



Judiciary II - Criminal Law Committee

Filed: 5/24/2007

09500SB0607ham002

LRB095 07293 DRH 36945 a

1 AMENDMENT TO SENATE BILL 607

2 AMENDMENT NO. _____. Amend Senate Bill 607 on page 139, by
3 inserting after line 11 the following:

4 "Section 7. If and only if Senate Bill 300 of the 95th
5 General Assembly becomes law and the changes to Section 6-206.1
6 of the Illinois Vehicle Code in that bill become law in the
7 form in which they appear in House Amendment No. 1 to that
8 bill, the Illinois Vehicle Code is amended by changing Section
9 6-206.1 as follows:

10 (625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

11 Sec. 6-206.1. Monitoring Device Driving Permit.
12 Declaration of Policy. It is hereby declared a policy of the
13 State of Illinois that the driver who is impaired by alcohol,
14 other drug or drugs, or intoxicating compound or compounds is a
15 threat to the public safety and welfare. Therefore, to provide
16 a deterrent to such practice and to remove problem drivers from

1 the highway, a statutory summary driver's license suspension is
2 appropriate. It is also recognized that driving is a privilege
3 and therefore, that the granting of driving privileges, in a
4 manner consistent with public safety, is warranted during the
5 period of suspension in the form of a monitoring device driving
6 permit. A person who drives and fails to comply with the
7 requirements of the monitoring device driving permit commits a
8 violation of Section 6-303 of this Code.

9 The following procedures shall apply whenever a first
10 offender is arrested for any offense as defined in Section
11 11-501 or a similar provision of a local ordinance:

12 (a) Subsequent to a notification of a statutory summary
13 suspension of driving privileges as provided in Section
14 11-501.1, the court, after informing the first offender, as
15 defined in Section 11-500, of his or her right to a monitoring
16 device driving permit, hereinafter referred to as a MDDP, and
17 of the obligations of the MDDP, shall enter an order directing
18 the Secretary of State to issue a MDDP to the offender, unless
19 the offender has opted, in writing, not to have a MDDP issued.
20 However, the court shall not enter the order directing the
21 Secretary of State to issue the MDDP, if the court finds:

22 (1) The offender's driver's license is otherwise
23 invalid ~~valid~~;

24 (2) Death ~~No death~~ or great bodily harm resulted from
25 the arrest for Section 11-501;

26 (3) That the offender has ~~not~~ been previously convicted

1 of reckless homicide; or ~~and~~

2 (4) That the offender is ~~not~~ less than 18 years of age.
3 Any court order for a MDDP shall order the person to pay the
4 Secretary of State a MDDP Administration Fee an amount not to
5 exceed \$30 per month. The Secretary shall establish by rule the
6 amount and the procedures, terms, and conditions relating to
7 these fees. The order shall further specify that the offender
8 must have an ignition interlock device installed within 14 days
9 of the date the Secretary issues the MDDP, and shall specify
10 the vehicle in which the device is to be installed. The
11 ignition interlock device provider must notify the Secretary,
12 in a manner and form prescribed by the Secretary, of the
13 installation. If the Secretary does not receive notice of
14 installation, the Secretary shall cancel the MDDP.

15 A MDDP shall not become effective prior to the 31st day of the
16 original statutory summary suspension.

17 (a-1) A person issued a MDDP may drive for any purpose and
18 at any time, subject to the rules adopted by the Secretary of
19 State under subsection (g). The person must, at his or her own
20 expense, drive only vehicles equipped with an ignition
21 interlock device as defined in Section 1-129.1, but in no event
22 shall such person drive a commercial motor vehicle.

23 (a-2) Persons who are issued a MDDP and must drive
24 employer-owned vehicles in the course of their employment
25 duties may seek permission from the court to drive an
26 employer-owned vehicle that does not have an ignition interlock

1 device. The employee shall provide to the court a form,
2 prescribed by the Secretary of State, completed by the employer
3 verifying that the employee must drive an employer-owned
4 vehicle in the course of employment. If approved by the court,
5 the form must be file stamped and must be in the driver's
6 possession while operating an employer-owner vehicle not
7 equipped with an ignition interlock device. No person may use
8 this exemption to drive a school bus, school vehicle, or a
9 vehicle designed to transport more than 15 passengers. No
10 person may use this exemption to drive an employer-owned motor
11 vehicle that is owned by an entity that is wholly or partially
12 owned by the person holding the MDDP, or by an family member of
13 the person holding the MDDP. No person may use this exemption
14 to drive an employer-owned vehicle that is made available to
15 the employee for personal use. No person may drive the exempted
16 vehicle more than 12 hours per day, 6 days per week.

