



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4590

Introduced 1/21/2022, by Rep. Patrick Windhorst

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Prohibits a person from driving or being in actual physical control of any vehicle within this State while under the influence of cannabis.

LRB102 25038 RAM 34296 b

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; or

24 (8) under the influence of cannabis.

25 (b) The fact that any person charged with violating this
26 Section is or has been legally entitled to use alcohol,

1 cannabis under the Compassionate Use of Medical Cannabis
2 Program Act, other drug or drugs, or intoxicating compound or
3 compounds, or any combination thereof, shall not constitute a
4 defense against any charge of violating this Section.

5 (c) Penalties.

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

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

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

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

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

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

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

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

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

24 (C) the person in committing a violation of
25 subsection (a) was involved in a motor vehicle
26 accident that resulted in great bodily harm or

1 permanent disability or disfigurement to another, when
2 the violation was a proximate cause of the injuries;

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

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

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

1 accident that resulted in the death of another person,
2 when the violation of subsection (a) was a proximate
3 cause of the death;

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

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

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

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

26 (K) the person in committing a second violation of

1 subsection (a) or a similar provision was transporting
2 a person under the age of 16; or

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

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

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

25 (C) A fourth violation of this Section or a similar
26 provision is a Class 2 felony, for which a sentence of

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

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

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

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

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

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

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

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

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

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

24 (3) Any person sentenced under this subsection (d) who
25 receives a term of probation or conditional discharge must
26 serve a minimum term of either 480 hours of community

1 service or 10 days of imprisonment as a condition of the
2 probation or conditional discharge in addition to any
3 other criminal or administrative sanction.

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

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

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

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

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