



Rep. William Davis

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09800HB4304ham001

LRB098 15245 MLW 56031 a

1 AMENDMENT TO HOUSE BILL 4304

2 AMENDMENT NO. _____. Amend House Bill 4304 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 6-206.1 and 6-208.1 as follows:

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

7 Sec. 6-206.1. Monitoring Device Driving Permit.
8 Declaration of Policy. It is hereby declared a policy of the
9 State of Illinois that the driver who is impaired by alcohol,
10 other drug or drugs, or intoxicating compound or compounds is a
11 threat to the public safety and welfare. Therefore, to provide
12 a deterrent to such practice, a statutory summary driver's
13 license suspension is appropriate. It is also recognized that
14 driving is a privilege and therefore, that the granting of
15 driving privileges, in a manner consistent with public safety,
16 is warranted during the period of suspension in the form of a

1 monitoring device driving permit. A person who drives and fails
2 to comply with the requirements of the monitoring device
3 driving permit commits a violation of Section 6-303 of this
4 Code.

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

10 (a) Upon mailing of the notice of suspension of driving
11 privileges as provided in subsection (h) of Section 11-501.1 of
12 this Code, the Secretary shall also send written notice
13 informing the person that he or she will be issued a monitoring
14 device driving permit (MDDP). The notice shall include, at
15 minimum, information summarizing the procedure to be followed
16 for issuance of the MDDP, installation of the breath alcohol
17 ignition installation device (BAIID), as provided in this
18 Section, exemption from BAIID installation requirements, and
19 procedures to be followed by those seeking indigent status, as
20 provided in this Section. The notice shall also include
21 information summarizing the procedure to be followed if the
22 person wishes to decline issuance of the MDDP. A copy of the
23 notice shall also be sent to the court of venue together with
24 the notice of suspension of driving privileges, as provided in
25 subsection (h) of Section 11-501. However, a MDDP shall not be
26 issued if the Secretary finds that:

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

3 (2) Death or great bodily harm to another resulted from
4 the arrest for Section 11-501;

5 (3) The offender has been previously convicted of
6 reckless homicide or aggravated driving under the
7 influence involving death;

8 (4) The offender is less than 18 years of age; or

9 (5) The offender is a qualifying patient licensed under
10 the Compassionate Use of Medical Cannabis Pilot Program Act
11 who is in possession of a valid registry card issued under
12 that Act and refused to submit to standardized field
13 sobriety tests as required by subsection (a-5) of Section
14 11-501.1 or did submit to testing and failed the test or
15 tests.

16 Any offender participating in the MDDP program must pay the
17 Secretary a MDDP Administration Fee in an amount not to exceed
18 \$30 per month, to be deposited into the Monitoring Device
19 Driving Permit Administration Fee Fund. The Secretary shall
20 establish by rule the amount and the procedures, terms, and
21 conditions relating to these fees. The offender must have an
22 ignition interlock device installed within 14 days of the date
23 the Secretary issues the MDDP. The ignition interlock device
24 provider must notify the Secretary, in a manner and form
25 prescribed by the Secretary, of the installation. If the
26 Secretary does not receive notice of installation, the

1 Secretary shall cancel the MDDP.

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

4 Upon receipt of the notice, as provided in paragraph (a) of
5 this Section, the person may file a petition to decline
6 issuance of the MDDP with the court of venue. The court shall
7 admonish the offender of all consequences of declining issuance
8 of the MDDP including, but not limited to, the enhanced
9 penalties for driving while suspended. After being so
10 admonished, the offender shall be permitted, in writing, to
11 execute a notice declining issuance of the MDDP. This notice
12 shall be filed with the court and forwarded by the clerk of the
13 court to the Secretary. The offender may, at any time
14 thereafter, apply to the Secretary for issuance of a MDDP.

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

21 (a-2) Persons who are issued a MDDP and must drive
22 employer-owned vehicles in the course of their employment
23 duties may seek permission to drive an employer-owned vehicle
24 that does not have an ignition interlock device. The employer
25 shall provide to the Secretary a form, as prescribed by the
26 Secretary, completed by the employer verifying that the

1 employee must drive an employer-owned vehicle in the course of
2 employment. If approved by the Secretary, the form must be in
3 the driver's possession while operating an employer-owner
4 vehicle not equipped with an ignition interlock device. No
5 person may use this exemption to drive a school bus, school
6 vehicle, or a vehicle designed to transport more than 15
7 passengers. No person may use this exemption to drive an
8 employer-owned motor vehicle that is owned by an entity that is
9 wholly or partially owned by the person holding the MDDP, or by
10 a family member of the person holding the MDDP. No person may
11 use this exemption to drive an employer-owned vehicle that is
12 made available to the employee for personal use. No person may
13 drive the exempted vehicle more than 12 hours per day, 6 days
14 per week.

