



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2885

by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.6

from Ch. 95 1/2, par. 11-501.6

Amends the Illinois Vehicle Code. Provides that any person who drives or is in actual control of a motor vehicle upon the public highways of this State and who has been involved in a fatal motor vehicle accident shall be deemed to have given consent, regardless of whether an arrest takes place, to tests of blood, breath, other bodily substance, or urine to detect alcohol, drugs, or intoxicating compounds. Provides that both a test of the concentration of alcohol in the person's breath and a test of blood, other bodily substance, or urine for the purpose of determining the content of alcohol, drugs, or intoxicating compounds of the person's blood shall be administered. Provides that the required tests be conducted within one hour of the arrival of law enforcement personnel at the scene of the accident or, if the driver has fled the scene of the accident, within one hour of apprehending the driver.

LRB100 05431 AXK 15442 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 11-501.6 as follows:

6 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

7 Sec. 11-501.6. Driver involvement in personal injury or
8 fatal motor vehicle accident; chemical test.

9 (a) Any person who drives or is in actual control of a
10 motor vehicle upon the public highways of this State and who
11 has been involved in a personal injury ~~or fatal motor~~ vehicle
12 accident, shall be deemed to have given consent to a breath
13 test using a portable device as approved by the Department of
14 State Police or to a chemical test or tests of blood, breath,
15 other bodily substance, or urine for the purpose of determining
16 the content of alcohol, other drug or drugs, or intoxicating
17 compound or compounds of such person's blood if arrested as
18 evidenced by the issuance of a Uniform Traffic Ticket for any
19 violation of the Illinois Vehicle Code or a similar provision
20 of a local ordinance, with the exception of equipment
21 violations contained in Chapter 12 of this Code, or similar
22 provisions of local ordinances. The test or tests shall be
23 administered at the direction of the arresting officer within

1 one hour of the arrival of law enforcement personnel at the
2 scene of the accident or, if the driver has fled the scene of
3 the accident, within one hour of apprehending the driver. The
4 law enforcement agency employing the officer shall designate
5 which of the aforesaid tests shall be administered. Up to 2
6 additional tests of urine or other bodily substance may be
7 administered even after a blood or breath test or both have ~~has~~
8 been administered. Compliance with this Section does not
9 relieve such person from the requirements of Section 11-501.1
10 of this Code.

11 (a-5) Any person who drives or is in actual control of a
12 motor vehicle upon the public highways of this State and who
13 has been involved in a fatal motor vehicle accident shall be
14 deemed to have given consent to a breath test using a portable
15 device as approved by the Department of State Police and to a
16 chemical test or tests of blood, breath, other bodily
17 substance, or urine for the purpose of determining the content
18 of alcohol, other drug or drugs, or intoxicating compound or
19 compounds of such person's blood. This Section shall not apply
20 to those persons arrested for a violation under Section 11-501
21 of this Code or a similar violation of a local ordinance, in
22 which case the provisions of Section 11-501.1 shall apply. The
23 tests shall be administered at the direction of the officer
24 responding to the vehicle accident. Both a test of the
25 concentration of alcohol in the person's breath and a test of
26 blood, other bodily substance, or urine for the purpose of

1 determining the content of alcohol, other drug or drugs, or
2 intoxicating compound or compounds of the person's blood shall
3 be administered. The test shall be administered within one hour
4 of the arrival of law enforcement personnel at the scene of the
5 accident or, if the driver has fled the scene of the accident,
6 within one hour of apprehending the driver. Up to 2 additional
7 tests of urine or other bodily substance test may be
8 administered even after a blood or breath test or both have
9 been administered. Compliance with this Section does not
10 relieve such person from the requirements of Section 11-501.1
11 of this Code.

12 (b) Any person who is dead, unconscious or who is otherwise
13 in a condition rendering such person incapable of refusal shall
14 be deemed not to have withdrawn the consent provided by
15 subsection (a) of this Section. In addition, if a driver of a
16 vehicle is receiving medical treatment as a result of a motor
17 vehicle accident, any physician licensed to practice medicine,
18 licensed physician assistant, licensed advanced practice
19 nurse, registered nurse or a phlebotomist acting under the
20 direction of a licensed physician shall withdraw blood for
21 testing purposes to ascertain the presence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds, upon the
23 specific request of a law enforcement officer. However, no such
24 testing shall be performed until, in the opinion of the medical
25 personnel on scene, the withdrawal can be made without
26 interfering with or endangering the well-being of the patient.

