

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 11-501, 11-501.2, and 11-501.4 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

1 that renders the person incapable of safely driving; or

2 (6) there is any amount of a drug, substance, or
3 compound in the person's breath, blood, or urine resulting
4 from the unlawful use or consumption of cannabis listed in
5 the Cannabis Control Act, a controlled substance listed in
6 the Illinois Controlled Substances Act, an intoxicating
7 compound listed in the Use of Intoxicating Compounds Act,
8 or methamphetamine as listed in the Methamphetamine
9 Control and Community Protection Act.

10 (b) The fact that any person charged with violating this
11 Section is or has been legally entitled to use alcohol, other
12 drug or drugs, or intoxicating compound or compounds, or any
13 combination thereof, shall not constitute a defense against any
14 charge of violating this Section.

15 (c) Penalties.

16 (1) Except as otherwise provided in this Section, any
17 person convicted of violating subsection (a) of this
18 Section is guilty of a Class A misdemeanor.

19 (2) A person who violates subsection (a) or a similar
20 provision a second time shall be sentenced to a mandatory
21 minimum term of either 5 days of imprisonment or 240 hours
22 of community service in addition to any other criminal or
23 administrative sanction.

24 (3) A person who violates subsection (a) is subject to
25 6 months of imprisonment, an additional mandatory minimum
26 fine of \$1,000, and 25 days of community service in a

1 program benefiting children if the person was transporting
2 a person under the age of 16 at the time of the violation.

3 (4) A person who violates subsection (a) a first time,
4 if the alcohol concentration in his or her blood, breath,
5 or urine was 0.16 or more based on the definition of blood,
6 breath, or urine units in Section 11-501.2, shall be
7 subject, in addition to any other penalty that may be
8 imposed, to a mandatory minimum of 100 hours of community
9 service and a mandatory minimum fine of \$500.

10 (5) A person who violates subsection (a) a second time,
11 if at the time of the second violation the alcohol
12 concentration in his or her blood, breath, or urine was
13 0.16 or more based on the definition of blood, breath, or
14 urine units in Section 11-501.2, shall be subject, in
15 addition to any other penalty that may be imposed, to a
16 mandatory minimum of 2 days of imprisonment and a mandatory
17 minimum fine of \$1,250.

18 (d) Aggravated driving under the influence of alcohol,
19 other drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof.

21 (1) Every person convicted of committing a violation of
22 this Section shall be guilty of aggravated driving under
23 the influence of alcohol, other drug or drugs, or
24 intoxicating compound or compounds, or any combination
25 thereof if:

26 (A) the person committed a violation of subsection

1 (a) or a similar provision for the third or subsequent
2 time;

3 (B) the person committed a violation of subsection
4 (a) while driving a school bus with persons 18 years of
5 age or younger on board;

6 (C) the person in committing a violation of
7 subsection (a) was involved in a motor vehicle accident
8 that resulted in great bodily harm or permanent
9 disability or disfigurement to another, when the
10 violation was a proximate cause of the injuries;

11 (D) the person committed a violation of subsection
12 (a) ~~for a second time~~ and has been previously convicted
13 of violating Section 9-3 of the Criminal Code of 1961
14 or a similar provision of a law of another state
15 relating to reckless homicide in which the person was
16 determined to have been under the influence of alcohol,
17 other drug or drugs, or intoxicating compound or
18 compounds as an element of the offense or the person
19 has previously been convicted under subparagraph (C)
20 or subparagraph (F) of this paragraph (1);

21 (E) the person, in committing a violation of
22 subsection (a) while driving at any speed in a school
23 speed zone at a time when a speed limit of 20 miles per
24 hour was in effect under subsection (a) of Section
25 11-605 of this Code, was involved in a motor vehicle
26 accident that resulted in bodily harm, other than great

1 bodily harm or permanent disability or disfigurement,
2 to another person, when the violation of subsection (a)
3 was a proximate cause of the bodily harm;

4 (F) the person, in committing a violation of
5 subsection (a), was involved in a motor vehicle,
6 snowmobile, all-terrain vehicle, or watercraft
7 accident that resulted in the death of another person,
8 when the violation of subsection (a) was a proximate
9 cause of the death;

10 (G) the person committed a violation of subsection
11 (a) during a period in which the defendant's driving
12 privileges are revoked or suspended, where the
13 revocation or suspension was for a violation of
14 subsection (a) or a similar provision, Section
15 11-501.1, paragraph (b) of Section 11-401, or for
16 reckless homicide as defined in Section 9-3 of the
17 Criminal Code of 1961;

