



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4890

Introduced 2/7/2024, by Rep. Dave Vella

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501	from Ch. 95 1/2, par. 11-501
625 ILCS 5/11-501.2	from Ch. 95 1/2, par. 11-501.2

Amends the Illinois Vehicle Code. Provides that a person shall not drive or be in actual physical control of any vehicle within this State while the person has, within 2 hours of driving or being in actual physical control of a vehicle, a tetrahydrocannabinol concentration in the person's breath, blood, or other bodily substance other than urine (rather than in the person's whole blood or bodily substance as defined under the Code. Provides that, in relation to a trial of any civil or criminal action proceeding arising out of an arrest for driving while under the influence, "delta-9-tetrahydrocannabinol" includes parent delta-9-tetrahydrocannabinol or free delta-9-tetrahydrocannabinol.

LRB103 34683 MXP 64528 b

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 11-501 and 11-501.2 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

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

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

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

16 (2) under the influence of alcohol;

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

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

23 (5) under the combined influence of alcohol, other

1 drug or drugs, or intoxicating compound or compounds to a
2 degree that renders the person incapable of safely
3 driving;

4 (6) there is any amount of a drug, substance, or
5 compound in the person's breath, blood, other bodily
6 substance, or urine resulting from the unlawful use or
7 consumption of a controlled substance listed in the
8 Illinois Controlled Substances Act, an intoxicating
9 compound listed in the Use of Intoxicating Compounds Act,
10 or methamphetamine as listed in the Methamphetamine
11 Control and Community Protection Act; or

12 (7) the person has, within 2 hours of driving or being
13 in actual physical control of a vehicle, a
14 tetrahydrocannabinol concentration in the person's breath,
15 blood, or other bodily substance other than urine ~~whole~~
16 ~~blood or other bodily substance as defined in paragraph 6~~
17 ~~of subsection (a) of Section 11 501.2 of this Code.~~
18 Subject to all other requirements and provisions under
19 this Section, this paragraph (7) does not apply to the
20 lawful consumption of cannabis by a qualifying patient
21 licensed under the Compassionate Use of Medical Cannabis
22 Program Act who is in possession of a valid registry card
23 issued under that Act, unless that person is impaired by
24 the use of cannabis.

25 (b) The fact that any person charged with violating this
26 Section is or has been legally entitled to use alcohol,

1 cannabis under the Compassionate Use of Medical Cannabis
2 Program Act, other drug or drugs, or intoxicating compound or
3 compounds, or any combination thereof, shall not constitute a
4 defense against any charge of violating this Section.

5 (c) Penalties.

6 (1) Except as otherwise provided in this Section, any
7 person convicted of violating subsection (a) of this
8 Section is guilty of a Class A misdemeanor.

9 (2) A person who violates subsection (a) or a similar
10 provision a second time shall be sentenced to a mandatory
11 minimum term of either 5 days of imprisonment or 240 hours
12 of community service in addition to any other criminal or
13 administrative sanction.

14 (3) A person who violates subsection (a) is subject to
15 6 months of imprisonment, an additional mandatory minimum
16 fine of \$1,000, and 25 days of community service in a
17 program benefiting children if the person was transporting
18 a person under the age of 16 at the time of the violation.

19 (4) A person who violates subsection (a) a first time,
20 if the alcohol concentration in his or her blood, breath,
21 other bodily substance, or urine was 0.16 or more based on
22 the definition of blood, breath, other bodily substance,
23 or urine units in Section 11-501.2, shall be subject, in
24 addition to any other penalty that may be imposed, to a
25 mandatory minimum of 100 hours of community service and a
26 mandatory minimum fine of \$500.

1 (5) A person who violates subsection (a) a second
2 time, if at the time of the second violation the alcohol
3 concentration in his or her blood, breath, other bodily
4 substance, or urine was 0.16 or more based on the
5 definition of blood, breath, other bodily substance, or
6 urine units in Section 11-501.2, shall be subject, in
7 addition to any other penalty that may be imposed, to a
8 mandatory minimum of 2 days of imprisonment and a
9 mandatory minimum fine of \$1,250.

