



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by Patrick Verschoore

**SYNOPSIS AS INTRODUCED:**

625 ILCS 5/11-908  
730 ILCS 5/5-6-1

from Ch. 95 1/2, par. 11-908  
from Ch. 38, par. 1005-6-1

Amends the Illinois Vehicle Code and the Unified Code of Corrections. Provides that a person may not be placed on court supervision for committing, while in a construction or maintenance zone, any offense against a traffic regulation governing the movement of vehicles.

LRB093 18262 DRH 43963 b

1 AN ACT concerning driving offenses.

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 Section 11-908 as follows:

6 (625 ILCS 5/11-908) (from Ch. 95 1/2, par. 11-908)

7 Sec. 11-908. Vehicle approaching or entering a highway  
8 construction or maintenance area or zone.

9 (a) The driver of a vehicle shall yield the right of way to  
10 any authorized vehicle or pedestrian actually engaged in work  
11 upon a highway within any highway construction or maintenance  
12 area indicated by official traffic-control devices.

13 (a-1) Upon entering a construction or maintenance zone when  
14 workers are present, a person who drives a vehicle shall:

15 (1) proceeding with due caution, make a lane change  
16 into a lane not adjacent to that of the workers present, if  
17 possible with due regard to safety and traffic conditions,  
18 if on a highway having at least 4 lanes with not less than  
19 2 lanes proceeding in the same direction as the approaching  
20 vehicle; or

21 (2) proceeding with due caution, reduce the speed of  
22 the vehicle, maintaining a safe speed for road conditions,  
23 if changing lanes would be impossible or unsafe.

24 (a-2) A person who violates subsection (a-1) of this  
25 Section commits a business offense punishable by a fine of not  
26 more than \$10,000. A person charged with the offense must  
27 appear in court to answer the charges. It is a factor in  
28 aggravation if the person committed the offense while in  
29 violation of Section 11-501 of this Code.

30 (a-3) If a violation of subsection (a-1) of this Section  
31 results in damage to the property of another person, in  
32 addition to any other penalty imposed, the person's driving

1 privileges shall be suspended for a fixed period of not less  
2 than 90 days and not more than one year.

3 (a-4) If a violation of subsection (a-1) of this Section  
4 results in injury to another person, in addition to any other  
5 penalty imposed, the person's driving privileges shall be  
6 suspended for a fixed period of not less than 180 days and not  
7 more than 2 years.

8 (a-5) If a violation of subsection (a-1) of this Section  
9 results in the death of another person, in addition to any  
10 other penalty imposed, the person's driving privileges shall be  
11 suspended for 2 years.

12 (a-6) The Secretary of State shall, upon receiving a record  
13 of a judgment entered against a person under subsection (a-1)  
14 of this Section:

15 (1) suspend the person's driving privileges for the  
16 mandatory period; or

17 (2) extend the period of an existing suspension by the  
18 appropriate mandatory period.

19 (b) The driver of a vehicle shall yield the right of way to  
20 any authorized vehicle obviously and actually engaged in work  
21 upon a highway whenever the vehicle engaged in construction or  
22 maintenance work displays flashing lights as provided in  
23 Section 12-215 of this Act.

24 (c) The driver of a vehicle shall stop if signaled to do so  
25 by a flagger or a traffic control signal and remain in such  
26 position until signaled to proceed. If a driver of a vehicle  
27 fails to stop when signaled to do so by a flagger, the flagger  
28 is authorized to report such offense to the State's Attorney or  
29 authorized prosecutor. The penalties imposed for a violation of  
30 this subsection (c) shall be in addition to any penalties  
31 imposed for a violation of subsection (a-1).

32 (d) A person violates this Section if he or she, while in a  
33 construction or maintenance zone, commits any offense against a  
34 traffic regulation governing the movement of vehicles.

35 (Source: P.A. 92-872, eff. 6-1-03.)