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

20 (b) (Blank).

21 (c) (Blank).

22 (c-1) If the holder of the MDDP is convicted of or receives
23 court supervision for a violation of Section 6-206.2, 6-303,
24 11-204, 11-204.1, 11-401, 11-501, 11-503, 11-506 or a similar
25 provision of a local ordinance or a similar out-of-state
26 offense or is convicted of or receives court supervision for

1 any offense for which alcohol or drugs is an element of the
2 offense and in which a motor vehicle was involved (for an
3 arrest other than the one for which the MDDP is issued), or
4 de-installs the BAIID without prior authorization from the
5 Secretary, the MDDP shall be cancelled.

6 (c-5) If the Secretary determines that the person seeking
7 the MDDP is indigent, the Secretary shall provide the person
8 with a written document as evidence of that determination, and
9 the person shall provide that written document to an ignition
10 interlock device provider. The provider shall install an
11 ignition interlock device on that person's vehicle without
12 charge to the person, and seek reimbursement from the Indigent
13 BAIID Fund. If the Secretary has deemed an offender indigent,
14 the BAIID provider shall also provide the normal monthly
15 monitoring services and the de-installation without charge to
16 the offender and seek reimbursement from the Indigent BAIID
17 Fund. Any other monetary charges, such as a lockout fee or
18 reset fee, shall be the responsibility of the MDDP holder. A
19 BAIID provider may not seek a security deposit from the
20 Indigent BAIID Fund.

21 (d) MDDP information shall be available only to the courts,
22 police officers, and the Secretary, except during the actual
23 period the MDDP is valid, during which time it shall be a
24 public record.

25 (e) (Blank).

26 (f) (Blank).

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

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

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

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

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

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

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

1 of each person who has had an ignition interlock device
2 installed. These reports shall be furnished in a manner or form
3 as prescribed by the Secretary.

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

1 pursuant to Section 2-118 of this Code. The only permit the
2 person shall be eligible for during this new suspension period
3 is a MDDP.

4 (k) A person who has had his or her summary suspension
5 extended for the third time, or has any combination of 3
6 extensions and new suspensions, entered as a result of a
7 violation that occurred while holding the MDDP, so long as the
8 extensions and new suspensions relate to the same summary
9 suspension, shall have his or her vehicle impounded for a
10 period of 30 days, at the person's own expense. A person who
11 has his or her summary suspension extended for the fourth time,
12 or has any combination of 4 extensions and new suspensions,
13 entered as a result of a violation that occurred while holding
14 the MDDP, so long as the extensions and new suspensions relate
15 to the same summary suspension, shall have his or her vehicle
16 subject to seizure and forfeiture. The Secretary shall notify
17 the prosecuting authority of any third or fourth extensions or
18 new suspension entered as a result of a violation that occurred
19 while the person held a MDDP. Upon receipt of the notification,
20 the prosecuting authority shall impound or forfeit the vehicle.
21 The impoundment or forfeiture of a vehicle shall be conducted
22 pursuant to the procedure specified in Article 36 of the
23 Criminal Code of 2012.

24 (l) A person whose driving privileges have been suspended
25 under Section 11-501.1 of this Code and who had a MDDP that was
26 cancelled, or would have been cancelled had notification of a

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

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

23 (n) Any person or entity that supplies an ignition
24 interlock device under this Section that is requested to
25 provide an ignition interlock device to a person who presents
26 written documentation of indigency from the Secretary, as

1 provided in subsection (c-5) of this Section, shall install the
2 device on the person's vehicle without charge to the person and
3 shall seek reimbursement from the Indigent BAIID Fund.

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

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

21 (q) The Secretary is authorized to prescribe such forms as
22 it deems necessary to carry out the provisions of this Section.
23 (Source: P.A. 97-229; 97-813, eff. 7-13-12; 97-1150, eff.
24 1-25-13; 98-122, eff. 1-1-14.)

