

AN ACT concerning transportation.

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

Section 5. The Illinois Vehicle Code is amended by changing Sections 2-118, 6-201, 6-205, 6-206, and 11-501.8 as follows:

(625 ILCS 5/2-118) (from Ch. 95 1/2, par. 2-118)

Sec. 2-118. Hearings.

(a) Upon the suspension, revocation or denial of the issuance of a license, permit, registration or certificate of title under this Code of any person the Secretary of State shall immediately notify such person in writing and upon his written request shall, within 20 days after receipt thereof, set a date for a hearing to commence within 90 calendar days from the date of the written request for all requests related to a suspension, revocation, or the denial of the issuance of a license, permit, registration, or certificate of title occurring after July 1, 2002, in the County of Sangamon, the County of Jefferson, or the County of Cook, as such person may specify, unless both parties agree that such hearing may be held in some other county. The Secretary may require the payment of a fee of not more than \$50 for the filing of any petition, motion, or request for hearing conducted pursuant to this Section. These fees must be deposited into the Secretary

of State DUI Administration Fund, a special fund created in the State treasury, and, subject to appropriation and as directed by the Secretary of State, shall be used for operation of the Department of Administrative Hearings of the Office of the Secretary of State and for no other purpose. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(b) At any time after the suspension, revocation or denial of a license, permit, registration or certificate of title of any person as hereinbefore referred to, the Secretary of State, in his or her discretion and without the necessity of a request by such person, may hold such a hearing, upon not less than 10 days' notice in writing, in the Counties of Sangamon, Jefferson, or Cook or in any other county agreed to by the parties.

(c) Upon any such hearing, the Secretary of State, or his authorized agent may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and records and may require an examination of such person. Upon any such hearing, the Secretary of State shall either rescind or, good cause appearing therefor, continue, change or extend the Order of Revocation or Suspension, or upon petition therefore and subject to the provisions of this Code, issue a restricted driving permit or reinstate the license or permit of such person.

(d) All hearings and hearing procedures shall comply with

requirements of the Constitution, so that no person is deprived of due process of law nor denied equal protection of the laws. All hearings shall be held before the Secretary of State or before such persons as may be designated by the Secretary of State and appropriate records of such hearings shall be kept. Where a transcript of the hearing is taken, the person requesting the hearing shall have the opportunity to order a copy thereof at his own expense. The Secretary of State shall enter an order upon any hearing conducted under this Section, related to a suspension, revocation, or the denial of the issuance of a license, permit, registration, or certificate of title occurring after July 1, 2002, within 90 days of its conclusion and shall immediately notify the person in writing of his or her action.

(d-5) Any hearing over which the Secretary of State has jurisdiction because of a person's implied consent to testing of the person's blood, breath, or urine for the presence of alcohol, drugs, or intoxicating compounds may be conducted upon a review of the official police reports. Either party, however, may subpoena the arresting officer and any other law enforcement officer who was involved in the petitioner's arrest or processing after arrest, as well as any other person whose testimony may be probative to the issues at the hearing. The failure of a law enforcement officer to answer the subpoena shall be considered grounds for a continuance if, in the hearing officer's discretion, the continuance is appropriate.

The failure of the arresting officer to answer a subpoena shall not, in and of itself, be considered grounds for the rescission of an implied consent suspension. Rather, the hearing shall proceed on the basis of the other evidence available, and the hearing officer shall assign this evidence whatever probative value is deemed appropriate. The decision to rescind shall be based upon the totality of the evidence.

(e) The action of the Secretary of State in suspending, revoking or denying any license, permit, registration, or certificate of title shall be subject to judicial review in the Circuit Court of Sangamon County, in the Circuit Court of Jefferson County, or in the Circuit Court of Cook County, and the provisions of the Administrative Review Law, and all amendments and modifications thereto, and the rules adopted pursuant thereto, are hereby adopted and shall apply to and govern every action for the judicial review of final acts or decisions of the Secretary of State hereunder.

(Source: P.A. 91-823, eff. 1-1-01; 92-418, eff. 8-17-01.)

