



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4201

Introduced 2/27/2009, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

625 ILCS 5/1-101.15 new
625 ILCS 5/1-187.005 new
625 ILCS 5/6-206
625 ILCS 5/6-208.2

from Ch. 95 1/2, par. 6-206

Amends the Illinois Vehicle Code. Defines "active duty" in the Illinois Vehicle Code as active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor. Defines "service member" as a member of the armed services or reserve forces of the United States or a member of the Illinois National Guard. Provides that the Secretary of State's discretionary authority to suspend a person's driving privileges who is under the age of 21 and has had 2 moving violations in a period of 24 months does not apply to service members on active duty. Provides that the Secretary of State shall rescind the any such suspension occurring before the effective date of this Act. Effective immediately.

LRB096 05713 AJT 15780 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 adding
5 Sections 1-101.15 and 1-187.005 and by changing Sections 6-206
6 and 6-208.2 as follows:

7 (625 ILCS 5/1-101.15 new)

8 Sec. 1-101.15. Active Duty. Active duty pursuant to an
9 executive order of the President of the United States, an act
10 of the Congress of the United States, or an order of the
11 Governor.

12 (625 ILCS 5/1-187.005 new)

13 Sec. 1-187.005. Service member. A member of the armed
14 services or reserve forces of the United States or a member of
15 the Illinois National Guard.

16 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

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

19 (a) The Secretary of State is authorized to suspend or
20 revoke the driving privileges of any person without preliminary
21 hearing upon a showing of the person's records or other

1 sufficient evidence that the person:

2 1. Has committed an offense for which mandatory
3 revocation of a driver's license or permit is required upon
4 conviction;

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

10 3. Has been repeatedly involved as a driver in motor
11 vehicle collisions or has been repeatedly convicted of
12 offenses against laws and ordinances regulating the
13 movement of traffic, to a degree that indicates lack of
14 ability to exercise ordinary and reasonable care in the
15 safe operation of a motor vehicle or disrespect for the
16 traffic laws and the safety of other persons upon the
17 highway;

18 4. Has by the unlawful operation of a motor vehicle
19 caused or contributed to an accident resulting in death or
20 injury requiring immediate professional treatment in a
21 medical facility or doctor's office to any person, except
22 that any suspension or revocation imposed by the Secretary
23 of State under the provisions of this subsection shall
24 start no later than 6 months after being convicted of
25 violating a law or ordinance regulating the movement of
26 traffic, which violation is related to the accident, or

1 shall start not more than one year after the date of the
2 accident, whichever date occurs later;

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

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

9 7. Has refused or failed to submit to an examination
10 provided for by Section 6-207 or has failed to pass the
11 examination;

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

14 9. Has made a false statement or knowingly concealed a
15 material fact or has used false information or
16 identification in any application for a license,
17 identification card, or permit;

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

21 11. Has operated a motor vehicle upon a highway of this
22 State when the person's driving privilege or privilege to
23 obtain a driver's license or permit was revoked or
24 suspended unless the operation was authorized by a
25 monitoring device driving permit, judicial driving permit
26 issued prior to January 1, 2009, probationary license to

1 drive, or a restricted driving permit issued under this
2 Code;

3 12. Has submitted to any portion of the application
4 process for another person or has obtained the services of
5 another person to submit to any portion of the application
6 process for the purpose of obtaining a license,
7 identification card, or permit for some other person;

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

11 14. Has committed a violation of Section 6-301,
12 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B
13 of the Illinois Identification Card Act;

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

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

20 17. Has refused to submit to a test, or tests, as
21 required under Section 11-501.1 of this Code and the person
22 has not sought a hearing as provided for in Section
23 11-501.1;

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

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

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

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

10 22. Has used a motor vehicle in violating paragraph
11 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
12 the Criminal Code of 1961 relating to unlawful use of
13 weapons, in which case the suspension shall be for one
14 year;

15 23. Has, as a driver, been convicted of committing a
16 violation of paragraph (a) of Section 11-502 of this Code
17 for a second or subsequent time within one year of a
18 similar violation;

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

25 25. Has permitted any form of identification to be used
26 by another in the application process in order to obtain or

1 attempt to obtain a license, identification card, or
2 permit;

3 26. Has altered or attempted to alter a license or has
4 possessed an altered license, identification card, or
5 permit;

