

SB1615



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1615

Introduced 2/9/2017, by Sen. William E. Brady

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a violation of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compounds, or any combination thereof, involving a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that results in the death of one person and great bodily harm or permanent disability or disfigurement of one or more persons is a Class 2 felony punishable by a term of imprisonment of not less than 4 years and not more than 20 years.

LRB100 08082 AXK 18168 b

CORRECTIONAL
BUDGET AND
IMPACT 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 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood,
13 other bodily substance, or breath is 0.08 or more based on
14 the definition of blood and breath units in Section
15 11-501.2;

16 (2) under the influence of alcohol;

17 (3) under the influence of any intoxicating compound or
18 combination of intoxicating compounds to a degree that
19 renders the person incapable of driving safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other drug

1 or drugs, or intoxicating compound or compounds to a degree
2 that renders the person incapable of safely driving;

3 (6) there is any amount of a drug, substance, or
4 compound in the person's breath, blood, other bodily
5 substance, or urine resulting from the unlawful use or
6 consumption of a controlled substance listed in the
7 Illinois Controlled Substances Act, an intoxicating
8 compound listed in the Use of Intoxicating Compounds Act,
9 or methamphetamine as listed in the Methamphetamine
10 Control and Community Protection Act; or

11 (7) the person has, within 2 hours of driving or being
12 in actual physical control of a vehicle, a
13 tetrahydrocannabinol concentration in the person's whole
14 blood or other bodily substance as defined in paragraph 6
15 of subsection (a) of Section 11-501.2 of this Code. Subject
16 to all other requirements and provisions under this
17 Section, this paragraph (7) does not apply to the lawful
18 consumption of cannabis by a qualifying patient licensed
19 under the Compassionate Use of Medical Cannabis Pilot
20 Program Act who is in possession of a valid registry card
21 issued under that Act, unless that person is impaired by
22 the use of cannabis.

23 (b) The fact that any person charged with violating this
24 Section is or has been legally entitled to use alcohol,
25 cannabis under the Compassionate Use of Medical Cannabis Pilot
26 Program Act, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof, shall not constitute a
2 defense against any charge of violating this Section.

3 (c) Penalties.

4 (1) Except as otherwise provided in this Section, any
5 person convicted of violating subsection (a) of this
6 Section is guilty of a Class A misdemeanor.

7 (2) A person who violates subsection (a) or a similar
8 provision a second time shall be sentenced to a mandatory
9 minimum term of either 5 days of imprisonment or 240 hours
10 of community service in addition to any other criminal or
11 administrative sanction.

12 (3) A person who violates subsection (a) is subject to
13 6 months of imprisonment, an additional mandatory minimum
14 fine of \$1,000, and 25 days of community service in a
15 program benefiting children if the person was transporting
16 a person under the age of 16 at the time of the violation.

17 (4) A person who violates subsection (a) a first time,
18 if the alcohol concentration in his or her blood, breath,
19 other bodily substance, or urine was 0.16 or more based on
20 the definition of blood, breath, other bodily substance, or
21 urine units in Section 11-501.2, shall be subject, in
22 addition to any other penalty that may be imposed, to a
23 mandatory minimum of 100 hours of community service and a
24 mandatory minimum fine of \$500.

25 (5) A person who violates subsection (a) a second time,
26 if at the time of the second violation the alcohol

1 concentration in his or her blood, breath, other bodily
2 substance, or urine was 0.16 or more based on the
3 definition of blood, breath, other bodily substance, or
4 urine units in Section 11-501.2, shall be subject, in
5 addition to any other penalty that may be imposed, to a
6 mandatory minimum of 2 days of imprisonment and a mandatory
7 minimum fine of \$1,250.

8 (d) Aggravated driving under the influence of alcohol,
9 other drug or drugs, or intoxicating compound or compounds, or
10 any combination thereof.