10 (d) Aggravated driving under the influence of alcohol,
11 other drug or drugs, or intoxicating compound or compounds, or
12 any combination thereof.

13 (1) Every person convicted of committing a violation
14 of this Section shall be guilty of aggravated driving
15 under the influence of alcohol, other drug or drugs, or
16 intoxicating compound or compounds, or any combination
17 thereof if:

18 (A) the person committed a violation of subsection
19 (a) or a similar provision for the third or subsequent
20 time;

21 (B) the person committed a violation of subsection
22 (a) while driving a school bus with one or more
23 passengers on board;

24 (C) the person in committing a violation of
25 subsection (a) was involved in a motor vehicle crash
26 that resulted in great bodily harm or permanent

1 disability or disfigurement to another, when the
2 violation was a proximate cause of the injuries;

3 (D) the person committed a violation of subsection
4 (a) and has been previously convicted of violating
5 Section 9-3 of the Criminal Code of 1961 or the
6 Criminal Code of 2012 or a similar provision of a law
7 of another state relating to reckless homicide in
8 which the person was determined to have been under the
9 influence of alcohol, other drug or drugs, or
10 intoxicating compound or compounds as an element of
11 the offense or the person has previously been
12 convicted under subparagraph (C) or subparagraph (F)
13 of this paragraph (1);

14 (E) the person, in committing a violation of
15 subsection (a) while driving at any speed in a school
16 speed zone at a time when a speed limit of 20 miles per
17 hour was in effect under subsection (a) of Section
18 11-605 of this Code, was involved in a motor vehicle
19 crash that resulted in bodily harm, other than great
20 bodily harm or permanent disability or disfigurement,
21 to another person, when the violation of subsection
22 (a) was a proximate cause of the bodily harm;

23 (F) the person, in committing a violation of
24 subsection (a), was involved in a motor vehicle crash
25 or snowmobile, all-terrain vehicle, or watercraft
26 accident that resulted in the death of another person,

1 when the violation of subsection (a) was a proximate
2 cause of the death;

3 (G) the person committed a violation of subsection
4 (a) during a period in which the defendant's driving
5 privileges are revoked or suspended, where the
6 revocation or suspension was for a violation of
7 subsection (a) or a similar provision, Section
8 11-501.1, paragraph (b) of Section 11-401, or for
9 reckless homicide as defined in Section 9-3 of the
10 Criminal Code of 1961 or the Criminal Code of 2012;

11 (H) the person committed the violation while he or
12 she did not possess a driver's license or permit or a
13 restricted driving permit or a judicial driving permit
14 or a monitoring device driving permit;

15 (I) the person committed the violation while he or
16 she knew or should have known that the vehicle he or
17 she was driving was not covered by a liability
18 insurance policy;

19 (J) the person in committing a violation of
20 subsection (a) was involved in a motor vehicle crash
21 that resulted in bodily harm, but not great bodily
22 harm, to the child under the age of 16 being
23 transported by the person, if the violation was the
24 proximate cause of the injury;

25 (K) the person in committing a second violation of
26 subsection (a) or a similar provision was transporting

1 a person under the age of 16; or

2 (L) the person committed a violation of subsection
3 (a) of this Section while transporting one or more
4 passengers in a vehicle for-hire.

5 (2) (A) Except as provided otherwise, a person
6 convicted of aggravated driving under the influence of
7 alcohol, other drug or drugs, or intoxicating compound or
8 compounds, or any combination thereof is guilty of a Class
9 4 felony.

10 (B) A third violation of this Section or a similar
11 provision is a Class 2 felony. If at the time of the third
12 violation the alcohol concentration in his or her blood,
13 breath, other bodily substance, or urine was 0.16 or more
14 based on the definition of blood, breath, other bodily
15 substance, or urine units in Section 11-501.2, a mandatory
16 minimum of 90 days of imprisonment and a mandatory minimum
17 fine of \$2,500 shall be imposed in addition to any other
18 criminal or administrative sanction. If at the time of the
19 third violation, the defendant was transporting a person
20 under the age of 16, a mandatory fine of \$25,000 and 25
21 days of community service in a program benefiting children
22 shall be imposed in addition to any other criminal or
23 administrative sanction.

