

1 AMENDMENT TO HOUSE BILL 1238

2 AMENDMENT NO. _____. Amend House Bill 1238, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Vehicle Code is amended by
6 changing Section 11-501 as follows:

7 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

8 Sec. 11-501. Driving while under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds or any combination thereof.

11 (a) A person shall not drive or be in actual physical
12 control of any vehicle within this State while:

13 (1) the alcohol concentration in the person's blood
14 or breath is 0.08 or more based on the definition of
15 blood and breath units in Section 11-501.2;

16 (2) under the influence of alcohol;

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

21 (4) under the influence of any other drug or
22 combination of drugs to a degree that renders the person

1 incapable of safely driving;

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

6 (6) there is any amount of a drug, substance, or
7 compound in the person's breath, blood, or urine
8 resulting from the unlawful use or consumption of
9 cannabis listed in the Cannabis Control Act, a controlled
10 substance listed in the Illinois Controlled Substances
11 Act, or an intoxicating compound listed in the Use of
12 Intoxicating Compounds Act.

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

18 (c) Except as provided under paragraphs (c-3), (c-4),
19 and (d) of this Section, every person convicted of violating
20 this Section or a similar provision of a local ordinance,
21 shall be guilty of a Class A misdemeanor and, in addition to
22 any other criminal or administrative action, for any second
23 conviction of violating this Section or a similar provision
24 of a law of another state or local ordinance committed within
25 5 years of a previous violation of this Section or a similar
26 provision of a local ordinance shall be mandatorily sentenced
27 to a minimum of 5 days of imprisonment or assigned to a
28 minimum of 30 days of community service as may be determined
29 by the court. Every person convicted of violating this
30 Section or a similar provision of a local ordinance shall be
31 subject to an additional mandatory minimum fine of \$500 and
32 an additional mandatory 5 days of community service in a
33 program benefiting children if the person committed a
34 violation of paragraph (a) or a similar provision of a local

1 ordinance while transporting a person under age 16. Every
2 person convicted a second time for violating this Section or
3 a similar provision of a local ordinance within 5 years of a
4 previous violation of this Section or a similar provision of
5 a law of another state or local ordinance shall be subject to
6 an additional mandatory minimum fine of \$500 and an
7 additional 10 days of mandatory community service in a
8 program benefiting children if the current offense was
9 committed while transporting a person under age 16. The
10 imprisonment or assignment under this subsection shall not be
11 subject to suspension nor shall the person be eligible for
12 probation in order to reduce the sentence or assignment.

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

19 (2) A person who violates this Section a third time
20 during a period in which his or her driving privileges
21 are revoked or suspended where the revocation or
22 suspension was for a violation of this Section, Section
23 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
24 of the Criminal Code of 1961 is guilty of a Class 3
25 felony.

26 (3) A person who violates this Section a fourth or
27 subsequent time during a period in which his or her
28 driving privileges are revoked or suspended where the
29 revocation or suspension was for a violation of this
30 Section, Section 11-501.1, paragraph (b) of Section
31 11-401, or Section 9-3 of the Criminal Code of 1961 is
32 guilty of a Class 2 felony.

33 (c-2) (Blank).

34 (c-3) Every person convicted of violating this Section

1 or a similar provision of a local ordinance who had a child
2 under age 16 in the vehicle at the time of the offense shall
3 have his or her punishment under this Act enhanced by 2 days
4 of imprisonment for a first offense, 10 days of imprisonment
5 for a second offense, 30 days of imprisonment for a third
6 offense, and 90 days of imprisonment for a fourth or
7 subsequent offense, in addition to the fine and community
8 service required under subsection (c) and the possible
9 imprisonment required under subsection (d). The imprisonment
10 or assignment under this subsection shall not be subject to
11 suspension nor shall the person be eligible for probation in
12 order to reduce the sentence or assignment.

13 (c-4) When a person is convicted of violating Section
14 11-501 of this Code or a similar provision of a local
15 ordinance, the following penalties apply when his or her
16 blood, breath, or urine was .16 or more based on the
17 definition of blood, breath, or urine units in Section
18 11-501.2 or when that person is convicted of violating this
19 Section while transporting a child under the age of 16:

20 (1) A person who is convicted of violating
21 subsection (a) of Section 11-501 of this Code a first
22 time, in addition to any other penalty that may be
23 imposed under subsection (c), is subject to a mandatory
24 minimum of 100 hours of community service and a minimum
25 fine of \$500.