11 (1) Every person convicted of committing a violation of
12 this Section shall be guilty of aggravated driving under
13 the influence of alcohol, other drug or drugs, or
14 intoxicating compound or compounds, or any combination
15 thereof if:

16 (A) the person committed a violation of subsection
17 (a) or a similar provision for the third or subsequent
18 time;

19 (B) the person committed a violation of subsection
20 (a) while driving a school bus with one or more
21 passengers on board;

22 (C) the person in committing a violation of
23 subsection (a) was involved in a motor vehicle accident
24 that resulted in great bodily harm or permanent
25 disability or disfigurement to another, when the
26 violation was a proximate cause of the injuries;

1 (D) the person committed a violation of subsection
2 (a) and has been previously convicted of violating
3 Section 9-3 of the Criminal Code of 1961 or the
4 Criminal Code of 2012 or a similar provision of a law
5 of another state relating to reckless homicide in which
6 the person was determined to have been under the
7 influence of alcohol, other drug or drugs, or
8 intoxicating compound or compounds as an element of the
9 offense or the person has previously been convicted
10 under subparagraph (C) or subparagraph (F) of this
11 paragraph (1);

12 (E) the person, in committing a violation of
13 subsection (a) while driving at any speed in a school
14 speed zone at a time when a speed limit of 20 miles per
15 hour was in effect under subsection (a) of Section
16 11-605 of this Code, was involved in a motor vehicle
17 accident that resulted in bodily harm, other than great
18 bodily harm or permanent disability or disfigurement,
19 to another person, when the violation of subsection (a)
20 was a proximate cause of the bodily harm;

21 (F) the person, in committing a violation of
22 subsection (a), was involved in a motor vehicle,
23 snowmobile, all-terrain vehicle, or watercraft
24 accident that resulted in the death of another person,
25 when the violation of subsection (a) was a proximate
26 cause of the death;

1 (G) the person committed a violation of subsection
2 (a) during a period in which the defendant's driving
3 privileges are revoked or suspended, where the
4 revocation or suspension was for a violation of
5 subsection (a) or a similar provision, Section
6 11-501.1, paragraph (b) of Section 11-401, or for
7 reckless homicide as defined in Section 9-3 of the
8 Criminal Code of 1961 or the Criminal Code of 2012;

9 (H) the person committed the violation while he or
10 she did not possess a driver's license or permit or a
11 restricted driving permit or a judicial driving permit
12 or a monitoring device driving permit;

13 (I) the person committed the violation while he or
14 she knew or should have known that the vehicle he or
15 she was driving was not covered by a liability
16 insurance policy;

17 (J) the person in committing a violation of
18 subsection (a) was involved in a motor vehicle accident
19 that resulted in bodily harm, but not great bodily
20 harm, to the child under the age of 16 being
21 transported by the person, if the violation was the
22 proximate cause of the injury;

23 (K) the person in committing a second violation of
24 subsection (a) or a similar provision was transporting
25 a person under the age of 16; or

26 (L) the person committed a violation of subsection

1 (a) of this Section while transporting one or more
2 passengers in a vehicle for-hire.

3 (2) (A) Except as provided otherwise, a person
4 convicted of aggravated driving under the influence of
5 alcohol, other drug or drugs, or intoxicating compound or
6 compounds, or any combination thereof is guilty of a Class
7 4 felony.

8 (B) A third violation of this Section or a similar
9 provision is a Class 2 felony. If at the time of the third
10 violation the alcohol concentration in his or her blood,
11 breath, other bodily substance, or urine was 0.16 or more
12 based on the definition of blood, breath, other bodily
13 substance, or urine units in Section 11-501.2, a mandatory
14 minimum of 90 days of imprisonment and a mandatory minimum
15 fine of \$2,500 shall be imposed in addition to any other
16 criminal or administrative sanction. If at the time of the
17 third violation, the defendant was transporting a person
18 under the age of 16, a mandatory fine of \$25,000 and 25
19 days of community service in a program benefiting children
20 shall be imposed in addition to any other criminal or
21 administrative sanction.

22 (C) A fourth violation of this Section or a similar
23 provision is a Class 2 felony, for which a sentence of
24 probation or conditional discharge may not be imposed. If
25 at the time of the violation, the alcohol concentration in
26 the defendant's blood, breath, other bodily substance, or

1 urine was 0.16 or more based on the definition of blood,
2 breath, other bodily substance, or urine units in Section
3 11-501.2, a mandatory minimum fine of \$5,000 shall be
4 imposed in addition to any other criminal or administrative
5 sanction. If at the time of the fourth violation, the
6 defendant was transporting a person under the age of 16 a
7 mandatory fine of \$25,000 and 25 days of community service
8 in a program benefiting children shall be imposed in
9 addition to any other criminal or administrative sanction.

