

1 AN ACT in regard to vehicles.

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  
8 alcohol, other drug or drugs, intoxicating compound or  
9 compounds or any combination thereof.

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within the State of Illinois this  
12 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  
23 incapable of safely driving;

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

28 (6) there is any amount of a drug, substance, or  
29 compound in the person's breath, blood, or urine  
30 resulting from the unlawful use or consumption of  
31 cannabis listed in the Cannabis Control Act, a controlled

1 substance listed in the Illinois Controlled Substances  
2 Act, or an intoxicating compound listed in the Use of  
3 Intoxicating Compounds Act.

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

9 (c) Except as provided under paragraphs (c-3), (c-4),  
10 and (d) of this Section, every person convicted of violating  
11 this Section or a similar provision of a local ordinance,  
12 shall be guilty of a Class A misdemeanor and, in addition to  
13 any other criminal or administrative action, for any second  
14 conviction of violating this Section or a similar provision  
15 of a law of another state or local ordinance committed within  
16 5 years of a previous violation of this Section or a similar  
17 provision of a local ordinance shall be mandatorily sentenced  
18 to a minimum of 5 days of imprisonment or assigned to a  
19 minimum of 30 days of community service as may be determined  
20 by the court. Every person convicted of violating this  
21 Section or a similar provision of a local ordinance shall be  
22 subject to an additional mandatory minimum fine of \$500 and  
23 an additional mandatory 5 days of community service in a  
24 program benefiting children if the person committed a  
25 violation of paragraph (a) or a similar provision of a local  
26 ordinance while transporting a person under age 16. Every  
27 person convicted a second time for violating this Section or  
28 a similar provision of a local ordinance within 5 years of a  
29 previous violation of this Section or a similar provision of  
30 a law of another state or local ordinance shall be subject to  
31 an additional mandatory minimum fine of \$500 and an  
32 additional 10 days of mandatory community service in a  
33 program benefiting children if the current offense was  
34 committed while transporting a person under age 16. The

1 imprisonment or assignment under this subsection shall not be  
2 subject to suspension nor shall the person be eligible for  
3 probation in order to reduce the sentence or assignment.

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

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

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

24 (c-2) (Blank).

25 (c-3) Every person convicted of violating this Section  
26 or a similar provision of a local ordinance who had a child  
27 under age 16 in the vehicle at the time of the offense shall  
28 have his or her punishment under this Act enhanced by 2 days  
29 of imprisonment for a first offense, 10 days of imprisonment  
30 for a second offense, 30 days of imprisonment for a third  
31 offense, and 90 days of imprisonment for a fourth or  
32 subsequent offense, in addition to the fine and community  
33 service required under subsection (c) and the possible  
34 imprisonment required under subsection (d). The imprisonment

1 or assignment under this subsection shall not be subject to  
2 suspension nor shall the person be eligible for probation in  
3 order to reduce the sentence or assignment.

4 (c-4) When a person is convicted of violating Section  
5 11-501 of this Code or a similar provision of a local  
6 ordinance, the following penalties apply when his or her  
7 blood, breath, or urine was .16 or more based on the  
8 definition of blood, breath, or urine units in Section  
9 11-501.2 or when that person is convicted of violating this  
10 Section while transporting a child under the age of 16:

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

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

23 (3) A person who is convicted of violating  
24 subsection (a) of Section 11-501 of this Code a third  
25 time within 20 years is guilty of a Class 4 felony and,  
26 in addition to any other penalty that may be imposed  
27 under subsection (c), is subject to a mandatory minimum  
28 of 90 days of imprisonment and a minimum fine of \$2,500.

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

1 (d) (1) Every person convicted of committing a violation  
2 of this Section shall be guilty of aggravated driving  
3 under the influence of alcohol, other drug or drugs, or  
4 intoxicating compound or compounds, or any combination  
5 thereof if:

6 (A) the person committed a violation of this  
7 Section, or a similar provision of a law of another  
8 state or a local ordinance when the cause of action  
9 is the same as or substantially similar to this  
10 Section, for the third or subsequent time;

11 (B) the person committed a violation of  
12 paragraph (a) while driving a school bus with  
13 children on board;

14 (C) the person in committing a violation of  
15 paragraph (a) was involved in a motor vehicle  
16 accident that resulted in great bodily harm or  
17 permanent disability or disfigurement to another,  
18 when the violation was a proximate cause of the  
19 injuries;