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

8 28. Has been convicted of the illegal possession, while
9 operating or in actual physical control, as a driver, of a
10 motor vehicle, of any controlled substance prohibited
11 under the Illinois Controlled Substances Act, any cannabis
12 prohibited under the Cannabis Control Act, or any
13 methamphetamine prohibited under the Methamphetamine
14 Control and Community Protection Act, in which case the
15 person's driving privileges shall be suspended for one
16 year, and any driver who is convicted of a second or
17 subsequent offense, within 5 years of a previous
18 conviction, for the illegal possession, while operating or
19 in actual physical control, as a driver, of a motor
20 vehicle, of any controlled substance prohibited under the
21 Illinois Controlled Substances Act, any cannabis
22 prohibited under the Cannabis Control Act, or any
23 methamphetamine prohibited under the Methamphetamine
24 Control and Community Protection Act shall be suspended for
25 5 years. Any defendant found guilty of this offense while
26 operating a motor vehicle, shall have an entry made in the

1 court record by the presiding judge that this offense did
2 occur while the defendant was operating a motor vehicle and
3 order the clerk of the court to report the violation to the
4 Secretary of State;

5 29. Has been convicted of the following offenses that
6 were committed while the person was operating or in actual
7 physical control, as a driver, of a motor vehicle: criminal
8 sexual assault, predatory criminal sexual assault of a
9 child, aggravated criminal sexual assault, criminal sexual
10 abuse, aggravated criminal sexual abuse, juvenile pimping,
11 soliciting for a juvenile prostitute and the manufacture,
12 sale or delivery of controlled substances or instruments
13 used for illegal drug use or abuse in which case the
14 driver's driving privileges shall be suspended for one
15 year;

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

20 31. Has refused to submit to a test as required by
21 Section 11-501.6 or has submitted to a test resulting in an
22 alcohol concentration of 0.08 or more or any amount of a
23 drug, substance, or compound resulting from the unlawful
24 use or consumption of cannabis as listed in the Cannabis
25 Control Act, a controlled substance as listed in the
26 Illinois Controlled Substances Act, an intoxicating

1 compound as listed in the Use of Intoxicating Compounds
2 Act, or methamphetamine as listed in the Methamphetamine
3 Control and Community Protection Act, in which case the
4 penalty shall be as prescribed in Section 6-208.1;

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

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

14 34. Has committed a violation of Section 11-1301.5 of
15 this Code;

16 35. Has committed a violation of Section 11-1301.6 of
17 this Code;

18 36. Is under the age of 21 years at the time of arrest, and
19 is not a service member on active duty, and has been
20 convicted of not less than 2 offenses against traffic
21 regulations governing the movement of vehicles committed
22 within any 24 month period. No revocation or suspension
23 shall be entered more than 6 months after the date of last
24 conviction;

25 37. Has committed a violation of subsection (c) of
26 Section 11-907 of this Code that resulted in damage to the

1 property of another or the death or injury of another;

2 38. Has been convicted of a violation of Section 6-20
3 of the Liquor Control Act of 1934 or a similar provision of
4 a local ordinance;

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

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

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

13 42. Has committed a violation of subsection (a-1) of
14 Section 11-1301.3 of this Code;

15 43. Has received a disposition of court supervision for
16 a violation of subsection (a), (d), or (e) of Section 6-20
17 of the Liquor Control Act of 1934 or a similar provision of
18 a local ordinance, in which case the suspension shall be
19 for a period of 3 months;

20 44. Is under the age of 21 years at the time of arrest
21 and has been convicted of an offense against traffic
22 regulations governing the movement of vehicles after
23 having previously had his or her driving privileges
24 suspended or revoked pursuant to subparagraph 36 of this
25 Section; or

26 45. 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 the
2 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 (as defined by the rules of the Secretary of
19 State), issue a restricted driving permit granting the
20 privilege of driving a motor vehicle between the
21 petitioner's residence and petitioner's place of
22 employment or within the scope of the petitioner's
23 employment related duties, or to allow the petitioner to
24 transport himself or herself, or a family member of the
25 petitioner's household to a medical facility, to receive
26 necessary medical care, to allow the petitioner to

1 transport himself or herself to and from alcohol or drug
2 remedial or rehabilitative activity recommended by a
3 licensed service provider, or to allow the petitioner to
4 transport himself or herself or a family member of the
5 petitioner's household to classes, as a student, at an
6 accredited educational institution, or to allow the
7 petitioner to transport children living in the
8 petitioner's household to and from daycare. The petitioner
9 must demonstrate that no alternative means of
10 transportation is reasonably available and that the
11 petitioner will not endanger the public safety or welfare.
12 Those multiple offenders identified in subdivision (b)4 of
13 Section 6-208 of this Code, however, shall not be eligible
14 for the issuance of a restricted driving permit.