10 (D) A fifth violation of this Section or a similar
11 provision is a Class 1 felony, for which a sentence of
12 probation or conditional discharge may not be imposed. If
13 at the time of the violation, the alcohol concentration in
14 the defendant's blood, breath, other bodily substance, or
15 urine was 0.16 or more based on the definition of blood,
16 breath, other bodily substance, or urine units in Section
17 11-501.2, a mandatory minimum fine of \$5,000 shall be
18 imposed in addition to any other criminal or administrative
19 sanction. If at the time of the fifth violation, the
20 defendant was transporting a person under the age of 16, a
21 mandatory fine of \$25,000, and 25 days of community service
22 in a program benefiting children shall be imposed in
23 addition to any other criminal or administrative sanction.

24 (E) A sixth or subsequent violation of this Section or
25 similar provision is a Class X felony. If at the time of
26 the violation, the alcohol concentration in the

1 defendant's blood, breath, other bodily substance, or
2 urine was 0.16 or more based on the definition of blood,
3 breath, other bodily substance, or urine units in Section
4 11-501.2, a mandatory minimum fine of \$5,000 shall be
5 imposed in addition to any other criminal or administrative
6 sanction. If at the time of the violation, the defendant
7 was transporting a person under the age of 16, a mandatory
8 fine of \$25,000 and 25 days of community service in a
9 program benefiting children shall be imposed in addition to
10 any other criminal or administrative sanction.

11 (F) For a violation of subparagraph (C) of paragraph
12 (1) of this subsection (d), the defendant, if sentenced to
13 a term of imprisonment, shall be sentenced to not less than
14 one year nor more than 12 years.

15 (G) A violation of subparagraph (F) of paragraph (1) of
16 this subsection (d) is a Class 2 felony, for which the
17 defendant, unless the court determines that extraordinary
18 circumstances exist and require probation, shall be
19 sentenced to: (i) a term of imprisonment of not less than 3
20 years and not more than 14 years if the violation resulted
21 in the death of one person; ~~or~~ (ii) a term of imprisonment
22 of not less than 6 years and not more than 28 years if the
23 violation resulted in the deaths of 2 or more persons; or
24 (iii) a term of imprisonment of not less than 4 years and
25 not more than 20 years if the violation resulted in death
26 of one person and great bodily harm or permanent disability

1 or disfigurement of one or more persons.

2 (H) For a violation of subparagraph (J) of paragraph
3 (1) of this subsection (d), a mandatory fine of \$2,500, and
4 25 days of community service in a program benefiting
5 children shall be imposed in addition to any other criminal
6 or administrative sanction.

7 (I) A violation of subparagraph (K) of paragraph (1) of
8 this subsection (d), is a Class 2 felony and a mandatory
9 fine of \$2,500, and 25 days of community service in a
10 program benefiting children shall be imposed in addition to
11 any other criminal or administrative sanction. If the child
12 being transported suffered bodily harm, but not great
13 bodily harm, in a motor vehicle accident, and the violation
14 was the proximate cause of that injury, a mandatory fine of
15 \$5,000 and 25 days of community service in a program
16 benefiting children shall be imposed in addition to any
17 other criminal or administrative sanction.

18 (J) A violation of subparagraph (D) of paragraph (1) of
19 this subsection (d) is a Class 3 felony, for which a
20 sentence of probation or conditional discharge may not be
21 imposed.

22 (3) Any person sentenced under this subsection (d) who
23 receives a term of probation or conditional discharge must
24 serve a minimum term of either 480 hours of community
25 service or 10 days of imprisonment as a condition of the
26 probation or conditional discharge in addition to any other

1 criminal or administrative sanction.

2 (e) Any reference to a prior violation of subsection (a) or
3 a similar provision includes any violation of a provision of a
4 local ordinance or a provision of a law of another state or an
5 offense committed on a military installation that is similar to
6 a violation of subsection (a) of this Section.

7 (f) The imposition of a mandatory term of imprisonment or
8 assignment of community service for a violation of this Section
9 shall not be suspended or reduced by the court.

10 (g) Any penalty imposed for driving with a license that has
11 been revoked for a previous violation of subsection (a) of this
12 Section shall be in addition to the penalty imposed for any
13 subsequent violation of subsection (a).

14 (h) For any prosecution under this Section, a certified
15 copy of the driving abstract of the defendant shall be admitted
16 as proof of any prior conviction.

17 (Source: P.A. 98-122, eff. 1-1-14; 98-573, eff. 8-27-13;
18 98-756, eff. 7-16-14; 99-697, eff. 7-29-16.)