1 Section 10. The Unified Code of Corrections is amended by  
2 changing Section 5-6-1 as follows:

3 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

4 Sec. 5-6-1. Sentences of Probation and of Conditional  
5 Discharge and Disposition of Supervision. The General Assembly  
6 finds that in order to protect the public, the criminal justice  
7 system must compel compliance with the conditions of probation  
8 by responding to violations with swift, certain and fair  
9 punishments and intermediate sanctions. The Chief Judge of each  
10 circuit shall adopt a system of structured, intermediate  
11 sanctions for violations of the terms and conditions of a  
12 sentence of probation, conditional discharge or disposition of  
13 supervision.

14 (a) Except where specifically prohibited by other  
15 provisions of this Code, the court shall impose a sentence of  
16 probation or conditional discharge upon an offender unless,  
17 having regard to the nature and circumstance of the offense,  
18 and to the history, character and condition of the offender,  
19 the court is of the opinion that:

20 (1) his imprisonment or periodic imprisonment is  
21 necessary for the protection of the public; or

22 (2) probation or conditional discharge would deprecate  
23 the seriousness of the offender's conduct and would be  
24 inconsistent with the ends of justice.

25 The court shall impose as a condition of a sentence of  
26 probation, conditional discharge, or supervision, that the  
27 probation agency may invoke any sanction from the list of  
28 intermediate sanctions adopted by the chief judge of the  
29 circuit court for violations of the terms and conditions of the  
30 sentence of probation, conditional discharge, or supervision,  
31 subject to the provisions of Section 5-6-4 of this Act.

32 (b) The court may impose a sentence of conditional  
33 discharge for an offense if the court is of the opinion that  
34 neither a sentence of imprisonment nor of periodic imprisonment  
35 nor of probation supervision is appropriate.

1 (c) The court may, upon a plea of guilty or a stipulation  
2 by the defendant of the facts supporting the charge or a  
3 finding of guilt, defer further proceedings and the imposition  
4 of a sentence, and enter an order for supervision of the  
5 defendant, if the defendant is not charged with: (i) a Class A  
6 misdemeanor, as defined by the following provisions of the  
7 Criminal Code of 1961: Sections 12-3.2; 12-15; 26-5; 31-1;  
8 31-6; 31-7; subsections (b) and (c) of Section 21-1; paragraph  
9 (1) through (5), (8), (10), and (11) of subsection (a) of  
10 Section 24-1; (ii) a Class A misdemeanor violation of Section  
11 3.01, 3.03-1, or 4.01 of the Humane Care for Animals Act; or  
12 (iii) felony. If the defendant is not barred from receiving an  
13 order for supervision as provided in this subsection, the court  
14 may enter an order for supervision after considering the  
15 circumstances of the offense, and the history, character and  
16 condition of the offender, if the court is of the opinion that:

17 (1) the offender is not likely to commit further  
18 crimes;

19 (2) the defendant and the public would be best served  
20 if the defendant were not to receive a criminal record; and

21 (3) in the best interests of justice an order of  
22 supervision is more appropriate than a sentence otherwise  
23 permitted under this Code.

24 (d) The provisions of paragraph (c) shall not apply to a  
25 defendant charged with violating Section 11-501 of the Illinois  
26 Vehicle Code or a similar provision of a local ordinance when  
27 the defendant has previously been:

28 (1) convicted for a violation of Section 11-501 of the  
29 Illinois Vehicle Code or a similar provision of a local  
30 ordinance or any similar law or ordinance of another state;  
31 or

32 (2) assigned supervision for a violation of Section  
33 11-501 of the Illinois Vehicle Code or a similar provision  
34 of a local ordinance or any similar law or ordinance of  
35 another state; or

36 (3) pleaded guilty to or stipulated to the facts

1 supporting a charge or a finding of guilty to a violation  
2 of Section 11-503 of the Illinois Vehicle Code or a similar  
3 provision of a local ordinance or any similar law or  
4 ordinance of another state, and the plea or stipulation was  
5 the result of a plea agreement.

