



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2490

Introduced 2/20/2009, by Rep. Susana A Mendoza - Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-303

from Ch. 95 1/2, par. 6-303

Amends the Illinois Vehicle Code. Defines "continuous alcohol monitoring device" as a device that automatically tests breath, blood, or transdermal alcohol concentration levels at least once every hour and detects tamper attempts, regardless of the location of the person who is being monitored, and regularly transmits such data. Provides that if a person is found guilty of driving while his or her driving privileges are suspended for a fourth, fifth, sixth, seventh, eighth, or ninth time and the license suspension was for a conviction of driving under the influence of alcohol or drugs or other prohibited substances or a summary suspension under the implied consent provisions of the Illinois Vehicle Code, that person is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days or serve a minimum of 60 days and abstain from consuming alcohol while wearing a continuous alcohol monitoring device to verify compliance for 270 days (rather than being guilty of a Class 4 felony and serving a minimum term of imprisonment of 180 days). Provides that for a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of the same, after a term of imprisonment, the person shall abstain from consuming alcohol and wear a continuous alcohol monitoring device to verify compliance for 365 days.

LRB096 09113 AJT 19257 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 changing
5 Section 6-303 as follows:

6 (625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

7 (Text of Section before amendment by P.A. 95-991)

8 Sec. 6-303. Driving while driver's license, permit or
9 privilege to operate a motor vehicle is suspended or revoked.

10 (a) Except as otherwise provided in subsection (a-5), any
11 person who drives or is in actual physical control of a motor
12 vehicle on any highway of this State at a time when such
13 person's driver's license, permit or privilege to do so or the
14 privilege to obtain a driver's license or permit is revoked or
15 suspended as provided by this Code or the law of another state,
16 except as may be specifically allowed by a judicial driving
17 permit issued prior to January 1, 2009, monitoring device
18 driving permit, family financial responsibility driving
19 permit, probationary license to drive, or a restricted driving
20 permit issued pursuant to this Code or under the law of another
21 state, shall be guilty of a Class A misdemeanor.

22 (a-5) Any person who violates this Section as provided in
23 subsection (a) while his or her driver's license, permit or

1 privilege is revoked because of a violation of Section 9-3 of
2 the Criminal Code of 1961, relating to the offense of reckless
3 homicide or a similar provision of a law of another state, is
4 guilty of a Class 4 felony. The person shall be required to
5 undergo a professional evaluation, as provided in Section
6 11-501 of this Code, to determine if an alcohol, drug, or
7 intoxicating compound problem exists and the extent of the
8 problem, and to undergo the imposition of treatment as
9 appropriate.

10 (b) The Secretary of State upon receiving a report of the
11 conviction of any violation indicating a person was operating a
12 motor vehicle during the time when said person's driver's
13 license, permit or privilege was suspended by the Secretary, by
14 the appropriate authority of another state, or pursuant to
15 Section 11-501.1; except as may be specifically allowed by a
16 probationary license to drive, judicial driving permit issued
17 prior to January 1, 2009, monitoring device driving permit, or
18 restricted driving permit issued pursuant to this Code or the
19 law of another state; shall extend the suspension for the same
20 period of time as the originally imposed suspension; however,
21 if the period of suspension has then expired, the Secretary
22 shall be authorized to suspend said person's driving privileges
23 for the same period of time as the originally imposed
24 suspension.

25 (b-3) When the Secretary of State receives a report of a
26 conviction of any violation indicating that a vehicle was

1 operated during the time when the person's driver's license,
2 permit or privilege was revoked, except as may be allowed by a
3 restricted driving permit issued pursuant to this Code or the
4 law of another state, the Secretary shall not issue a driver's
5 license to that person for an additional period of one year
6 from the date of such conviction.

7 (b-4) When the Secretary of State receives a report of a
8 conviction of any violation indicating a person was operating a
9 motor vehicle that was not equipped with an ignition interlock
10 device during a time when the person was prohibited from
11 operating a motor vehicle not equipped with such a device, the
12 Secretary shall not issue a driver's license to that person for
13 an additional period of one year from the date of the
14 conviction.