18 (H) the person committed the violation while he or
19 she did not possess a driver's license or permit or a
20 restricted driving permit or a judicial driving permit
21 or a monitoring device driving permit;

22 (I) the person committed the violation while he or
23 she knew or should have known that the vehicle he or
24 she was driving was not covered by a liability
25 insurance policy;

26 (J) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident
2 that resulted in bodily harm, but not great bodily
3 harm, to the child under the age of 16 being
4 transported by the person, if the violation was the
5 proximate cause of the injury; or

6 (K) the person in committing a second violation of
7 subsection (a) or a similar provision was transporting
8 a person under the age of 16.

9 (2) (A) Except as provided otherwise, a person
10 convicted of aggravated driving under the influence of
11 alcohol, other drug or drugs, or intoxicating compound or
12 compounds, or any combination thereof is guilty of a Class
13 4 felony.

14 (B) A third violation of this Section or a similar
15 provision is a Class 2 felony. If at the time of the third
16 violation the alcohol concentration in his or her blood,
17 breath, or urine was 0.16 or more based on the definition
18 of blood, breath, or urine units in Section 11-501.2, a
19 mandatory minimum of 90 days of imprisonment and a
20 mandatory minimum fine of \$2,500 shall be imposed in
21 addition to any other criminal or administrative sanction.
22 If at the time of the third violation, the defendant was
23 transporting a person under the age of 16, a mandatory fine
24 of \$25,000 and 25 days of community service in a program
25 benefiting children shall be imposed in addition to any
26 other criminal or administrative sanction.

1 (C) A fourth violation of this Section or a similar
2 provision is a Class 2 felony, for which a sentence of
3 probation or conditional discharge may not be imposed. If
4 at the time of the violation, the alcohol concentration in
5 the defendant's blood, breath, or urine was 0.16 or more
6 based on the definition of blood, breath, or urine units in
7 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
8 be imposed in addition to any other criminal or
9 administrative sanction. If at the time of the fourth
10 violation, the defendant was transporting a person under
11 the age of 16 a mandatory fine of \$25,000 and 25 days of
12 community service in a program benefiting children shall be
13 imposed in addition to any other criminal or administrative
14 sanction.

15 (D) A fifth violation of this Section or a similar
16 provision is a Class 1 felony, for which a sentence of
17 probation or conditional discharge may not be imposed. If
18 at the time of the violation, the alcohol concentration in
19 the defendant's blood, breath, or urine was 0.16 or more
20 based on the definition of blood, breath, or urine units in
21 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
22 be imposed in addition to any other criminal or
23 administrative sanction. If at the time of the fifth
24 violation, the defendant was transporting a person under
25 the age of 16, a mandatory fine of \$25,000, and 25 days of
26 community service in a program benefiting children shall be

1 imposed in addition to any other criminal or administrative
2 sanction.

3 (E) A sixth or subsequent violation of this Section or
4 similar provision is a Class X felony. If at the time of
5 the violation, the alcohol concentration in the
6 defendant's blood, breath, or urine was 0.16 or more based
7 on the definition of blood, breath, or urine units in
8 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
9 be imposed in addition to any other criminal or
10 administrative sanction. If at the time of the violation,
11 the defendant was transporting a person under the age of
12 16, a mandatory fine of \$25,000 and 25 days of community
13 service in a program benefiting children shall be imposed
14 in addition to any other criminal or administrative
15 sanction.

16 (F) For a violation of subparagraph (C) of paragraph
17 (1) of this subsection (d), the defendant, if sentenced to
18 a term of imprisonment, shall be sentenced to not less than
19 one year nor more than 12 years.

20 (G) A violation of subparagraph (F) of paragraph (1) of
21 this subsection (d) is a Class 2 felony, for which the
22 defendant, unless the court determines that extraordinary
23 circumstances exist and require probation, shall be
24 sentenced to: (i) a term of imprisonment of not less than 3
25 years and not more than 14 years if the violation resulted
26 in the death of one person; or (ii) a term of imprisonment

1 of not less than 6 years and not more than 28 years if the
2 violation resulted in the deaths of 2 or more persons.

3 (H) For a violation of subparagraph (J) of paragraph
4 (1) of this subsection (d), a mandatory fine of \$2,500, and
5 25 days of community service in a program benefiting
6 children shall be imposed in addition to any other criminal
7 or administrative sanction.