15 (A) If a person's license or permit is revoked or
16 suspended due to 2 or more convictions of violating
17 Section 11-501 of this Code or a similar provision of a
18 local ordinance or a similar out-of-state offense, or
19 Section 9-3 of the Criminal Code of 1961, where the use
20 of alcohol or other drugs is recited as an element of
21 the offense, or a similar out-of-state offense, or a
22 combination of these offenses, arising out of separate
23 occurrences, that person, if issued a restricted
24 driving permit, may not operate a vehicle unless it has
25 been equipped with an ignition interlock device as
26 defined in Section 1-129.1.

1 (B) If a person's license or permit is revoked or
2 suspended 2 or more times within a 10 year period due
3 to any combination of:

4 (i) a single conviction of violating Section
5 11-501 of this Code or a similar provision of a
6 local ordinance or a similar out-of-state offense
7 or Section 9-3 of the Criminal Code of 1961, where
8 the use of alcohol or other drugs is recited as an
9 element of the offense, or a similar out-of-state
10 offense; or

11 (ii) a statutory summary suspension under
12 Section 11-501.1; or

13 (iii) a suspension under Section 6-203.1;
14 arising out of separate occurrences; that person, if
15 issued a restricted driving permit, may not operate a
16 vehicle unless it has been equipped with an ignition
17 interlock device as defined in Section 1-129.1.

18 (C) The person issued a permit conditioned upon the
19 use of an ignition interlock device must pay to the
20 Secretary of State DUI Administration Fund an amount
21 not to exceed \$30 per month. The Secretary shall
22 establish by rule the amount and the procedures, terms,
23 and conditions relating to these fees.

24 (D) If the restricted driving permit is issued for
25 employment purposes, then the prohibition against
26 operating a motor vehicle that is not equipped with an

1 ignition interlock device does not apply to the
2 operation of an occupational vehicle owned or leased by
3 that person's employer when used solely for employment
4 purposes.

5 (E) In each case the Secretary may issue a
6 restricted driving permit for a period deemed
7 appropriate, except that all permits shall expire
8 within one year from the date of issuance. The
9 Secretary may not, however, issue a restricted driving
10 permit to any person whose current revocation is the
11 result of a second or subsequent conviction for a
12 violation of Section 11-501 of this Code or a similar
13 provision of a local ordinance or any similar
14 out-of-state offense, or Section 9-3 of the Criminal
15 Code of 1961, where the use of alcohol or other drugs
16 is recited as an element of the offense, or any similar
17 out-of-state offense, or any combination of those
18 offenses, until the expiration of at least one year
19 from the date of the revocation. A restricted driving
20 permit issued under this Section shall be subject to
21 cancellation, revocation, and suspension by the
22 Secretary of State in like manner and for like cause as
23 a driver's license issued under this Code may be
24 cancelled, revoked, or suspended; except that a
25 conviction upon one or more offenses against laws or
26 ordinances regulating the movement of traffic shall be

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

10 (c-3) In the case of a suspension under paragraph 43 of
11 subsection (a), reports received by the Secretary of State
12 under this Section shall, except during the actual time the
13 suspension is in effect, be privileged information and for use
14 only by the courts, police officers, prosecuting authorities,
15 the driver licensing administrator of any other state, or the
16 Secretary of State. However, beginning January 1, 2008, if the
17 person is a CDL holder, the suspension shall also be made
18 available to the driver licensing administrator of any other
19 state, the U.S. Department of Transportation, and the affected
20 driver or motor carrier or prospective motor carrier upon
21 request.

22 (c-4) In the case of a suspension under paragraph 43 of
23 subsection (a), the Secretary of State shall notify the person
24 by mail that his or her driving privileges and driver's license
25 will be suspended one month after the date of the mailing of
26 the notice.

