

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 2-118, 6-206, and 11-501.8 as follows:

6 (625 ILCS 5/2-118) (from Ch. 95 1/2, par. 2-118)
7 Sec. 2-118. Hearings.

8 (a) Upon the suspension, revocation or denial of the
9 issuance of a license, permit, registration or certificate of
10 title under this Code of any person the Secretary of State
11 shall immediately notify such person in writing and upon his
12 written request shall, within 20 days after receipt thereof,
13 set a date for a hearing to commence within 90 calendar days
14 from the date of the written request for all requests related
15 to a suspension, revocation, or the denial of the issuance of a
16 license, permit, registration, or certificate of title
17 occurring after July 1, 2002, in the County of Sangamon, the
18 County of Jefferson, or the County of Cook, as such person may
19 specify, unless both parties agree that such hearing may be
20 held in some other county. The Secretary may require the
21 payment of a fee of not more than \$50 for the filing of any
22 petition, motion, or request for hearing conducted pursuant to
23 this Section. These fees must be deposited into the Secretary

1 of State DUI Administration Fund, a special fund created in the
2 State treasury, and, subject to appropriation and as directed
3 by the Secretary of State, shall be used for operation of the
4 Department of Administrative Hearings of the Office of the
5 Secretary of State and for no other purpose. The Secretary
6 shall establish by rule the amount and the procedures, terms,
7 and conditions relating to these fees.

8 (b) At any time after the suspension, revocation or denial
9 of a license, permit, registration or certificate of title of
10 any person as hereinbefore referred to, the Secretary of State,
11 in his or her discretion and without the necessity of a request
12 by such person, may hold such a hearing, upon not less than 10
13 days' notice in writing, in the Counties of Sangamon,
14 Jefferson, or Cook or in any other county agreed to by the
15 parties.

16 (c) Upon any such hearing, the Secretary of State, or his
17 authorized agent may administer oaths and issue subpoenas for
18 the attendance of witnesses and the production of relevant
19 books and records and may require an examination of such
20 person. Upon any such hearing, the Secretary of State shall
21 either rescind or, good cause appearing therefor, continue,
22 change or extend the Order of Revocation or Suspension, or upon
23 petition therefore and subject to the provisions of this Code,
24 issue a restricted driving permit or reinstate the license or
25 permit of such person.

26 (d) All hearings and hearing procedures shall comply with

1 requirements of the Constitution, so that no person is deprived
2 of due process of law nor denied equal protection of the laws.
3 All hearings shall be held before the Secretary of State or
4 before such persons as may be designated by the Secretary of
5 State and appropriate records of such hearings shall be kept.
6 Where a transcript of the hearing is taken, the person
7 requesting the hearing shall have the opportunity to order a
8 copy thereof at his own expense. The Secretary of State shall
9 enter an order upon any hearing conducted under this Section,
10 related to a suspension, revocation, or the denial of the
11 issuance of a license, permit, registration, or certificate of
12 title occurring after July 1, 2002, within 90 days of its
13 conclusion and shall immediately notify the person in writing
14 of his or her action.

15 (d-3) In regard to any hearing over which the Secretary of
16 State has jurisdiction because of a person's implied consent to
17 testing of the person's blood, breath, or urine for the
18 presence of alcohol, drugs, or intoxicating compounds,
19 petitions to contest the imposition of a suspension based on
20 the person's refusal to undergo the required testing, or on a
21 finding that the person's blood, breath, or urine contained
22 drugs, intoxicating compounds, or alcohol in an amount
23 exceeding the legal limit, must be filed within 90 days after
24 the effective date of the suspension (unless the petitioner is
25 able to show that the Notice of Suspension was not sent at
26 least 21 days before the termination date of the suspension, in

1 which case the petition may be filed within 90 days after the
2 notice was issued). If a petitioner withdraws a petition, the
3 petition must be refiled within 90 days after the date of
4 withdrawal. A petition which is withdrawn more than twice shall
5 not be considered by the Secretary of State.