15 (b-5) Any person convicted of violating this Section shall
16 serve a minimum term of imprisonment of 30 consecutive days or
17 300 hours of community service when the person's driving
18 privilege was revoked or suspended as a result of a violation
19 of Section 9-3 of the Criminal Code of 1961, as amended,
20 relating to the offense of reckless homicide, or a similar
21 provision of a law of another state.

22 (c) Except as provided in subsections (c-3) and (c-4), any
23 person convicted of violating this Section shall serve a
24 minimum term of imprisonment of 10 consecutive days or 30 days
25 of community service when the person's driving privilege was
26 revoked or suspended as a result of:

1 (1) a violation of Section 11-501 of this Code or a
2 similar provision of a local ordinance relating to the
3 offense of operating or being in physical control of a
4 vehicle while under the influence of alcohol, any other
5 drug or any combination thereof; or

6 (2) a violation of paragraph (b) of Section 11-401 of
7 this Code or a similar provision of a local ordinance
8 relating to the offense of leaving the scene of a motor
9 vehicle accident involving personal injury or death; or

10 (3) a statutory summary suspension under Section
11 11-501.1 of this Code.

12 Such sentence of imprisonment or community service shall
13 not be subject to suspension in order to reduce such sentence.

14 (c-1) Except as provided in subsections (c-5) and (d), any
15 person convicted of a second violation of this Section shall be
16 ordered by the court to serve a minimum of 100 hours of
17 community service.

18 (c-2) In addition to other penalties imposed under this
19 Section, the court may impose on any person convicted a fourth
20 time of violating this Section any of the following:

21 (1) Seizure of the license plates of the person's
22 vehicle.

23 (2) Immobilization of the person's vehicle for a period
24 of time to be determined by the court.

25 (c-3) Any person convicted of a violation of this Section
26 during a period of summary suspension imposed pursuant to

1 Section 11-501.1 when the person was eligible for a MDDP shall
2 be guilty of a Class 4 felony and shall serve a minimum term of
3 imprisonment of 30 days.

4 (c-4) Any person who has been issued a MDDP and who is
5 convicted of a violation of this Section as a result of
6 operating or being in actual physical control of a motor
7 vehicle not equipped with an ignition interlock device at the
8 time of the offense shall be guilty of a Class 4 felony and
9 shall serve a minimum term of imprisonment of 30 days.

10 (c-5) Any person convicted of a second violation of this
11 Section is guilty of a Class 2 felony, is not eligible for
12 probation or conditional discharge, and shall serve a mandatory
13 term of imprisonment, if the revocation or suspension was for a
14 violation of Section 9-3 of the Criminal Code of 1961, relating
15 to the offense of reckless homicide, or a similar out-of-state
16 offense.

17 (d) Any person convicted of a second violation of this
18 Section shall be guilty of a Class 4 felony and shall serve a
19 minimum term of imprisonment of 30 days or 300 hours of
20 community service, as determined by the court, if the
21 revocation or suspension was for a violation of Section 11-401
22 or 11-501 of this Code, or a similar out-of-state offense, or a
23 similar provision of a local ordinance, or a statutory summary
24 suspension under Section 11-501.1 of this Code.

25 (d-1) Except as provided in subsections (d-2), (d-2.5), and
26 (d-3), any person convicted of a third or subsequent violation

1 of this Section shall serve a minimum term of imprisonment of
2 30 days or 300 hours of community service, as determined by the
3 court.

4 (d-2) Any person convicted of a third violation of this
5 Section is guilty of a Class 4 felony and must serve a minimum
6 term of imprisonment of 30 days if the revocation or suspension
7 was for a violation of Section 11-401 or 11-501 of this Code,
8 or a similar out-of-state offense, or a similar provision of a
9 local ordinance, or a statutory summary suspension under
10 Section 11-501.1 of this Code.

11 (d-2.5) Any person convicted of a third violation of this
12 Section is guilty of a Class 1 felony, is not eligible for
13 probation or conditional discharge, and must serve a mandatory
14 term of imprisonment if the revocation or suspension was for a
15 violation of Section 9-3 of the Criminal Code of 1961, relating
16 to the offense of reckless homicide, or a similar out-of-state
17 offense.

