



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4583

Introduced 2/1/2012, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.2
625 ILCS 5/11-501.8

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

Amends the Illinois Vehicle Code. Removes certified paramedics from the list of persons within the State qualified to draw blood for alcohol and drug testing. Provides that a qualified person certified (instead of "trained") in venipuncture and acting under the direction of a licensed physician may withdraw blood for the purpose of determining the alcohol content therein.

LRB097 17797 HEP 63013 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 changing
5 Sections 11-501.2 and 11-501.8 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, ~~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 licensed physician
15 assistant, a licensed advanced practice nurse, a
16 registered nurse, trained phlebotomist, ~~or certified~~
17 ~~paramedic,~~ or other qualified person approved by the
18 Department of State Police may withdraw blood for the
19 purpose of determining the alcohol, drug, or alcohol and
20 drug content therein. This limitation shall not apply to
21 the taking of breath or urine specimens.

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25 withdrawn only by a physician authorized to practice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

1 assistant, a licensed advanced practice nurse, a
2 registered nurse, a trained phlebotomist acting under the
3 direction of the physician, or certified paramedic. The law
4 enforcement officer requesting the test shall take custody
5 of the blood sample, and the blood sample shall be analyzed
6 by a laboratory certified by the Department of State Police
7 for that purpose.

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

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

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

25 (b) Upon the trial of any civil or criminal action or
26 proceeding arising out of acts alleged to have been committed

1 by any person while driving or in actual physical control of a
2 vehicle while under the influence of alcohol, the concentration
3 of alcohol in the person's blood or breath at the time alleged
4 as shown by analysis of the person's blood, urine, breath, or
5 other bodily substance shall give rise to the following
6 presumptions:

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

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

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

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

23 (c) 1. If a person under arrest refuses to submit to a
24 chemical test under the provisions of Section 11-501.1,
25 evidence of refusal shall be admissible in any civil or
26 criminal action or proceeding arising out of acts alleged to

1 have been committed while the person under the influence of
2 alcohol, other drug or drugs, or intoxicating compound or
3 compounds, or any combination thereof was driving or in actual
4 physical control of a motor vehicle.

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

18 This provision does not affect the applicability of or
19 imposition of driver's license sanctions under Section
20 11-501.1 of this Code.

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

1 party to be carried from the scene.

2 (Source: P.A. 96-289, eff. 8-11-09; 97-450, eff. 8-19-11;
3 97-471, eff. 8-22-11; revised 10-4-11.)

4 (625 ILCS 5/11-501.8)

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

7 (a) A person who is less than 21 years of age and who
8 drives or is in actual physical control of a motor vehicle upon
9 the public highways of this State shall be deemed to have given
10 consent to a chemical test or tests of blood, breath, or urine
11 for the purpose of determining the alcohol content of the
12 person's blood if arrested, as evidenced by the issuance of a
13 Uniform Traffic Ticket for any violation of the Illinois
14 Vehicle Code or a similar provision of a local ordinance, if a
15 police officer has probable cause to believe that the driver
16 has consumed any amount of an alcoholic beverage based upon
17 evidence of the driver's physical condition or other first hand
18 knowledge of the police officer. The test or tests shall be
19 administered at the direction of the arresting officer. The law
20 enforcement agency employing the officer shall designate which
21 of the aforesaid tests shall be administered. A urine test may
22 be administered even after a blood or breath test or both has
23 been administered.

24 (b) A person who is dead, unconscious, or who is otherwise
25 in a condition rendering that person incapable of refusal,

1 shall be deemed not to have withdrawn the consent provided by
2 paragraph (a) of this Section and the test or tests may be
3 administered subject to the following provisions:

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

18 (ii) When a person submits to a blood test at the
19 request of a law enforcement officer under the provisions
20 of this Section, only a physician authorized to practice
21 medicine, a licensed physician assistant, a licensed
22 advanced practice nurse, a registered nurse, or other
23 qualified person certified ~~trained~~ in venipuncture and
24 acting under the direction of a licensed physician may
25 withdraw blood for the purpose of determining the alcohol
26 content therein. This limitation does not apply to the

1 taking of breath or urine specimens.

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

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

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

18 (vi) If a driver is receiving medical treatment as a
19 result of a motor vehicle accident, a physician licensed to
20 practice medicine, licensed physician assistant, licensed
21 advanced practice nurse, registered nurse, or other
22 qualified person certified ~~trained~~ in venipuncture and
23 acting under the direction of a licensed physician shall
24 withdraw blood for testing purposes to ascertain the
25 presence of alcohol upon the specific request of a law
26 enforcement officer. However, that testing shall not be

1 performed until, in the opinion of the medical personnel on
2 scene, the withdrawal can be made without interfering with
3 or endangering the well-being of the patient.

4 (c) A person requested to submit to a test as provided
5 above shall be warned by the law enforcement officer requesting
6 the test that a refusal to submit to the test, or submission to
7 the test resulting in an alcohol concentration of more than
8 0.00, may result in the loss of that person's privilege to
9 operate a motor vehicle and may result in the disqualification
10 of the person's privilege to operate a commercial motor
11 vehicle, as provided in Section 6-514 of this Code, if the
12 person is a CDL holder. The loss of driving privileges shall be
13 imposed in accordance with Section 6-208.2 of this Code.