26 (2) A person who is convicted of violating
27 subsection (a) of Section 11-501 of this Code a second
28 time within 10 years, in addition to any other penalty
29 that may be imposed under subsection (c), is subject to a
30 mandatory minimum of 2 days of imprisonment and a minimum
31 fine of \$1,250.

32 (3) A person who is convicted of violating
33 subsection (a) of Section 11-501 of this Code a third
34 time within 20 years is guilty of a Class 4 felony and,

1 in addition to any other penalty that may be imposed
2 under subsection (c), is subject to a mandatory minimum
3 of 90 days of imprisonment and a minimum fine of \$2,500.

4 (4) A person who is convicted of violating this
5 subsection (c-4) a fourth or subsequent time is guilty of
6 a Class 2 felony and, in addition to any other penalty
7 that may be imposed under subsection (c), is not eligible
8 for a sentence of probation or conditional discharge and
9 is subject to a minimum fine of \$2,500.

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

15 (A) the person committed a violation of this
16 Section, or a similar provision of a law of another
17 state or a local ordinance when the cause of action
18 is the same as or substantially similar to this
19 Section, for the third or subsequent time;

20 (B) the person committed a violation of
21 paragraph (a) while driving a school bus with
22 children on board;

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

29 (D) the person committed a violation of
30 paragraph (a) for a second time and has been
31 previously convicted of violating Section 9-3 of the
32 Criminal Code of 1961 relating to reckless homicide
33 in which the person was determined to have been
34 under the influence of alcohol, other drug or drugs,

1 or intoxicating compound or compounds as an element
2 of the offense or the person has previously been
3 convicted under subparagraph (C) of this paragraph
4 (1); or

5 (E) the person, in committing a violation of
6 paragraph (a) while driving at any speed in a school
7 speed zone at a time when a speed limit of 20 miles
8 per hour was in effect under subsection (a) of
9 Section 11-605 of this Code, was involved in a motor
10 vehicle accident that resulted in bodily harm, other
11 than great bodily harm or permanent disability or
12 disfigurement, to another person, when the violation
13 of paragraph (a) was a proximate cause of the bodily
14 harm.

15 (2) Aggravated driving under the influence of
16 alcohol, other drug or drugs, or intoxicating compound or
17 compounds, or any combination thereof is a Class 4
18 felony. For a violation of subparagraph (C) of paragraph
19 (1) of this subsection (d), the defendant, if sentenced
20 to a term of imprisonment, shall be sentenced to not less
21 than one year nor more than 12 years. For any
22 prosecution under this subsection (d), a certified copy
23 of the driving abstract of the defendant shall be
24 admitted as proof of any prior conviction.

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

1 paid for by the individual required to undergo the
2 professional evaluation.

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

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

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

22 (h) Every person sentenced under paragraph (2) or (3) of
23 subsection (c-1) of this Section or subsection (d) of this
24 Section and who receives a term of probation or conditional
25 discharge shall be required to serve a minimum term of either
26 60 days community service or 10 days of imprisonment as a
27 condition of the probation or conditional discharge. This
28 mandatory minimum term of imprisonment or assignment of
29 community service shall not be suspended and shall not be
30 subject to reduction by the court.

31 (i) The Secretary of State shall require the use of
32 ignition interlock devices on all vehicles owned by an
33 individual who has been convicted of a second or subsequent
34 offense of this Section or a similar provision of a local

1 ordinance. The Secretary shall establish by rule and
2 regulation the procedures for certification and use of the
3 interlock system.

4 (j) In addition to any other penalties and liabilities,
5 a person who is found guilty of or pleads guilty to violating
6 this Section, including any person placed on court
7 supervision for violating this Section, shall be fined \$100,
8 payable to the circuit clerk, who shall distribute the money
9 to the law enforcement agency that made the arrest. If the
10 person has been previously convicted of violating this
11 Section or a similar provision of a local ordinance, the fine
12 shall be \$200. In the event that more than one agency is
13 responsible for the arrest, the \$100 or \$200 shall be shared
14 equally. Any moneys received by a law enforcement agency
15 under this subsection (j) shall be used to purchase law
16 enforcement equipment that will assist in the prevention of
17 alcohol related criminal violence throughout the State. This
18 shall include, but is not limited to, in-car video cameras,
19 radar and laser speed detection devices, and alcohol breath
20 testers. Any moneys received by the Department of State
21 Police under this subsection (j) shall be deposited into the
22 State Police DUI Fund and shall be used to purchase law
23 enforcement equipment that will assist in the prevention of
24 alcohol related criminal violence throughout the State.

25 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
26 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
27 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
28 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)".