(625 ILCS 5/6-201) (from Ch. 95 1/2, par. 6-201)

Sec. 6-201. Authority to cancel licenses and permits.

(a) The Secretary of State is authorized to cancel any license or permit upon determining that the holder thereof:

1. was not entitled to the issuance thereof hereunder;

or

2. failed to give the required or correct information

in his application; or

3. failed to pay any fees, civil penalties owed to the Illinois Commerce Commission, or taxes due under this Act and upon reasonable notice and demand; or

4. committed any fraud in the making of such application; or

5. is ineligible therefor under the provisions of Section 6-103 of this Act, as amended; or

6. has refused or neglected to submit an alcohol, drug, and intoxicating compound evaluation or to submit to examination or re-examination as required under this Act; or

7. has been convicted of violating the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Use of Intoxicating Compounds Act while that individual was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order

the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's ~~person's~~ residence and petitioner's ~~person's~~ place of employment or within the scope of the petitioner's ~~person's~~ employment related duties, or to allow transportation for the petitioner ~~person~~ or a household member of the petitioner's ~~person's~~ family for the receipt of necessary medical care or, ~~if the professional evaluation indicates,~~ provide transportation for the petitioner to and from ~~for~~ alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner ~~person~~ to attend classes, as a student, in an accredited educational institution. The petitioner must, ~~if the person is able to~~ demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue such

restricted driving permit for such period as he deems appropriate, except that such permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program; or

8. failed to submit a report as required by Section 6-116.5 of this Code; or

9. has been convicted of a sex offense as defined in the Sex Offender Registration Act. The driver's license shall remain cancelled until the driver registers as a sex offender as required by the Sex Offender Registration Act, proof of the registration is furnished to the Secretary of State and the sex offender provides proof of current address to the Secretary; or-

10. ~~9.~~ is ineligible for a license or permit under Section 6-107, 6-107.1, or 6-108 of this Code.

(b) Upon such cancellation the licensee or permittee must surrender the license or permit so cancelled to the Secretary of State.

(c) Except as provided in Sections 6-206.1 and 7-702.1, the Secretary of State shall have exclusive authority to grant, issue, deny, cancel, suspend and revoke driving privileges, drivers' licenses and restricted driving permits.

(d) The Secretary of State may adopt rules to implement this Section.

(Source: P.A. 94-556, eff. 9-11-05; 94-916, eff. 7-1-07; 94-993, eff. 1-1-07; revised 8-3-06.)

(625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

Sec. 6-205. Mandatory revocation of license or permit; Hardship cases.

(a) Except as provided in this Section, the Secretary of State shall immediately revoke the license, permit, or driving privileges of any driver upon receiving a report of the driver's conviction of any of the following offenses:

1. Reckless homicide resulting from the operation of a motor vehicle;

2. Violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any

combination thereof;

3. Any felony under the laws of any State or the federal government in the commission of which a motor vehicle was used;

4. Violation of Section 11-401 of this Code relating to the offense of leaving the scene of a traffic accident involving death or personal injury;

5. Perjury or the making of a false affidavit or statement under oath to the Secretary of State under this Code or under any other law relating to the ownership or operation of motor vehicles;

6. Conviction upon 3 charges of violation of Section 11-503 of this Code relating to the offense of reckless driving committed within a period of 12 months;

7. Conviction of any offense defined in Section 4-102 of this Code;

8. Violation of Section 11-504 of this Code relating to the offense of drag racing;

9. Violation of Chapters 8 and 9 of this Code;

10. Violation of Section 12-5 of the Criminal Code of 1961 arising from the use of a motor vehicle;

11. Violation of Section 11-204.1 of this Code relating to aggravated fleeing or attempting to elude a peace officer;

12. Violation of paragraph (1) of subsection (b) of Section 6-507, or a similar law of any other state,

relating to the unlawful operation of a commercial motor vehicle;

13. Violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance if the driver has been previously convicted of a violation of that Section or a similar provision of a local ordinance and the driver was less than 21 years of age at the time of the offense.

