

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11 has been revoked for a previous violation of subsection (a)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.)