1 (c) A person requested to submit to a test as provided
2 above shall be warned by the law enforcement officer requesting
3 the test that a refusal to submit to the test, or submission to
4 the test resulting in an alcohol concentration of 0.08 or more,
5 or testing discloses the presence of cannabis as listed in the
6 Cannabis Control Act with a tetrahydrocannabinol concentration
7 as defined in paragraph 6 of subsection (a) of Section 11-501.2
8 of this Code, or any amount of a drug, substance, or
9 intoxicating compound resulting from the unlawful use or
10 consumption of a controlled substance listed in the Illinois
11 Controlled Substances Act, an intoxicating compound listed in
12 the Use of Intoxicating Compounds Act, or methamphetamine as
13 listed in the Methamphetamine Control and Community Protection
14 Act as detected in such person's blood, other bodily substance,
15 or urine, may result in the suspension of such person's
16 privilege to operate a motor vehicle. If the person is also a
17 CDL holder, he or she shall be warned by the law enforcement
18 officer requesting the test that a refusal to submit to the
19 test, or submission to the test resulting in an alcohol
20 concentration of 0.08 or more, or any amount of a drug,
21 substance, or intoxicating compound resulting from the
22 unlawful use or consumption of cannabis, as covered by the
23 Cannabis Control Act, a controlled substance listed in the
24 Illinois Controlled Substances Act, an intoxicating compound
25 listed in the Use of Intoxicating Compounds Act, or
26 methamphetamine as listed in the Methamphetamine Control and

1 Community Protection Act as detected in the person's blood,
2 other bodily substance, or urine, may result in the
3 disqualification of the person's privilege to operate a
4 commercial motor vehicle, as provided in Section 6-514 of this
5 Code. The length of the suspension shall be the same as
6 outlined in Section 6-208.1 of this Code regarding statutory
7 summary suspensions.

8 A person requested to submit to a test shall also
9 acknowledge, in writing, receipt of the warning required under
10 this Section. If the person refuses to acknowledge receipt of
11 the warning, the law enforcement officer shall make a written
12 notation on the warning that the person refused to sign the
13 warning. A person's refusal to sign the warning shall not be
14 evidence that the person was not read the warning.

15 (d) If the person refuses testing or submits to a test
16 which discloses an alcohol concentration of 0.08 or more, the
17 presence of cannabis as listed in the Cannabis Control Act with
18 a tetrahydrocannabinol concentration as defined in paragraph 6
19 of subsection (a) of Section 11-501.2 of this Code, or any
20 amount of a drug, substance, or intoxicating compound in such
21 person's blood or urine resulting from the unlawful use or
22 consumption of a controlled substance listed in the Illinois
23 Controlled Substances Act, an intoxicating compound listed in
24 the Use of Intoxicating Compounds Act, or methamphetamine as
25 listed in the Methamphetamine Control and Community Protection
26 Act, the law enforcement officer shall immediately submit a

1 sworn report to the Secretary of State on a form prescribed by
2 the Secretary, certifying that the test or tests were requested
3 under subsection (a) and the person refused to submit to a test
4 or tests or submitted to testing which disclosed an alcohol
5 concentration of 0.08 or more, the presence of cannabis as
6 listed in the Cannabis Control Act with a tetrahydrocannabinol
7 concentration as defined in paragraph 6 of subsection (a) of
8 Section 11-501.2 of this Code, or any amount of a drug,
9 substance, or intoxicating compound in such person's blood,
10 other bodily substance, or urine, resulting from the unlawful
11 use or consumption of a controlled substance listed in the
12 Illinois Controlled Substances Act, an intoxicating compound
13 listed in the Use of Intoxicating Compounds Act, or
14 methamphetamine as listed in the Methamphetamine Control and
15 Community Protection Act. If the person is also a CDL holder
16 and refuses testing or submits to a test which discloses an
17 alcohol concentration of 0.08 or more, or any amount of a drug,
18 substance, or intoxicating compound in the person's blood,
19 other bodily substance, or urine resulting from the unlawful
20 use or consumption of cannabis listed in the Cannabis Control
21 Act, a controlled substance listed in the Illinois Controlled
22 Substances Act, an intoxicating compound listed in the Use of
23 Intoxicating Compounds Act, or methamphetamine as listed in the
24 Methamphetamine Control and Community Protection Act, the law
25 enforcement officer shall immediately submit a sworn report to
26 the Secretary of State on a form prescribed by the Secretary,