(b) The Secretary of State shall also immediately revoke the license or permit of any driver in the following situations:

1. Of any minor upon receiving the notice provided for in Section 5-901 of the Juvenile Court Act of 1987 that the minor has been adjudicated under that Act as having committed an offense relating to motor vehicles prescribed in Section 4-103 of this Code;

2. Of any person when any other law of this State requires either the revocation or suspension of a license or permit.

(c) (1) Whenever a person is convicted of any of the offenses enumerated in this Section, the court may recommend and the Secretary of State in his discretion, without regard to whether the recommendation is made by the court may, upon application, issue to the person a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence

and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow transportation for the petitioner or a household member of the petitioner's family for the receipt of necessary medical care or, ~~if the professional evaluation indicates,~~ provide transportation for the petitioner to and from ~~for~~ alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue the restricted driving permit. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(2) If a person's license or permit is ~~has been~~ revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the

offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(3) If a person's license or permit ~~is has been~~ revoked or suspended 2 or more times within a 10 year period due to any combination of:

(A) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or, and

(B) a statutory summary suspension under Section 11-501.1; ~~7~~ or

(C) a suspension pursuant to Section 6-203.1, ~~2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension,~~ arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(4) The person must pay to the Secretary of State DUI

Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(5) If the restricted driving permit is ~~was~~ issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device ~~this provision~~ does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(6) In each case the Secretary of State may issue a restricted driving permit for a period he deems appropriate, except that the permit shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance ~~relating to the offense of operating or being in physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds,~~ or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of these offenses, ~~or any combination thereof,~~ until the

expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the petitioner ~~applicant~~ to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program. However, if an individual's driving privileges have been revoked in accordance with paragraph 13 of subsection (a) of this Section, no restricted driving permit shall be issued until the individual has served 6 months of the revocation period.

(d) (1) Whenever a person under the age of 21 is convicted under Section 11-501 of this Code or a similar provision of a local ordinance, or a similar out-of-state offense, the Secretary of State shall revoke the driving privileges of that person. One year after the date of

revocation, and upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle only between the hours of 5 a.m. and 9 p.m. or as otherwise provided by this Section for a period of one year. After this one year period, and upon reapplication for a license as provided in Section 6-106, upon payment of the appropriate reinstatement fee provided under paragraph (b) of Section 6-118, the Secretary of State, in his discretion, may reinstate the petitioner's driver's license and driving privileges ~~issue the applicant a license~~, or extend the restricted driving permit as many times as the Secretary of State deems appropriate, by additional periods of not more than 12 months each, ~~until the applicant attains 21 years of age.~~

(2) If a person's license or permit is ~~has been~~ revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been

equipped with an ignition interlock device as defined in Section 1-129.1.

(3) If a person's license or permit is ~~has been~~ revoked or suspended 2 or more times within a 10 year period due to any combination of:

(A) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or, ~~and~~

(B) a statutory summary suspension under Section 11-501.1; ~~or~~

(C) a suspension pursuant to Section 6-203.1, ~~2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension,~~ arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(4) The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(5) If the restricted driving permit is ~~was~~ issued for

employment purposes, then the prohibition against driving a vehicle that is not equipped with an ignition interlock device ~~this provision~~ does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(6) A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. ~~The revocation periods contained in this subparagraph shall apply to similar out of state convictions.~~

(e) This Section is subject to the provisions of the Driver License Compact.

(f) Any revocation imposed upon any person under subsections 2 and 3 of paragraph (b) that is in effect on December 31, 1988 shall be converted to a suspension for a like period of time.

(g) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been revoked under any provisions of this Code.

(h) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent offense under Section 11-501 of this Code or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(i) The Secretary of State may not issue a restricted driving permit for a period of one year after a second or subsequent revocation of driving privileges under clause (a)(2) of this Section; however, one year after the date of a second or subsequent revocation of driving privileges under clause (a)(2) of this Section, the Secretary of State may, upon application, issue a restricted driving permit under the terms and conditions of subsection (c).

(j) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked under any provisions of this Code.