6 The court shall consider the statement of the prosecuting  
7 authority with regard to the standards set forth in this  
8 Section.

9 (e) The provisions of paragraph (c) shall not apply to a  
10 defendant charged with violating Section 16A-3 of the Criminal  
11 Code of 1961 if said defendant has within the last 5 years  
12 been:

13 (1) convicted for a violation of Section 16A-3 of the  
14 Criminal Code of 1961; or

15 (2) assigned supervision for a violation of Section  
16 16A-3 of the Criminal Code of 1961.

17 The court shall consider the statement of the prosecuting  
18 authority with regard to the standards set forth in this  
19 Section.

20 (f) The provisions of paragraph (c) shall not apply to a  
21 defendant charged with violating Sections 15-111, 15-112,  
22 15-301, paragraph (b) of Section 6-104, Section 11-605, Section  
23 11-908, or Section 11-1414 of the Illinois Vehicle Code or a  
24 similar provision of a local ordinance.

25 (g) Except as otherwise provided in paragraph (i) of this  
26 Section, the provisions of paragraph (c) shall not apply to a  
27 defendant charged with violating Section 3-707, 3-708, 3-710,  
28 or 5-401.3 of the Illinois Vehicle Code or a similar provision  
29 of a local ordinance if the defendant has within the last 5  
30 years been:

31 (1) convicted for a violation of Section 3-707, 3-708,  
32 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar  
33 provision of a local ordinance; or

34 (2) assigned supervision for a violation of Section  
35 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle  
36 Code or a similar provision of a local ordinance.

1           The court shall consider the statement of the prosecuting  
2 authority with regard to the standards set forth in this  
3 Section.

4           (h) The provisions of paragraph (c) shall not apply to a  
5 defendant under the age of 21 years charged with violating a  
6 serious traffic offense as defined in Section 1-187.001 of the  
7 Illinois Vehicle Code:

8           (1) unless the defendant, upon payment of the fines,  
9 penalties, and costs provided by law, agrees to attend and  
10 successfully complete a traffic safety program approved by  
11 the court under standards set by the Conference of Chief  
12 Circuit Judges. The accused shall be responsible for  
13 payment of any traffic safety program fees. If the accused  
14 fails to file a certificate of successful completion on or  
15 before the termination date of the supervision order, the  
16 supervision shall be summarily revoked and conviction  
17 entered. The provisions of Supreme Court Rule 402 relating  
18 to pleas of guilty do not apply in cases when a defendant  
19 enters a guilty plea under this provision; or

20           (2) if the defendant has previously been sentenced  
21 under the provisions of paragraph (c) on or after January  
22 1, 1998 for any serious traffic offense as defined in  
23 Section 1-187.001 of the Illinois Vehicle Code.

24           (i) The provisions of paragraph (c) shall not apply to a  
25 defendant charged with violating Section 3-707 of the Illinois  
26 Vehicle Code or a similar provision of a local ordinance if the  
27 defendant has been assigned supervision for a violation of  
28 Section 3-707 of the Illinois Vehicle Code or a similar  
29 provision of a local ordinance.

30           (j) The provisions of paragraph (c) shall not apply to a  
31 defendant charged with violating Section 6-303 of the Illinois  
32 Vehicle Code or a similar provision of a local ordinance when  
33 the revocation or suspension was for a violation of Section  
34 11-501 or a similar provision of a local ordinance, a violation  
35 of Section 11-501.1 or paragraph (b) of Section 11-401 of the  
36 Illinois Vehicle Code, or a violation of Section 9-3 of the

1 Criminal Code of 1961 if the defendant has within the last 10  
2 years been:

3 (1) convicted for a violation of Section 6-303 of the  
4 Illinois Vehicle Code or a similar provision of a local  
5 ordinance; or

6 (2) assigned supervision for a violation of Section  
7 6-303 of the Illinois Vehicle Code or a similar provision  
8 of a local ordinance.

9 (Source: P.A. 93-388, eff. 7-25-03.)