in the  
15 Methamphetamine Control and Community Protection Act as  
16 detected in such person's blood or urine, may result in the  
17 suspension of such person's privilege to operate a motor  
18 vehicle and may result in the disqualification of the person's  
19 privilege to operate a commercial motor vehicle, as provided in  
20 Section 6-514 of this Code, if the person is a CDL holder. The  
21 length of the suspension shall be the same as outlined in  
22 Section 6-208.1 of this Code regarding statutory summary  
23 suspensions.

24 (d) If the person refuses testing or submits to a test  
25 which discloses an alcohol concentration of 0.08 or more, or  
26 any amount of a drug, substance, or intoxicating compound in

1 such person's blood or urine resulting from the unlawful use or  
2 consumption of cannabis listed in the Cannabis Control Act, a  
3 controlled substance listed in the Illinois Controlled  
4 Substances Act, an intoxicating compound listed in the Use of  
5 Intoxicating Compounds Act, or methamphetamine as listed in the  
6 Methamphetamine Control and Community Protection Act, the law  
7 enforcement officer shall immediately submit a sworn report to  
8 the Secretary of State on a form prescribed by the Secretary,  
9 certifying that the test or tests were requested pursuant to  
10 subsection (a) and the person refused to submit to a test or  
11 tests or submitted to testing 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 blood or  
14 urine, resulting from the unlawful use or consumption of  
15 cannabis listed in the Cannabis Control Act, a controlled  
16 substance listed in the Illinois Controlled Substances Act, an  
17 intoxicating compound listed in the Use of Intoxicating  
18 Compounds Act, or methamphetamine as listed in the  
19 Methamphetamine Control and Community Protection Act.

20 Upon receipt of the sworn report of a law enforcement  
21 officer, the Secretary shall enter the suspension and  
22 disqualification to the individual's driving record and the  
23 suspension and disqualification shall be effective on the 46th  
24 day following the date notice of the suspension was given to  
25 the person.

26 The law enforcement officer submitting the sworn report

1 shall serve immediate notice of this suspension on the person  
2 and such suspension and disqualification shall be effective on  
3 the 46th day following the date notice was given.

4 In cases where the blood alcohol concentration of 0.08 or  
5 more, or any amount of a drug, substance, or intoxicating  
6 compound resulting from the unlawful use or consumption of  
7 cannabis as listed in the Cannabis Control Act, a controlled  
8 substance listed in the Illinois Controlled Substances Act, an  
9 intoxicating compound listed in the Use of Intoxicating  
10 Compounds Act, or methamphetamine as listed in the  
11 Methamphetamine Control and Community Protection Act, is  
12 established by a subsequent analysis of blood or urine  
13 collected at the time of arrest, the arresting officer shall  
14 give notice as provided in this Section or by deposit in the  
15 United States mail of such notice in an envelope with postage  
16 prepaid and addressed to such person at his address as shown on  
17 the Uniform Traffic Ticket and the suspension and  
18 disqualification shall be effective on the 46th day following  
19 the date notice was given.

20 Upon receipt of the sworn report of a law enforcement  
21 officer, the Secretary shall also give notice of the suspension  
22 and disqualification to the driver by mailing a notice of the  
23 effective date of the suspension and disqualification to the  
24 individual. However, should the sworn report be defective by  
25 not containing sufficient information or be completed in error,  
26 the notice of the suspension and disqualification shall not be

1 mailed to the person or entered to the driving record, but  
2 rather the sworn report shall be returned to the issuing law  
3 enforcement agency.

4 (e) A driver may contest this suspension of his or her  
5 driving privileges and disqualification of his or her CDL  
6 privileges by requesting an administrative hearing with the  
7 Secretary in accordance with Section 2-118 of this Code. At the  
8 conclusion of a hearing held under Section 2-118 of this Code,  
9 the Secretary may rescind, continue, or modify the orders of  
10 suspension and disqualification. If the Secretary does not  
11 rescind the orders of suspension and disqualification, a  
12 restricted driving permit may be granted by the Secretary upon  
13 application being made and good cause shown. A restricted  
14 driving permit may be granted to relieve undue hardship to  
15 allow driving for employment, educational, and medical  
16 purposes as outlined in Section 6-206 of this Code. The  
17 provisions of Section 6-206 of this Code shall apply. In  
18 accordance with 49 C.F.R. 384, the Secretary of State may not  
19 issue a restricted driving permit for the operation of a  
20 commercial motor vehicle to a person holding a CDL whose  
21 driving privileges have been suspended, revoked, cancelled, or  
22 disqualified.

23 (f) (Blank).

24 (g) For the purposes of this Section, a personal injury  
25 shall include any type A injury as indicated on the traffic  
26 accident report completed by a law enforcement officer that



1 requires immediate professional attention in either a doctor's  
2 office or a medical facility. A type A injury shall include  
3 severely bleeding wounds, distorted extremities, and injuries  
4 that require the injured party to be carried from the scene.  
5 (Source: P.A. 96-1344, eff. 7-1-11; 97-450, eff. 8-19-11.)