(Source: P.A. 93-120, eff. 1-1-04; 94-307, eff. 9-30-05.)

(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or

revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of

violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;

5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;

7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;

8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;

9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;

11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a judicial

driving permit, probationary license to drive, or a restricted driving permit issued under this Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;

13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;

14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;

15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;

16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;

17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;

18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;

19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;

20. Has been convicted of violating Section 6-104 relating to classification of driver's license;

21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or

attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the

court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, or an intoxicating

compound as listed in the Use of Intoxicating Compounds Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of

a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days; ~~or~~

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code; or ~~or~~

43. Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv), submitted as his or her own, documents that were in fact prepared or composed for another person.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or

revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on

forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor,

rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's ~~his~~ employment related duties, or to allow transportation for the petitioner, or a household member of the petitioner's family, to receive necessary medical care ~~and if the professional evaluation indicates,~~ provide transportation to and from ~~for~~ alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or for the petitioner to attend classes, as a student, in an accredited educational institution. ~~The, if the~~ petitioner must ~~is able to~~ demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is ~~has been~~ revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or

Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is ~~has been~~ revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or, and

(ii) a statutory summary suspension under Section 11-501.1; ~~7~~ or

(iii) a suspension under Section 6-203.1, ~~2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension,~~ arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section

1-129.1.

(C) The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit ~~is was~~ issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device ~~this provision~~ does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance ~~relating to the offense of operating or being in physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds,~~ or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any

similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 18 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended or revoked under any provisions of this Code.

(Source: P.A. 93-120, eff. 1-1-04; 93-667, eff. 3-19-04; 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; 94-307, eff. 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06.)

(625 ILCS 5/11-501.8)

Sec. 11-501.8. Suspension of driver's license; persons under age 21.

(a) A person who is less than 21 years of age and who drives or is in actual physical control of a motor vehicle upon the public highways of this State shall be deemed to have given consent to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol content of the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, if a police officer has probable cause to believe that the driver has consumed any amount of an alcoholic beverage based upon

evidence of the driver's physical condition or other first hand knowledge of the police officer. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

(b) A person who is dead, unconscious, or who is otherwise in a condition rendering that person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered subject to the following provisions:

(i) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to be considered valid under the provisions of this Section, shall have been performed according to standards promulgated by the Department of State Police by an individual possessing a valid permit issued by that Department for this purpose. The Director of State Police is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct analyses, to issue permits that shall be subject to termination or revocation at the direction of that Department, and to certify the accuracy of breath testing equipment. The Department of State Police shall prescribe regulations as necessary.

(ii) When a person submits to a blood test at the request of a law enforcement officer under the provisions of this Section, only a physician authorized to practice medicine, a registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician may withdraw blood for the purpose of determining the alcohol content therein. This limitation does not apply to the taking of breath or urine specimens.

(iii) The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any test or tests administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the consideration of the previously performed chemical test.

(iv) Upon a request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or that person's attorney.

(v) Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(vi) If a driver is receiving medical treatment as a result of a motor vehicle accident, a physician licensed to

practice medicine, registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol upon the specific request of a law enforcement officer. However, that testing shall not be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to operate a motor vehicle. The loss of driving privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of more than 0.00, the law enforcement officer shall immediately submit a sworn report to the Secretary of State on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of more than 0.00. The law enforcement officer shall submit the same sworn report when a person under the age of 21 submits to testing under Section 11-501.1 of this Code

and the testing discloses an alcohol concentration of more than 0.00 and less than 0.08.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall enter the driver's license sanction on the individual's driving record and the sanctions shall be effective on the 46th day following the date notice of the sanction was given to the person. If this sanction is the individual's first driver's license suspension under this Section, reports received by the Secretary of State under this Section shall, except during the time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the Secretary of State, or the individual personally.

The law enforcement officer submitting the sworn report shall serve immediate notice of this driver's license sanction on the person and the sanction shall be effective on the 46th day following the date notice was given.

In cases where the blood alcohol concentration of more than 0.00 is established by a subsequent analysis of blood or urine, the police officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of that notice in an envelope with postage prepaid and addressed to that person at his last known address and the loss of driving privileges shall be effective on the 46th day following the date notice was given.

