



Sen. John J. Cullerton

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SDS093 00140 JWD 40091 a

1 AMENDMENT TO HOUSE BILL 734

2 AMENDMENT NO. _____. Amend House Bill 734 by replacing
3 everything after the enacting clause with the following:

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 or
13 breath is 0.08 or more based on the definition of blood and
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or
17 combination of intoxicating compounds to a degree that
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or
20 combination of drugs to a degree that renders the person
21 incapable of safely driving;

22 (5) under the combined influence of alcohol, other drug
23 or drugs, or intoxicating compound or compounds to a degree
24 that renders the person incapable of safely driving; or

1 (6) there is any amount of a drug, substance, or
2 compound in the person's breath, blood, or urine resulting
3 from the unlawful use or consumption of cannabis listed in
4 the Cannabis Control Act, a controlled substance listed in
5 the Illinois Controlled Substances Act, or an intoxicating
6 compound listed in the Use of Intoxicating Compounds Act.

7 (b) The fact that any person charged with violating this
8 Section is or has been legally entitled to use alcohol, other
9 drug or drugs, or intoxicating compound or compounds, or any
10 combination thereof, shall not constitute a defense against any
11 charge of violating this Section.

12 (b-1) With regard to penalties imposed under this Section:

13 (1) Any reference to a prior violation of subsection
14 (a) or a similar provision includes any violation of a
15 provision of a local ordinance or a provision of a law of
16 another state that is similar to a violation of subsection
17 (a) of this Section.

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19 has been revoked for a previous violation of subsection (a)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

22 (b-2) Except as otherwise provided in this Section, any
23 person convicted of violating subsection (a) of this Section is
24 guilty of a Class A misdemeanor.

25 (b-3) In addition to any other criminal or administrative
26 sanction for any second conviction of violating subsection (a)
27 or a similar provision committed within 5 years of a previous
28 violation of subsection (a) or a similar provision, the
29 defendant shall be sentenced to a mandatory minimum of 5 days
30 of imprisonment or assigned a mandatory minimum of 240 hours of
31 community service as may be determined by the court.

32 (b-4) In the case of a third or subsequent violation
33 committed within 5 years of a previous violation of subsection
34 (a) or a similar provision, in addition to any other criminal

1 or administrative sanction, a mandatory minimum term of either
2 10 days of imprisonment or 480 hours of community service shall
3 be imposed.

4 (b-5) The imprisonment or assignment of community service
5 under subsections (b-3) and (b-4) shall not be subject to
6 suspension, nor shall the person be eligible for a reduced
7 sentence.

8 (c) (Blank).

9 (c-1) (1) A person who violates subsection (a) during a
10 period in which his or her driving privileges are revoked
11 or suspended, where the revocation or suspension was for a
12 violation of subsection (a), Section 11-501.1, paragraph
13 (b) of Section 11-401, or for reckless homicide as defined
14 in Section 9-3 of the Criminal Code of 1961 is guilty of a
15 Class 4 felony.

16 (2) A person who violates subsection (a) a third time,
17 if the third violation occurs during a period in which his
18 or her driving privileges are revoked or suspended where
19 the revocation or suspension was for a violation of
20 subsection (a), Section 11-501.1, paragraph (b) of Section
21 11-401, or for reckless homicide as defined in Section 9-3
22 of the Criminal Code of 1961, is guilty of a Class 3
23 felony. ~~(2.1) A person who violates subsection (a) a third~~
24 ~~time, if the third violation occurs during a period in~~
25 ~~which his or her driving privileges are revoked or~~
26 ~~suspended where the revocation or suspension was for a~~
27 ~~violation of subsection (a), Section 11 501.1, subsection~~
28 ~~(b) of Section 11 401, or for reckless homicide as defined~~
29 ~~in Section 9 3 of the Criminal Code of 1961, is guilty of a~~
30 ~~Class 3 felony;~~ and if the person receives a term of
31 probation or conditional discharge, he or she shall be
32 required to serve a mandatory minimum of 10 days of
33 imprisonment or shall be assigned a mandatory minimum of
34 480 hours of community service, as may be determined by the

1 court, as a condition of the probation or conditional
2 discharge. This mandatory minimum term of imprisonment or
3 assignment of community service shall not be suspended or
4 reduced by the court.