18 (d-3) Any person convicted of a fourth, fifth, sixth,
19 seventh, eighth, or ninth violation of this Section is guilty
20 of a Class 4 felony and must serve a minimum term of
21 imprisonment of 180 days if the revocation or suspension was
22 for a violation of Section 11-401 ~~or 11-501~~ of this Code, or a
23 similar out-of-state offense, or a similar provision of a local
24 ordinance, ~~or a statutory summary suspension under Section~~
25 ~~11-501.1 of this Code.~~

26 (d-3.3) Any person convicted of a fourth, fifth, sixth,

1 seventh, eighth, or ninth violation of this Section is guilty
2 of a Class 4 felony and must serve a minimum term of
3 imprisonment of 180 days or serve a minimum of 60 days and
4 abstain from consuming alcohol while wearing a continuous
5 alcohol monitoring device to verify compliance for 270 days if
6 the revocation or suspension was for a violation of Section
7 11-501 of this Code, or a similar out-of-state offense, or a
8 similar provision of a local ordinance, or a statutory summary
9 suspension under Section 11-501.1 of this Code.

10 (d-3.5) Any person convicted of a fourth or subsequent
11 violation of this Section is guilty of a Class 1 felony, is not
12 eligible for probation or conditional discharge, and must serve
13 a mandatory term of imprisonment, and is eligible for an
14 extended term, if the revocation or suspension was for a
15 violation of Section 9-3 of the Criminal Code of 1961, relating
16 to the offense of reckless homicide, or a similar out-of-state
17 offense.

18 (d-4) Any person convicted of a tenth, eleventh, twelfth,
19 thirteenth, or fourteenth violation of this Section is guilty
20 of a Class 3 felony, and is not eligible for probation or
21 conditional discharge, if the revocation or suspension was for
22 a violation of Section 11-401 ~~or 11-501~~ of this Code, or a
23 similar out-of-state offense, or a similar provision of a local
24 ordinance, ~~or a statutory summary suspension under Section~~
25 ~~11-501.1 of this Code.~~

26 (d-4.5) Any person convicted of a tenth, eleventh, twelfth,

1 thirteenth, or fourteenth violation of this Section is guilty
2 of a Class 3 felony, and is not eligible for probation or
3 conditional discharge, if the revocation or suspension was for
4 a violation of Section 11-501 of this Code, or a similar
5 out-of-state offense, or a similar provision of a local
6 ordinance, or a statutory summary suspension under Section
7 11-501.1 of this Code. Upon release, the person shall abstain
8 from consuming alcohol and wear a continuous alcohol monitoring
9 device to verify compliance for 365 days.

10 (d-5) Any person convicted of a fifteenth or subsequent
11 violation of this Section is guilty of a Class 2 felony, and is
12 not eligible for probation or conditional discharge, if the
13 revocation or suspension was for a violation of Section 11-401
14 or 11-501 of this Code, or a similar out-of-state offense, or a
15 similar provision of a local ordinance, or a statutory summary
16 suspension under Section 11-501.1 of this Code.

17 (e) Any person in violation of this Section who is also in
18 violation of Section 7-601 of this Code relating to mandatory
19 insurance requirements, in addition to other penalties imposed
20 under this Section, shall have his or her motor vehicle
21 immediately impounded by the arresting law enforcement
22 officer. The motor vehicle may be released to any licensed
23 driver upon a showing of proof of insurance for the vehicle
24 that was impounded and the notarized written consent for the
25 release by the vehicle owner.

26 (f) For any prosecution under this Section, a certified

1 copy of the driving abstract of the defendant shall be admitted
2 as proof of any prior conviction.

3 (g) The motor vehicle used in a violation of this Section
4 is subject to seizure and forfeiture as provided in Sections
5 36-1 and 36-2 of the Criminal Code of 1961 if the person's
6 driving privilege was revoked or suspended as a result of a
7 violation listed in paragraph (1), (2), or (3) of subsection
8 (c) of this Section or as a result of a summary suspension as
9 provided in paragraph (4) of subsection (c) of this Section.