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

8 (d) This Section is subject to the provisions of the
9 Drivers License Compact.

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

14 (f) In accordance with 49 C.F.R. 384, the Secretary of
15 State may not issue a restricted driving permit for the
16 operation of a commercial motor vehicle to a person holding a
17 CDL whose driving privileges have been suspended, revoked,
18 cancelled, or disqualified under any provisions of this Code.

19 (Source: P.A. 94-307, eff. 9-30-05; 94-556, eff. 9-11-05;
20 94-930, eff. 6-26-06; 95-166, eff. 1-1-08; 95-310, eff. 1-1-08;
21 95-382, eff. 8-23-07; 95-400, eff. 1-1-09; 95-627, eff. 6-1-08;
22 95-848, eff. 1-1-09; 95-876, eff. 8-21-08; 95-894, eff. 1-1-09;
23 revised 9-5-08.)

24 (625 ILCS 5/6-208.2)

25 Sec. 6-208.2. Restoration of driving privileges; persons

1 under age 21.

2 (a) Unless the suspension based upon consumption of alcohol
3 by a minor or refusal to submit to testing has been rescinded
4 by the Secretary of State in accordance with item (c)(3) of
5 Section 6-206 of this Code, a person whose privilege to drive a
6 motor vehicle on the public highways has been suspended under
7 Section 11-501.8 is not eligible for restoration of the
8 privilege until the expiration of:

9 1. Six months from the effective date of the suspension
10 for a refusal or failure to complete a test or tests to
11 determine the alcohol concentration under Section
12 11-501.8;

13 2. Three months from the effective date of the
14 suspension imposed following the person's submission to a
15 chemical test which disclosed an alcohol concentration
16 greater than 0.00 under Section 11-501.8;

17 3. Two years from the effective date of the suspension
18 for a person who has been previously suspended under
19 Section 11-501.8 and who refuses or fails to complete a
20 test or tests to determine the alcohol concentration under
21 Section 11-501.8; or

22 4. One year from the effective date of the suspension
23 imposed for a person who has been previously suspended
24 under Section 11-501.8 following submission to a chemical
25 test that disclosed an alcohol concentration greater than
26 0.00 under Section 11-501.8.

1 (b) Following a suspension of the privilege to drive a
2 motor vehicle under Section 11-501.8, full driving privileges
3 shall be restored unless the person is otherwise disqualified
4 by this Code.

5 (c) Full driving privileges may not be restored until all
6 applicable reinstatement fees, as provided by this Code, have
7 been paid to the Secretary of State and the appropriate entry
8 made to the driver's record. The Secretary of State may also,
9 as a condition of the reissuance of a driver's license or
10 permit to an individual under the age of 18 years whose driving
11 privileges have been suspended pursuant to Section 11-501.8,
12 require the applicant to participate in a driver remedial
13 education course and be retested under Section 6-109.

14 (d) Where a driving privilege has been suspended under
15 Section 11-501.8 and the person is subsequently convicted of
16 violating Section 11-501, or a similar provision of a local
17 ordinance, for the same incident, any period served on that
18 suspension shall be credited toward the minimum period of
19 revocation of driving privileges imposed under Section 6-205.

20 (e) Following a suspension of driving privileges under
21 Section 11-501.8 for a person who has not had his or her
22 driving privileges previously suspended under that Section,
23 the Secretary of State may issue a restricted driving permit
24 after at least 30 days from the effective date of the
25 suspension.

26 (f) Following a second or subsequent suspension of driving

1 privileges under Section 11-501.8, the Secretary of State may
2 issue a restricted driving permit after at least 12 months from
3 the effective date of the suspension.

4 (g) (Blank).

5 (h) Any restricted driving permit considered under this
6 Section is subject to the provisions of item (e) of Section
7 11-501.8.

8 (i) Notwithstanding any other provision of law, the
9 Secretary shall rescind the suspension of driving privileges
10 for all service members on active duty who have had their
11 driving privileges suspended pursuant to paragraph 36 of
12 subsection (a) of Section 6-206 of this Code prior to the
13 effective date of this Act.

14 (Source: P.A. 92-248, eff. 8-3-01.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.