8 (I) A violation of subparagraph (K) of paragraph (1) of
9 this subsection (d), is a Class 2 felony and a mandatory
10 fine of \$2,500, and 25 days of community service in a
11 program benefiting children shall be imposed in addition to
12 any other criminal or administrative sanction. If the child
13 being transported suffered bodily harm, but not great
14 bodily harm, in a motor vehicle accident, and the violation
15 was the proximate cause of that injury, a mandatory fine of
16 \$5,000 and 25 days of community service in a program
17 benefiting children shall be imposed in addition to any
18 other criminal or administrative sanction.

19 (J) A violation of subparagraph (D) of paragraph (1) of
20 this subsection (d) is a Class 3 felony, for which a
21 sentence of probation or conditional discharge may not be
22 imposed.

23 (3) Any person sentenced under this subsection (d) who
24 receives a term of probation or conditional discharge must
25 serve a minimum term of either 480 hours of community
26 service or 10 days of imprisonment as a condition of the

1 probation or conditional discharge in addition to any other
2 criminal or administrative sanction.

3 (e) Any reference to a prior violation of subsection (a) or
4 a similar provision includes any violation of a provision of a
5 local ordinance or a provision of a law of another state or an
6 offense committed on a military installation that is similar to
7 a violation of subsection (a) of this Section.

8 (f) The imposition of a mandatory term of imprisonment or
9 assignment of community service for a violation of this Section
10 shall not be suspended or reduced by the court.

11 (g) Any penalty imposed for driving with a license that has
12 been revoked for a previous violation of subsection (a) of this
13 Section shall be in addition to the penalty imposed for any
14 subsequent violation of subsection (a).

15 (h) For any prosecution under this Section, a certified
16 copy of the driving abstract of the defendant shall be admitted
17 as proof of any prior conviction.

18 (Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114,
19 eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609,
20 eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07;
21 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08;
22 95-778, eff. 8-4-08; 95-876, eff. 8-21-08.)

23 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)
24 Sec. 11-501.2. Chemical and other tests.

25 (a) Upon the trial of any civil or criminal action or

1 proceeding arising out of an arrest for an offense as defined
2 in Section 11-501 or a similar local ordinance or proceedings
3 pursuant to Section 2-118.1, evidence of the concentration of
4 alcohol, other drug or drugs, or intoxicating compound or
5 compounds, or any combination thereof in a person's blood or
6 breath at the time alleged, as determined by analysis of the
7 person's blood, urine, breath or other bodily substance, shall
8 be admissible. Where such test is made the following provisions
9 shall apply:

10 1. Chemical analyses of the person's blood, urine,
11 breath or other bodily substance to be considered valid
12 under the provisions of this Section shall have been
13 performed according to standards promulgated by the
14 Department of State Police by a licensed physician,
15 registered nurse, trained phlebotomist ~~acting under the~~
16 ~~direction of a licensed physician~~, certified paramedic, or
17 other individual possessing a valid permit issued by that
18 Department for this purpose. The Director of State Police
19 is authorized to approve satisfactory techniques or
20 methods, to ascertain the qualifications and competence of
21 individuals to conduct such analyses, to issue permits
22 which shall be subject to termination or revocation at the
23 discretion of that Department and to certify the accuracy
24 of breath testing equipment. The Department of State Police
25 shall prescribe regulations as necessary to implement this
26 Section.

1 2. When a person in this State shall submit to a blood
2 test at the request of a law enforcement officer under the
3 provisions of Section 11-501.1, only a physician
4 authorized to practice medicine, a registered nurse,
5 trained phlebotomist, or certified paramedic, or other
6 qualified person approved by the Department of State Police
7 may withdraw blood for the purpose of determining the
8 alcohol, drug, or alcohol and drug content therein. This
9 limitation shall not apply to the taking of breath or urine
10 specimens.

11 When a blood test of a person who has been taken to an
12 adjoining state for medical treatment is requested by an
13 Illinois law enforcement officer, the blood may be
14 withdrawn only by a physician authorized to practice
15 medicine in the adjoining state, a registered nurse, a
16 trained phlebotomist acting under the direction of the
17 physician, or certified paramedic. The law enforcement
18 officer requesting the test shall take custody of the blood
19 sample, and the blood sample shall be analyzed by a
20 laboratory certified by the Department of State Police for
21 that purpose.

