



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2248

Introduced 2/20/2009, by Sen. Chris Lauzen

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/1-197.5	from Ch. 95 1/2, par. 1-203.1
625 ILCS 5/2-118.1	from Ch. 95 1/2, par. 2-118.1
625 ILCS 5/6-100.5 new	
625 ILCS 5/11-500	from Ch. 95 1/2, par. 11-500
625 ILCS 5/11-501	from Ch. 95 1/2, par. 11-501
625 ILCS 40/5-7	
625 ILCS 40/5-7.1	
625 ILCS 45/5-16	

Amends the Illinois Vehicle Code. Provides that the provisions related to driving while under the influence (DUI) apply to driving any motor vehicle while under the influence. Provides that the suspension and revocation of a person's motor vehicle driving privileges and the person's opportunity for a hearing for a violation of the DUI provisions of the Illinois Vehicle Code also apply to operation of a snowmobile or watercraft while under the influence. Changes the definition of "first offender" to include certain offenses and suspensions related to operating a snowmobile or watercraft under the influence. Amends the Snowmobile Registration and Safety Act and the Boat Registration and Safety Act to change the definition of "first offender" so that the term has the same meaning as it used in the Illinois Vehicle Code. Amends implied consent provisions of the Snowmobile Registration and Safety Act and the Boat Registration and Safety Act to provide that a law enforcement officer must give notice to the Secretary of State when a person refuses to submit to a chemical test and must give additional warnings to the person regarding possible driver's license suspension, and requires the court clerk to send notice to the Secretary of State if the person fails to request a hearing or if the court finds against the person. Makes other changes. Effective immediately.

LRB096 08771 AJT 18903 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1-197.5, 2-118.1, 11-500, and 11-501 and adding  
6 Section 6-100.5 as follows:

7 (625 ILCS 5/1-197.5) (from Ch. 95 1/2, par. 1-203.1)

8 Sec. 1-197.5. Statutory summary alcohol or other drug  
9 related suspension of driver's privileges. The withdrawal by  
10 the circuit court of a person's license or privilege to operate  
11 a motor vehicle on the public highways for the periods provided  
12 in Section 6-208.1. Reinstatement after the suspension period  
13 shall occur after all appropriate fees have been paid, unless  
14 the court notifies the Secretary of State that the person  
15 should be disqualified. The bases for this withdrawal of  
16 driving privileges shall be the individual's refusal to submit  
17 to or failure to complete a chemical test or tests following an  
18 arrest for the offense of driving or operating under the  
19 influence of alcohol, other drugs, or intoxicating compounds,  
20 or any combination thereof, or submission to such a test or  
21 tests indicating an alcohol concentration of 0.08 or more as  
22 provided in Section 11-501.1 of this Code, Section 5-7.1 of the  
23 Snowmobile Registration and Safety Act, or Section 5-16 of the

1 Boat Registration and Safety Act.

2 (Source: P.A. 92-834, eff. 8-22-02.)

3 (625 ILCS 5/2-118.1) (from Ch. 95 1/2, par. 2-118.1)

4 Sec. 2-118.1. Opportunity for hearing; statutory summary  
5 alcohol or other drug related suspension.

6 (a) A statutory summary suspension of driving privileges  
7 under Section 11-501.1 shall not become effective until the  
8 person is notified in writing of the impending suspension and  
9 informed that he may request a hearing in the circuit court of  
10 venue under paragraph (b) of this Section and the statutory  
11 summary suspension shall become effective as provided in  
12 Section 11-501.1.

13 (b) Within 90 days after the notice of statutory summary  
14 suspension served under Section 11-501.1, the person may make a  
15 written request for a judicial hearing in the circuit court of  
16 venue. The request to the circuit court shall state the grounds  
17 upon which the person seeks to have the statutory summary  
18 suspension rescinded. Within 30 days after receipt of the  
19 written request or the first appearance date on the Uniform  
20 Traffic Ticket issued pursuant to a violation of Section  
21 11-501, or a similar provision of a local ordinance, the  
22 hearing shall be conducted by the circuit court having  
23 jurisdiction. This judicial hearing, request, or process shall  
24 not stay or delay the statutory summary suspension. The  
25 hearings shall proceed in the court in the same manner as in

1 other civil proceedings.

