



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB3450

Introduced 11/9/2016, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-7.5 new

Amends the Code of Criminal Procedure of 1963. Provides that if a defendant is accused of an offense of driving under the influence or aggravated driving under the influence as defined in the Illinois Vehicle Code, and if the defendant refused chemical testing requested by a law enforcement officer, evidence of the defendant's commission of another offense or offenses of driving under the influence or aggravated driving under the influence is admissible, and may be considered for its bearing on any matter to which it is relevant. Provides that in weighing the probative value of the evidence against undue prejudice to the defendant, the court may consider: the proximity in time to the charged or predicate offense; the degree of factual similarity to the charged or predicate offense; whether the predicate offense resulted in a finding of guilt; or other relevant facts and circumstances. Provides that if the prosecution intends to offer this evidence, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown. Provides that proof may be made by specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion, except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony.

LRB099 23569 SLF 51055 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 115-7.5 as follows:

6 (725 ILCS 5/115-7.5 new)

7 Sec. 115-7.5. Driving under the influence and aggravated  
8 driving under the influence; evidence.

9 (a) If the defendant is accused of an offense of driving  
10 under the influence or aggravated driving under the influence  
11 as defined in subsection (a) or (d) of Section 11-501 of the  
12 Illinois Vehicle Code, and if the defendant refused chemical  
13 testing requested by a law enforcement officer under subsection  
14 (a) of Section 11-501.1 of the Illinois Vehicle Code, evidence  
15 of the defendant's commission of another offense or offenses of  
16 driving under the influence or aggravated driving under the  
17 influence is admissible, and may be considered for its bearing  
18 on any matter to which it is relevant.

19 (b) In weighing the probative value of the evidence against  
20 undue prejudice to the defendant, the court may consider:

21 (1) the proximity in time to the charged or predicate  
22 offense;

23 (2) the degree of factual similarity to the charged or

1 predicate offense;

2 (3) whether the predicate offense resulted in a finding  
3 of guilt; or

4 (4) other relevant facts and circumstances.

5 (c) If the prosecution intends to offer evidence under this  
6 Section, it must disclose the evidence, including statements of  
7 witnesses or a summary of the substance of any testimony, at a  
8 reasonable time in advance of trial, or during trial if the  
9 court excuses pretrial notice on good cause shown.

10 (d) If evidence is offered under this Section, proof may be  
11 made by specific instances of conduct, testimony as to  
12 reputation, or testimony in the form of an expert opinion,  
13 except that the prosecution may offer reputation testimony only  
14 after the opposing party has offered that testimony.