10 (h) For the purposes of this Section, "continuous alcohol
11 monitoring device" means a device that automatically tests
12 breath, blood, or transdermal alcohol concentration levels at
13 least once every hour and detects tamper attempts, regardless
14 of the location of the person who is being monitored, and
15 regularly transmits such data.

16 (Source: P.A. 94-112, eff. 1-1-06; 95-27, eff. 1-1-08; 95-377,
17 eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-876,
18 eff. 8-21-08.)

19 (Text of Section after amendment by P.A. 95-991)

20 Sec. 6-303. Driving while driver's license, permit or
21 privilege to operate a motor vehicle is suspended or revoked.

22 (a) Except as otherwise provided in subsection (a-5), any
23 person who drives or is in actual physical control of a motor
24 vehicle on any highway of this State at a time when such
25 person's driver's license, permit or privilege to do so or the

1 privilege to obtain a driver's license or permit is revoked or
2 suspended as provided by this Code or the law of another state,
3 except as may be specifically allowed by a judicial driving
4 permit issued prior to January 1, 2009, monitoring device
5 driving permit, family financial responsibility driving
6 permit, probationary license to drive, or a restricted driving
7 permit issued pursuant to this Code or under the law of another
8 state, shall be guilty of a Class A misdemeanor.

9 (a-5) Any person who violates this Section as provided in
10 subsection (a) while his or her driver's license, permit or
11 privilege is revoked because of a violation of Section 9-3 of
12 the Criminal Code of 1961, relating to the offense of reckless
13 homicide or a similar provision of a law of another state, is
14 guilty of a Class 4 felony. The person shall be required to
15 undergo a professional evaluation, as provided in Section
16 11-501 of this Code, to determine if an alcohol, drug, or
17 intoxicating compound problem exists and the extent of the
18 problem, and to undergo the imposition of treatment as
19 appropriate.

20 (b) The Secretary of State upon receiving a report of the
21 conviction of any violation indicating a person was operating a
22 motor vehicle during the time when said person's driver's
23 license, permit or privilege was suspended by the Secretary, by
24 the appropriate authority of another state, or pursuant to
25 Section 11-501.1; except as may be specifically allowed by a
26 probationary license to drive, judicial driving permit issued

1 prior to January 1, 2009, monitoring device driving permit, or
2 restricted driving permit issued pursuant to this Code or the
3 law of another state; shall extend the suspension for the same
4 period of time as the originally imposed suspension; however,
5 if the period of suspension has then expired, the Secretary
6 shall be authorized to suspend said person's driving privileges
7 for the same period of time as the originally imposed
8 suspension.

9 (b-3) When the Secretary of State receives a report of a
10 conviction of any violation indicating that a vehicle was
11 operated during the time when the person's driver's license,
12 permit or privilege was revoked, except as may be allowed by a
13 restricted driving permit issued pursuant to this Code or the
14 law of another state, the Secretary shall not issue a driver's
15 license to that person for an additional period of one year
16 from the date of such conviction.

17 (b-4) When the Secretary of State receives a report of a
18 conviction of any violation indicating a person was operating a
19 motor vehicle that was not equipped with an ignition interlock
20 device during a time when the person was prohibited from
21 operating a motor vehicle not equipped with such a device, the
22 Secretary shall not issue a driver's license to that person for
23 an additional period of one year from the date of the
24 conviction.

25 (b-5) Any person convicted of violating this Section shall
26 serve a minimum term of imprisonment of 30 consecutive days or

1 300 hours of community service when the person's driving
2 privilege was revoked or suspended as a result of a violation
3 of Section 9-3 of the Criminal Code of 1961, as amended,
4 relating to the offense of reckless homicide, or a similar
5 provision of a law of another state.

