

1 AN ACT to amend the Illinois Vehicle Code by changing
2 Section 11-501.

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

5 Section 5. The Illinois Vehicle Code is amended by
6 changing Section 11-501 as follows:

7 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

8 Sec. 11-501. Driving while under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds or any combination thereof.

11 (a) A person shall not drive or be in actual physical
12 control of any vehicle within this State while:

13 (1) the alcohol concentration in the person's blood
14 or breath is 0.08 or more based on the definition of
15 blood and breath units in Section 11-501.2;

16 (2) under the influence of alcohol;

17 (3) under the influence of any intoxicating
18 compound or combination of intoxicating compounds to a
19 degree that renders the person incapable of driving
20 safely;

21 (4) under the influence of any other drug or
22 combination of drugs to a degree that renders the person
23 incapable of safely driving;

24 (5) under the combined influence of alcohol, other
25 drug or drugs, or intoxicating compound or compounds to a
26 degree that renders the person incapable of safely
27 driving; or

28 (6) there is any amount of a drug, substance, or
29 compound in the person's breath, blood, or urine
30 resulting from the unlawful use or consumption of
31 cannabis listed in the Cannabis Control Act, a controlled

1 substance listed in the Illinois Controlled Substances
2 Act, or an intoxicating compound listed in the Use of
3 Intoxicating Compounds Act.

4 (b) The fact that any person charged with violating this
5 Section is or has been legally entitled to use alcohol, other
6 drug or drugs, or intoxicating compound or compounds, or any
7 combination thereof, shall not constitute a defense against
8 any charge of violating this Section.

9 (c) Except as provided under paragraphs (c-3) and (d) of
10 this Section, every person convicted of violating this
11 Section or a similar provision of a local ordinance, shall be
12 guilty of a Class A misdemeanor and, in addition to any other
13 criminal or administrative action, for any second conviction
14 of violating this Section or a similar provision of a law of
15 another state or local ordinance committed within 5 years of
16 a previous violation of this Section or a similar provision
17 of a local ordinance shall be mandatorily sentenced to a
18 minimum of 48 consecutive hours of imprisonment or assigned
19 to a minimum of 100 hours of community service as may be
20 determined by the court. Every person convicted of violating
21 this Section or a similar provision of a local ordinance
22 shall be subject to a mandatory minimum fine of \$500 and a
23 mandatory 5 days of community service in a program benefiting
24 children if the person committed a violation of paragraph (a)
25 or a similar provision of a local ordinance while
26 transporting a person under age 16. Every person convicted a
27 second time for violating this Section or a similar provision
28 of a local ordinance within 5 years of a previous violation
29 of this Section or a similar provision of a law of another
30 state or local ordinance shall be subject to a mandatory
31 minimum fine of \$500 and 10 days of mandatory community
32 service in a program benefiting children if the current
33 offense was committed while transporting a person under age
34 16. The imprisonment or assignment under this subsection

1 shall not be subject to suspension nor shall the person be
2 eligible for probation in order to reduce the sentence or
3 assignment.

4 (c-1) (1) A person who violates this Section during a
5 period in which his or her driving privileges are revoked
6 or suspended, where the revocation or suspension was for
7 a violation of this Section, Section 11-501.1, paragraph
8 (b) of Section 11-401, or Section 9-3 of the Criminal
9 Code of 1961 is guilty of a Class 4 felony.

10 (2) A person who violates this Section a third time
11 during a period in which his or her driving privileges
12 are revoked or suspended where the revocation or
13 suspension was for a violation of this Section, Section
14 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
15 of the Criminal Code of 1961 is guilty of a Class 3
16 felony.

17 (3) A person who violates this Section a fourth or
18 subsequent time during a period in which his or her
19 driving privileges are revoked or suspended where the
20 revocation or suspension was for a violation of this
21 Section, Section 11-501.1, paragraph (b) of Section
22 11-401, or Section 9-3 of the Criminal Code of 1961 is
23 guilty of a Class 2 felony.

24 (c-2) (Blank).

25 (c-3) Every person convicted of violating this Section
26 or a similar provision of a local ordinance who had a child
27 under age 16 in the vehicle at the time of the offense shall
28 have his or her punishment under this Act enhanced by 2 days
29 of imprisonment for a first offense, 10 days of imprisonment
30 for a second offense, 30 days of imprisonment for a third
31 offense, and 90 days of imprisonment for a fourth or
32 subsequent offense, in addition to the fine and community
33 service required under subsection (c) and the possible
34 imprisonment required under subsection (d). The imprisonment

1 or assignment under this subsection shall not be subject to
2 suspension nor shall the person be eligible for probation in
3 order to reduce the sentence or assignment.

