

SB1234



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1234

Introduced 1/30/2013, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.1

Amends the Illinois Vehicle Code. Expands the list of chemical tests used to detect the presence of drugs or intoxicating compounds in the implied consent provisions to include the testing of saliva.

LRB098 06896 MLW 36953 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 11-501.1 as follows:

6 (625 ILCS 5/11-501.1)

7 Sec. 11-501.1. Suspension of drivers license; statutory
8 summary alcohol, other drug or drugs, or intoxicating compound
9 or compounds related suspension or revocation; implied
10 consent.

11 (a) Any person who drives or is in actual physical control
12 of a motor vehicle upon the public highways of this State shall
13 be deemed to have given consent, subject to the provisions of
14 Section 11-501.2, to a chemical test or tests of blood, breath,
15 saliva, or urine for the purpose of determining the content of
16 alcohol, other drug or drugs, or intoxicating compound or
17 compounds or any combination thereof in the person's blood if
18 arrested, as evidenced by the issuance of a Uniform Traffic
19 Ticket, for any offense as defined in Section 11-501 or a
20 similar provision of a local ordinance, or if arrested for
21 violating Section 11-401. If a law enforcement officer has
22 probable cause to believe the person was under the influence of
23 alcohol, other drug or drugs, intoxicating compound or

1 compounds, or any combination thereof, the law enforcement
2 officer shall request a chemical test or tests which shall be
3 administered at the direction of the arresting officer. The law
4 enforcement agency employing the officer shall designate which
5 of the aforesaid tests shall be administered. A urine test may
6 be administered even after a blood or breath test or both has
7 been administered. For purposes of this Section, an Illinois
8 law enforcement officer of this State who is investigating the
9 person for any offense defined in Section 11-501 may travel
10 into an adjoining state, where the person has been transported
11 for medical care, to complete an investigation and to request
12 that the person submit to the test or tests set forth in this
13 Section. The requirements of this Section that the person be
14 arrested are inapplicable, but the officer shall issue the
15 person a Uniform Traffic Ticket for an offense as defined in
16 Section 11-501 or a similar provision of a local ordinance
17 prior to requesting that the person submit to the test or
18 tests. The issuance of the Uniform Traffic Ticket shall not
19 constitute an arrest, but shall be for the purpose of notifying
20 the person that he or she is subject to the provisions of this
21 Section and of the officer's belief of the existence of
22 probable cause to arrest. Upon returning to this State, the
23 officer shall file the Uniform Traffic Ticket with the Circuit
24 Clerk of the county where the offense was committed, and shall
25 seek the issuance of an arrest warrant or a summons for the
26 person.

1 (b) Any person who is dead, unconscious, or who is
2 otherwise in a condition rendering the person incapable of
3 refusal, shall be deemed not to have withdrawn the consent
4 provided by paragraph (a) of this Section and the test or tests
5 may be administered, subject to the provisions of Section
6 11-501.2.

7 (c) A person requested to submit to a test as provided
8 above shall be warned by the law enforcement officer requesting
9 the test that a refusal to submit to the test will result in
10 the statutory summary suspension of the person's privilege to
11 operate a motor vehicle, as provided in Section 6-208.1 of this
12 Code, and will also result in the disqualification of the
13 person's privilege to operate a commercial motor vehicle, as
14 provided in Section 6-514 of this Code, if the person is a CDL
15 holder. The person shall also be warned that a refusal to
16 submit to the test, when the person was involved in a motor
17 vehicle accident that caused personal injury or death to
18 another, will result in the statutory summary revocation of the
19 person's privilege to operate a motor vehicle, as provided in
20 Section 6-208.1, and will also result in the disqualification
21 of the person's privilege to operate a commercial motor
22 vehicle, as provided in Section 6-514 of this Code, if the
23 person is a CDL holder. The person shall also be warned by the
24 law enforcement officer that if the person submits to the test
25 or tests provided in paragraph (a) of this Section and the
26 alcohol concentration in the person's blood or breath is 0.08

1 or greater, or any amount of a drug, substance, or compound
2 resulting from the unlawful use or consumption of cannabis as
3 covered by the Cannabis Control Act, a controlled substance
4 listed in the Illinois Controlled Substances Act, an
5 intoxicating compound listed in the Use of Intoxicating
6 Compounds Act, or methamphetamine as listed in the
7 Methamphetamine Control and Community Protection Act is
8 detected in the person's blood, saliva, or urine, a statutory
9 summary suspension of the person's privilege to operate a motor
10 vehicle, as provided in Sections 6-208.1 and 11-501.1 of this
11 Code, and a disqualification of the person's privilege to
12 operate a commercial motor vehicle, as provided in Section
13 6-514 of this Code, if the person is a CDL holder, will be
14 imposed.

15 A person who is under the age of 21 at the time the person
16 is requested to submit to a test as provided above shall, in
17 addition to the warnings provided for in this Section, be
18 further warned by the law enforcement officer requesting the
19 test that if the person submits to the test or tests provided
20 in paragraph (a) of this Section and the alcohol concentration
21 in the person's blood or breath is greater than 0.00 and less
22 than 0.08, a suspension of the person's privilege to operate a
23 motor vehicle, as provided under Sections 6-208.2 and 11-501.8
24 of this Code, will be imposed. The results of this test shall
25 be admissible in a civil or criminal action or proceeding
26 arising from an arrest for an offense as defined in Section

1 11-501 of this Code or a similar provision of a local ordinance
2 or pursuant to Section 11-501.4 in prosecutions for reckless
3 homicide brought under the Criminal Code of 1961. These test
4 results, however, shall be admissible only in actions or
5 proceedings directly related to the incident upon which the
6 test request was made.