22 3. The person tested may have a physician, or a
23 qualified technician, chemist, registered nurse, or other
24 qualified person of their own choosing administer a
25 chemical test or tests in addition to any administered at
26 the direction of a law enforcement officer. The failure or

1 inability to obtain an additional test by a person shall
2 not preclude the admission of evidence relating to the test
3 or tests taken at the direction of a law enforcement
4 officer.

5 4. Upon the request of the person who shall submit to a
6 chemical test or tests at the request of a law enforcement
7 officer, full information concerning the test or tests
8 shall be made available to the person or such person's
9 attorney.

10 5. Alcohol concentration shall mean either grams of
11 alcohol per 100 milliliters of blood or grams of alcohol
12 per 210 liters of breath.

13 (b) Upon the trial of any civil or criminal action or
14 proceeding arising out of acts alleged to have been committed
15 by any person while driving or in actual physical control of a
16 vehicle while under the influence of alcohol, the concentration
17 of alcohol in the person's blood or breath at the time alleged
18 as shown by analysis of the person's blood, urine, breath, or
19 other bodily substance shall give rise to the following
20 presumptions:

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

24 2. If there was at that time an alcohol concentration
25 in excess of 0.05 but less than 0.08, such facts shall not
26 give rise to any presumption that the person was or was not

1 under the influence of alcohol, but such fact may be
2 considered with other competent evidence in determining
3 whether the person was under the influence of alcohol.

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

7 4. The foregoing provisions of this Section shall not
8 be construed as limiting the introduction of any other
9 relevant evidence bearing upon the question whether the
10 person was under the influence of alcohol.

11 (c) 1. If a person under arrest refuses to submit to a
12 chemical test under the provisions of Section 11-501.1,
13 evidence of refusal shall be admissible in any civil or
14 criminal action or proceeding arising out of acts alleged to
15 have been committed while the person under the influence of
16 alcohol, other drug or drugs, or intoxicating compound or
17 compounds, or any combination thereof was driving or in actual
18 physical control of a motor vehicle.

19 2. Notwithstanding any ability to refuse under this
20 Code to submit to these tests or any ability to revoke the
21 implied consent to these tests, if a law enforcement
22 officer has probable cause to believe that a motor vehicle
23 driven by or in actual physical control of a person under
24 the influence of alcohol, other drug or drugs, or
25 intoxicating compound or compounds, or any combination

1 thereof has caused the death or personal injury to another,
2 that person shall submit, upon the request of a law
3 enforcement officer, to a chemical test or tests of his or
4 her blood, breath or urine for the purpose of determining
5 the alcohol content thereof or the presence of any other
6 drug or combination of both.

7 This provision does not affect the applicability of or
8 imposition of driver's license sanctions under Section
9 11-501.1 of this Code.

10 3. For purposes of this Section, a personal injury
11 includes any Type A injury as indicated on the traffic
12 accident report completed by a law enforcement officer that
13 requires immediate professional attention in either a
14 doctor's office or a medical facility. A Type A injury
15 includes severe bleeding wounds, distorted extremities,
16 and injuries that require the injured party to be carried
17 from the scene.

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

20 (625 ILCS 5/11-501.4) (from Ch. 95 1/2, par. 11-501.4)

21 Sec. 11-501.4. Admissibility of chemical tests of blood or
22 urine conducted in the regular course of providing emergency
23 medical treatment.

24 (a) Notwithstanding any other provision of law, the results
25 of blood or urine tests performed for the purpose of

1 determining the content of alcohol, other drug or drugs, or
2 intoxicating compound or compounds, or any combination
3 thereof, of an individual's blood or urine conducted upon
4 persons receiving medical treatment in a hospital emergency
5 room are admissible in evidence as a business record exception
6 to the hearsay rule only in prosecutions for any violation of
7 Section 11-501 of this Code or a similar provision of a local
8 ordinance, or in prosecutions for reckless homicide brought
9 under the Criminal Code of 1961, when each of the following
10 criteria are met:

11 (1) the chemical tests performed upon an individual's
12 blood or urine were ordered in the regular course of
13 providing emergency medical treatment and not at the
14 request of law enforcement authorities;

15 (2) the chemical tests performed upon an individual's
16 blood or urine were performed by the laboratory routinely
17 used by the hospital; and

18 (3) results of chemical tests performed upon an
19 individual's blood or urine are admissible into evidence
20 regardless of the time that the records were prepared.