6 (c) Except as provided in subsections (c-3) and (c-4), any
7 person convicted of violating this Section shall serve a
8 minimum term of imprisonment of 10 consecutive days or 30 days
9 of community service when the person's driving privilege was
10 revoked or suspended as a result of:

11 (1) a violation of Section 11-501 of this Code or a
12 similar provision of a local ordinance relating to the
13 offense of operating or being in physical control of a
14 vehicle while under the influence of alcohol, any other
15 drug or any combination thereof; or

16 (2) a violation of paragraph (b) of Section 11-401 of
17 this Code or a similar provision of a local ordinance
18 relating to the offense of leaving the scene of a motor
19 vehicle accident involving personal injury or death; or

20 (3) a statutory summary suspension under Section
21 11-501.1 of this Code.

22 Such sentence of imprisonment or community service shall
23 not be subject to suspension in order to reduce such sentence.

24 (c-1) Except as provided in subsections (c-5) and (d), any
25 person convicted of a second violation of this Section shall be
26 ordered by the court to serve a minimum of 100 hours of

1 community service.

2 (c-2) In addition to other penalties imposed under this
3 Section, the court may impose on any person convicted a fourth
4 time of violating this Section any of the following:

5 (1) Seizure of the license plates of the person's
6 vehicle.

7 (2) Immobilization of the person's vehicle for a period
8 of time to be determined by the court.

9 (c-3) Any person convicted of a violation of this Section
10 during a period of summary suspension imposed pursuant to
11 Section 11-501.1 when the person was eligible for a MDDP shall
12 be guilty of a Class 4 felony and shall serve a minimum term of
13 imprisonment of 30 days.

14 (c-4) Any person who has been issued a MDDP and who is
15 convicted of a violation of this Section as a result of
16 operating or being in actual physical control of a motor
17 vehicle not equipped with an ignition interlock device at the
18 time of the offense shall be guilty of a Class 4 felony and
19 shall serve a minimum term of imprisonment of 30 days.

20 (c-5) Any person convicted of a second violation of this
21 Section is guilty of a Class 2 felony, is not eligible for
22 probation or conditional discharge, and shall serve a mandatory
23 term of imprisonment, if the revocation or suspension was for a
24 violation of Section 9-3 of the Criminal Code of 1961, relating
25 to the offense of reckless homicide, or a similar out-of-state
26 offense.

1 (d) Any person convicted of a second violation of this
2 Section shall be guilty of a Class 4 felony and shall serve a
3 minimum term of imprisonment of 30 days or 300 hours of
4 community service, as determined by the court, if the original
5 revocation or suspension was for a violation of Section 11-401
6 or 11-501 of this Code, or a similar out-of-state offense, or a
7 similar provision of a local ordinance, or a statutory summary
8 suspension under Section 11-501.1 of this Code.

9 (d-1) Except as provided in subsections (d-2), (d-2.5), and
10 (d-3), any person convicted of a third or subsequent violation
11 of this Section shall serve a minimum term of imprisonment of
12 30 days or 300 hours of community service, as determined by the
13 court.

14 (d-2) Any person convicted of a third violation of this
15 Section is guilty of a Class 4 felony and must serve a minimum
16 term of imprisonment of 30 days if the revocation or suspension
17 was for a violation of Section 11-401 or 11-501 of this Code,
18 or a similar out-of-state offense, or a similar provision of a
19 local ordinance, or a statutory summary suspension under
20 Section 11-501.1 of this Code.

21 (d-2.5) Any person convicted of a third violation of this
22 Section is guilty of a Class 1 felony, is not eligible for
23 probation or conditional discharge, and must serve a mandatory
24 term of imprisonment if the revocation or suspension was for a
25 violation of Section 9-3 of the Criminal Code of 1961, relating
26 to the offense of reckless homicide, or a similar out-of-state

1 offense.

