



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2440

Introduced 1/18/2006, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.5

from Ch. 95 1/2, par. 11-501.5

Amends the Illinois Vehicle Code. Provides that the results of a preliminary breath screening test may be used by the prosecution in any administrative or court hearing where the defendant is contending that the officer did not have reasonable suspicion to believe that the defendant was driving under the influence of alcohol, drugs, or intoxicating compounds. Provides that these results may be used by the prosecution in a DUI court proceeding only to rebut evidence that the defendant was not intoxicated at the time of arrest.

LRB094 17730 DRH 53029 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 Section 11-501.5 as follows:

6 (625 ILCS 5/11-501.5) (from Ch. 95 1/2, par. 11-501.5)
7 Sec. 11-501.5. Preliminary Breath Screening Test.

8 (a) If a law enforcement officer has reasonable suspicion
9 to believe that a person is violating or has violated Section
10 11-501 or a similar provision of a local ordinance, the
11 officer, prior to an arrest, may request the person to provide
12 a sample of his or her breath for a preliminary breath
13 screening test using a portable device approved by the
14 Department of State Police. The person may refuse the test. The
15 results of this preliminary breath screening test may be used
16 by the law enforcement officer for the purpose of assisting
17 with the determination of whether to require a chemical test as
18 authorized under Sections 11-501.1 and 11-501.2, and the
19 appropriate type of test to request. Any chemical test
20 authorized under Sections 11-501.1 and 11-501.2 may be
21 requested by the officer regardless of the result of the
22 preliminary breath screening test, if probable cause for an
23 arrest exists. The result of a preliminary breath screening
24 test may be used by the defendant as evidence in any
25 administrative or court proceeding involving a violation of
26 Section 11-501 or 11-501.1. The results of a preliminary breath
27 screening test may be used by the prosecution in any
28 administrative or court proceeding where the defendant is
29 contending that the officer did not have reasonable suspicion
30 to believe that the defendant had committed a violation of
31 Section 11-501 or 11-501.1 or a similar provision of a local
32 ordinance. The results of a preliminary breath screening test

1 may not be used by the prosecution as evidence in a court
2 proceeding involving a violation of Section 11-501 or 11-501.1.
3 The results of a preliminary breath screening test may,
4 however, be used by the prosecution in a court proceeding
5 involving a violation of Section 11-501 or 11-501.1 to rebut
6 testimony or other evidence put forth by the defense that the
7 defendant was not intoxicated at the time of arrest.

8 (b) The Department of State Police shall create a pilot
9 program to establish the effectiveness of pupillometer
10 technology (the measurement of the pupil's reaction to light)
11 as a noninvasive technique to detect and measure possible
12 impairment of any person who drives or is in actual physical
13 control of a motor vehicle resulting from the suspected usage
14 of alcohol, other drug or drugs, intoxicating compound or
15 compounds or any combination thereof. This technology shall
16 also be used to detect fatigue levels of the operator of a
17 Commercial Motor Vehicle as defined in Section 6-500(6),
18 pursuant to Section 18b-105 (Part 395-Hours of Service of
19 Drivers) of the Illinois Vehicle Code. A State Police officer
20 may request that the operator of a commercial motor vehicle
21 have his or her eyes examined or tested with a pupillometer
22 device. The person may refuse the examination or test. The
23 State Police officer shall have the device readily available to
24 limit undue delays.

25 If a State Police officer has reasonable suspicion to
26 believe that a person is violating or has violated Section
27 11-501, the officer may use the pupillometer technology, when
28 available. The officer, prior to an arrest, may request the
29 person to have his or her eyes examined or tested with a
30 pupillometer device. The person may refuse the examination or
31 test. The results of this examination or test may be used by
32 the officer for the purpose of assisting with the determination
33 of whether to require a chemical test as authorized under
34 Sections 11-501.1 and 11-501.2 and the appropriate type of test
35 to request. Any chemical test authorized under Sections
36 11-501.1 and 11-501.2 may be requested by the officer

1 regardless of the result of the pupillometer examination or
2 test, if probable cause for an arrest exists. The result of the
3 examination or test may be used by the defendant as evidence in
4 any administrative or court proceeding involving a violation of
5 11-501 or 11-501.1.

6 The pilot program shall last for a period of 18 months and
7 involve the testing of 15 pupillometer devices. Within 90 days
8 of the completion of the pilot project, the Department of State
9 Police shall file a report with the President of the Senate and
10 Speaker of the House evaluating the project.

11 (Source: P.A. 91-828, eff. 1-1-01; 91-881, eff. 6-30-00; 92-16,
12 eff. 6-28-01.)