



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB3816**

Introduced 2/25/2005, by Rep. Sandra M. Pihos

**SYNOPSIS AS INTRODUCED:**

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a person convicted a third time of driving under the influence of alcohol, drugs, or intoxicating compounds is guilty of a Class 2 felony. Provides that a person convicted of the offense a fourth time is guilty of a Class 2 felony, and not eligible for a sentence of probation or conditional discharge. Provides that a person convicted of the offense a fifth or subsequent time is guilty of a Class 1 felony and not eligible for a sentence of probation or conditional discharge.

LRB094 08656 DRH 38866 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or  
13 breath is 0.08 or more based on the definition of blood and  
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or  
17 combination of intoxicating compounds to a degree that  
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or  
20 combination of drugs to a degree that renders the person  
21 incapable of safely driving;

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

25 (6) there is any amount of a drug, substance, or  
26 compound in the person's breath, blood, or urine resulting  
27 from the unlawful use or consumption of cannabis listed in  
28 the Cannabis Control Act, a controlled substance listed in  
29 the Illinois Controlled Substances Act, or an intoxicating  
30 compound listed in the Use of Intoxicating Compounds Act.

31 (b) The fact that any person charged with violating this  
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any  
2 combination thereof, shall not constitute a defense against any  
3 charge of violating this Section.

4 (b-1) With regard to penalties imposed under this Section:

5 (1) Any reference to a prior violation of subsection  
6 (a) or a similar provision includes any violation of a  
7 provision of a local ordinance or a provision of a law of  
8 another state that is similar to a violation of subsection  
9 (a) of this Section.

10 (2) Any penalty imposed for driving with a license that  
11 has been revoked for a previous violation of subsection (a)  
12 of this Section shall be in addition to the penalty imposed  
13 for any subsequent violation of subsection (a).

14 (b-2) Except as otherwise provided in this Section, any  
15 person convicted of violating subsection (a) of this Section is  
16 guilty of a Class A misdemeanor.

17 (b-3) In addition to any other criminal or administrative  
18 sanction for any second conviction of violating subsection (a)  
19 or a similar provision committed within 5 years of a previous  
20 violation of subsection (a) or a similar provision, the  
21 defendant shall be sentenced to a mandatory minimum of 5 days  
22 of imprisonment or assigned a mandatory minimum of 240 hours of  
23 community service as may be determined by the court.

24 (b-4) In the case of a third ~~or subsequent~~ violation  
25 committed within 5 years of a previous violation of subsection  
26 (a) or a similar provision, the defendant is guilty of a Class  
27 2 felony, and in addition to any other criminal or  
28 administrative sanction, a mandatory minimum term of either 10  
29 days of imprisonment or 480 hours of community service shall be  
30 imposed.

31 (b-5) The imprisonment or assignment of community service  
32 under subsections (b-3) and (b-4) shall not be subject to  
33 suspension, nor shall the person be eligible for a reduced  
34 sentence.

35 (c) (Blank).

36 (c-1) (1) A person who violates subsection (a) during a

1 period in which his or her driving privileges are revoked  
2 or suspended, where the revocation or suspension was for a  
3 violation of subsection (a), Section 11-501.1, paragraph  
4 (b) of Section 11-401, or for reckless homicide as defined  
5 in Section 9-3 of the Criminal Code of 1961 is guilty of a  
6 Class 4 felony.

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

15 (2.1) A person who violates subsection (a) a third  
16 time, if the third violation occurs during a period in  
17 which his or her driving privileges are revoked or  
18 suspended where the revocation or suspension was for a  
19 violation of subsection (a), Section 11-501.1, subsection  
20 (b) of Section 11-401, or for reckless homicide as defined  
21 in Section 9-3 of the Criminal Code of 1961, is guilty of a  
22 Class 2 ~~Class 3~~ felony; and if the person receives a term  
23 of probation or conditional discharge, he or she shall be  
24 required to serve a mandatory minimum of 10 days of  
25 imprisonment or shall be assigned a mandatory minimum of  
26 480 hours of community service, as may be determined by the  
27 court, as a condition of the probation or conditional  
28 discharge. This mandatory minimum term of imprisonment or  
29 assignment of community service shall not be suspended or  
30 reduced by the court.