24 (C) A fourth violation of this Section or a similar
25 provision is a Class 2 felony, for which a sentence of
26 probation or conditional discharge may not be imposed. If

1 at the time of the violation, the alcohol concentration in
2 the defendant's blood, breath, other bodily substance, or
3 urine was 0.16 or more based on the definition of blood,
4 breath, other bodily substance, or urine units in Section
5 11-501.2, a mandatory minimum fine of \$5,000 shall be
6 imposed in addition to any other criminal or
7 administrative sanction. If at the time of the fourth
8 violation, the defendant was transporting a person under
9 the age of 16 a mandatory fine of \$25,000 and 25 days of
10 community service in a program benefiting children shall
11 be imposed in addition to any other criminal or
12 administrative sanction.

13 (D) A fifth violation of this Section or a similar
14 provision is a Class 1 felony, for which a sentence of
15 probation or conditional discharge may not be imposed. If
16 at the time of the violation, the alcohol concentration in
17 the defendant's blood, breath, other bodily substance, or
18 urine was 0.16 or more based on the definition of blood,
19 breath, other bodily substance, or urine units in Section
20 11-501.2, a mandatory minimum fine of \$5,000 shall be
21 imposed in addition to any other criminal or
22 administrative sanction. If at the time of the fifth
23 violation, the defendant was transporting a person under
24 the age of 16, a mandatory fine of \$25,000, and 25 days of
25 community service in a program benefiting children shall
26 be imposed in addition to any other criminal or

1 administrative sanction.

2 (E) A sixth or subsequent violation of this Section or
3 similar provision is a Class X felony. If at the time of
4 the violation, the alcohol concentration in the
5 defendant's blood, breath, other bodily substance, or
6 urine was 0.16 or more based on the definition of blood,
7 breath, other bodily substance, or urine units in Section
8 11-501.2, a mandatory minimum fine of \$5,000 shall be
9 imposed in addition to any other criminal or
10 administrative sanction. If at the time of the violation,
11 the defendant was transporting a person under the age of
12 16, a mandatory fine of \$25,000 and 25 days of community
13 service in a program benefiting children shall be imposed
14 in addition to any other criminal or administrative
15 sanction.

16 (F) For a violation of subparagraph (C) of paragraph
17 (1) of this subsection (d), the defendant, if sentenced to
18 a term of imprisonment, shall be sentenced to not less
19 than one year nor more than 12 years.

20 (G) A violation of subparagraph (F) of paragraph (1)
21 of this subsection (d) is a Class 2 felony, for which the
22 defendant, unless the court determines that extraordinary
23 circumstances exist and require probation, shall be
24 sentenced to: (i) a term of imprisonment of not less than 3
25 years and not more than 14 years if the violation resulted
26 in the death of one person; or (ii) a term of imprisonment

1 of not less than 6 years and not more than 28 years if the
2 violation resulted in the deaths of 2 or more persons.

3 (H) For a violation of subparagraph (J) of paragraph
4 (1) of this subsection (d), a mandatory fine of \$2,500,
5 and 25 days of community service in a program benefiting
6 children shall be imposed in addition to any other
7 criminal or administrative sanction.

8 (I) A violation of subparagraph (K) of paragraph (1)
9 of this subsection (d), is a Class 2 felony and a mandatory
10 fine of \$2,500, and 25 days of community service in a
11 program benefiting children shall be imposed in addition
12 to any other criminal or administrative sanction. If the
13 child being transported suffered bodily harm, but not
14 great bodily harm, in a motor vehicle crash, and the
15 violation was the proximate cause of that injury, a
16 mandatory fine of \$5,000 and 25 days of community service
17 in a program benefiting children shall be imposed in
18 addition to any other criminal or administrative sanction.

