

SB3550



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3550

Introduced 2/14/2020, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Provides that a person is guilty of a Class 1 felony if the person commits a violation of driving under the influence and the person, in committing the offense, was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, the violation was a proximate cause of the death and the offense was committed in a school zone. Provides that the person shall be sentenced to a term of imprisonment of not less than 4 years and not more than 20 years.

LRB101 20612 LNS 70258 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 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 Program Act
20 who is in possession of a valid registry card issued under
21 that Act, unless that person is impaired by the use of
22 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
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 (F-5) the person, in committing a violation of
2 subsection (a), was involved in a motor vehicle,
3 snowmobile, all-terrain vehicle, or watercraft
4 accident, the accident resulted in the death of another
5 person, the violation of subsection (a) was a proximate
6 cause of the death, and the violation was committed in
7 a school zone;

8 (G) the person committed a violation of subsection
9 (a) during a period in which the defendant's driving
10 privileges are revoked or suspended, where the
11 revocation or suspension was for a violation of
12 subsection (a) or a similar provision, Section
13 11-501.1, paragraph (b) of Section 11-401, or for
14 reckless homicide as defined in Section 9-3 of the
15 Criminal Code of 1961 or the Criminal Code of 2012;

16 (H) the person committed the violation while he or
17 she did not possess a driver's license or permit or a
18 restricted driving permit or a judicial driving permit
19 or a monitoring device driving permit;

20 (I) the person committed the violation while he or
21 she knew or should have known that the vehicle he or
22 she was driving was not covered by a liability
23 insurance policy;

24 (J) the person in committing a violation of
25 subsection (a) was involved in a motor vehicle accident
26 that resulted in bodily harm, but not great bodily

1 harm, to the child under the age of 16 being
2 transported by the person, if the violation was the
3 proximate cause of the injury;

4 (K) the person in committing a second violation of
5 subsection (a) or a similar provision was transporting
6 a person under the age of 16; or

7 (L) the person committed a violation of subsection
8 (a) of this Section while transporting one or more
9 passengers in a vehicle for-hire.

10 (2) (A) Except as provided otherwise, a person
11 convicted of aggravated driving under the influence of
12 alcohol, other drug or drugs, or intoxicating compound or
13 compounds, or any combination thereof is guilty of a Class
14 4 felony.

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

1 shall be imposed in addition to any other criminal or
2 administrative sanction.

3 (C) A fourth violation of this Section or a similar
4 provision is a Class 2 felony, for which a sentence of
5 probation or conditional discharge may not be imposed. If
6 at the time of the violation, the alcohol concentration in
7 the defendant's blood, breath, other bodily substance, or
8 urine was 0.16 or more based on the definition of blood,
9 breath, other bodily substance, or urine units in Section
10 11-501.2, a mandatory minimum fine of \$5,000 shall be
11 imposed in addition to any other criminal or administrative
12 sanction. If at the time of the fourth violation, the
13 defendant was transporting a person under the age of 16 a
14 mandatory fine of \$25,000 and 25 days of community service
15 in a program benefiting children shall be imposed in
16 addition to any other criminal or administrative sanction.

17 (D) A fifth violation of this Section or a similar
18 provision is a Class 1 felony, for which a sentence of
19 probation or conditional discharge may not be imposed. If
20 at the time of the violation, the alcohol concentration in
21 the defendant's blood, breath, other bodily substance, or
22 urine was 0.16 or more based on the definition of blood,
23 breath, other bodily substance, or urine units in Section
24 11-501.2, a mandatory minimum fine of \$5,000 shall be
25 imposed in addition to any other criminal or administrative
26 sanction. If at the time of the fifth violation, the

1 defendant was transporting a person under the age of 16, a
2 mandatory fine of \$25,000, and 25 days of community service
3 in a program benefiting children shall be imposed in
4 addition to any other criminal or administrative sanction.

5 (E) A sixth or subsequent violation of this Section or
6 similar provision is a Class X felony. If at the time of
7 the violation, the alcohol concentration in the
8 defendant's blood, breath, other bodily substance, or
9 urine was 0.16 or more based on the definition of blood,
10 breath, other bodily substance, or urine units in Section
11 11-501.2, a mandatory minimum fine of \$5,000 shall be
12 imposed in addition to any other criminal or administrative
13 sanction. If at the time of the violation, the defendant
14 was transporting a person under the age of 16, a mandatory
15 fine of \$25,000 and 25 days of community service in a
16 program benefiting children shall be imposed in addition to
17 any other criminal or administrative sanction.

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

22 (G) A violation of subparagraph (F) of paragraph (1) of
23 this subsection (d) is a Class 2 felony, for which the
24 defendant, unless the court determines that extraordinary
25 circumstances exist and require probation, shall be
26 sentenced to: (i) a term of imprisonment of not less than 3

1 years and not more than 14 years if the violation resulted
2 in the death of one person; or (ii) a term of imprisonment
3 of not less than 6 years and not more than 28 years if the
4 violation resulted in the deaths of 2 or more persons.

5 (G-5) A violation of subparagraph (F-5) of paragraph
6 (1) of this subsection (d) is a Class 1 felony, for which
7 the defendant shall be sentenced to a term of imprisonment
8 of not less than 4 years and not more than 20 years.

9 (H) For a violation of subparagraph (J) of paragraph
10 (1) of this subsection (d), a mandatory fine of \$2,500, and
11 25 days of community service in a program benefiting
12 children shall be imposed in addition to any other criminal
13 or administrative sanction.

14 (I) A violation of subparagraph (K) of paragraph (1) of
15 this subsection (d), is a Class 2 felony and a mandatory
16 fine of \$2,500, and 25 days of community service in a
17 program benefiting children shall be imposed in addition to
18 any other criminal or administrative sanction. If the child
19 being transported suffered bodily harm, but not great
20 bodily harm, in a motor vehicle accident, and the violation
21 was the proximate cause of that injury, a mandatory fine of
22 \$5,000 and 25 days of community service in a program
23 benefiting children shall be imposed in addition to any
24 other criminal or administrative sanction.

25 (J) A violation of subparagraph (D) of paragraph (1) of
26 this subsection (d) is a Class 3 felony, for which a

1 sentence of probation or conditional discharge may not be
2 imposed.

3 (3) Any person sentenced under this subsection (d) who
4 receives a term of probation or conditional discharge must
5 serve a minimum term of either 480 hours of community
6 service or 10 days of imprisonment as a condition of the
7 probation or conditional discharge in addition to any other
8 criminal or administrative sanction.

9 (e) Any reference to a prior violation of subsection (a) or
10 a similar provision includes any violation of a provision of a
11 local ordinance or a provision of a law of another state or an
12 offense committed on a military installation that is similar to
13 a violation of subsection (a) of this Section.

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

17 (g) Any penalty imposed for driving with a license that has
18 been revoked for a previous violation of subsection (a) of this
19 Section shall be in addition to the penalty imposed for any
20 subsequent violation of subsection (a).

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

24 (Source: P.A. 101-363, eff. 8-9-19.)