

SB1860



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1860

Introduced 2/26/2021, by Sen. Terri Bryant

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 15185 RAM 20540 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.)