2 (d-3) Any person convicted of a fourth, fifth, sixth,
3 seventh, eighth, or ninth violation of this Section is guilty
4 of a Class 4 felony and must serve a minimum term of
5 imprisonment of 180 days if the revocation or suspension was
6 for a violation of Section 11-401 ~~or 11-501~~ of this Code, or a
7 similar out-of-state offense, or a similar provision of a local
8 ordinance, ~~or a statutory summary suspension under Section~~
9 ~~11-501.1 of this Code.~~

10 (d-3.3) Any person convicted of a fourth, fifth, sixth,
11 seventh, eighth, or ninth violation of this Section is guilty
12 of a Class 4 felony and must serve a minimum term of
13 imprisonment of 180 days or serve a minimum of 60 days and
14 abstain from consuming alcohol while wearing a continuous
15 alcohol monitoring device to verify compliance for 270 days if
16 the revocation or suspension was for a violation of Section
17 11-501 of this Code, or a similar out-of-state offense, or a
18 similar provision of a local ordinance, or a statutory summary
19 suspension under Section 11-501.1 of this Code.

20 (d-3.5) Any person convicted of a fourth or subsequent
21 violation of this Section is guilty of a Class 1 felony, is not
22 eligible for probation or conditional discharge, and must serve
23 a mandatory term of imprisonment, and is eligible for an
24 extended term, if the revocation or suspension was for a
25 violation of Section 9-3 of the Criminal Code of 1961, relating
26 to the offense of reckless homicide, or a similar out-of-state

1 offense.

2 (d-4) Any person convicted of a tenth, eleventh, twelfth,
3 thirteenth, or fourteenth violation of this Section is guilty
4 of a Class 3 felony, and is not eligible for probation or
5 conditional discharge, if the revocation or suspension was for
6 a violation of Section 11-401 ~~or 11-501~~ of this Code, or a
7 similar out-of-state offense, or a similar provision of a local
8 ordinance, ~~or a statutory summary suspension under Section~~
9 ~~11-501.1 of this Code.~~

10 (d-4.5) Any person convicted of a tenth, eleventh, twelfth,
11 thirteenth, or fourteenth violation of this Section is guilty
12 of a Class 3 felony, and is not eligible for probation or
13 conditional discharge, if the revocation or suspension was for
14 a violation of Section 11-501 of this Code, or a similar
15 out-of-state offense, or a similar provision of a local
16 ordinance, or a statutory summary suspension under Section
17 11-501.1 of this Code. Upon release, the person shall abstain
18 from consuming alcohol and wear a continuous alcohol monitoring
19 device to verify compliance for 365 days.

20 (d-5) Any person convicted of a fifteenth or subsequent
21 violation of this Section is guilty of a Class 2 felony, and is
22 not eligible for probation or conditional discharge, if the
23 revocation or suspension was for a violation of Section 11-401
24 or 11-501 of this Code, or a similar out-of-state offense, or a
25 similar provision of a local ordinance, or a statutory summary
26 suspension under Section 11-501.1 of this Code.

1 (e) Any person in violation of this Section who is also in
2 violation of Section 7-601 of this Code relating to mandatory
3 insurance requirements, in addition to other penalties imposed
4 under this Section, shall have his or her motor vehicle
5 immediately impounded by the arresting law enforcement
6 officer. The motor vehicle may be released to any licensed
7 driver upon a showing of proof of insurance for the vehicle
8 that was impounded and the notarized written consent for the
9 release by the vehicle owner.

10 (f) For any prosecution under this Section, a certified
11 copy of the driving abstract of the defendant shall be admitted
12 as proof of any prior conviction.

13 (g) The motor vehicle used in a violation of this Section
14 is subject to seizure and forfeiture as provided in Sections
15 36-1 and 36-2 of the Criminal Code of 1961 if the person's
16 driving privilege was revoked or suspended as a result of a
17 violation listed in paragraph (1), (2), or (3) of subsection
18 (c) of this Section or as a result of a summary suspension as
19 provided in paragraph (4) of subsection (c) of this Section.

20 (h) For the purposes of this Section, "continuous alcohol
21 monitoring device" means a device that automatically tests
22 breath, blood, or transdermal alcohol concentration levels at
23 least once every hour and detects tamper attempts, regardless
24 of the location of the person who is being monitored, and
25 regularly transmits such data.

26 (Source: P.A. 94-112, eff. 1-1-06; 95-27, eff. 1-1-08; 95-377,

1 eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-876,
2 eff. 8-21-08; 95-991, eff. 6-1-09.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.