6 (d-5) Any hearing over which the Secretary of State has
7 jurisdiction because of a person's implied consent to testing
8 of the person's blood, breath, or urine for the presence of
9 alcohol, drugs, or intoxicating compounds may be conducted upon
10 a review of the official police reports. Either party, however,
11 may subpoena the arresting officer and any other law
12 enforcement officer who was involved in the petitioner's arrest
13 or processing after arrest, as well as any other person whose
14 testimony may be probative to the issues at the hearing. The
15 failure of a law enforcement officer to answer the subpoena
16 shall be considered grounds for a continuance if, in the
17 hearing officer's discretion, the continuance is appropriate.
18 The failure of the arresting officer to answer a subpoena shall
19 not, in and of itself, be considered grounds for the rescission
20 of an implied consent suspension. Rather, the hearing shall
21 proceed on the basis of the other evidence available, and the
22 hearing officer shall assign this evidence whatever probative
23 value is deemed appropriate. The decision to rescind shall be
24 based upon the totality of the evidence.

25 (e) The action of the Secretary of State in suspending,
26 revoking or denying any license, permit, registration, or

1 certificate of title shall be subject to judicial review in the
2 Circuit Court of Sangamon County, in the Circuit Court of
3 Jefferson County, or in the Circuit Court of Cook County, and
4 the provisions of the Administrative Review Law, and all
5 amendments and modifications thereto, and the rules adopted
6 pursuant thereto, are hereby adopted and shall apply to and
7 govern every action for the judicial review of final acts or
8 decisions of the Secretary of State hereunder.

9 (Source: P.A. 91-823, eff. 1-1-01; 92-418, eff. 8-17-01.)

10 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

11 Sec. 6-206. Discretionary authority to suspend or revoke
12 license or permit; Right to a hearing.

13 (a) The Secretary of State is authorized to suspend or
14 revoke the driving privileges of any person without preliminary
15 hearing upon a showing of the person's records or other
16 sufficient evidence that the person:

17 1. Has committed an offense for which mandatory
18 revocation of a driver's license or permit is required upon
19 conviction;

20 2. Has been convicted of not less than 3 offenses
21 against traffic regulations governing the movement of
22 vehicles committed within any 12 month period. No
23 revocation or suspension shall be entered more than 6
24 months after the date of last conviction;

25 3. Has been repeatedly involved as a driver in motor

1 vehicle collisions or has been repeatedly convicted of
2 offenses against laws and ordinances regulating the
3 movement of traffic, to a degree that indicates lack of
4 ability to exercise ordinary and reasonable care in the
5 safe operation of a motor vehicle or disrespect for the
6 traffic laws and the safety of other persons upon the
7 highway;

8 4. Has by the unlawful operation of a motor vehicle
9 caused or contributed to an accident resulting in death or
10 injury requiring immediate professional treatment in a
11 medical facility or doctor's office to any person, except
12 that any suspension or revocation imposed by the Secretary
13 of State under the provisions of this subsection shall
14 start no later than 6 months after being convicted of
15 violating a law or ordinance regulating the movement of
16 traffic, which violation is related to the accident, or
17 shall start not more than one year after the date of the
18 accident, whichever date occurs later;

19 5. Has permitted an unlawful or fraudulent use of a
20 driver's license, identification card, or permit;

21 6. Has been lawfully convicted of an offense or
22 offenses in another state, including the authorization
23 contained in Section 6-203.1, which if committed within
24 this State would be grounds for suspension or revocation;

25 7. Has refused or failed to submit to an examination
26 provided for by Section 6-207 or has failed to pass the

1 examination;

2 8. Is ineligible for a driver's license or permit under
3 the provisions of Section 6-103;

4 9. Has made a false statement or knowingly concealed a
5 material fact or has used false information or
6 identification in any application for a license,
7 identification card, or permit;

8 10. Has possessed, displayed, or attempted to
9 fraudulently use any license, identification card, or
10 permit not issued to the person;

11 11. Has operated a motor vehicle upon a highway of this
12 State when the person's driving privilege or privilege to
13 obtain a driver's license or permit was revoked or
14 suspended unless the operation was authorized by a judicial
15 driving permit, probationary license to drive, or a
16 restricted driving permit issued under this Code;

17 12. Has submitted to any portion of the application
18 process for another person or has obtained the services of
19 another person to submit to any portion of the application
20 process for the purpose of obtaining a license,
21 identification card, or permit for some other person;