31 (2.2) A person who violates subsection (a), if the  
32 violation occurs during a period in which his or her  
33 driving privileges are revoked or suspended where the  
34 revocation or suspension was for a violation of subsection  
35 (a) or Section 11-501.1, shall also be sentenced to an  
36 additional mandatory minimum term of 30 consecutive days of

1 imprisonment, 40 days of 24-hour periodic imprisonment, or  
2 720 hours of community service, as may be determined by the  
3 court. This mandatory term of imprisonment or assignment of  
4 community service shall not be suspended or reduced by the  
5 court.

6 (3) A person who violates subsection (a) a fourth ~~or~~  
7 ~~subsequent time, if the fourth or subsequent violation~~  
8 ~~occurs during a period in which his or her driving~~  
9 ~~privileges are revoked or suspended where the revocation or~~  
10 ~~suspension was for a violation of subsection (a), Section~~  
11 ~~11-501.1, paragraph (b) of Section 11-401, or for reckless~~  
12 ~~homicide as defined in Section 9-3 of the Criminal Code of~~  
13 ~~1961,~~ is guilty of a Class 2 felony and is not eligible for  
14 a sentence of probation or conditional discharge.

15 (4) A person who violates subsection (a) a fifth or  
16 subsequent time is guilty of a Class 1 felony and is not  
17 eligible for a sentence of probation or conditional  
18 discharge.

19 (c-2) (Blank).

20 (c-3) (Blank).

21 (c-4) (Blank).

22 (c-5) A person who violates subsection (a), if the person  
23 was transporting a person under the age of 16 at the time of  
24 the violation, is subject to an additional mandatory minimum  
25 fine of \$1,000, an additional mandatory minimum 140 hours of  
26 community service, which shall include 40 hours of community  
27 service in a program benefiting children, and an additional 2  
28 days of imprisonment. The imprisonment or assignment of  
29 community service under this subsection (c-5) is not subject to  
30 suspension, nor is the person eligible for a reduced sentence.

31 (c-6) Except as provided in subsections (c-7) and (c-8) a  
32 person who violates subsection (a) a second time, if at the  
33 time of the second violation the person was transporting a  
34 person under the age of 16, is subject to an additional 10 days  
35 of imprisonment, an additional mandatory minimum fine of  
36 \$1,000, and an additional mandatory minimum 140 hours of

1 community service, which shall include 40 hours of community  
2 service in a program benefiting children. The imprisonment or  
3 assignment of community service under this subsection (c-6) is  
4 not subject to suspension, nor is the person eligible for a  
5 reduced sentence.

6 (c-7) Except as provided in subsection (c-8), any person  
7 convicted of violating subsection (c-6) or a similar provision  
8 within 10 years of a previous violation of subsection (a) or a  
9 similar provision shall receive, in addition to any other  
10 penalty imposed, a mandatory minimum 12 days imprisonment, an  
11 additional 40 hours of mandatory community service in a program  
12 benefiting children, and a mandatory minimum fine of \$1,750.  
13 The imprisonment or assignment of community service under this  
14 subsection (c-7) is not subject to suspension, nor is the  
15 person eligible for a reduced sentence.

16 (c-8) Any person convicted of violating subsection (c-6) or  
17 a similar provision within 5 years of a previous violation of  
18 subsection (a) or a similar provision shall receive, in  
19 addition to any other penalty imposed, an additional 80 hours  
20 of mandatory community service in a program benefiting  
21 children, an additional mandatory minimum 12 days of  
22 imprisonment, and a mandatory minimum fine of \$1,750. The  
23 imprisonment or assignment of community service under this  
24 subsection (c-8) is not subject to suspension, nor is the  
25 person eligible for a reduced sentence.

26 (c-9) Any person convicted a third time for violating  
27 subsection (a) or a similar provision, if at the time of the  
28 third violation the person was transporting a person under the  
29 age of 16, is guilty of a Class 2 ~~Class 4~~ felony and shall  
30 receive, in addition to any other penalty imposed, an  
31 additional mandatory fine of \$1,000, an additional mandatory  
32 140 hours of community service, which shall include 40 hours in  
33 a program benefiting children, and a mandatory minimum 30 days  
34 of imprisonment. The imprisonment or assignment of community  
35 service under this subsection (c-9) is not subject to  
36 suspension, nor is the person eligible for a reduced sentence.

