



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4535

Introduced 02/03/04, by Deborah L. Graham

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-401	from Ch. 95 1/2, par. 11-401
625 ILCS 5/11-501.1	from Ch. 95 1/2, par. 11-501.1

Amends the Illinois Vehicle Code. Provides that any person arrested for leaving the scene of an accident involving death or personal injury is subject to chemical testing for alcohol, drugs, or intoxicating compounds. Provides that the person's driving privileges are subject to statutory summary suspension if he or she fails or refuses to undergo the testing.

LRB093 19464 DRH 45202 b

1 AN ACT concerning 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 changing
5 Sections 11-401 and 11-501.1 as follows:

6 (625 ILCS 5/11-401) (from Ch. 95 1/2, par. 11-401)

7 Sec. 11-401. Motor vehicle accidents involving death or
8 personal injuries.

9 (a) The driver of any vehicle involved in a motor vehicle
10 accident resulting in personal injury to or death of any person
11 shall immediately stop such vehicle at the scene of such
12 accident, or as close thereto as possible and shall then
13 forthwith return to, and in every event shall remain at the
14 scene of the accident until the requirements of Section 11-403
15 have been fulfilled. Every such stop shall be made without
16 obstructing traffic more than is necessary.

17 (b) Any person who has failed to stop or to comply with the
18 requirements of paragraph (a) shall, as soon as possible but in
19 no case later than one hour after such motor vehicle accident,
20 or, if hospitalized and incapacitated from reporting at any
21 time during such period, as soon as possible but in no case
22 later than one hour after being discharged from the hospital,
23 report the place of the accident, the date, the approximate
24 time, the driver's name and address, the registration number of
25 the vehicle driven, and the names of all other occupants of
26 such vehicle, at a police station or sheriff's office near the
27 place where such accident occurred. No report made as required
28 under this paragraph shall be used, directly or indirectly, as
29 a basis for the prosecution of any violation of paragraph (a).

30 (b-1) Any person arrested for violating this Section is
31 subject to chemical testing of his or her blood, breath, or
32 urine for the presence of alcohol, other drug or drugs,

1 intoxicating compound or compounds, or any combination
2 thereof, as provided in Section 11-501.1. The person's driving
3 privileges are subject to statutory summary suspension under
4 Section 11-501.1 if he or she fails or refuses to undergo the
5 testing.

6 For purposes of this Section, personal injury shall mean
7 any injury requiring immediate professional treatment in a
8 medical facility or doctor's office.

9 (c) Any person failing to comply with paragraph (a) shall
10 be guilty of a Class A misdemeanor.

11 (d) Any person failing to comply with paragraph (b) is
12 guilty of a Class 4 felony if the motor vehicle accident does
13 not result in the death of any person. Any person failing to
14 comply with paragraph (b) when the accident results in the
15 death of any person is guilty of a Class 2 felony, for which
16 the person, if sentenced to a term of imprisonment, shall be
17 sentenced to a term of not less than 3 years and not more than
18 14 years.

19 (e) The Secretary of State shall revoke the driving
20 privilege of any person convicted of a violation of this
21 Section.

22 (Source: P.A. 90-543, eff. 12-1-97.)

23 (625 ILCS 5/11-501.1) (from Ch. 95 1/2, par. 11-501.1)

24 Sec. 11-501.1. Suspension of drivers license; statutory
25 summary alcohol, other drug or drugs, or intoxicating compound
26 or compounds related suspension; implied consent.

27 (a) Any person who drives or is in actual physical control
28 of a motor vehicle upon the public highways of this State shall
29 be deemed to have given consent, subject to the provisions of
30 Section 11-501.2, to a chemical test or tests of blood, breath,
31 or urine for the purpose of determining the content of alcohol,
32 other drug or drugs, or intoxicating compound or compounds or
33 any combination thereof in the person's blood if arrested, as
34 evidenced by the issuance of a Uniform Traffic Ticket, for any
35 offense as defined in Section 11-501 or a similar provision of

1 a local ordinance, or if arrested for violating Section 11-401.

2 The test or tests shall be administered at the direction of the
3 arresting officer. The law enforcement agency employing the
4 officer shall designate which of the aforesaid tests shall be
5 administered. A urine test may be administered even after a
6 blood or breath test or both has been administered. For
7 purposes of this Section, an Illinois law enforcement officer
8 of this State who is investigating the person for any offense
9 defined in Section 11-501 may travel into an adjoining state,
10 where the person has been transported for medical care, to
11 complete an investigation and to request that the person submit
12 to the test or tests set forth in this Section. The
13 requirements of this Section that the person be arrested are
14 inapplicable, but the officer shall issue the person a Uniform
15 Traffic Ticket for an offense as defined in Section 11-501 or a
16 similar provision of a local ordinance prior to requesting that
17 the person submit to the test or tests. The issuance of the
18 Uniform Traffic Ticket shall not constitute an arrest, but
19 shall be for the purpose of notifying the person that he or she
20 is subject to the provisions of this Section and of the
21 officer's belief of the existence of probable cause to arrest.
22 Upon returning to this State, the officer shall file the
23 Uniform Traffic Ticket with the Circuit Clerk of the county
24 where the offense was committed, and shall seek the issuance of
25 an arrest warrant or a summons for the person.

26 (b) Any person who is dead, unconscious, or who is
27 otherwise in a condition rendering the person incapable of
28 refusal, shall be deemed not to have withdrawn the consent
29 provided by paragraph (a) of this Section and the test or tests
30 may be administered, subject to the provisions of Section
31 11-501.2.