22 13. Has operated a motor vehicle upon a highway of this
23 State when the person's driver's license or permit was
24 invalid under the provisions of Sections 6-107.1 and 6-110;

25 14. Has committed a violation of Section 6-301,
26 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B

1 of the Illinois Identification Card Act;

2 15. Has been convicted of violating Section 21-2 of the
3 Criminal Code of 1961 relating to criminal trespass to
4 vehicles in which case, the suspension shall be for one
5 year;

6 16. Has been convicted of violating Section 11-204 of
7 this Code relating to fleeing from a peace officer;

8 17. Has refused to submit to a test, or tests, as
9 required under Section 11-501.1 of this Code and the person
10 has not sought a hearing as provided for in Section
11 11-501.1;

12 18. Has, since issuance of a driver's license or
13 permit, been adjudged to be afflicted with or suffering
14 from any mental disability or disease;

15 19. Has committed a violation of paragraph (a) or (b)
16 of Section 6-101 relating to driving without a driver's
17 license;

18 20. Has been convicted of violating Section 6-104
19 relating to classification of driver's license;

20 21. Has been convicted of violating Section 11-402 of
21 this Code relating to leaving the scene of an accident
22 resulting in damage to a vehicle in excess of \$1,000, in
23 which case the suspension shall be for one year;

24 22. Has used a motor vehicle in violating paragraph
25 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
26 the Criminal Code of 1961 relating to unlawful use of

1 weapons, in which case the suspension shall be for one
2 year;

3 23. Has, as a driver, been convicted of committing a
4 violation of paragraph (a) of Section 11-502 of this Code
5 for a second or subsequent time within one year of a
6 similar violation;

7 24. Has been convicted by a court-martial or punished
8 by non-judicial punishment by military authorities of the
9 United States at a military installation in Illinois of or
10 for a traffic related offense that is the same as or
11 similar to an offense specified under Section 6-205 or
12 6-206 of this Code;

13 25. Has permitted any form of identification to be used
14 by another in the application process in order to obtain or
15 attempt to obtain a license, identification card, or
16 permit;

17 26. Has altered or attempted to alter a license or has
18 possessed an altered license, identification card, or
19 permit;

20 27. Has violated Section 6-16 of the Liquor Control Act
21 of 1934;

22 28. Has been convicted of the illegal possession, while
23 operating or in actual physical control, as a driver, of a
24 motor vehicle, of any controlled substance prohibited
25 under the Illinois Controlled Substances Act, any cannabis
26 prohibited under the Cannabis Control Act, or any

1 methamphetamine prohibited under the Methamphetamine
2 Control and Community Protection Act, in which case the
3 person's driving privileges shall be suspended for one
4 year, and any driver who is convicted of a second or
5 subsequent offense, within 5 years of a previous
6 conviction, for the illegal possession, while operating or
7 in actual physical control, as a driver, of a motor
8 vehicle, of any controlled substance prohibited under the
9 Illinois Controlled Substances Act, any cannabis
10 prohibited under the Cannabis Control Act, or any
11 methamphetamine prohibited under the Methamphetamine
12 Control and Community Protection Act shall be suspended for
13 5 years. Any defendant found guilty of this offense while
14 operating a motor vehicle, shall have an entry made in the
15 court record by the presiding judge that this offense did
16 occur while the defendant was operating a motor vehicle and
17 order the clerk of the court to report the violation to the
18 Secretary of State;

19 29. Has been convicted of the following offenses that
20 were committed while the person was operating or in actual
21 physical control, as a driver, of a motor vehicle: criminal
22 sexual assault, predatory criminal sexual assault of a
23 child, aggravated criminal sexual assault, criminal sexual
24 abuse, aggravated criminal sexual abuse, juvenile pimping,
25 soliciting for a juvenile prostitute and the manufacture,
26 sale or delivery of controlled substances or instruments

1 used for illegal drug use or abuse in which case the
2 driver's driving privileges shall be suspended for one
3 year;

4 30. Has been convicted a second or subsequent time for
5 any combination of the offenses named in paragraph 29 of
6 this subsection, in which case the person's driving
7 privileges shall be suspended for 5 years;