14 (d) If the person refuses testing or submits to a test that
15 discloses an alcohol concentration of more than 0.00, the law
16 enforcement officer shall immediately submit a sworn report to
17 the Secretary of State on a form prescribed by the Secretary of
18 State, certifying that the test or tests were requested under
19 subsection (a) and the person refused to submit to a test or
20 tests or submitted to testing which disclosed an alcohol
21 concentration of more than 0.00. The law enforcement officer
22 shall submit the same sworn report when a person under the age
23 of 21 submits to testing under Section 11-501.1 of this Code
24 and the testing discloses an alcohol concentration of more than
25 0.00 and less than 0.08.

26 Upon receipt of the sworn report of a law enforcement

1 officer, the Secretary of State shall enter the suspension and
2 disqualification on the individual's driving record and the
3 suspension and disqualification shall be effective on the 46th
4 day following the date notice of the suspension was given to
5 the person. If this suspension is the individual's first
6 driver's license suspension under this Section, reports
7 received by the Secretary of State under this Section shall,
8 except during the time the suspension is in effect, be
9 privileged information and for use only by the courts, police
10 officers, prosecuting authorities, the Secretary of State, or
11 the individual personally, unless the person is a CDL holder,
12 is operating a commercial motor vehicle or vehicle required to
13 be placarded for hazardous materials, in which case the
14 suspension shall not be privileged. Reports received by the
15 Secretary of State under this Section shall also be made
16 available to the parent or guardian of a person under the age
17 of 18 years that holds an instruction permit or a graduated
18 driver's license, regardless of whether the suspension is in
19 effect.

20 The law enforcement officer submitting the sworn report
21 shall serve immediate notice of this suspension on the person
22 and the suspension and disqualification shall be effective on
23 the 46th day following the date notice was given.

24 In cases where the blood alcohol concentration of more than
25 0.00 is established by a subsequent analysis of blood or urine,
26 the police officer or arresting agency shall give notice as

1 provided in this Section or by deposit in the United States
2 mail of that notice in an envelope with postage prepaid and
3 addressed to that person at his last known address and the loss
4 of driving privileges shall be effective on the 46th day
5 following the date notice was given.

6 Upon receipt of the sworn report of a law enforcement
7 officer, the Secretary of State shall also give notice of the
8 suspension and disqualification to the driver by mailing a
9 notice of the effective date of the suspension and
10 disqualification to the individual. However, should the sworn
11 report be defective by not containing sufficient information or
12 be completed in error, the notice of the suspension and
13 disqualification shall not be mailed to the person or entered
14 to the driving record, but rather the sworn report shall be
15 returned to the issuing law enforcement agency.

16 (e) A driver may contest this suspension and
17 disqualification by requesting an administrative hearing with
18 the Secretary of State in accordance with Section 2-118 of this
19 Code. An individual whose blood alcohol concentration is shown
20 to be more than 0.00 is not subject to this Section if he or she
21 consumed alcohol in the performance of a religious service or
22 ceremony. An individual whose blood alcohol concentration is
23 shown to be more than 0.00 shall not be subject to this Section
24 if the individual's blood alcohol concentration resulted only
25 from ingestion of the prescribed or recommended dosage of
26 medicine that contained alcohol. The petition for that hearing

1 shall not stay or delay the effective date of the impending
2 suspension. The scope of this hearing shall be limited to the
3 issues of:

4 (1) whether the police officer had probable cause to
5 believe that the person was driving or in actual physical
6 control of a motor vehicle upon the public highways of the
7 State and the police officer had reason to believe that the
8 person was in violation of any provision of the Illinois
9 Vehicle Code or a similar provision of a local ordinance;
10 and

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

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

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

25 (5) whether the person, after being advised by the
26 officer that the privileges to operate a motor vehicle

1 would be suspended if the person submits to a chemical test
2 or tests and the test or tests disclose an alcohol
3 concentration of more than 0.00, did submit to and complete
4 the test or tests that determined an alcohol concentration
5 of more than 0.00; and

6 (6) whether the test result of an alcohol concentration
7 of more than 0.00 was based upon the person's consumption
8 of alcohol in the performance of a religious service or
9 ceremony; and

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

14 At the conclusion of the hearing held under Section 2-118
15 of this Code, the Secretary of State may rescind, continue, or
16 modify the suspension and disqualification. If the Secretary of
17 State does not rescind the suspension and disqualification, a
18 restricted driving permit may be granted by the Secretary of
19 State upon application being made and good cause shown. A
20 restricted driving permit may be granted to relieve undue
21 hardship by allowing driving for employment, educational, and
22 medical purposes as outlined in item (3) of part (c) of Section
23 6-206 of this Code. The provisions of item (3) of part (c) of
24 Section 6-206 of this Code and of subsection (f) of that
25 Section shall apply. The Secretary of State shall promulgate
26 rules providing for participation in an alcohol education and

1 awareness program or activity, a drug education and awareness
2 program or activity, or both as a condition to the issuance of
3 a restricted driving permit for suspensions imposed under this
4 Section.

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

16 (g) This Section applies only to drivers who are under age
17 21 at the time of the issuance of a Uniform Traffic Ticket for
18 a violation of the Illinois Vehicle Code or a similar provision
19 of a local ordinance, and a chemical test request is made under
20 this Section.

21 (h) The action of the Secretary of State in suspending,
22 revoking, cancelling, or disqualifying any license or permit
23 shall be subject to judicial review in the Circuit Court of
24 Sangamon County or in the Circuit Court of Cook County, and the
25 provisions of the Administrative Review Law and its rules are
26 hereby adopted and shall apply to and govern every action for

1 the judicial review of final acts or decisions of the Secretary
2 of State under this Section.

3 (Source: P.A. 96-1080, eff. 7-16-10; 96-1344, eff. 7-1-11;
4 97-333, eff. 8-12-11; 97-450, eff. 8-19-11.)