1 (c-10) Any person convicted of violating subsection (c-9)  
2 or a similar provision a third time within 20 years of a  
3 previous violation of subsection (a) or a similar provision is  
4 guilty of a Class 2 ~~Class 4~~ felony and shall receive, in  
5 addition to any other penalty imposed, an additional mandatory  
6 40 hours of community service in a program benefiting children,  
7 an additional mandatory fine of \$3,000 ~~\$3,000~~, and a mandatory  
8 minimum 120 days of imprisonment. The imprisonment or  
9 assignment of community service under this subsection (c-10) is  
10 not subject to suspension, nor is the person eligible for a  
11 reduced sentence.

12 (c-11) Any person convicted a fourth ~~or subsequent~~ time for  
13 violating subsection (a) or a similar provision, if at the time  
14 of the fourth ~~or subsequent~~ violation the person was  
15 transporting a person under the age of 16, and if the person's  
16 3 prior violations of subsection (a) or a similar provision  
17 occurred while transporting a person under the age of 16 or  
18 while the alcohol concentration in his or her blood, breath, or  
19 urine was 0.16 or more based on the definition of blood,  
20 breath, or urine units in Section 11-501.2, is guilty of a  
21 Class 2 felony, is not eligible for probation or conditional  
22 discharge, and is subject to a minimum fine of \$3,000.

23 (c-12) Any person convicted of a first violation of  
24 subsection (a) or a similar provision, if the alcohol  
25 concentration in his or her blood, breath, or urine was 0.16 or  
26 more based on the definition of blood, breath, or urine units  
27 in Section 11-501.2, shall be subject, in addition to any other  
28 penalty that may be imposed, to a mandatory minimum of 100  
29 hours of community service and a mandatory minimum fine of  
30 \$500.

31 (c-13) Any person convicted of a second violation of  
32 subsection (a) or a similar provision committed within 10 years  
33 of a previous violation of subsection (a) or a similar  
34 provision committed within 10 years of a previous violation of  
35 subsection (a) or a similar provision, if at the time of the  
36 second violation of subsection (a) the alcohol concentration in

1 his or her blood, breath, or urine was 0.16 or more based on  
2 the definition of blood, breath, or urine units in Section  
3 11-501.2, shall be subject, in addition to any other penalty  
4 that may be imposed, to a mandatory minimum of 2 days of  
5 imprisonment and a mandatory minimum fine of \$1,250.

6 (c-14) Any person convicted of a third violation of  
7 subsection (a) or a similar provision within 20 years of a  
8 previous violation of subsection (a) or a similar provision, if  
9 at the time of the third violation of subsection (a) or a  
10 similar provision the alcohol concentration in his or her  
11 blood, breath, or urine was 0.16 or more based on the  
12 definition of blood, breath, or urine units in Section  
13 11-501.2, is guilty of a Class 2 ~~Class 4~~ felony and shall be  
14 subject, in addition to any other penalty that may be imposed,  
15 to a mandatory minimum of 90 days of imprisonment and a  
16 mandatory minimum fine of \$2,500.

17 (c-15) Any person convicted of a fourth ~~or subsequent~~  
18 violation of subsection (a) or a similar provision, if at the  
19 time of the fourth ~~or subsequent~~ violation the alcohol  
20 concentration in his or her blood, breath, or urine was 0.16 or  
21 more based on the definition of blood, breath, or urine units  
22 in Section 11-501.2, and if the person's 3 prior violations of  
23 subsection (a) or a similar provision occurred while  
24 transporting a person under the age of 16 or while the alcohol  
25 concentration in his or her blood, breath, or urine was 0.16 or  
26 more based on the definition of blood, breath, or urine units  
27 in Section 11-501.2, is guilty of a Class 2 felony and is not  
28 eligible for a sentence of probation or conditional discharge  
29 and is subject to a minimum fine of \$2,500.

30 (d) (1) Every person convicted of committing a violation of  
31 this Section shall be guilty of aggravated driving under  
32 the influence of alcohol, other drug or drugs, or  
33 intoxicating compound or compounds, or any combination  
34 thereof if:

35 (A) the person committed a violation of subsection  
36 (a) or a similar provision for the third or subsequent



1 time;

2 (B) the person committed a violation of subsection  
3 (a) while driving a school bus with persons 18 years of  
4 age or younger on board;

5 (C) the person in committing a violation of  
6 subsection (a) was involved in a motor vehicle accident  
7 that resulted in great bodily harm or permanent  
8 disability or disfigurement to another, when the  
9 violation was a proximate cause of the injuries;

