

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.)