4 (d) (1) Every person convicted of committing a violation
5 of this Section shall be guilty of aggravated driving under
6 the influence of alcohol, other drug or drugs, or
7 intoxicating compound or compounds, or any combination
8 thereof if:

9 (A) the person committed a violation of this
10 Section, or a similar provision of a law of another state
11 or a local ordinance when the cause of action is the same
12 as or substantially similar to this Section, for the
13 third or subsequent time;

14 (B) the person committed a violation of paragraph
15 (a) while driving a school bus with children on board;

16 (C) the person in committing a violation of
17 paragraph (a) was involved in a motor vehicle accident
18 that resulted in great bodily harm or permanent
19 disability or disfigurement to another, when the
20 violation was a proximate cause of the injuries; or

21 (D) the person committed a violation of paragraph
22 (a) for a second time and has been previously convicted
23 of violating Section 9-3 of the Criminal Code of 1961
24 relating to reckless homicide in which the person was
25 determined to have been under the influence of alcohol,
26 other drug or drugs, or intoxicating compound or
27 compounds as an element of the offense or the person has
28 previously been convicted under subparagraph (C) of this
29 paragraph (1); or-

30 (E) the person, in committing a violation of
31 paragraph (a) while driving at any speed in a school
32 speed zone at a time when a speed limit of 20 miles per
33 hour was in effect under subsection (a) of Section 11-605
34 of this Code, was involved in a motor vehicle accident

1 that resulted in bodily harm, other than great bodily
 2 harm or permanent disability or disfigurement, to another
 3 person, when the violation of paragraph (a) was a
 4 proximate cause of the bodily harm.

5 (2) Aggravated driving under the influence of alcohol,
 6 other drug or drugs, or intoxicating compound or compounds,
 7 or any combination thereof is a Class 4 felony for which a
 8 person, if sentenced to a term of imprisonment, shall be
 9 sentenced to not less than one year and not more than 3 years
 10 for a violation of subparagraph (A), (B), ~~or (D)~~, or (E) of
 11 paragraph (1) of this subsection (d) and not less than one
 12 year and not more than 12 years for a violation of
 13 subparagraph (C) of paragraph (1) of this subsection (d). For
 14 any prosecution under this subsection (d), a certified copy
 15 of the driving abstract of the defendant shall be admitted as
 16 proof of any prior conviction.

17 (e) After a finding of guilt and prior to any final
 18 sentencing, or an order for supervision, for an offense based
 19 upon an arrest for a violation of this Section or a similar
 20 provision of a local ordinance, individuals shall be required
 21 to undergo a professional evaluation to determine if an
 22 alcohol, drug, or intoxicating compound abuse problem exists
 23 and the extent of the problem. Programs conducting these
 24 evaluations shall be licensed by the Department of Human
 25 Services. The cost of any professional evaluation shall be
 26 paid for by the individual required to undergo the
 27 professional evaluation.

28 (f) Every person found guilty of violating this Section,
 29 whose operation of a motor vehicle while in violation of this
 30 Section proximately caused any incident resulting in an
 31 appropriate emergency response, shall be liable for the
 32 expense of an emergency response as provided under Section
 33 5-5-3 of the Unified Code of Corrections.

34 (g) The Secretary of State shall revoke the driving

1 privileges of any person convicted under this Section or a
2 similar provision of a local ordinance.

3 (h) Every person sentenced under subsection (d) of this
4 Section and who receives a term of probation or conditional
5 discharge shall be required to serve a minimum term of either
6 30 days community service or, beginning July 1, 1993, 48
7 consecutive hours of imprisonment as a condition of the
8 probation or conditional discharge. This mandatory minimum
9 term of imprisonment or assignment of community service shall
10 not be suspended and shall not be subject to reduction by the
11 court.

12 (i) The Secretary of State may use ignition interlock
13 device requirements when granting driving relief to
14 individuals who have been arrested for a second or subsequent
15 offense of this Section or a similar provision of a local
16 ordinance. The Secretary shall establish by rule and
17 regulation the procedures for use of the interlock system.

18 (j) In addition to any other penalties and liabilities,
19 a person who is found guilty of or pleads guilty to violating
20 this Section, including any person placed on court
21 supervision for violating this Section, shall be fined \$100,
22 payable to the circuit clerk, who shall distribute the money
23 to the law enforcement agency that made the arrest. In the
24 event that more than one agency is responsible for the
25 arrest, the \$100 shall be shared equally. Any moneys
26 received by a law enforcement agency under this subsection
27 (j) shall be used to purchase law enforcement equipment that
28 will assist in the prevention of alcohol related criminal
29 violence throughout the State. This shall include, but is
30 not limited to, in-car video cameras, radar and laser speed
31 detection devices, and alcohol breath testers. Any moneys
32 received by the Department of State Police under this
33 subsection (j) shall be deposited into the State Police DUI
34 Fund and shall be used to purchase law enforcement equipment

1 that will assist in the prevention of alcohol related
2 criminal violence throughout the State.

3 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;
4 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.
5 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,
6 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)

7 Section 99. Effective date. This Act takes effect
8 January 1, 2002.