8 31. Has refused to submit to a test as required by
9 Section 11-501.6 or has submitted to a test resulting in an
10 alcohol concentration of 0.08 or more or any amount of a
11 drug, substance, or compound resulting from the unlawful
12 use or consumption of cannabis as listed in the Cannabis
13 Control Act, a controlled substance as listed in the
14 Illinois Controlled Substances Act, or an intoxicating
15 compound as listed in the Use of Intoxicating Compounds
16 Act, in which case the penalty shall be as prescribed in
17 Section 6-208.1;

18 32. Has been convicted of Section 24-1.2 of the
19 Criminal Code of 1961 relating to the aggravated discharge
20 of a firearm if the offender was located in a motor vehicle
21 at the time the firearm was discharged, in which case the
22 suspension shall be for 3 years;

23 33. Has as a driver, who was less than 21 years of age
24 on the date of the offense, been convicted a first time of
25 a violation of paragraph (a) of Section 11-502 of this Code
26 or a similar provision of a local ordinance;

1 34. Has committed a violation of Section 11-1301.5 of
2 this Code;

3 35. Has committed a violation of Section 11-1301.6 of
4 this Code;

5 36. Is under the age of 21 years at the time of arrest
6 and has been convicted of not less than 2 offenses against
7 traffic regulations governing the movement of vehicles
8 committed within any 24 month period. No revocation or
9 suspension shall be entered more than 6 months after the
10 date of last conviction;

11 37. Has committed a violation of subsection (c) of
12 Section 11-907 of this Code;

13 38. Has been convicted of a violation of Section 6-20
14 of the Liquor Control Act of 1934 or a similar provision of
15 a local ordinance;

16 39. Has committed a second or subsequent violation of
17 Section 11-1201 of this Code;

18 40. Has committed a violation of subsection (a-1) of
19 Section 11-908 of this Code;

20 41. Has committed a second or subsequent violation of
21 Section 11-605.1 of this Code within 2 years of the date of
22 the previous violation, in which case the suspension shall
23 be for 90 days; ~~or~~

24 42. Has committed a violation of subsection (a-1) of
25 Section 11-1301.3 of this Code; or ~~or~~

26 43. Has, in connection with or during the course of a

1 formal hearing conducted under Section 2-118 of this Code:
2 (i) committed perjury; (ii) submitted fraudulent or
3 falsified documents; (iii) submitted documents that have
4 been materially altered; or (iv), submitted as his or her
5 own, documents that were in fact prepared or composed for
6 another person.

7 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
8 and 27 of this subsection, license means any driver's license,
9 any traffic ticket issued when the person's driver's license is
10 deposited in lieu of bail, a suspension notice issued by the
11 Secretary of State, a duplicate or corrected driver's license,
12 a probationary driver's license or a temporary driver's
13 license.

14 (b) If any conviction forming the basis of a suspension or
15 revocation authorized under this Section is appealed, the
16 Secretary of State may rescind or withhold the entry of the
17 order of suspension or revocation, as the case may be, provided
18 that a certified copy of a stay order of a court is filed with
19 the Secretary of State. If the conviction is affirmed on
20 appeal, the date of the conviction shall relate back to the
21 time the original judgment of conviction was entered and the 6
22 month limitation prescribed shall not apply.

23 (c) 1. Upon suspending or revoking the driver's license or
24 permit of any person as authorized in this Section, the
25 Secretary of State shall immediately notify the person in
26 writing of the revocation or suspension. The notice to be

1 deposited in the United States mail, postage prepaid, to
2 the last known address of the person.

3 2. If the Secretary of State suspends the driver's
4 license of a person under subsection 2 of paragraph (a) of
5 this Section, a person's privilege to operate a vehicle as
6 an occupation shall not be suspended, provided an affidavit
7 is properly completed, the appropriate fee received, and a
8 permit issued prior to the effective date of the
9 suspension, unless 5 offenses were committed, at least 2 of
10 which occurred while operating a commercial vehicle in
11 connection with the driver's regular occupation. All other
12 driving privileges shall be suspended by the Secretary of
13 State. Any driver prior to operating a vehicle for
14 occupational purposes only must submit the affidavit on
15 forms to be provided by the Secretary of State setting
16 forth the facts of the person's occupation. The affidavit
17 shall also state the number of offenses committed while
18 operating a vehicle in connection with the driver's regular
19 occupation. The affidavit shall be accompanied by the
20 driver's license. Upon receipt of a properly completed
21 affidavit, the Secretary of State shall issue the driver a
22 permit to operate a vehicle in connection with the driver's
23 regular occupation only. Unless the permit is issued by the
24 Secretary of State prior to the date of suspension, the
25 privilege to drive any motor vehicle shall be suspended as
26 set forth in the notice that was mailed under this Section.