5 (2.2) A person who violates subsection (a), if the
6 violation occurs during a period in which his or her
7 driving privileges are revoked or suspended where the
8 revocation or suspension was for a violation of subsection
9 (a) or Section 11-501.1, shall also be sentenced to an
10 additional mandatory minimum term of 30 consecutive days of
11 imprisonment, 40 days of 24-hour periodic imprisonment, or
12 720 hours of community service, as may be determined by the
13 court. This mandatory term of imprisonment or assignment of
14 community service shall not be suspended or reduced by the
15 court.

16 (3) A person who violates subsection (a) a fourth or
17 subsequent time, if the fourth or subsequent violation
18 occurs during a period in which his or her driving
19 privileges are revoked or suspended where the revocation or
20 suspension was for a violation of subsection (a), Section
21 11-501.1, paragraph (b) of Section 11-401, or for reckless
22 homicide as defined in Section 9-3 of the Criminal Code of
23 1961, is guilty of a Class 2 felony and is not eligible for
24 a sentence of probation or conditional discharge.

25 (c-2) (Blank).

26 (c-3) (Blank).

27 (c-4) (Blank).

28 (c-5) (1) A person who violates subsection (a), if the
29 person was transporting a person under the age of 16 at the
30 time of the violation, is subject to an additional
31 mandatory minimum fine of \$1,000, an additional mandatory
32 minimum 140 hours of community service, which shall include
33 40 hours of community service in a program benefiting
34 children, and an additional 2 days of imprisonment. The

1 imprisonment or assignment of community service under this
2 subdivision (c-5)(1) ~~subsection (e-5)~~ is not subject to
3 suspension, nor is the person eligible for a reduced
4 sentence.

5 (2) ~~(e-6)~~ Except as provided in subdivisions (c-5)(3)
6 and (c-5)(4) ~~subsections (e-7) and (e-8)~~ a person who
7 violates subsection (a) a second time, if at the time of
8 the second violation the person was transporting a person
9 under the age of 16, is subject to an additional 10 days of
10 imprisonment, an additional mandatory minimum fine of
11 \$1,000, and an additional mandatory minimum 140 hours of
12 community service, which shall include 40 hours of
13 community service in a program benefiting children. The
14 imprisonment or assignment of community service under this
15 subdivision (c-5)(2) ~~subsection (e-6)~~ is not subject to
16 suspension, nor is the person eligible for a reduced
17 sentence.

18 (3) ~~(e-7)~~ Except as provided in subdivision (c-5)(4)
19 ~~subsection (e-8)~~, any person convicted of violating
20 subdivision (c-5)(2) ~~subsection (e-6)~~ or a similar
21 provision within 10 years of a previous violation of
22 subsection (a) or a similar provision shall receive, in
23 addition to any other penalty imposed, a mandatory minimum
24 12 days imprisonment, an additional 40 hours of mandatory
25 community service in a program benefiting children, and a
26 mandatory minimum fine of \$1,750. The imprisonment or
27 assignment of community service under this subdivision
28 (c-5)(3) ~~subsection (e-7)~~ is not subject to suspension, nor
29 is the person eligible for a reduced sentence.

30 (4) ~~(e-8)~~ Any person convicted of violating
31 subdivision (c-5)(2) ~~subsection (e-6)~~ or a similar
32 provision within 5 years of a previous violation of
33 subsection (a) or a similar provision shall receive, in
34 addition to any other penalty imposed, an additional 80

1 hours of mandatory community service in a program
2 benefiting children, an additional mandatory minimum 12
3 days of imprisonment, and a mandatory minimum fine of
4 \$1,750. The imprisonment or assignment of community
5 service under this subdivision (c-5)(4) ~~subsection (c-8)~~
6 is not subject to suspension, nor is the person eligible
7 for a reduced sentence.