32 (c) A person requested to submit to a test as provided
33 above shall be warned by the law enforcement officer requesting
34 the test that a refusal to submit to the test will result in
35 the statutory summary suspension of the person's privilege to
36 operate a motor vehicle as provided in Section 6-208.1 of this

1 Code. The person shall also be warned by the law enforcement
2 officer that if the person submits to the test or tests
3 provided in paragraph (a) of this Section and the alcohol
4 concentration in the person's blood or breath is 0.08 or
5 greater, or any amount of a drug, substance, or compound
6 resulting from the unlawful use or consumption of cannabis as
7 covered by the Cannabis Control Act, a controlled substance
8 listed in the Illinois Controlled Substances Act, or an
9 intoxicating compound listed in the Use of Intoxicating
10 Compounds Act is detected in the person's blood or urine, a
11 statutory summary suspension of the person's privilege to
12 operate a motor vehicle, as provided in Sections 6-208.1 and
13 11-501.1 of this Code, will be imposed.

14 A person who is under the age of 21 at the time the person
15 is requested to submit to a test as provided above shall, in
16 addition to the warnings provided for in this Section, be
17 further warned by the law enforcement officer requesting the
18 test that if the person submits to the test or tests provided
19 in paragraph (a) of this Section and the alcohol concentration
20 in the person's blood or breath is greater than 0.00 and less
21 than 0.08, a suspension of the person's privilege to operate a
22 motor vehicle, as provided under Sections 6-208.2 and 11-501.8
23 of this Code, will be imposed. The results of this test shall
24 be admissible in a civil or criminal action or proceeding
25 arising from an arrest for an offense as defined in Section
26 11-501 of this Code or a similar provision of a local ordinance
27 or pursuant to Section 11-501.4 in prosecutions for reckless
28 homicide brought under the Criminal Code of 1961. These test
29 results, however, shall be admissible only in actions or
30 proceedings directly related to the incident upon which the
31 test request was made.

32 (d) If the person refuses testing or submits to a test that
33 discloses an alcohol concentration of 0.08 or more, or any
34 amount of a drug, substance, or intoxicating compound in the
35 person's breath, blood, or urine resulting from the unlawful
36 use or consumption of cannabis listed in the Cannabis Control

1 Act, a controlled substance listed in the Illinois Controlled
2 Substances Act, or an intoxicating compound listed in the Use
3 of Intoxicating Compounds Act, the law enforcement officer
4 shall immediately submit a sworn report to the circuit court of
5 venue and the Secretary of State, certifying that the test or
6 tests was or were requested under paragraph (a) and the person
7 refused to submit to a test, or tests, or submitted to testing
8 that disclosed an alcohol concentration of 0.08 or more.

9 (e) Upon receipt of the sworn report of a law enforcement
10 officer submitted under paragraph (d), the Secretary of State
11 shall enter the statutory summary suspension for the periods
12 specified in Section 6-208.1, and effective as provided in
13 paragraph (g).

14 If the person is a first offender as defined in Section
15 11-500 of this Code, and is not convicted of a violation of
16 Section 11-501 of this Code or a similar provision of a local
17 ordinance, then reports received by the Secretary of State
18 under this Section shall, except during the actual time the
19 Statutory Summary Suspension is in effect, be privileged
20 information and for use only by the courts, police officers,
21 prosecuting authorities or the Secretary of State.

22 (f) The law enforcement officer submitting the sworn report
23 under paragraph (d) shall serve immediate notice of the
24 statutory summary suspension on the person and the suspension
25 shall be effective as provided in paragraph (g). In cases where
26 the blood alcohol concentration of 0.08 or greater or any
27 amount of a drug, substance, or compound resulting from the
28 unlawful use or consumption of cannabis as covered by the
29 Cannabis Control Act, a controlled substance listed in the
30 Illinois Controlled Substances Act, or an intoxicating
31 compound listed in the Use of Intoxicating Compounds Act is
32 established by a subsequent analysis of blood or urine
33 collected at the time of arrest, the arresting officer or
34 arresting agency shall give notice as provided in this Section
35 or by deposit in the United States mail of the notice in an
36 envelope with postage prepaid and addressed to the person at

1 his address as shown on the Uniform Traffic Ticket and the
2 statutory summary suspension shall begin as provided in
3 paragraph (g). The officer shall confiscate any Illinois
4 driver's license or permit on the person at the time of arrest.
5 If the person has a valid driver's license or permit, the
6 officer shall issue the person a receipt, in a form prescribed
7 by the Secretary of State, that will allow that person to drive
8 during the periods provided for in paragraph (g). The officer
9 shall immediately forward the driver's license or permit to the
10 circuit court of venue along with the sworn report provided for
11 in paragraph (d).

12 (g) The statutory summary suspension referred to in this
13 Section shall take effect on the 46th day following the date
14 the notice of the statutory summary suspension was given to the
15 person.

16 (h) The following procedure shall apply whenever a person
17 is arrested for any offense as defined in Section 11-501 or a
18 similar provision of a local ordinance:

19 Upon receipt of the sworn report from the law enforcement
20 officer, the Secretary of State shall confirm the statutory
21 summary suspension by mailing a notice of the effective date of
22 the suspension to the person and the court of venue. However,
23 should the sworn report be defective by not containing
24 sufficient information or be completed in error, the
25 confirmation of the statutory summary suspension shall not be
26 mailed to the person or entered to the record; instead, the
27 sworn report shall be forwarded to the court of venue with a
28 copy returned to the issuing agency identifying any defect.

29 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99; 91-357,
30 eff. 7-29-99.)