7 (d) If the person refuses testing or submits to a test that
8 discloses an alcohol concentration of 0.08 or more, or any
9 amount of a drug, substance, or intoxicating compound in the
10 person's breath, blood, saliva, or urine resulting from the
11 unlawful use or consumption of cannabis listed in the Cannabis
12 Control Act, a controlled substance listed in the Illinois
13 Controlled Substances Act, an intoxicating compound listed in
14 the Use of Intoxicating Compounds Act, or methamphetamine as
15 listed in the Methamphetamine Control and Community Protection
16 Act, the law enforcement officer shall immediately submit a
17 sworn report to the circuit court of venue and the Secretary of
18 State, certifying that the test or tests was or were requested
19 under paragraph (a) and the person refused to submit to a test,
20 or tests, or submitted to testing that disclosed an alcohol
21 concentration of 0.08 or more.

22 (e) Upon receipt of the sworn report of a law enforcement
23 officer submitted under paragraph (d), the Secretary of State
24 shall enter the statutory summary suspension or revocation and
25 disqualification for the periods specified in Sections 6-208.1
26 and 6-514, respectively, and effective as provided in paragraph

1 (g).

2 If the person is a first offender as defined in Section
3 11-500 of this Code, and is not convicted of a violation of
4 Section 11-501 of this Code or a similar provision of a local
5 ordinance, then reports received by the Secretary of State
6 under this Section shall, except during the actual time the
7 Statutory Summary Suspension is in effect, be privileged
8 information and for use only by the courts, police officers,
9 prosecuting authorities or the Secretary of State, unless the
10 person is a CDL holder, is operating a commercial motor vehicle
11 or vehicle required to be placarded for hazardous materials, in
12 which case the suspension shall not be privileged. Reports
13 received by the Secretary of State under this Section shall
14 also be made available to the parent or guardian of a person
15 under the age of 18 years that holds an instruction permit or a
16 graduated driver's license, regardless of whether the
17 statutory summary suspension is in effect. A statutory summary
18 revocation shall not be privileged information.

19 (f) The law enforcement officer submitting the sworn report
20 under paragraph (d) shall serve immediate notice of the
21 statutory summary suspension or revocation on the person and
22 the suspension or revocation and disqualification shall be
23 effective as provided in paragraph (g). In cases where the
24 blood alcohol concentration of 0.08 or greater or any amount of
25 a drug, substance, or compound resulting from the unlawful use
26 or consumption of cannabis as covered by the Cannabis Control

1 Act, a controlled substance listed in the Illinois Controlled
2 Substances Act, an intoxicating compound listed in the Use of
3 Intoxicating Compounds Act, or methamphetamine as listed in the
4 Methamphetamine Control and Community Protection Act is
5 established by a subsequent analysis of blood, saliva, or urine
6 collected at the time of arrest, the arresting officer or
7 arresting agency shall give notice as provided in this Section
8 or by deposit in the United States mail of the notice in an
9 envelope with postage prepaid and addressed to the person at
10 his address as shown on the Uniform Traffic Ticket and the
11 statutory summary suspension and disqualification shall begin
12 as provided in paragraph (g). The officer shall confiscate any
13 Illinois driver's license or permit on the person at the time
14 of arrest. If the person has a valid driver's license or
15 permit, the officer shall issue the person a receipt, in a form
16 prescribed by the Secretary of State, that will allow that
17 person to drive during the periods provided for in paragraph
18 (g). The officer shall immediately forward the driver's license
19 or permit to the circuit court of venue along with the sworn
20 report provided for in paragraph (d).

21 (g) The statutory summary suspension or revocation and
22 disqualification referred to in this Section shall take effect
23 on the 46th day following the date the notice of the statutory
24 summary suspension or revocation was given to the person.

25 (h) The following procedure shall apply whenever a person
26 is arrested for any offense as defined in Section 11-501 or a

1 similar provision of a local ordinance:

2 Upon receipt of the sworn report from the law enforcement
3 officer, the Secretary of State shall confirm the statutory
4 summary suspension or revocation by mailing a notice of the
5 effective date of the suspension or revocation to the person
6 and the court of venue. The Secretary of State shall also mail
7 notice of the effective date of the disqualification to the
8 person. However, should the sworn report be defective by not
9 containing sufficient information or be completed in error, the
10 confirmation of the statutory summary suspension or revocation
11 shall not be mailed to the person or entered to the record;
12 instead, the sworn report shall be forwarded to the court of
13 venue with a copy returned to the issuing agency identifying
14 any defect.

15 (i) As used in this Section, "personal injury" includes any
16 Type A injury as indicated on the traffic accident report
17 completed by a law enforcement officer that requires immediate
18 professional attention in either a doctor's office or a medical
19 facility. A Type A injury includes severely bleeding wounds,
20 distorted extremities, and injuries that require the injured
21 party to be carried from the scene.

22 (Source: P.A. 96-1080, eff. 7-16-10; 96-1344, eff. 7-1-11;
23 97-333, eff. 8-12-11; 97-471, eff. 8-22-11.)