17 (b) (Blank).

18 (c) (Blank).

19 (c-1)

20 If the person is issued a citation for a violation of Section
21 6-303 or a violation of Section 11-501 or a similar provision
22 of a local ordinance or a similar out of state offense during
23 the term of the MDDP, the officer issuing the citation, or the
24 law enforcement agency employing that officer, shall
25 confiscate the MDDP and immediately send the MDDP and notice of
26 the citation to the court that ordered the issuance of the

1 MDDP. Within 10 days of receipt, the issuing court, upon notice
2 to the person, shall conduct a hearing to consider cancellation
3 of the MDDP. If the court enters an order of cancellation, the
4 court shall forward the order to the Secretary of State, and
5 the Secretary shall cancel the MDDP and notify the person of
6 the cancellation. If, however, the person is convicted of the
7 offense before the MDDP has been cancelled, the court of venue
8 shall send notice of conviction to the court that ordered
9 issuance of the MDDP. The court receiving the notice shall
10 immediately enter an order of cancellation and forward the
11 order to the Secretary of State. The Secretary shall cancel the
12 MDDP ~~JDP~~ and notify the person of the cancellation.

13 If the person is issued a citation for any other traffic
14 related offense during the term of the MDDP, the officer
15 issuing the citation, or the law enforcement agency employing
16 that officer, shall send notice of the citation to the court
17 that ordered issuance of the MDDP. Upon receipt and notice to
18 the person and an opportunity for a hearing, the court shall
19 determine whether the violation constitutes grounds for
20 cancellation of the MDDP. If the court enters an order of
21 cancellation, the court shall forward the order to the
22 Secretary of State, and the Secretary shall cancel the MDDP and
23 shall notify the person of the cancellation.

24 (c-5) If the court determines that the person seeking the
25 MDDP is indigent, the court shall provide the person with a
26 written document, in a form prescribed by the Secretary of

1 State, as evidence of that determination, and the person shall
2 provide that written document to an ignition interlock device
3 provider. The provider shall install an ignition interlock
4 device on that person's vehicle without charge to the person,
5 and seek reimbursement from the Indigent BAIID Fund.

6 (d) The Secretary of State shall, upon receiving a court
7 order from the court of venue, issue a MDDP to a person who
8 applies under this Section. Such court order form shall also
9 contain a notification, which shall be sent to the Secretary of
10 State, providing the name, driver's license number and legal
11 address of the applicant. This information shall be available
12 only to the courts, police officers, and the Secretary of
13 State, except during the actual period the MDDP is valid,
14 during which time it shall be a public record. The Secretary of
15 State shall design and furnish to the courts an official court
16 order form to be used by the courts when directing the
17 Secretary of State to issue a MDDP.

18 Any submitted court order that contains insufficient data
19 or fails to comply with this Code shall not be utilized for
20 MDDP issuance or entered to the driver record but shall be
21 returned to the issuing court indicating why the MDDP cannot be
22 so entered. A notice of this action shall also be sent to the
23 MDDP applicant by the Secretary of State.

24 (e) (Blank).

25 (f) (Blank).

26 (g) The Secretary of State shall adopt rules for

1 implementing this Section. The rules adopted shall address
2 issues including, but not limited to: compliance with the
3 requirements of the MDDP; methods for determining compliance
4 with those requirements; the consequences of noncompliance
5 with those requirements; what constitutes a violation of the
6 MDDP; and the duties of a person or entity that supplies the
7 ignition interlock device.

8 (h) The rules adopted under subsection (g) shall provide,
9 at a minimum, that the person is not in compliance with the
10 requirements of the MDDP if he or she:

11 (1) tampers or attempts to tamper with or circumvent
12 the proper operation of the ignition interlock device;

13 (2) provides valid breath samples that register blood
14 alcohol levels in excess of the number of times allowed
15 under the rules;

16 (3) fails to provide evidence sufficient to satisfy the
17 Secretary that the ignition interlock device has been
18 installed in the designated vehicle or vehicles; or

19 (4) fails to follow any other applicable rules adopted
20 by the Secretary.