8 (5) ~~(c-9)~~ Any person convicted a third time for
9 violating subsection (a) or a similar provision, if at the
10 time of the third violation the person was transporting a
11 person under the age of 16, is guilty of a Class 4 felony
12 and shall receive, in addition to any other penalty
13 imposed, an additional mandatory fine of \$1,000, an
14 additional mandatory 140 hours of community service, which
15 shall include 40 hours in a program benefiting children,
16 and a mandatory minimum 30 days of imprisonment. The
17 imprisonment or assignment of community service under this
18 subdivision (c-5)(5) ~~subsection (c-9)~~ is not subject to
19 suspension, nor is the person eligible for a reduced
20 sentence.

21 (6) ~~(c-10)~~ Any person convicted of violating
22 subdivision (c-5)(5) ~~subsection (c-9)~~ or a similar
23 provision a third time within 20 years of a previous
24 violation of subsection (a) or a similar provision is
25 guilty of a Class 4 felony and shall receive, in addition
26 to any other penalty imposed, an additional mandatory 40
27 hours of community service in a program benefiting
28 children, an additional mandatory fine of \$3,000 ~~\$3000~~, and
29 a mandatory minimum 120 days of imprisonment. The
30 imprisonment or assignment of community service under this
31 subdivision (c-5)(6) ~~subsection (c-10)~~ is not subject to
32 suspension, nor is the person eligible for a reduced
33 sentence.

34 (7) ~~(c-11)~~ Any person convicted a fourth or subsequent

1 time for violating subsection (a) or a similar provision,
2 if at the time of the fourth or subsequent violation the
3 person was transporting a person under the age of 16, and
4 if the person's 3 prior violations of subsection (a) or a
5 similar provision occurred while transporting a person
6 under the age of 16 or while the alcohol concentration in
7 his or her blood, breath, or urine was 0.16 or more based
8 on the definition of blood, breath, or urine units in
9 Section 11-501.2, is guilty of a Class 2 felony, is not
10 eligible for probation or conditional discharge, and is
11 subject to a minimum fine of \$3,000.

12 (c-6)(1) ~~(e-12)~~ Any person convicted of a first violation
13 of subsection (a) or a similar provision, if the alcohol
14 concentration in his or her blood, breath, or urine was
15 0.16 or more based on the definition of blood, breath, or
16 urine units in Section 11-501.2, shall be subject, in
17 addition to any other penalty that may be imposed, to a
18 mandatory minimum of 100 hours of community service and a
19 mandatory minimum fine of \$500.

20 (2) ~~(e-13)~~ Any person convicted of a second violation
21 of subsection (a) or a similar provision committed within
22 10 years of a previous violation of subsection (a) or a
23 similar provision ~~committed within 10 years of a previous~~
24 ~~violation of subsection (a) or a similar provision~~, if at
25 the time of the second violation of subsection (a) or a
26 similar provision the alcohol concentration in his or her
27 blood, breath, or urine was 0.16 or more based on the
28 definition of blood, breath, or urine units in Section
29 11-501.2, shall be subject, in addition to any other
30 penalty that may be imposed, to a mandatory minimum of 2
31 days of imprisonment and a mandatory minimum fine of
32 \$1,250.

33 (3) ~~(e-14)~~ Any person convicted of a third violation of
34 subsection (a) or a similar provision within 20 years of a

1 previous violation of subsection (a) or a similar
2 provision, if at the time of the third violation of
3 subsection (a) or a similar provision the alcohol
4 concentration in his or her blood, breath, or urine was
5 0.16 or more based on the definition of blood, breath, or
6 urine units in Section 11-501.2, is guilty of a Class 4
7 felony and shall be subject, in addition to any other
8 penalty that may be imposed, to a mandatory minimum of 90
9 days of imprisonment and a mandatory minimum fine of
10 \$2,500.

11 (4) ~~(e-15)~~ Any person convicted of a fourth or
12 subsequent violation of subsection (a) or a similar
13 provision, if at the time of the fourth or subsequent
14 violation the alcohol concentration in his or her blood,
15 breath, or urine was 0.16 or more based on the definition
16 of blood, breath, or urine units in Section 11-501.2, and
17 if the person's 3 prior violations of subsection (a) or a
18 similar provision occurred while transporting a person
19 under the age of 16 or while the alcohol concentration in
20 his or her blood, breath, or urine was 0.16 or more based
21 on the definition of blood, breath, or urine units in
22 Section 11-501.2, is guilty of a Class 2 felony and is not
23 eligible for a sentence of probation or conditional
24 discharge and is subject to a minimum fine of \$2,500.