20 (D) the person committed a violation of  
21 paragraph (a) for a second time and has been  
22 previously convicted of violating Section 9-3 of the  
23 Criminal Code of 1961 relating to reckless homicide  
24 in which the person was determined to have been  
25 under the influence of alcohol, other drug or drugs,  
26 or intoxicating compound or compounds as an element  
27 of the offense or the person has previously been  
28 convicted under subparagraph (C) of this paragraph  
29 (1); or

30 (E) the person, in committing a violation of  
31 paragraph (a) while driving at any speed in a school  
32 speed zone at a time when a speed limit of 20 miles  
33 per hour was in effect under subsection (a) of  
34 Section 11-605 of this Code, was involved in a motor

1           vehicle accident that resulted in bodily harm, other  
2           than great bodily harm or permanent disability or  
3           disfigurement, to another person, when the violation  
4           of paragraph (a) was a proximate cause of the bodily  
5           harm.

6           (2) Aggravated driving under the influence of  
7           alcohol, other drug or drugs, or intoxicating compound or  
8           compounds, or any combination thereof is a Class 4  
9           felony. For a violation of subparagraph (C) of paragraph  
10          (1) of this subsection (d), the defendant, if sentenced  
11          to a term of imprisonment, shall be sentenced to not less  
12          than one year nor more than 12 years. For any  
13          prosecution under this subsection (d), a certified copy  
14          of the driving abstract of the defendant shall be  
15          admitted as proof of any prior conviction.

16          (e) After a finding of guilt and prior to any final  
17          sentencing, or an order for supervision, for an offense based  
18          upon an arrest for a violation of this Section or a similar  
19          provision of a local ordinance, individuals shall be required  
20          to undergo a professional evaluation to determine if an  
21          alcohol, drug, or intoxicating compound abuse problem exists  
22          and the extent of the problem, and undergo the imposition of  
23          treatment as appropriate. Programs conducting these  
24          evaluations shall be licensed by the Department of Human  
25          Services. The cost of any professional evaluation shall be  
26          paid for by the individual required to undergo the  
27          professional evaluation.

28          (f) Every person found guilty of violating this Section,  
29          whose operation of a motor vehicle while in violation of this  
30          Section proximately caused any incident resulting in an  
31          appropriate emergency response, shall be liable for the  
32          expense of an emergency response as provided under Section  
33          5-5-3 of the Unified Code of Corrections.

34          (g) The Secretary of State shall revoke the driving

1 privileges of any person convicted under this Section or a  
2 similar provision of a local ordinance.

3 (h) Every person sentenced under paragraph (2) or (3) of  
4 subsection (c-1) of this Section or subsection (d) of this  
5 Section and who receives a term of probation or conditional  
6 discharge shall be required to serve a minimum term of either  
7 60 days community service or 10 days of imprisonment as a  
8 condition of the probation or conditional discharge. This  
9 mandatory minimum term of imprisonment or assignment of  
10 community service shall not be suspended and shall not be  
11 subject to reduction by the court.

12 (i) The Secretary of State shall require the use of  
13 ignition interlock devices on all vehicles owned by an  
14 individual who has been convicted of a second or subsequent  
15 offense of this Section or a similar provision of a local  
16 ordinance. The Secretary shall establish by rule and  
17 regulation the procedures for certification and use of the  
18 interlock system.

19 (j) In addition to any other penalties and liabilities,  
20 a person who is found guilty of or pleads guilty to violating  
21 this Section, including any person placed on court  
22 supervision for violating this Section, shall be fined \$100,  
23 payable to the circuit clerk, who shall distribute the money  
24 to the law enforcement agency that made the arrest. If the  
25 person has been previously convicted of violating this  
26 Section or a similar provision of a local ordinance, the fine  
27 shall be \$200. In the event that more than one agency is  
28 responsible for the arrest, the \$100 or \$200 shall be shared  
29 equally. Any moneys received by a law enforcement agency  
30 under this subsection (j) shall be used to purchase law  
31 enforcement equipment that will assist in the prevention of  
32 alcohol related criminal violence throughout the State. This  
33 shall include, but is not limited to, in-car video cameras,  
34 radar and laser speed detection devices, and alcohol breath

1 testers. Any moneys received by the Department of State  
2 Police under this subsection (j) shall be deposited into the  
3 State Police DUI Fund and shall be used to purchase law  
4 enforcement equipment that will assist in the prevention of  
5 alcohol related criminal violence throughout the State.

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