2 The hearing may be conducted upon a review of the law  
3 enforcement officer's own official reports; provided however,  
4 that the person may subpoena the officer. Failure of the  
5 officer to answer the subpoena shall be considered grounds for  
6 a continuance if in the court's discretion the continuance is  
7 appropriate.

8 The scope of the hearing shall be limited to the issues of:

9 1. Whether the person was placed under arrest for an  
10 offense as defined in Section 11-501, or a similar  
11 provision of a local ordinance, as evidenced by the  
12 issuance of a Uniform Traffic Ticket, or issued a Uniform  
13 Traffic Ticket out of state as provided in subsection (a)  
14 of Section 11-501.1; and

15 2. Whether the officer had reasonable grounds to  
16 believe that the person was driving or in actual physical  
17 control of a motor vehicle upon a highway while under the  
18 influence of alcohol, other drug, or combination of both;  
19 and

20 3. Whether the person, after being advised by the  
21 officer that the privilege to operate a motor vehicle would  
22 be suspended if the person refused to submit to and  
23 complete the test or tests, did refuse to submit to or  
24 complete the test or tests to determine the person's  
25 alcohol or drug concentration; or

26 4. Whether the person, after being advised by the

1 officer that the privilege to operate a motor vehicle would  
2 be suspended if the person submits to a chemical test, or  
3 tests, and the test discloses an alcohol concentration of  
4 0.08 or more, or any amount of a drug, substance, or  
5 compound in the person's blood or urine resulting from the  
6 unlawful use or consumption of cannabis listed in the  
7 Cannabis Control Act, a controlled substance listed in the  
8 Illinois Controlled Substances Act, an intoxicating  
9 compound as listed in the Use of Intoxicating Compounds  
10 Act, or methamphetamine as listed in the Methamphetamine  
11 Control and Community Protection Act, and the person did  
12 submit to and complete the test or tests that determined an  
13 alcohol concentration of 0.08 or more.

14 Upon the conclusion of the judicial hearing, the circuit  
15 court shall sustain or rescind the statutory summary suspension  
16 and immediately notify the Secretary of State. Reports received  
17 by the Secretary of State under this Section shall be  
18 privileged information and for use only by the courts, police  
19 officers, and Secretary of State.

20 (c) For purposes of this Section:

21 (1) A violation of Section 5-7 of the Snowmobile  
22 Registration and Safety Act or a similar provision of a  
23 local ordinance or a similar out-of-state offense, or  
24 Section 5-16 of the Boat Registration and Safety Act or a  
25 similar provision of a local ordinance or a similar  
26 out-of-state offense shall be deemed to be the same as a

1 violation of Section 11-501 of this Code.

2 (2) A suspension for refusal to submit to a chemical  
3 test under Section 5-7.1 of the Snowmobile Registration and  
4 Safety Act or Section 5-16 of the Boat Registration and  
5 Safety Act shall be deemed to be the same as a statutory  
6 summary suspension for refusal to submit to a chemical test  
7 under Section 11-501.1 or 11-501.8 of this Code.

8 (3) A refusal to submit to a chemical test under  
9 Section 5-7.1 of the Snowmobile Registration and Safety Act  
10 or Section 5-16 of the Boat Registration and Safety Act  
11 shall be deemed to be the same as a refusal to submit to a  
12 chemical test under Section 11-501.1 or 11-501.8 of this  
13 Code.

14 (Source: P.A. 95-355, eff. 1-1-08.)

15 (625 ILCS 5/6-100.5 new)

16 Sec. 6-100.5. Snowmobile Registration and Safety Act; Boat  
17 Registration and Safety Act. For purposes of this Chapter:

18 (1) A violation of Section 5-7 of the Snowmobile  
19 Registration and Safety Act or a similar provision of a  
20 local ordinance or a similar out-of-state offense, or  
21 Section 5-16 of the Boat Registration and Safety Act or a  
22 similar provision of a local ordinance or a similar  
23 out-of-state offense shall be deemed to be the same as a  
24 violation of Section 11-501 of this Code.