19 (J) A violation of subparagraph (D) of paragraph (1)
20 of this subsection (d) is a Class 3 felony, for which a
21 sentence of probation or conditional discharge may not be
22 imposed.

23 (3) Any person sentenced under this subsection (d) who
24 receives a term of probation or conditional discharge must
25 serve a minimum term of either 480 hours of community
26 service or 10 days of imprisonment as a condition of the

1 probation or conditional discharge in addition to any
2 other criminal or administrative sanction.

3 (e) Any reference to a prior violation of subsection (a)
4 or a similar provision includes any violation of a provision
5 of a local ordinance or a provision of a law of another state
6 or an offense committed on a military installation that is
7 similar to a violation of subsection (a) of this Section.

8 (f) The imposition of a mandatory term of imprisonment or
9 assignment of community service for a violation of this
10 Section shall not be suspended or reduced by the court.

11 (g) Any penalty imposed for driving with a license that
12 has been revoked for a previous violation of subsection (a) of
13 this Section shall be in addition to the penalty imposed for
14 any subsequent violation of subsection (a).

15 (h) For any prosecution under this Section, a certified
16 copy of the driving abstract of the defendant shall be
17 admitted as proof of any prior conviction.

18 (Source: P.A. 101-363, eff. 8-9-19; 102-982, eff. 7-1-23.)

19 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)

20 Sec. 11-501.2. Chemical and other tests.

21 (a) Upon the trial of any civil or criminal action or
22 proceeding arising out of an arrest for an offense as defined
23 in Section 11-501 or a similar local ordinance or proceedings
24 pursuant to Section 2-118.1, evidence of the concentration of
25 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof in a person's blood or
2 breath at the time alleged, as determined by analysis of the
3 person's blood, urine, breath, or other bodily substance,
4 shall be admissible. Where such test is made the following
5 provisions shall apply:

6 1. Chemical analyses of the person's blood, urine,
7 breath, or other bodily substance to be considered valid
8 under the provisions of this Section shall have been
9 performed according to standards promulgated by the
10 Illinois State Police by a licensed physician, registered
11 nurse, trained phlebotomist, licensed paramedic, or other
12 individual possessing a valid permit issued by that
13 Department for this purpose. The Director of the Illinois
14 State Police is authorized to approve satisfactory
15 techniques or methods, to ascertain the qualifications and
16 competence of individuals to conduct such analyses, to
17 issue permits which shall be subject to termination or
18 revocation at the discretion of that Department and to
19 certify the accuracy of breath testing equipment. The
20 Illinois State Police shall prescribe regulations as
21 necessary to implement this Section.

22 2. When a person in this State shall submit to a blood
23 test at the request of a law enforcement officer under the
24 provisions of Section 11-501.1, only a physician
25 authorized to practice medicine, a licensed physician
26 assistant, a licensed advanced practice registered nurse,

1 a registered nurse, trained phlebotomist, or licensed
2 paramedic, or other qualified person approved by the
3 Illinois State Police may withdraw blood for the purpose
4 of determining the alcohol, drug, or alcohol and drug
5 content therein. This limitation shall not apply to the
6 taking of breath, other bodily substance, or urine
7 specimens.

8 When a blood test of a person who has been taken to an
9 adjoining state for medical treatment is requested by an
10 Illinois law enforcement officer, the blood may be
11 withdrawn only by a physician authorized to practice
12 medicine in the adjoining state, a licensed physician
13 assistant, a licensed advanced practice registered nurse,
14 a registered nurse, a trained phlebotomist acting under
15 the direction of the physician, or licensed paramedic. The
16 law enforcement officer requesting the test shall take
17 custody of the blood sample, and the blood sample shall be
18 analyzed by a laboratory certified by the Illinois State
19 Police for that purpose.

20 3. The person tested may have a physician, or a
21 qualified technician, chemist, registered nurse, or other
22 qualified person of their own choosing administer a
23 chemical test or tests in addition to any administered at
24 the direction of a law enforcement officer. The failure or
25 inability to obtain an additional test by a person shall
26 not preclude the admission of evidence relating to the

1 test or tests taken at the direction of a law enforcement
2 officer.