1 If an affidavit is received subsequent to the effective
2 date of this suspension, a permit may be issued for the
3 remainder of the suspension period.

4 The provisions of this subparagraph shall not apply to
5 any driver required to possess a CDL for the purpose of
6 operating a commercial motor vehicle.

7 Any person who falsely states any fact in the affidavit
8 required herein shall be guilty of perjury under Section
9 6-302 and upon conviction thereof shall have all driving
10 privileges revoked without further rights.

11 3. At the conclusion of a hearing under Section 2-118
12 of this Code, the Secretary of State shall either rescind
13 or continue an order of revocation or shall substitute an
14 order of suspension; or, good cause appearing therefor,
15 rescind, continue, change, or extend the order of
16 suspension. If the Secretary of State does not rescind the
17 order, the Secretary may upon application, to relieve undue
18 hardship, issue a restricted driving permit granting the
19 privilege of driving a motor vehicle between the
20 petitioner's residence and petitioner's place of
21 employment or within the scope of his employment related
22 duties, or to allow transportation for the petitioner, or a
23 household member of the petitioner's family, to receive
24 necessary medical care and if the professional evaluation
25 indicates, provide transportation for alcohol remedial or
26 rehabilitative activity, or for the petitioner to attend

1 classes, as a student, in an accredited educational
2 institution; if the petitioner is able to demonstrate that
3 no alternative means of transportation is reasonably
4 available and the petitioner will not endanger the public
5 safety or welfare.

6 If a person's license or permit has been revoked or
7 suspended due to 2 or more convictions of violating Section
8 11-501 of this Code or a similar provision of a local
9 ordinance or a similar out-of-state offense, arising out of
10 separate occurrences, that person, if issued a restricted
11 driving permit, may not operate a vehicle unless it has
12 been equipped with an ignition interlock device as defined
13 in Section 1-129.1.

14 If a person's license or permit has been revoked or
15 suspended 2 or more times within a 10 year period due to a
16 single conviction of violating Section 11-501 of this Code
17 or a similar provision of a local ordinance or a similar
18 out-of-state offense, and a statutory summary suspension
19 under Section 11-501.1, or 2 or more statutory summary
20 suspensions, or combination of 2 offenses, or of an offense
21 and a statutory summary suspension, arising out of separate
22 occurrences, that person, if issued a restricted driving
23 permit, may not operate a vehicle unless it has been
24 equipped with an ignition interlock device as defined in
25 Section 1-129.1. The person must pay to the Secretary of
26 State DUI Administration Fund an amount not to exceed \$20

1 per month. The Secretary shall establish by rule the amount
2 and the procedures, terms, and conditions relating to these
3 fees. If the restricted driving permit was issued for
4 employment purposes, then this provision does not apply to
5 the operation of an occupational vehicle owned or leased by
6 that person's employer. In each case the Secretary may
7 issue a restricted driving permit for a period deemed
8 appropriate, except that all permits shall expire within
9 one year from the date of issuance. The Secretary may not,
10 however, issue a restricted driving permit to any person
11 whose current revocation is the result of a second or
12 subsequent conviction for a violation of Section 11-501 of
13 this Code or a similar provision of a local ordinance
14 relating to the offense of operating or being in physical
15 control of a motor vehicle while under the influence of
16 alcohol, other drug or drugs, intoxicating compound or
17 compounds, or any similar out-of-state offense, or any
18 combination of those offenses, until the expiration of at
19 least one year from the date of the revocation. A
20 restricted driving permit issued under this Section shall
21 be subject to cancellation, revocation, and suspension by
22 the Secretary of State in like manner and for like cause as
23 a driver's license issued under this Code may be cancelled,
24 revoked, or suspended; except that a conviction upon one or
25 more offenses against laws or ordinances regulating the
26 movement of traffic shall be deemed sufficient cause for

1 the revocation, suspension, or cancellation of a
2 restricted driving permit. The Secretary of State may, as a
3 condition to the issuance of a restricted driving permit,
4 require the applicant to participate in a designated driver
5 remedial or rehabilitative program. The Secretary of State
6 is authorized to cancel a restricted driving permit if the
7 permit holder does not successfully complete the program.

