



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB5900**

by Rep. Franco Coladipietro - Jim Sacia - Patricia R. Bellock

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.2

from Ch. 95 1/2, par. 11-501.2

Amends the Illinois Vehicle Code. Provides that a hospital or other medical facility that has been requested by a law enforcement officer or agency to conduct a chemical test or tests on the blood, breath, urine, or other bodily substance of a person for the purpose of determining the alcohol content thereof or the presence of any other drug or combination of drugs, or both, is immune from criminal and civil liability for the conduct of such tests and the disclosure of such test results to the law enforcement agency or law enforcement officer that requested such tests, except in cases of willful or wanton misconduct.

LRB095 15688 RLC 41695 b

1 AN ACT concerning 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 changing  
5 Section 11-501.2 as follows:

6 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)  
7 Sec. 11-501.2. Chemical and other tests.

8 (a) Upon the trial of any civil or criminal action or  
9 proceeding arising out of an arrest for an offense as defined  
10 in Section 11-501 or a similar local ordinance or proceedings  
11 pursuant to Section 2-118.1, evidence of the concentration of  
12 alcohol, other drug or drugs, or intoxicating compound or  
13 compounds, or any combination thereof in a person's blood or  
14 breath at the time alleged, as determined by analysis of the  
15 person's blood, urine, breath or other bodily substance, shall  
16 be admissible. Where such test is made the following provisions  
17 shall apply:

18 1. Chemical analyses of the person's blood, urine,  
19 breath or other bodily substance to be considered valid  
20 under the provisions of this Section shall have been  
21 performed according to standards promulgated by the  
22 Department of State Police by a licensed physician,  
23 registered nurse, trained phlebotomist acting under the

1 direction of a licensed physician, certified paramedic, or  
2 other individual possessing a valid permit issued by that  
3 Department for this purpose. The Director of State Police  
4 is authorized to approve satisfactory techniques or  
5 methods, to ascertain the qualifications and competence of  
6 individuals to conduct such analyses, to issue permits  
7 which shall be subject to termination or revocation at the  
8 discretion of that Department and to certify the accuracy  
9 of breath testing equipment. The Department of State Police  
10 shall prescribe regulations as necessary to implement this  
11 Section.

12 2. When a person in this State shall submit to a blood  
13 test at the request of a law enforcement officer under the  
14 provisions of Section 11-501.1, only a physician  
15 authorized to practice medicine, a registered nurse,  
16 trained phlebotomist, or certified paramedic, or other  
17 qualified person approved by the Department of State Police  
18 may withdraw blood for the purpose of determining the  
19 alcohol, drug, or alcohol and drug content therein. This  
20 limitation shall not apply to the taking of breath or urine  
21 specimens.

22 When a blood test of a person who has been taken to an  
23 adjoining state for medical treatment is requested by an  
24 Illinois law enforcement officer, the blood may be  
25 withdrawn only by a physician authorized to practice  
26 medicine in the adjoining state, a registered nurse, a

1 trained phlebotomist acting under the direction of the  
2 physician, or certified paramedic. The law enforcement  
3 officer requesting the test shall take custody of the blood  
4 sample, and the blood sample shall be analyzed by a  
5 laboratory certified by the Department of State Police for  
6 that purpose.

7 3. The person tested may have a physician, or a  
8 qualified technician, chemist, registered nurse, or other  
9 qualified person of their own choosing administer a  
10 chemical test or tests in addition to any administered at  
11 the direction of a law enforcement officer. The failure or  
12 inability to obtain an additional test by a person shall  
13 not preclude the admission of evidence relating to the test  
14 or tests taken at the direction of a law enforcement  
15 officer.

16 4. Upon the request of the person who shall submit to a  
17 chemical test or tests at the request of a law enforcement  
18 officer, full information concerning the test or tests  
19 shall be made available to the person or such person's  
20 attorney.

21 5. Alcohol concentration shall mean either grams of  
22 alcohol per 100 milliliters of blood or grams of alcohol  
23 per 210 liters of breath.

24 (b) Upon the trial of any civil or criminal action or  
25 proceeding arising out of acts alleged to have been committed  
26 by any person while driving or in actual physical control of a

1 vehicle while under the influence of alcohol, the concentration  
2 of alcohol in the person's blood or breath at the time alleged  
3 as shown by analysis of the person's blood, urine, breath, or  
4 other bodily substance shall give rise to the following  
5 presumptions:

6 1. If there was at that time an alcohol concentration  
7 of 0.05 or less, it shall be presumed that the person was  
8 not under the influence of alcohol.

9 2. If there was at that time an alcohol concentration  
10 in excess of 0.05 but less than 0.08, such facts shall not  
11 give rise to any presumption that the person was or was not  
12 under the influence of alcohol, but such fact may be  
13 considered with other competent evidence in determining  
14 whether the person was under the influence of alcohol.

15 3. If there was at that time an alcohol concentration  
16 of 0.08 or more, it shall be presumed that the person was  
17 under the influence of alcohol.

18 4. The foregoing provisions of this Section shall not  
19 be construed as limiting the introduction of any other  
20 relevant evidence bearing upon the question whether the  
21 person was under the influence of alcohol.

22 (c) 1. If a person under arrest refuses to submit to a  
23 chemical test under the provisions of Section 11-501.1,  
24 evidence of refusal shall be admissible in any civil or  
25 criminal action or proceeding arising out of acts alleged to

1 have been committed while the person under the influence of  
2 alcohol, other drug or drugs, or intoxicating compound or  
3 compounds, or any combination thereof was driving or in actual  
4 physical control of a motor vehicle.

5           2. Notwithstanding any ability to refuse under this  
6 Code to submit to these tests or any ability to revoke the  
7 implied consent to these tests, if a law enforcement  
8 officer has probable cause to believe that a motor vehicle  
9 driven by or in actual physical control of a person under  
10 the influence of alcohol, other drug or drugs, or  
11 intoxicating compound or compounds, or any combination  
12 thereof has caused the death or personal injury to another,  
13 that person shall submit, upon the request of a law  
14 enforcement officer, to a chemical test or tests of his or  
15 her blood, breath or urine for the purpose of determining  
16 the alcohol content thereof or the presence of any other  
17 drug or combination of both.

18           This provision does not affect the applicability of or  
19 imposition of driver's license sanctions under Section  
20 11-501.1 of this Code.

21           3. For purposes of this Section, a personal injury  
22 includes any Type A injury as indicated on the traffic  
23 accident report completed by a law enforcement officer that  
24 requires immediate professional attention in either a  
25 doctor's office or a medical facility. A Type A injury  
26 includes severe bleeding wounds, distorted extremities,

1 and injuries that require the injured party to be carried  
2 from the scene.

3 4. For purposes of this Section, a hospital or other  
4 medical facility that has been requested by a law  
5 enforcement officer or agency to conduct a chemical test or  
6 tests on the blood, breath, urine, or other bodily  
7 substance of a person for the purpose of determining the  
8 alcohol content thereof or the presence of any other drug  
9 or combination of drugs, or both, is immune from criminal  
10 and civil liability for the conduct of such tests and the  
11 disclosure of such test results to the law enforcement  
12 agency or law enforcement officer that requested such  
13 tests, except in cases of willful or wanton misconduct.

14 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99; 91-828,  
15 eff. 1-1-01.)