10 (D) the person committed a violation of subsection  
11 (a) for a second time and has been previously convicted  
12 of violating Section 9-3 of the Criminal Code of 1961  
13 or a similar provision of a law of another state  
14 relating to reckless homicide in which the person was  
15 determined to have been under the influence of alcohol,  
16 other drug or drugs, or intoxicating compound or  
17 compounds as an element of the offense or the person  
18 has previously been convicted under subparagraph (C)  
19 or subparagraph (F) of this paragraph (1);

20 (E) the person, in committing a violation of  
21 subsection (a) while driving at any speed in a school  
22 speed zone at a time when a speed limit of 20 miles per  
23 hour was in effect under subsection (a) of Section  
24 11-605 of this Code, was involved in a motor vehicle  
25 accident that resulted in bodily harm, other than great  
26 bodily harm or permanent disability or disfigurement,  
27 to another person, when the violation of subsection (a)  
28 was a proximate cause of the bodily harm; or

29 (F) the person, in committing a violation of  
30 subsection (a), was involved in a motor vehicle,  
31 snowmobile, all-terrain vehicle, or watercraft  
32 accident that resulted in the death of another person,  
33 when the violation of subsection (a) was a proximate  
34 cause of the death.

35 (2) Except as provided in this paragraph (2) and in  
36 paragraphs (3) and (4) of subsection (c-1), a person

1 convicted of aggravated driving under the influence of  
2 alcohol, other drug or drugs, or intoxicating compound or  
3 compounds, or any combination thereof is guilty of a Class  
4 4 felony. For a violation of subparagraph (C) of paragraph  
5 (1) of this subsection (d), the defendant, if sentenced to  
6 a term of imprisonment, shall be sentenced to not less than  
7 one year nor more than 12 years. Except as provided in  
8 paragraph (4) of subsection (c-1), aggravated driving  
9 under the influence of alcohol, other drug, or drugs,  
10 intoxicating compounds or compounds, or any combination  
11 thereof as defined in subparagraph (A) of paragraph (1) of  
12 this subsection (d) is a Class 2 felony. Aggravated driving  
13 under the influence of alcohol, other drug or drugs, or  
14 intoxicating compound or compounds, or any combination  
15 thereof as defined in subparagraph (F) of paragraph (1) of  
16 this subsection (d) is a Class 2 felony, for which the  
17 defendant, if sentenced to a term of imprisonment, shall be  
18 sentenced to: (A) a term of imprisonment of not less than 3  
19 years and not more than 14 years if the violation resulted  
20 in the death of one person; or (B) a term of imprisonment  
21 of not less than 6 years and not more than 28 years if the  
22 violation resulted in the deaths of 2 or more persons. For  
23 any prosecution under this subsection (d), a certified copy  
24 of the driving abstract of the defendant shall be admitted  
25 as proof of any prior conviction. Any person sentenced  
26 under this subsection (d) who receives a term of probation  
27 or conditional discharge must serve a minimum term of  
28 either 480 hours of community service or 10 days of  
29 imprisonment as a condition of the probation or conditional  
30 discharge. This mandatory minimum term of imprisonment or  
31 assignment of community service may not be suspended or  
32 reduced by the court.

33 (e) After a finding of guilt and prior to any final  
34 sentencing, or an order for supervision, for an offense based  
35 upon an arrest for a violation of this Section or a similar  
36 provision of a local ordinance, individuals shall be required

1 to undergo a professional evaluation to determine if an  
2 alcohol, drug, or intoxicating compound abuse problem exists  
3 and the extent of the problem, and undergo the imposition of  
4 treatment as appropriate. Programs conducting these  
5 evaluations shall be licensed by the Department of Human  
6 Services. The cost of any professional evaluation shall be paid  
7 for by the individual required to undergo the professional  
8 evaluation.

9 (e-1) Any person who is found guilty of or pleads guilty to  
10 violating this Section, including any person receiving a  
11 disposition of court supervision for violating this Section,  
12 may be required by the Court to attend a victim impact panel  
13 offered by, or under contract with, a County State's Attorney's  
14 office, a probation and court services department, Mothers  
15 Against Drunk Driving, or the Alliance Against Intoxicated  
16 Motorists. All costs generated by the victim impact panel shall  
17 be paid from fees collected from the offender or as may be  
18 determined by the court.