Upon receipt of the sworn report of a law enforcement

officer, the Secretary of State shall also give notice of the driver's license sanction to the driver by mailing a notice of the effective date of the sanction to the individual. However, should the sworn report be defective by not containing sufficient information or be completed in error, the notice of the driver's license sanction may not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency.

(e) A driver may contest this driver's license sanction by requesting an administrative hearing with the Secretary of State in accordance with Section 2-118 of this Code. An individual whose blood alcohol concentration is shown to be more than 0.00 is not subject to this Section if he or she consumed alcohol in the performance of a religious service or ceremony. An individual whose blood alcohol concentration is shown to be more than 0.00 shall not be subject to this Section if the individual's blood alcohol concentration resulted only from ingestion of the prescribed or recommended dosage of medicine that contained alcohol. The petition for that hearing shall not stay or delay the effective date of the impending suspension. The scope of this hearing shall be limited to the issues of:

(1) whether the police officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle upon the public highways of the State and the police officer had reason to believe that the

person was in violation of any provision of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(2) whether the person was issued a Uniform Traffic Ticket for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(3) whether the police officer had probable cause to believe that the driver had consumed any amount of an alcoholic beverage based upon the driver's physical actions or other first-hand knowledge of the police officer; and

(4) whether the person, after being advised by the officer that the privilege to operate a motor vehicle would be suspended if the person refused to submit to and complete the test or tests, did refuse to submit to or complete the test or tests to determine the person's alcohol concentration; and

(5) whether the person, after being advised by the officer that the privileges to operate a motor vehicle would be suspended if the person submits to a chemical test or tests and the test or tests disclose an alcohol concentration of more than 0.00, did submit to and complete the test or tests that determined an alcohol concentration of more than 0.00; and

(6) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption

of alcohol in the performance of a religious service or ceremony; and

(7) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption of alcohol through ingestion of the prescribed or recommended dosage of medicine.

~~Provided that the petitioner may subpoena the officer, the hearing may be conducted upon a review of the law enforcement officer's own official reports. Failure of the officer to answer the subpoena shall be grounds for a continuance if, in the hearing officer's discretion, the continuance is appropriate.~~ At the conclusion of the hearing held under Section 2-118 of this Code, the Secretary of State may rescind, continue, or modify the driver's license sanction. If the Secretary of State does not rescind the sanction, a restricted driving permit may be granted by the Secretary of State upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship by allowing driving for employment, educational, and medical purposes as outlined in item (3) of part (c) of Section 6-206 of this Code. The provisions of item (3) of part (c) of Section 6-206 of this Code and of subsection (f) of that Section shall apply. The Secretary of State shall promulgate rules providing for participation in an alcohol education and awareness program or activity, a drug education and awareness program or activity, or both as a condition to the issuance of a

restricted driving permit for suspensions imposed under this Section.

(f) The results of any chemical testing performed in accordance with subsection (a) of this Section are not admissible in any civil or criminal proceeding, except that the results of the testing may be considered at a hearing held under Section 2-118 of this Code. However, the results of the testing may not be used to impose driver's license sanctions under Section 11-501.1 of this Code. A law enforcement officer may, however, pursue a statutory summary suspension of driving privileges under Section 11-501.1 of this Code if other physical evidence or first hand knowledge forms the basis of that suspension.

(g) This Section applies only to drivers who are under age 21 at the time of the issuance of a Uniform Traffic Ticket for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance, and a chemical test request is made under this Section.

(h) The action of the Secretary of State in suspending, revoking, or denying any license, permit, registration, or certificate of title shall be subject to judicial review in the Circuit Court of Sangamon County or in the Circuit Court of Cook County, and the provisions of the Administrative Review Law and its rules are hereby adopted and shall apply to and govern every action for the judicial review of final acts or decisions of the Secretary of State under this Section.

Public Act 095-0627

SB0577 Enrolled

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(Source: P.A. 94-307, eff. 9-30-05.)