21 (i) Any person or entity that supplies an ignition
22 interlock device as provided under this Section shall, in
23 addition to supplying only those devices which fully comply
24 with all the rules adopted under subsection (g), provide the
25 Secretary, within 7 days of inspection, all monitoring reports
26 of each person who has had an ignition interlock device

1 installed. These reports shall be furnished in a manner or form
2 as prescribed by the Secretary.

3 (j) Upon making a determination that a violation of the
4 requirements of the MDDP has occurred, the Secretary shall
5 extend the summary suspension period for an additional 3 months
6 beyond the originally imposed summary suspension period,
7 during which time the person shall only be allowed to drive
8 vehicles equipped with an ignition interlock device; provided
9 further there are no limitations on the number of times the
10 summary suspension may be extended. Any person whose summary
11 suspension is extended pursuant to this Section shall have the
12 right to contest the extension through an administrative
13 hearing with the Secretary. If the summary suspension has
14 already terminated prior to the Secretary receiving the
15 monitoring report that shows a violation, the Secretary shall
16 be authorized to suspend the person's driving privileges for 3
17 months. The only permit the person shall be eligible for during
18 this new suspension period is a MDDP.

19 (k) A person who has had his or her summary suspension
20 extended for the third time shall have his or her vehicle
21 impounded for a period of 30 days, at the person's own expense.
22 A person who has his or her summary suspension extended for the
23 fourth time shall have his or her vehicle subject to seizure
24 and forfeiture. The Secretary shall notify the prosecuting
25 authority of any third or fourth extensions. Upon receipt of
26 the notification, the prosecuting authority shall impound or

1 forfeit the vehicle.

2 (1) A person whose driving privileges have been suspended
3 under Section 11-501.1 of this Code and who had a MDDP that was
4 cancelled pursuant to subsection (c-1) of this Section, shall
5 not be eligible for reinstatement when the summary suspension
6 is scheduled to terminate, but instead shall be eligible only
7 to apply for a restricted driving permit. If a restricted
8 driving permit is granted, the offender may only operate
9 vehicles equipped with an ignition interlock device, for a
10 period of not less than twice the original summary suspension
11 period.

12 (m) Any person or entity that supplies an ignition
13 interlock device under this Section shall, for each ignition
14 interlock device installed, pay 5% of the total gross revenue
15 received for the device into the Indigent BAIID Fund. This 5%
16 shall be clearly indicated as a separate surcharge on each
17 invoice that is issued. The Secretary shall conduct an annual
18 review of the fund to determine whether the surcharge is
19 sufficient to provide for indigent users. The Secretary may
20 increase or decrease this surcharge requirement as needed.

21 (n) Any person or entity that supplies an ignition
22 interlock device under this Section that is requested to
23 provide an ignition interlock device to a person who presents
24 written documentation of indigency from the court, as provided
25 in subsection (c-5) of this Section, shall install the device
26 on the person's vehicle without charge to the person and shall

1 seek reimbursement from the Indigent BAIID Fund.

2 (o) The Indigent BAIID Fund is created as a special fund in
3 the State treasury. The Secretary of State shall, subject to
4 appropriation by the General Assembly, use all money in the
5 Indigent BAIID Fund to reimburse ignition interlock device
6 providers who have installed devices in vehicles of indigent
7 persons pursuant to court orders issued under this Section. The
8 Secretary shall make payments to such providers every 3 months.
9 If the amount of money in the fund at the time payments are
10 made is not sufficient to pay all requests for reimbursement
11 submitted during that 3 month period, the Secretary shall make
12 payments on a pro-rata basis, and those payments shall be
13 considered payment in full for the requests submitted.

14 (p) The Monitoring Device Driving Permit Administration
15 Fee Fund is created as a special fund in the State treasury.
16 The Secretary of State shall, subject to appropriation by the
17 General Assembly, use the money paid into this fund to offset
18 its administrative costs for administering MDDPs.

19 (Source: P.A. 94-307, eff. 9-30-05; 94-357, eff. 1-1-06;
20 94-930, eff. 6-26-06; 09500SB0300ham001.)"; and

21 on page 158, by inserting after line 3 the following:

22 "Section 99. Effective date. Section 7 of this Act takes
23 effect on January 1, 2009."