



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5749

Introduced 2/9/2010, by Rep. Jil Tracy

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-7.5 new

Amends the Code of Criminal Procedure of 1963. Provides that in a criminal prosecution in which the defendant is accused of an offense of driving under the influence or aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, evidence of the defendant's commission of another offense or offenses of driving under the influence or aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof is admissible, and may be considered for its bearing on any matter to which it is relevant. Provides that the court shall weigh the probative value of the evidence against undue prejudice to the defendant. Establishes notice requirements if the prosecution intends to offer this evidence. Effective immediately.

LRB096 18684 RLC 34068 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-7.5 as follows:

6 (725 ILCS 5/115-7.5 new)

7 Sec. 115-7.5. Evidence in driving under the influence and
8 aggravated driving under the influence of alcohol, other drug
9 or drugs, intoxicating compound or compounds or any combination
10 thereof cases.

11 (a) In a criminal prosecution in which the defendant is
12 accused of an offense of driving under the influence or
13 aggravated driving under the influence of alcohol, other drug
14 or drugs, intoxicating compound or compounds or any combination
15 thereof as defined in Section 11-501 of the Illinois Vehicle
16 Code, evidence of the defendant's commission of another offense
17 or offenses of driving under the influence or aggravated
18 driving under the influence of alcohol, other drug or drugs,
19 intoxicating compound or compounds or any combination thereof
20 is admissible, and may be considered for its bearing on any
21 matter to which it is relevant.

22 (b) In weighing the probative value of the evidence against
23 undue prejudice to the defendant, the court may consider:

1 (1) the proximity in time to the charged or predicate
2 offense;

3 (2) the degree of factual similarity to the charged or
4 predicate offense; or

5 (3) other relevant facts and circumstances.

6 (c) In a criminal case in which the prosecution intends to
7 offer evidence under this Section, it must disclose the
8 evidence, including statements of witnesses or a summary of the
9 substance of any testimony, at a reasonable time in advance of
10 trial, or during trial if the court excuses pretrial notice on
11 good cause shown.

12 (d) In a criminal case in which evidence is offered under
13 this Section, proof may be made by specific instances of
14 conduct, testimony as to reputation, or testimony in the form
15 of an expert opinion, except that the prosecution may offer
16 reputation testimony only after the opposing party has offered
17 that testimony.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.