25 (d) (1) Every person convicted of committing a violation of
26 this Section shall be guilty of aggravated driving under
27 the influence of alcohol, other drug or drugs, or
28 intoxicating compound or compounds, or any combination
29 thereof if:

30 (A) the person committed a violation of subsection
31 (a) or a similar provision for the third or subsequent
32 time;

33 (B) the person committed a violation of subsection
34 (a) while driving a school bus with persons 18 years of

1 age or younger on board;

2 (C) the person in committing a violation of
3 subsection (a) was involved in a motor vehicle accident
4 that resulted in great bodily harm or permanent
5 disability or disfigurement to another, when the
6 violation was a proximate cause of the injuries;

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

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

26 (F) the person, in committing a violation of
27 subsection (a), was involved in a motor vehicle,
28 snowmobile, all-terrain vehicle, or watercraft
29 accident that resulted in the death of another person,
30 when the violation of subsection (a) was a proximate
31 cause of the death.

32 (2) Except as provided in this paragraph (2), a person
33 convicted of aggravated driving under the influence of
34 alcohol, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof is guilty of a Class
2 4 felony. For a violation of subparagraph (C) of paragraph
3 (1) of this subsection (d), the defendant, if sentenced to
4 a term of imprisonment, shall be sentenced to not less than
5 one year nor more than 12 years. Aggravated driving under
6 the influence of alcohol, other drug or drugs, or
7 intoxicating compound or compounds, or any combination
8 thereof as defined in subparagraph (F) of paragraph (1) of
9 this subsection (d) is a Class 2 felony, for which the
10 defendant, if sentenced to a term of imprisonment, shall be
11 sentenced to: (A) a term of imprisonment of not less than 3
12 years and not more than 14 years if the violation resulted
13 in the death of one person; or (B) a term of imprisonment
14 of not less than 6 years and not more than 28 years if the
15 violation resulted in the deaths of 2 or more persons. For
16 any prosecution under this subsection (d), a certified copy
17 of the driving abstract of the defendant shall be admitted
18 as proof of any prior conviction. Any person sentenced
19 under this subsection (d) who receives a term of probation
20 or conditional discharge must serve a minimum term of
21 either 480 hours of community service or 10 days of
22 imprisonment as a condition of the probation or conditional
23 discharge. This mandatory minimum term of imprisonment or
24 assignment of community service may not be suspended or
25 reduced by the court.

26 (e) After a finding of guilt and prior to any final
27 sentencing, or an order for supervision, for an offense based
28 upon an arrest for a violation of this Section or a similar
29 provision of a local ordinance, individuals shall be required
30 to undergo a professional evaluation to determine if an
31 alcohol, drug, or intoxicating compound abuse problem exists
32 and the extent of the problem, and undergo the imposition of
33 treatment as appropriate. Programs conducting these
34 evaluations shall be licensed by the Department of Human

1 Services. The cost of any professional evaluation shall be paid
2 for by the individual required to undergo the professional
3 evaluation.

4 (e-1) Any person who is found guilty of or pleads guilty to
5 violating this Section, including any person receiving a
6 disposition of court supervision for violating this Section,
7 may be required by the Court to attend a victim impact panel
8 offered by, or under contract with, a County State's Attorney's
9 office, a probation and court services department, Mothers
10 Against Drunk Driving, or the Alliance Against Intoxicated
11 Motorists. All costs generated by the victim impact panel shall
12 be paid from fees collected from the offender or as may be
13 determined by the court.

14 (f) Every person found guilty of violating this Section,
15 whose operation of a motor vehicle while in violation of this
16 Section proximately caused any incident resulting in an
17 appropriate emergency response, shall be liable for the expense
18 of an emergency response as provided under Section 5-5-3 of the
19 Unified Code of Corrections.