21 (b) The confidentiality provisions of law pertaining to
22 medical records and medical treatment shall not be applicable
23 with regard to chemical tests performed upon an individual's
24 blood or urine under the provisions of this Section in
25 prosecutions as specified in subsection (a) of this Section. No
26 person shall be liable for civil damages as a result of the

1 evidentiary use of chemical testing of an individual's blood or
2 urine test results under this Section, or as a result of that
3 person's testimony made available under this Section.

4 (Source: P.A. 90-779, eff. 1-1-99.)

5 Section 10. The Snowmobile Registration and Safety Act is
6 amended by changing Section 5-7.4 as follows:

7 (625 ILCS 40/5-7.4)

8 Sec. 5-7.4. Admissibility of chemical tests of blood or
9 urine conducted in the regular course of providing emergency
10 medical treatment.

11 (a) Notwithstanding any other provision of law, the results
12 of blood or urine tests performed for the purpose of
13 determining the content of alcohol, other drug or drugs,
14 intoxicating compound or compounds, or any combination of them
15 in an individual's blood or urine conducted upon persons
16 receiving medical treatment in a hospital emergency room, are
17 admissible in evidence as a business record exception to the
18 hearsay rule only in prosecutions for a violation of Section
19 5-7 of this Act or a similar provision of a local ordinance or
20 in prosecutions for reckless homicide brought under the
21 Criminal Code of 1961.

22 The results of the tests are admissible only when each of
23 the following criteria are met:

24 1. The chemical tests performed upon an individual's

1 blood or urine were ordered in the regular course of
2 providing emergency treatment and not at the request of law
3 enforcement authorities; and

4 2. The chemical tests performed upon an individual's
5 blood or urine were performed by the laboratory routinely
6 used by the hospital.

7 3. (Blank).

8 Results of chemical tests performed upon an individual's
9 blood or urine are admissible into evidence regardless of the
10 time that the records were prepared.

11 (b) The confidentiality provisions of law pertaining to
12 medical records and medical treatment are not applicable with
13 regard to chemical tests performed upon a person's blood or
14 urine under the provisions of this Section in prosecutions as
15 specified in subsection (a) of this Section. No person shall be
16 liable for civil damages as a result of the evidentiary use of
17 the results of chemical testing of the individual's blood or
18 urine under this Section or as a result of that person's
19 testimony made available under this Section.

20 (Source: P.A. 93-156, eff. 1-1-04.)

21 Section 15. The Boat Registration and Safety Act is amended
22 by changing Section 5-16a as follows:

23 (625 ILCS 45/5-16a) (from Ch. 95 1/2, par. 315-11a)

24 Sec. 5-16a. Admissibility of chemical tests of blood or

1 urine conducted in the regular course of providing emergency
2 medical treatment.

3 (a) Notwithstanding any other provision of law, the written
4 results of blood or urine alcohol tests conducted upon persons
5 receiving medical treatment in a hospital emergency room are
6 admissible in evidence as a business record exception to the
7 hearsay rule only in prosecutions for any violation of Section
8 5-16 of this Act or a similar provision of a local ordinance or
9 in prosecutions for reckless homicide brought under the
10 Criminal Code of 1961, when:

11 (1) the chemical tests performed upon an individual's
12 blood or urine were ordered in the regular course of
13 providing emergency treatment and not at the request of law
14 enforcement authorities; and

15 (2) the chemical tests performed upon an individual's
16 blood or urine were performed by the laboratory routinely
17 used by the hospital.

18 Results of chemical tests performed upon an individual's
19 blood or urine are admissible into evidence regardless of the
20 time that the records were prepared.

21 (b) The confidentiality provisions of law pertaining to
22 medical records and medical treatment shall not be applicable
23 with regard to chemical tests performed upon an individual's
24 blood or urine under the provisions of this Section in
25 prosecutions as specified in subsection (a) of this Section. No
26 person shall be liable for civil damages as a result of the

1 evidentiary use of the results of chemical testing of an
2 individual's blood or urine under this Section or as a result
3 of that person's testimony made available under this Section.
4 (Source: P.A. 93-156, eff. 1-1-04.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

1

INDEX

2

Statutes amended in order of appearance

3

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

4

625 ILCS 5/11-501.2

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

5

625 ILCS 5/11-501.4

from Ch. 95 1/2, par. 11-501.4

6

625 ILCS 40/5-7.4

7

625 ILCS 45/5-16a

from Ch. 95 1/2, par. 315-11a