

# HB4774



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB4774**

Introduced 1/12/2010, by Rep. Lou Lang

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.2

from Ch. 95 1/2, par. 11-501.2

Amends the Illinois Vehicle Code. Provides that the Illinois Department of Public Health may not promulgate rules prohibiting an Emergency Medical Technician - Paramedic (EMT-P) licensed by the Illinois Department of Public Health from drawing blood to be used as evidence for a violation of the Illinois Vehicle Code.

LRB096 16700 AJT 31987 b

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 11-501.2 as follows:

6 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)  
7 Sec. 11-501.2. Chemical and other tests.

8 (a) Upon the trial of any civil or criminal action or  
9 proceeding arising out of an arrest for an offense as defined  
10 in Section 11-501 or a similar local ordinance or proceedings  
11 pursuant to Section 2-118.1, evidence of the concentration of  
12 alcohol, other drug or drugs, or intoxicating compound or  
13 compounds, or any combination thereof in a person's blood or  
14 breath at the time alleged, as determined by analysis of the  
15 person's blood, urine, breath or other bodily substance, shall  
16 be admissible. Where such test is made the following provisions  
17 shall apply:

18 1. Chemical analyses of the person's blood, urine,  
19 breath or other bodily substance to be considered valid  
20 under the provisions of this Section shall have been  
21 performed according to standards promulgated by the  
22 Department of State Police by a licensed physician,  
23 registered nurse, trained phlebotomist, licensed ~~certified~~

1 paramedic, or other individual possessing a valid permit  
2 issued by that Department for this purpose. The Director of  
3 State Police is authorized to approve satisfactory  
4 techniques or methods, to ascertain the qualifications and  
5 competence of individuals to conduct such analyses, to  
6 issue permits which shall be subject to termination or  
7 revocation at the discretion of that Department and to  
8 certify the accuracy of breath testing equipment. The  
9 Department of State Police shall prescribe regulations as  
10 necessary to implement this Section.

11 2. When a person in this State shall submit to a blood  
12 test at the request of a law enforcement officer under the  
13 provisions of Section 11-501.1, only a physician  
14 authorized to practice medicine, a registered nurse,  
15 trained phlebotomist, or licensed ~~certified~~ paramedic, or  
16 other qualified person approved by the Department of State  
17 Police may withdraw blood for the purpose of determining  
18 the alcohol, drug, or alcohol and drug content therein.  
19 This limitation shall not apply to the taking of breath or  
20 urine specimens.

21 When a blood test of a person who has been taken to an  
22 adjoining state for medical treatment is requested by an  
23 Illinois law enforcement officer, the blood may be  
24 withdrawn only by a physician authorized to practice  
25 medicine in the adjoining state, a registered nurse, a  
26 trained phlebotomist acting under the direction of the

1 physician, or licensed ~~certified~~ paramedic. The law  
2 enforcement officer requesting the test shall take custody  
3 of the blood sample, and the blood sample shall be analyzed  
4 by a laboratory certified by the Department of State Police  
5 for that purpose.

6 3. The person tested may have a physician, or a  
7 qualified technician, chemist, registered nurse, or other  
8 qualified person of their own choosing administer a  
9 chemical test or tests in addition to any administered at  
10 the direction of a law enforcement officer. The failure or  
11 inability to obtain an additional test by a person shall  
12 not preclude the admission of evidence relating to the test  
13 or tests taken at the direction of a law enforcement  
14 officer.

15 4. Upon the request of the person who shall submit to a  
16 chemical test or tests at the request of a law enforcement  
17 officer, full information concerning the test or tests  
18 shall be made available to the person or such person's  
19 attorney.

20 5. Alcohol concentration shall mean either grams of  
21 alcohol per 100 milliliters of blood or grams of alcohol  
22 per 210 liters of breath.

23 (b) Upon the trial of any civil or criminal action or  
24 proceeding arising out of acts alleged to have been committed  
25 by any person while driving or in actual physical control of a  
26 vehicle while under the influence of alcohol, the concentration

1 of alcohol in the person's blood or breath at the time alleged  
2 as shown by analysis of the person's blood, urine, breath, or  
3 other bodily substance shall give rise to the following  
4 presumptions:

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

8 2. If there was at that time an alcohol concentration  
9 in excess of 0.05 but less than 0.08, such facts shall not  
10 give rise to any presumption that the person was or was not  
11 under the influence of alcohol, but such fact may be  
12 considered with other competent evidence in determining  
13 whether the person was under the influence of alcohol.

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

17 4. The foregoing provisions of this Section shall not  
18 be construed as limiting the introduction of any other  
19 relevant evidence bearing upon the question whether the  
20 person was under the influence of alcohol.

21 (c) 1. If a person under arrest refuses to submit to a  
22 chemical test under the provisions of Section 11-501.1,  
23 evidence of refusal shall be admissible in any civil or  
24 criminal action or proceeding arising out of acts alleged to  
25 have been committed while the person under the influence of  
26 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof was driving or in actual  
2 physical control of a motor vehicle.

3 2. Notwithstanding any ability to refuse under this Code to  
4 submit to these tests or any ability to revoke the implied  
5 consent to these tests, if a law enforcement officer has  
6 probable cause to believe that a motor vehicle driven by or in  
7 actual physical control of a person under the influence of  
8 alcohol, other drug or drugs, or intoxicating compound or  
9 compounds, or any combination thereof has caused the death or  
10 personal injury to another, that person shall submit, upon the  
11 request of a law enforcement officer, to a chemical test or  
12 tests of his or her blood, breath or urine for the purpose of  
13 determining the alcohol content thereof or the presence of any  
14 other drug or combination of both.

15 This provision does not affect the applicability of or  
16 imposition of driver's license sanctions under Section  
17 11-501.1 of this Code.

18 3. For purposes of this Section, a personal injury includes  
19 any Type A injury as indicated on the traffic accident report  
20 completed by a law enforcement officer that requires immediate  
21 professional attention in either a doctor's office or a medical  
22 facility. A Type A injury includes severe bleeding wounds,  
23 distorted extremities, and injuries that require the injured  
24 party to be carried from the scene.

25 (d) The Illinois Department of Public Health may not  
26 promulgate rules prohibiting an Emergency Medical Technician -

1 Paramedic (EMT-P) licensed by the Illinois Department of Public  
2 Health from drawing blood to be used as evidence for a  
3 violation of this Code or similar local ordinance.

4 (Source: P.A. 96-289, eff. 8-11-09.)