8 (c-5) The Secretary of State may, as a condition of the
9 reissuance of a driver's license or permit to an applicant
10 whose driver's license or permit has been suspended before he
11 or she reached the age of 18 years pursuant to any of the
12 provisions of this Section, require the applicant to
13 participate in a driver remedial education course and be
14 retested under Section 6-109 of this Code.

15 (d) This Section is subject to the provisions of the
16 Drivers License Compact.

17 (e) The Secretary of State shall not issue a restricted
18 driving permit to a person under the age of 16 years whose
19 driving privileges have been suspended or revoked under any
20 provisions of this Code.

21 (f) In accordance with 49 C.F.R. 384, the Secretary of
22 State may not issue a restricted driving permit for the
23 operation of a commercial motor vehicle to a person holding a
24 CDL whose driving privileges have been suspended or revoked
25 under any provisions of this Code.

26 (Source: P.A. 93-120, eff. 1-1-04; 93-667, eff. 3-19-04;

1 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; 94-307, eff.
2 9-30-05; 94-556, eff. 9-11-05; 94-930, eff. 6-26-06.)

3 (625 ILCS 5/11-501.8)

4 Sec. 11-501.8. Suspension of driver's license; persons
5 under age 21.

6 (a) A person who is less than 21 years of age and who
7 drives or is in actual physical control of a motor vehicle upon
8 the public highways of this State shall be deemed to have given
9 consent to a chemical test or tests of blood, breath, or urine
10 for the purpose of determining the alcohol content of the
11 person's blood if arrested, as evidenced by the issuance of a
12 Uniform Traffic Ticket for any violation of the Illinois
13 Vehicle Code or a similar provision of a local ordinance, if a
14 police officer has probable cause to believe that the driver
15 has consumed any amount of an alcoholic beverage based upon
16 evidence of the driver's physical condition or other first hand
17 knowledge of the police officer. The test or tests shall be
18 administered at the direction of the arresting officer. The law
19 enforcement agency employing the officer shall designate which
20 of the aforesaid tests shall be administered. A urine test may
21 be administered even after a blood or breath test or both has
22 been administered.

23 (b) A person who is dead, unconscious, or who is otherwise
24 in a condition rendering that person incapable of refusal,
25 shall be deemed not to have withdrawn the consent provided by

1 paragraph (a) of this Section and the test or tests may be
2 administered subject to the following provisions:

3 (i) Chemical analysis of the person's blood, urine,
4 breath, or other bodily substance, to be considered valid
5 under the provisions of this Section, shall have been
6 performed according to standards promulgated by the
7 Department of State Police by an individual possessing a
8 valid permit issued by that Department for this purpose.
9 The Director of State Police is authorized to approve
10 satisfactory techniques or methods, to ascertain the
11 qualifications and competence of individuals to conduct
12 analyses, to issue permits that shall be subject to
13 termination or revocation at the direction of that
14 Department, and to certify the accuracy of breath testing
15 equipment. The Department of State Police shall prescribe
16 regulations as necessary.

17 (ii) When a person submits to a blood test at the
18 request of a law enforcement officer under the provisions
19 of this Section, only a physician authorized to practice
20 medicine, a registered nurse, or other qualified person
21 trained in venipuncture and acting under the direction of a
22 licensed physician may withdraw blood for the purpose of
23 determining the alcohol content therein. This limitation
24 does not apply to the taking of breath or urine specimens.

25 (iii) The person tested may have a physician, qualified
26 technician, chemist, registered nurse, or other qualified

1 person of his or her own choosing administer a chemical
2 test or tests in addition to any test or tests administered
3 at the direction of a law enforcement officer. The failure
4 or inability to obtain an additional test by a person shall
5 not preclude the consideration of the previously performed
6 chemical test.