1 certifying that the test or tests were requested under
2 subsection (a) and the person refused to submit to a test or
3 tests or submitted to testing which disclosed an alcohol
4 concentration of 0.08 or more, or any amount of a drug,
5 substance, or intoxicating compound in such person's blood,
6 other bodily substance, or urine, resulting from the unlawful
7 use or consumption of cannabis listed in the Cannabis Control
8 Act, a controlled substance listed in the Illinois Controlled
9 Substances Act, an intoxicating compound listed in the Use of
10 Intoxicating Compounds Act, or methamphetamine as listed in the
11 Methamphetamine Control and Community Protection Act.

12 Upon receipt of the sworn report of a law enforcement
13 officer, the Secretary shall enter the suspension and
14 disqualification to the individual's driving record and the
15 suspension and disqualification shall be effective on the 46th
16 day following the date notice of the suspension was given to
17 the person.

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

22 In cases involving a person who is not a CDL holder where
23 the blood alcohol concentration of 0.08 or more, or blood
24 testing discloses the presence of cannabis as listed in the
25 Cannabis Control Act with a tetrahydrocannabinol concentration
26 as defined in paragraph 6 of subsection (a) of Section 11-501.2

1 of this Code, or any amount of a drug, substance, or
2 intoxicating compound resulting from the unlawful use or
3 consumption of a controlled substance listed in the Illinois
4 Controlled Substances Act, an intoxicating compound listed in
5 the Use of Intoxicating Compounds Act, or methamphetamine as
6 listed in the Methamphetamine Control and Community Protection
7 Act, is established by a subsequent analysis of blood, other
8 bodily substance, or urine collected at the time of arrest, the
9 arresting officer shall give notice as provided in this Section
10 or by deposit in the United States mail of such notice in an
11 envelope with postage prepaid and addressed to such person at
12 his or her address as shown on the Uniform Traffic Ticket and
13 the suspension shall be effective on the 46th day following the
14 date notice was given.

15 In cases involving a person who is a CDL holder where the
16 blood alcohol concentration of 0.08 or more, or any amount of a
17 drug, substance, or intoxicating compound resulting from the
18 unlawful use or consumption of cannabis as listed in the
19 Cannabis Control Act, a controlled substance listed in the
20 Illinois Controlled Substances Act, an intoxicating compound
21 listed in the Use of Intoxicating Compounds Act, or
22 methamphetamine as listed in the Methamphetamine Control and
23 Community Protection Act, is established by a subsequent
24 analysis of blood, other bodily substance, or urine collected
25 at the time of arrest, the arresting officer shall give notice
26 as provided in this Section or by deposit in the United States

1 mail of such notice in an envelope with postage prepaid and
2 addressed to the person at his or her address as shown on the
3 Uniform Traffic Ticket and the suspension and disqualification
4 shall be effective on the 46th day following the date notice
5 was given.

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

16 (e) A driver may contest this suspension of his or her
17 driving privileges and disqualification of his or her CDL
18 privileges by requesting an administrative hearing with the
19 Secretary in accordance with Section 2-118 of this Code. At the
20 conclusion of a hearing held under Section 2-118 of this Code,
21 the Secretary may rescind, continue, or modify the orders of
22 suspension and disqualification. If the Secretary does not
23 rescind the orders of suspension and disqualification, a
24 restricted driving permit may be granted by the Secretary upon
25 application being made and good cause shown. A restricted
26 driving permit may be granted to relieve undue hardship to

1 allow driving for employment, educational, and medical
2 purposes as outlined in Section 6-206 of this Code. The
3 provisions of Section 6-206 of this Code shall apply. In
4 accordance with 49 C.F.R. 384, the Secretary of State may not
5 issue a restricted driving permit for the operation of a
6 commercial motor vehicle to a person holding a CDL whose
7 driving privileges have been suspended, revoked, cancelled, or
8 disqualified.

9 (f) (Blank).

10 (g) For the purposes of this Section, a personal injury
11 shall include any type A injury as indicated on the traffic
12 accident report completed by a law enforcement officer that
13 requires immediate professional attention in either a doctor's
14 office or a medical facility. A type A injury shall include
15 severely bleeding wounds, distorted extremities, and injuries
16 that require the injured party to be carried from the scene.

17 (Source: P.A. 99-467, eff. 1-1-16; 99-697, eff. 7-29-16.)