1 (Text of Section from P.A. 96-1526 and 98-122)

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

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 authorized under Section 11-501.1,
13 if the person was not involved in a motor vehicle accident
14 that caused personal injury or death to another; 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
26 Protection Act, pursuant to Section 11-501.1; or

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

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

18 5. Six months from the effective date of the statutory
19 summary suspension imposed for any person following
20 submission to a standardized field sobriety test that
21 disclosed impairment if the person is a qualifying patient
22 licensed under the Compassionate Use of Medical Cannabis
23 Pilot Program Act who is in possession of a valid registry
24 card issued under that Act and submitted to testing under
25 subsection (a-5) of Section 11-501.1.

26 (b) Following a statutory summary suspension of the

1 privilege to drive a motor vehicle under Section 11-501.1,
2 driving privileges shall be restored unless the person is
3 otherwise suspended, revoked, or cancelled by this Code. If the
4 court has reason to believe that the person's driving privilege
5 should not be restored, the court shall notify the Secretary of
6 State prior to the expiration of the statutory summary
7 suspension so appropriate action may be taken pursuant to this
8 Code.

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

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

20 (e) A first offender who refused chemical testing and whose
21 driving privileges were summarily revoked pursuant to Section
22 11-501.1 shall not be eligible for a monitoring device driving
23 permit, but may make application for reinstatement or for a
24 restricted driving permit after a period of one year has
25 elapsed from the effective date of the revocation (Blank).

26 (f) (Blank).

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

5 (h) (Blank).

6 (Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876,
7 eff. 8-21-08; 96-1526, eff. 2-14-11; 98-122, eff. 1-1-14.)

8 (Text of Section from P.A. 96-1344, 97-229, and 98-122)

9 Sec. 6-208.1. Period of statutory summary alcohol, other
10 drug, or intoxicating compound related suspension or
11 revocation.

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

17 1. Twelve months from the effective date of the
18 statutory summary suspension for a refusal or failure to
19 complete a test or tests authorized under Section 11-501.1,
20 if the person was not involved in a motor vehicle accident
21 ~~crash~~ that caused personal injury or death to another; or

22 2. Six months from the effective date of the statutory
23 summary suspension imposed following the person's
24 submission to a chemical test which disclosed an alcohol
25 concentration of 0.08 or more, or any amount of a drug,

1 substance, or intoxicating compound in such person's
2 breath, blood, or urine resulting from the unlawful use or
3 consumption of cannabis listed in the Cannabis Control Act,
4 a controlled substance listed in the Illinois Controlled
5 Substances Act, an intoxicating compound listed in the Use
6 of Intoxicating Compounds Act, or methamphetamine as
7 listed in the Methamphetamine Control and Community
8 Protection Act, pursuant to Section 11-501.1; or

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

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

26 5. Six months from the effective date of the statutory

1 summary suspension imposed for any person following
2 submission to a standardized field sobriety test that
3 disclosed impairment if the person is a qualifying patient
4 licensed under the Compassionate Use of Medical Cannabis
5 Pilot Program Act who is in possession of a valid registry
6 card issued under that Act and submitted to testing under
7 subsection (a-5) of Section 11-501.1.

8 ~~(a 1) Unless the statutory summary revocation has been~~
9 ~~rescinded, any person whose privilege to drive has been~~
10 ~~summarily revoked pursuant to Section 11-501.1 may not make~~
11 ~~application for a license or permit until the expiration of one~~
12 ~~year from the effective date of the summary revocation.~~

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

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

26 (d) Where a driving privilege has been summarily suspended

1 or revoked under Section 11-501.1 and the person is
2 subsequently convicted of violating Section 11-501, or a
3 similar provision of a local ordinance, for the same incident,
4 any period served on statutory summary suspension or revocation
5 shall be credited toward the minimum period of revocation of
6 driving privileges imposed pursuant to Section 6-205.

7 ~~(e) Following a statutory summary suspension of driving~~
8 ~~privileges pursuant to Section 11-501.1, for a first offender,~~
9 ~~the circuit court shall, unless the offender has opted in~~
10 ~~writing not to have a monitoring device driving permit issued,~~
11 ~~order the Secretary of State to issue a monitoring device~~
12 ~~driving permit as provided in Section 6-206.1. A monitoring~~
13 ~~device driving permit shall not be effective prior to the 31st~~
14 ~~day of the statutory summary suspension. A first offender who~~
15 refused chemical testing and whose driving privileges were
16 summarily revoked pursuant to Section 11-501.1 shall not be
17 eligible for a monitoring device driving permit, but may make
18 application for reinstatement or for a restricted driving
19 permit after a period of one year has elapsed from the
20 effective date of the revocation.

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. 96-1344, eff. 7-1-11; 97-229, eff. 7-28-11;
2 98-122, eff. 1-1-14.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".