20 (g) The Secretary of State shall revoke the driving
21 privileges of any person convicted under this Section or a
22 similar provision of a local ordinance.

23 (h) (Blank).

24 (i) The Secretary of State shall require the use of
25 ignition interlock devices on all vehicles owned by an
26 individual who has been convicted of a second or subsequent
27 offense of this Section or a similar provision of a local
28 ordinance. The Secretary shall establish by rule and regulation
29 the procedures for certification and use of the interlock
30 system.

31 (j) In addition to any other penalties and liabilities, a
32 person who is found guilty of or pleads guilty to violating
33 subsection (a), including any person placed on court
34 supervision for violating subsection (a), shall be fined \$500,

1 payable to the circuit clerk, who shall distribute the money as
2 follows: 20% to the law enforcement agency that made the arrest
3 and 80% shall be forwarded to the State Treasurer for deposit
4 into the General Revenue Fund. If the person has been
5 previously convicted of violating subsection (a) or a similar
6 provision of a local ordinance, the fine shall be \$1,000. In
7 the event that more than one agency is responsible for the
8 arrest, the amount payable to law enforcement agencies shall be
9 shared equally. Any moneys received by a law enforcement agency
10 under this subsection (j) shall be used to purchase law
11 enforcement equipment that will assist in the prevention of
12 alcohol related criminal violence throughout the State. This
13 shall include, but is not limited to, in-car video cameras,
14 radar and laser speed detection devices, and alcohol breath
15 testers. Any moneys received by the Department of State Police
16 under this subsection (j) shall be deposited into the State
17 Police DUI Fund and shall be used to purchase law enforcement
18 equipment that will assist in the prevention of alcohol related
19 criminal violence throughout the State.

20 (k) The Secretary of State Police DUI Fund is created as a
21 special fund in the State treasury. All moneys received by the
22 Secretary of State Police under subsection (j) of this Section
23 shall be deposited into the Secretary of State Police DUI Fund
24 and, subject to appropriation, shall be used to purchase law
25 enforcement equipment to assist in the prevention of alcohol
26 related criminal violence throughout the State.

27 (l) Whenever an individual is sentenced for an offense
28 based upon an arrest for a violation of subsection (a) or a
29 similar provision of a local ordinance, and the professional
30 evaluation recommends remedial or rehabilitative treatment or
31 education, neither the treatment nor the education shall be the
32 sole disposition and either or both may be imposed only in
33 conjunction with another disposition. The court shall monitor
34 compliance with any remedial education or treatment

1 recommendations contained in the professional evaluation.
2 Programs conducting alcohol or other drug evaluation or
3 remedial education must be licensed by the Department of Human
4 Services. If the individual is not a resident of Illinois,
5 however, the court may accept an alcohol or other drug
6 evaluation or remedial education program in the individual's
7 state of residence. Programs providing treatment must be
8 licensed under existing applicable alcoholism and drug
9 treatment licensure standards.

10 (m) In addition to any other fine or penalty required by
11 law, an individual convicted of a violation of subsection (a),
12 Section 5-7 of the Snowmobile Registration and Safety Act,
13 Section 5-16 of the Boat Registration and Safety Act, or a
14 similar provision, whose operation of a motor vehicle,
15 snowmobile, or watercraft while in violation of subsection (a),
16 Section 5-7 of the Snowmobile Registration and Safety Act,
17 Section 5-16 of the Boat Registration and Safety Act, or a
18 similar provision proximately caused an incident resulting in
19 an appropriate emergency response, shall be required to make
20 restitution to a public agency for the costs of that emergency
21 response. The restitution may not exceed \$1,000 per public
22 agency for each emergency response. As used in this subsection
23 (m), "emergency response" means any incident requiring a
24 response by a police officer, a firefighter carried on the
25 rolls of a regularly constituted fire department, or an
26 ambulance.

27 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
28 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
29 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
30 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,
31 eff. 1-1-05; 93-840, eff. 7-30-04; revised 10-21-04.)

32 Section 99. Effective date. This Act takes effect January
33 1, 2005."