3 4. Upon the request of the person who shall submit to a
4 chemical test or tests at the request of a law enforcement
5 officer, full information concerning the test or tests
6 shall be made available to the person or such person's
7 attorney.

8 5. Alcohol concentration shall mean either grams of
9 alcohol per 100 milliliters of blood or grams of alcohol
10 per 210 liters of breath.

11 6. Tetrahydrocannabinol concentration means either 5
12 nanograms or more of delta-9-tetrahydrocannabinol per
13 milliliter of whole blood or 10 nanograms or more of
14 delta-9-tetrahydrocannabinol per milliliter of other
15 bodily substance. For purposes of this subsection,
16 "delta-9-tetrahydrocannabinol" includes parent
17 delta-9-tetrahydrocannabinol or free
18 delta-9-tetrahydrocannabinol.

19 (a-5) Law enforcement officials may use validated roadside
20 chemical tests or standardized field sobriety tests approved
21 by the National Highway Traffic Safety Administration when
22 conducting investigations of a violation of Section 11-501 or
23 similar local ordinance by drivers suspected of driving under
24 the influence of cannabis. The General Assembly finds that (i)
25 validated roadside chemical tests are effective means to
26 determine if a person is under the influence of cannabis and

1 (ii) standardized field sobriety tests approved by the
2 National Highway Traffic Safety Administration are divided
3 attention tasks that are intended to determine if a person is
4 under the influence of cannabis. The purpose of these tests is
5 to determine the effect of the use of cannabis on a person's
6 capacity to think and act with ordinary care and therefore
7 operate a motor vehicle safely. Therefore, the results of
8 these validated roadside chemical tests and standardized field
9 sobriety tests, appropriately administered, shall be
10 admissible in the trial of any civil or criminal action or
11 proceeding arising out of an arrest for a cannabis-related
12 offense as defined in Section 11-501 or a similar local
13 ordinance or proceedings under Section 2-118.1 or 2-118.2.
14 Where a test is made the following provisions shall apply:

15 1. The person tested may have a physician, or a
16 qualified technician, chemist, registered nurse, or other
17 qualified person of their own choosing administer a
18 chemical test or tests in addition to the standardized
19 field sobriety test or tests administered at the direction
20 of a law enforcement officer. The failure or inability to
21 obtain an additional test by a person does not preclude
22 the admission of evidence relating to the test or tests
23 taken at the direction of a law enforcement officer.

24 2. Upon the request of the person who shall submit to
25 validated roadside chemical tests or a standardized field
26 sobriety test or tests at the request of a law enforcement

1 officer, full information concerning the test or tests
2 shall be made available to the person or the person's
3 attorney.

4 3. At the trial of any civil or criminal action or
5 proceeding arising out of an arrest for an offense as
6 defined in Section 11-501 or a similar local ordinance or
7 proceedings under Section 2-118.1 or 2-118.2 in which the
8 results of these validated roadside chemical tests or
9 standardized field sobriety tests are admitted, the person
10 may present and the trier of fact may consider evidence
11 that the person lacked the physical capacity to perform
12 the validated roadside chemical tests or standardized
13 field sobriety tests.

14 (b) Upon the trial of any civil or criminal action or
15 proceeding arising out of acts alleged to have been committed
16 by any person while driving or in actual physical control of a
17 vehicle while under the influence of alcohol, the
18 concentration of alcohol in the person's blood or breath at
19 the time alleged as shown by analysis of the person's blood,
20 urine, breath, or other bodily substance shall give rise to
21 the following presumptions:

22 1. If there was at that time an alcohol concentration
23 of 0.05 or less, it shall be presumed that the person was
24 not under the influence of alcohol.

25 2. If there was at that time an alcohol concentration
26 in excess of 0.05 but less than 0.08, such facts shall not

1 give rise to any presumption that the person was or was not
2 under the influence of alcohol, but such fact may be
3 considered with other competent evidence in determining
4 whether the person was under the influence of alcohol.

