



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB1351**

Introduced 02/09/05, by Rep. Deborah L. Graham

**SYNOPSIS AS INTRODUCED:**

625 ILCS 5/11-401  
625 ILCS 5/11-501.1

from Ch. 95 1/2, par. 11-401  
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.

LRB094 09428 DRH 39675 b

1 AN ACT concerning transportation.

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

31 (b-1) Any person arrested for violating this Section is  
32 subject to chemical testing of his or her blood, breath, or

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

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

10 (c) Any person failing to comply with paragraph (a) shall  
11 be guilty of a Class 4 felony.

12 (d) Any person failing to comply with paragraph (b) is  
13 guilty of a Class 3 felony if the motor vehicle accident does  
14 not result in the death of any person. Any person failing to  
15 comply with paragraph (b) when the accident results in the  
16 death of any person is guilty of a Class 2 felony, for which  
17 the person, if sentenced to a term of imprisonment, shall be  
18 sentenced to a term of not less than 3 years and not more than  
19 14 years.

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

23 (Source: P.A. 93-684, eff. 1-1-05.)

24 (625 ILCS 5/11-501.1) (from Ch. 95 1/2, par. 11-501.1)

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

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

1 offense as defined in Section 11-501 or a similar provision of  
2 a local ordinance, or if arrested for violating Section 11-401.

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

27 (b) Any person who is dead, unconscious, or who is  
28 otherwise in a condition rendering the person incapable of  
29 refusal, shall be deemed not to have withdrawn the consent  
30 provided by paragraph (a) of this Section and the test or tests  
31 may be administered, subject to the provisions of Section  
32 11-501.2.

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

1 operate a motor vehicle as provided in Section 6-208.1 of this  
2 Code. The person shall also be warned by the law enforcement  
3 officer that if the person submits to the test or tests  
4 provided in paragraph (a) of this Section and the alcohol  
5 concentration in the person's blood or breath is 0.08 or  
6 greater, or any amount of a drug, substance, or compound  
7 resulting from the unlawful use or consumption of cannabis as  
8 covered by the Cannabis Control Act, a controlled substance  
9 listed in the Illinois Controlled Substances Act, or an  
10 intoxicating compound listed in the Use of Intoxicating  
11 Compounds Act is detected in the person's blood or urine, a  
12 statutory summary suspension of the person's privilege to  
13 operate a motor vehicle, as provided in Sections 6-208.1 and  
14 11-501.1 of this Code, will be imposed.

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

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

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

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

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

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

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

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

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

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

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