7 (iv) Upon a request of the person who submits to a
8 chemical test or tests at the request of a law enforcement
9 officer, full information concerning the test or tests
10 shall be made available to the person or that person's
11 attorney.

12 (v) Alcohol concentration means either grams of
13 alcohol per 100 milliliters of blood or grams of alcohol
14 per 210 liters of breath.

15 (vi) If a driver is receiving medical treatment as a
16 result of a motor vehicle accident, a physician licensed to
17 practice medicine, registered nurse, or other qualified
18 person trained in venipuncture and acting under the
19 direction of a licensed physician shall withdraw blood for
20 testing purposes to ascertain the presence of alcohol upon
21 the specific request of a law enforcement officer. However,
22 that testing shall not be performed until, in the opinion
23 of the medical personnel on scene, the withdrawal can be
24 made without interfering with or endangering the
25 well-being of the patient.

26 (c) A person requested to submit to a test as provided

1 above shall be warned by the law enforcement officer requesting
2 the test that a refusal to submit to the test, or submission to
3 the test resulting in an alcohol concentration of more than
4 0.00, may result in the loss of that person's privilege to
5 operate a motor vehicle. The loss of driving privileges shall
6 be imposed in accordance with Section 6-208.2 of this Code.

7 (d) If the person refuses testing or submits to a test that
8 discloses an alcohol concentration of more than 0.00, the law
9 enforcement officer shall immediately submit a sworn report to
10 the Secretary of State on a form prescribed by the Secretary of
11 State, certifying that the test or tests were requested under
12 subsection (a) and the person refused to submit to a test or
13 tests or submitted to testing which disclosed an alcohol
14 concentration of more than 0.00. The law enforcement officer
15 shall submit the same sworn report when a person under the age
16 of 21 submits to testing under Section 11-501.1 of this Code
17 and the testing discloses an alcohol concentration of more than
18 0.00 and less than 0.08.

19 Upon receipt of the sworn report of a law enforcement
20 officer, the Secretary of State shall enter the driver's
21 license sanction on the individual's driving record and the
22 sanctions shall be effective on the 46th day following the date
23 notice of the sanction was given to the person. If this
24 sanction is the individual's first driver's license suspension
25 under this Section, reports received by the Secretary of State
26 under this Section shall, except during the time the suspension

1 is in effect, be privileged information and for use only by the
2 courts, police officers, prosecuting authorities, the
3 Secretary of State, or the individual personally.

4 The law enforcement officer submitting the sworn report
5 shall serve immediate notice of this driver's license sanction
6 on the person and the sanction shall be effective on the 46th
7 day following the date notice was given.

8 In cases where the blood alcohol concentration of more than
9 0.00 is established by a subsequent analysis of blood or urine,
10 the police officer or arresting agency shall give notice as
11 provided in this Section or by deposit in the United States
12 mail of that notice in an envelope with postage prepaid and
13 addressed to that person at his last known address and the loss
14 of driving privileges shall be effective on the 46th day
15 following the date notice was given.

16 Upon receipt of the sworn report of a law enforcement
17 officer, the Secretary of State shall also give notice of the
18 driver's license sanction to the driver by mailing a notice of
19 the effective date of the sanction to the individual. However,
20 should the sworn report be defective by not containing
21 sufficient information or be completed in error, the notice of
22 the driver's license sanction may not be mailed to the person
23 or entered to the driving record, but rather the sworn report
24 shall be returned to the issuing law enforcement agency.

25 (e) A driver may contest this driver's license sanction by
26 requesting an administrative hearing with the Secretary of

1 State in accordance with Section 2-118 of this Code. An
2 individual whose blood alcohol concentration is shown to be
3 more than 0.00 is not subject to this Section if he or she
4 consumed alcohol in the performance of a religious service or
5 ceremony. An individual whose blood alcohol concentration is
6 shown to be more than 0.00 shall not be subject to this Section
7 if the individual's blood alcohol concentration resulted only
8 from ingestion of the prescribed or recommended dosage of
9 medicine that contained alcohol. The petition for that hearing
10 shall not stay or delay the effective date of the impending
11 suspension. The scope of this hearing shall be limited to the
12 issues of:

13 (1) whether the police officer had probable cause to
14 believe that the person was driving or in actual physical
15 control of a motor vehicle upon the public highways of the
16 State and the police officer had reason to believe that the
17 person was in violation of any provision of the Illinois
18 Vehicle Code or a similar provision of a local ordinance;
19 and

20 (2) whether the person was issued a Uniform Traffic
21 Ticket for any violation of the Illinois Vehicle Code or a
22 similar provision of a local ordinance; and

23 (3) whether the police officer had probable cause to
24 believe that the driver had consumed any amount of an
25 alcoholic beverage based upon the driver's physical
26 actions or other first-hand knowledge of the police

1 officer; and

2 (4) whether the person, after being advised by the
3 officer that the privilege to operate a motor vehicle would
4 be suspended if the person refused to submit to and
5 complete the test or tests, did refuse to submit to or
6 complete the test or tests to determine the person's
7 alcohol concentration; and

8 (5) whether the person, after being advised by the
9 officer that the privileges to operate a motor vehicle
10 would be suspended if the person submits to a chemical test
11 or tests and the test or tests disclose an alcohol
12 concentration of more than 0.00, did submit to and complete
13 the test or tests that determined an alcohol concentration
14 of more than 0.00; and

15 (6) whether the test result of an alcohol concentration
16 of more than 0.00 was based upon the person's consumption
17 of alcohol in the performance of a religious service or
18 ceremony; and

19 (7) whether the test result of an alcohol concentration
20 of more than 0.00 was based upon the person's consumption
21 of alcohol through ingestion of the prescribed or
22 recommended dosage of medicine.

23 ~~Provided that the petitioner may subpoena the officer, the~~
24 ~~hearing may be conducted upon a review of the law enforcement~~
25 ~~officer's own official reports. Failure of the officer to~~
26 ~~answer the subpoena shall be grounds for a continuance if, in~~

1 ~~the hearing officer's discretion, the continuance is~~
2 ~~appropriate.~~ At the conclusion of the hearing held under
3 Section 2-118 of this Code, the Secretary of State may rescind,
4 continue, or modify the driver's license sanction. If the
5 Secretary of State does not rescind the sanction, a restricted
6 driving permit may be granted by the Secretary of State upon
7 application being made and good cause shown. A restricted
8 driving permit may be granted to relieve undue hardship by
9 allowing driving for employment, educational, and medical
10 purposes as outlined in item (3) of part (c) of Section 6-206
11 of this Code. The provisions of item (3) of part (c) of Section
12 6-206 of this Code and of subsection (f) of that Section shall
13 apply. The Secretary of State shall promulgate rules providing
14 for participation in an alcohol education and awareness program
15 or activity, a drug education and awareness program or
16 activity, or both as a condition to the issuance of a
17 restricted driving permit for suspensions imposed under this
18 Section.

19 (f) The results of any chemical testing performed in
20 accordance with subsection (a) of this Section are not
21 admissible in any civil or criminal proceeding, except that the
22 results of the testing may be considered at a hearing held
23 under Section 2-118 of this Code. However, the results of the
24 testing may not be used to impose driver's license sanctions
25 under Section 11-501.1 of this Code. A law enforcement officer
26 may, however, pursue a statutory summary suspension of driving

1 privileges under Section 11-501.1 of this Code if other
2 physical evidence or first hand knowledge forms the basis of
3 that suspension.

4 (g) This Section applies only to drivers who are under age
5 21 at the time of the issuance of a Uniform Traffic Ticket for
6 a violation of the Illinois Vehicle Code or a similar provision
7 of a local ordinance, and a chemical test request is made under
8 this Section.

9 (h) The action of the Secretary of State in suspending,
10 revoking, or denying any license, permit, registration, or
11 certificate of title shall be subject to judicial review in the
12 Circuit Court of Sangamon County or in the Circuit Court of
13 Cook County, and the provisions of the Administrative Review
14 Law and its rules are hereby adopted and shall apply to and
15 govern every action for the judicial review of final acts or
16 decisions of the Secretary of State under this Section.

17 (Source: P.A. 94-307, eff. 9-30-05.)