5 3. If there was at that time an alcohol concentration
6 of 0.08 or more, it shall be presumed that the person was
7 under the influence of alcohol.

8 4. The foregoing provisions of this Section shall not
9 be construed as limiting the introduction of any other
10 relevant evidence bearing upon the question whether the
11 person was under the influence of alcohol.

12 (b-5) Upon the trial of any civil or criminal action or
13 proceeding arising out of acts alleged to have been committed
14 by any person while driving or in actual physical control of a
15 vehicle while under the influence of alcohol, other drug or
16 drugs, intoxicating compound or compounds or any combination
17 thereof, the concentration of cannabis in the person's whole
18 blood or other bodily substance at the time alleged as shown by
19 analysis of the person's blood or other bodily substance shall
20 give rise to the following presumptions:

21 1. If there was a tetrahydrocannabinol concentration
22 of 5 nanograms or more in whole blood or 10 nanograms or
23 more in an other bodily substance as defined in this
24 Section, it shall be presumed that the person was under
25 the influence of cannabis.

26 2. If there was at that time a tetrahydrocannabinol

1 concentration of less than 5 nanograms in whole blood or
2 less than 10 nanograms in an other bodily substance, such
3 facts shall not give rise to any presumption that the
4 person was or was not under the influence of cannabis, but
5 such fact may be considered with other competent evidence
6 in determining whether the person was under the influence
7 of cannabis.

8 (c) 1. If a person under arrest refuses to submit to a
9 chemical test under the provisions of Section 11-501.1,
10 evidence of refusal shall be admissible in any civil or
11 criminal action or proceeding arising out of acts alleged to
12 have been committed while the person under the influence of
13 alcohol, other drug or drugs, or intoxicating compound or
14 compounds, or any combination thereof was driving or in actual
15 physical control of a motor vehicle.

16 2. Notwithstanding any ability to refuse under this Code
17 to submit to these tests or any ability to revoke the implied
18 consent to these tests, if a law enforcement officer has
19 probable cause to believe that a motor vehicle driven by or in
20 actual physical control of a person under the influence of
21 alcohol, other drug or drugs, or intoxicating compound or
22 compounds, or any combination thereof has caused the death or
23 personal injury to another, the law enforcement officer shall
24 request, and that person shall submit, upon the request of a
25 law enforcement officer, to a chemical test or tests of his or
26 her blood, breath, other bodily substance, or urine for the

1 purpose of determining the alcohol content thereof or the
2 presence of any other drug or combination of both.

3 This provision does not affect the applicability of or
4 imposition of driver's license sanctions under Section
5 11-501.1 of this Code.

6 3. For purposes of this Section, a personal injury
7 includes any Type A injury as indicated on the traffic crash
8 report completed by a law enforcement officer that requires
9 immediate professional attention in either a doctor's office
10 or a medical facility. A Type A injury includes severe
11 bleeding wounds, distorted extremities, and injuries that
12 require the injured party to be carried from the scene.

13 (d) If a person refuses validated roadside chemical tests
14 or standardized field sobriety tests under Section 11-501.9 of
15 this Code, evidence of refusal shall be admissible in any
16 civil or criminal action or proceeding arising out of acts
17 committed while the person was driving or in actual physical
18 control of a vehicle and alleged to have been impaired by the
19 use of cannabis.

20 (e) Illinois State Police compliance with the changes in
21 this amendatory Act of the 99th General Assembly concerning
22 testing of other bodily substances and tetrahydrocannabinol
23 concentration by Illinois State Police laboratories is subject
24 to appropriation and until the Illinois State Police adopt
25 standards and completion validation. Any laboratories that
26 test for the presence of cannabis or other drugs under this

1 Article, the Snowmobile Registration and Safety Act, or the
2 Boat Registration and Safety Act must comply with ISO/IEC
3 17025:2005.

4 (Source: P.A. 101-27, eff. 6-25-19; 102-538, eff. 8-20-21;
5 102-982, eff. 7-1-23.)