

HB2200



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2200

by Rep. John C. D'Amico

SYNOPSIS AS INTRODUCED:

625 ILCS 5/2-118.1

from Ch. 95 1/2, par. 2-118.1

Amends the Illinois Vehicle Code. Provides that any court order rescinding a statutory summary suspension or revocation must contain a factual basis for rescission. Provides that upon receipt of a court order rescinding a statutory summary suspension or revocation that does not contain a factual basis for the rescission, the Secretary of State shall return the order to the court and shall be prohibited from rescinding the statutory summary suspension until the Secretary receives a court order containing a factual basis for rescission. Effective immediately.

LRB101 08401 TAE 53471 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 2-118.1 as follows:

6 (625 ILCS 5/2-118.1) (from Ch. 95 1/2, par. 2-118.1)

7 Sec. 2-118.1. Opportunity for hearing; statutory summary
8 alcohol or other drug related suspension or revocation pursuant
9 to Section 11-501.1.

10 (a) A statutory summary suspension or revocation of driving
11 privileges under Section 11-501.1 shall not become effective
12 until the person is notified in writing of the impending
13 suspension or revocation and informed that he may request a
14 hearing in the circuit court of venue under paragraph (b) of
15 this Section and the statutory summary suspension or revocation
16 shall become effective as provided in Section 11-501.1.

17 (b) Within 90 days after the notice of statutory summary
18 suspension or revocation served under Section 11-501.1, the
19 person may make a written request for a judicial hearing in the
20 circuit court of venue. The request to the circuit court shall
21 state the grounds upon which the person seeks to have the
22 statutory summary suspension or revocation rescinded. Within
23 30 days after receipt of the written request or the first

1 appearance date on the Uniform Traffic Ticket issued pursuant
2 to a violation of Section 11-501, or a similar provision of a
3 local ordinance, the hearing shall be conducted by the circuit
4 court having jurisdiction. This judicial hearing, request, or
5 process shall not stay or delay the statutory summary
6 suspension or revocation. The hearings shall proceed in the
7 court in the same manner as in other civil proceedings.

8 The hearing may be conducted upon a review of the law
9 enforcement officer's own official reports; provided however,
10 that the person may subpoena the officer. Failure of the
11 officer to answer the subpoena shall be considered grounds for
12 a continuance if in the court's discretion the continuance is
13 appropriate.

14 The scope of the hearing shall be limited to the issues of:

15 1. Whether the person was placed under arrest for an
16 offense as defined in Section 11-501, or a similar
17 provision of a local ordinance, as evidenced by the
18 issuance of a Uniform Traffic Ticket, or issued a Uniform
19 Traffic Ticket out of state as provided in subsection (a)
20 of Section 11-501.1; and

21 2. Whether the officer had reasonable grounds to
22 believe that the person was driving or in actual physical
23 control of a motor vehicle upon a highway while under the
24 influence of alcohol, other drug, or combination of both;
25 and

26 3. Whether the person, after being advised by the

1 officer that the privilege to operate a motor vehicle would
2 be suspended or revoked if the person refused to submit to
3 and complete the test or tests, did refuse to submit to or
4 complete the test or tests to determine the person's blood
5 alcohol or drug concentration; or

6 4. Whether the person, after being advised by the
7 officer that the privilege to operate a motor vehicle would
8 be suspended if the person submits to a chemical test, or
9 tests, and the test discloses an alcohol concentration of
10 0.08 or more, a tetrahydrocannabinol concentration as
11 defined in paragraph 6 of subsection (a) of Section
12 11-501.2 of this Code, or any amount of a drug, substance,
13 or compound in the person's blood, other bodily substance,
14 or urine resulting from the unlawful use or consumption of
15 a controlled substance listed in the Illinois Controlled
16 Substances Act, an intoxicating compound as listed in the
17 Use of Intoxicating Compounds Act, or methamphetamine as
18 listed in the Methamphetamine Control and Community
19 Protection Act, and the person did submit to and complete
20 the test or tests that determined an alcohol concentration
21 of 0.08 or more.

22 4.2. (Blank).

23 4.5. (Blank).

24 5. If the person's driving privileges were revoked,
25 whether the person was involved in a motor vehicle accident
26 that caused Type A injury or death to another.

1 Upon the conclusion of the judicial hearing, the circuit
2 court shall sustain or rescind the statutory summary suspension
3 or revocation and immediately notify the Secretary of State.
4 Any court order rescinding a statutory summary suspension or
5 revocation must contain a factual basis for the rescission.
6 Upon receipt of a court order rescinding a statutory summary
7 suspension or revocation that does not contain a factual basis
8 for the rescission, the Secretary of State shall return the
9 order to the court and shall be prohibited from rescinding the
10 statutory summary suspension until the Secretary receives a
11 court order containing a factual basis for the rescission.
12 Reports received by the Secretary of State under this Section
13 shall be privileged information and for use only by the courts,
14 police officers, and Secretary of State.

15 (Source: P.A. 98-122, eff. 1-1-14; 98-1172, eff. 1-12-15;
16 99-697, eff. 7-29-16.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.