

# HB4088



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4088**

Introduced 5/25/2021, by Rep. Justin Slaughter

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Provides that evidence of nonimpairment in the first offense of driving under the influence of alcohol, drugs or other intoxicating compound shall be allowed as a mitigating factor in sentencing for a reduced sentence for driving under the influence or aggravated driving under the influence.

LRB102 18557 RAM 26823 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  
5 changing 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  
18 or 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

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

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

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

24 (b) The fact that any person charged with violating this  
25 Section is or has been legally entitled to use alcohol,  
26 cannabis under the Compassionate Use of Medical Cannabis

1 Program Act, other drug or drugs, or intoxicating compound or  
2 compounds, or any combination thereof, shall not constitute a  
3 defense against any charge of violating this Section.

4 (c) Penalties.

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

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

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

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

26 (5) A person who violates subsection (a) a second

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

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

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

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

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

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

1 the violation was a proximate cause of the injuries;

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

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

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

1 when the violation of subsection (a) was a proximate  
2 cause of the death;

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

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

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

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

25 (K) the person in committing a second violation of  
26 subsection (a) or a similar provision was transporting

1 a person under the age of 16; or

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

5 (2) (A) Except as provided otherwise, a person  
6 convicted of aggravated driving under the influence of  
7 alcohol, other drug or drugs, or intoxicating compound or  
8 compounds, or any combination thereof is guilty of a Class  
9 4 felony.

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

24 (C) A fourth violation of this Section or a similar  
25 provision is a Class 2 felony, for which a sentence of  
26 probation or conditional discharge may not be imposed. If



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

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

1 administrative sanction.

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

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

20 (G) A violation of subparagraph (F) of paragraph (1)  
21 of this subsection (d) is a Class 2 felony, for which the  
22 defendant, unless the court determines that extraordinary  
23 circumstances exist and require probation, shall be  
24 sentenced to: (i) a term of imprisonment of not less than 3  
25 years and not more than 14 years if the violation resulted  
26 in the death of one person; or (ii) a term of imprisonment

1 of not less than 6 years and not more than 28 years if the  
2 violation resulted in the deaths of 2 or more persons.

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

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

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

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

1           probation or conditional discharge in addition to any  
2           other criminal or administrative sanction.

3           (4) Notwithstanding any other provision of law,  
4           evidence of nonimpairment during the first offense shall  
5           be allowed at sentencing for mitigation for a reduced  
6           sentence.

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

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

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

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

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