19 (f) Every person found guilty of violating this Section,  
20 whose operation of a motor vehicle while in violation of this  
21 Section proximately caused any incident resulting in an  
22 appropriate emergency response, shall be liable for the expense  
23 of an emergency response as provided under Section 5-5-3 of the  
24 Unified Code of Corrections.

25 (g) The Secretary of State shall revoke the driving  
26 privileges of any person convicted under this Section or a  
27 similar provision of a local ordinance.

28 (h) (Blank).

29 (i) The Secretary of State shall require the use of  
30 ignition interlock devices on all vehicles owned by an  
31 individual who has been convicted of a second or subsequent  
32 offense of this Section or a similar provision of a local  
33 ordinance. The Secretary shall establish by rule and regulation  
34 the procedures for certification and use of the interlock  
35 system.

36 (j) In addition to any other penalties and liabilities, a

1 person who is found guilty of or pleads guilty to violating  
2 subsection (a), including any person placed on court  
3 supervision for violating subsection (a), shall be fined \$500,  
4 payable to the circuit clerk, who shall distribute the money as  
5 follows: 20% to the law enforcement agency that made the arrest  
6 and 80% shall be forwarded to the State Treasurer for deposit  
7 into the General Revenue Fund. If the person has been  
8 previously convicted of violating subsection (a) or a similar  
9 provision of a local ordinance, the fine shall be \$1,000. In  
10 the event that more than one agency is responsible for the  
11 arrest, the amount payable to law enforcement agencies shall be  
12 shared equally. Any moneys received by a law enforcement agency  
13 under this subsection (j) shall be used to purchase law  
14 enforcement equipment that will assist in the prevention of  
15 alcohol related criminal violence throughout the State. This  
16 shall include, but is not limited to, in-car video cameras,  
17 radar and laser speed detection devices, and alcohol breath  
18 testers. Any moneys received by the Department of State Police  
19 under this subsection (j) shall be deposited into the State  
20 Police DUI Fund and shall be used to purchase law enforcement  
21 equipment that will assist in the prevention of alcohol related  
22 criminal violence throughout the State.

23 (k) The Secretary of State Police DUI Fund is created as a  
24 special fund in the State treasury. All moneys received by the  
25 Secretary of State Police under subsection (j) of this Section  
26 shall be deposited into the Secretary of State Police DUI Fund  
27 and, subject to appropriation, shall be used to purchase law  
28 enforcement equipment to assist in the prevention of alcohol  
29 related criminal violence throughout the State.

30 (l) Whenever an individual is sentenced for an offense  
31 based upon an arrest for a violation of subsection (a) or a  
32 similar provision of a local ordinance, and the professional  
33 evaluation recommends remedial or rehabilitative treatment or  
34 education, neither the treatment nor the education shall be the  
35 sole disposition and either or both may be imposed only in  
36 conjunction with another disposition. The court shall monitor

1 compliance with any remedial education or treatment  
2 recommendations contained in the professional evaluation.  
3 Programs conducting alcohol or other drug evaluation or  
4 remedial education must be licensed by the Department of Human  
5 Services. If the individual is not a resident of Illinois,  
6 however, the court may accept an alcohol or other drug  
7 evaluation or remedial education program in the individual's  
8 state of residence. Programs providing treatment must be  
9 licensed under existing applicable alcoholism and drug  
10 treatment licensure standards.

11 (m) In addition to any other fine or penalty required by  
12 law, an individual convicted of a violation of subsection (a),  
13 Section 5-7 of the Snowmobile Registration and Safety Act,  
14 Section 5-16 of the Boat Registration and Safety Act, or a  
15 similar provision, whose operation of a motor vehicle,  
16 snowmobile, or watercraft while in violation of subsection (a),  
17 Section 5-7 of the Snowmobile Registration and Safety Act,  
18 Section 5-16 of the Boat Registration and Safety Act, or a  
19 similar provision proximately caused an incident resulting in  
20 an appropriate emergency response, shall be required to make  
21 restitution to a public agency for the costs of that emergency  
22 response. The restitution may not exceed \$1,000 per public  
23 agency for each emergency response. As used in this subsection  
24 (m), "emergency response" means any incident requiring a  
25 response by a police officer, a firefighter carried on the  
26 rolls of a regularly constituted fire department, or an  
27 ambulance.

28 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;  
29 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;  
30 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.  
31 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,  
32 eff. 1-1-05; 93-840, eff. 7-30-04; revised 1-13-05.)