25 (2) A suspension for refusal to submit to a chemical

1 test under Section 5-7.1 of the Snowmobile Registration and  
2 Safety Act or Section 5-16 of the Boat Registration and  
3 Safety Act shall be deemed to be the same as a statutory  
4 summary suspension for refusal to submit to a chemical test  
5 under Section 11-501.1 or 11-501.8 of this Code.

6 (3) A refusal to submit to a chemical test under  
7 Section 5-7.1 of the Snowmobile Registration and Safety Act  
8 or Section 5-16 of the Boat Registration and Safety Act  
9 shall be deemed to be the same as a refusal to submit to a  
10 chemical test under Section 11-501.1 or 11-501.8 of this  
11 Code.

12 (625 ILCS 5/11-500) (from Ch. 95 1/2, par. 11-500)

13 Sec. 11-500. First offender. ~~Definitions.~~

14 (a) For the purposes of interpreting Sections 6-206.1 and  
15 6-208.1 of this Code, Section 5-7 of the Snowmobile  
16 Registration and Safety Act, and Section 5-16 of the Boat  
17 Registration and Safety Act, "first offender" shall mean any  
18 person who has not, within 5 years prior to the date of the  
19 current offense, had:

20 (1) a previous conviction or court assigned  
21 supervision for violating:

22 (A) Section 11-501~~7~~ or a similar provision of a  
23 local ordinance; ~~or~~

24 (B) a conviction in any other state for a violation  
25 of driving while under the influence or a similar

1 offense where the cause of action is the same or  
2 substantially similar to this Code, Section 5-7 of the  
3 Snowmobile Registration and Safety Act, or Section  
4 5-16 of the Boat Registration and Safety Act;

5 (C) similar offenses committed on a military  
6 installation;

7 (D) Section 5-7 of the Snowmobile Registration and  
8 Safety Act or a similar provision of a local ordinance;

9 (E) Section 5-16 of the Boat Registration and  
10 Safety Act or a similar provision of a local ordinance;

11 or

12 (F) Title 46 of the U.S. Code of Federal  
13 Regulations where the presence of alcohol, other drug  
14 or drugs, intoxicating compound or compounds, or  
15 combination thereof in the person's blood is an element  
16 of the offense.

17 (2) or any person who has not had a driver's license,  
18 snowmobile operating privileges, or boating operating  
19 privileges suspension for violating:

20 (A) Section 11-501.1 of this Code;

21 (B) Section 5-7.1 of the Snowmobile Registration  
22 and Safety Act; or

23 (C) subsection (B) of Section 5-16 of the Boat  
24 Registration and Safety Act.

25 (b) The definition of "first offender" in subsection (a)  
26 does not include ~~within 5 years prior to the date of the~~



1 ~~current offense, except in~~ cases where the person driver  
2 submitted to chemical testing resulting in an alcohol  
3 concentration of 0.08 or more, or any amount of a drug,  
4 substance, or compound in such person's blood or urine  
5 resulting from the unlawful use or consumption of cannabis  
6 listed in the Cannabis Control Act, a controlled substance  
7 listed in the Illinois Controlled Substances Act, or an  
8 intoxicating compound listed in the Use of Intoxicating  
9 Compounds Act, or methamphetamine as listed in the  
10 Methamphetamine Control and Community Protection Act and was  
11 subsequently found not guilty of violating Section 11-501, or a  
12 similar provision of a local ordinance, Section 5-7 of the  
13 Snowmobile Registration and Safety Act or similar provision of  
14 a local ordinance, or Section 5-16 of the Boat Registration and  
15 Safety Act or similar provision of a local ordinance.

16 (Source: P.A. 95-355, eff. 1-1-08.)

17 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

18 Sec. 11-501. Driving while under the influence of alcohol,  
19 other drug or drugs, intoxicating compound or compounds or any  
20 combination thereof.

21 (a) A person shall not drive or be in actual physical  
22 control of any motor vehicle, as defined in Section 1-146,  
23 within this State while:

24 (1) the alcohol concentration in the person's blood or  
25 breath is 0.08 or more based on the definition of blood and

1 breath units in Section 11-501.2;

2 (2) under the influence of alcohol;

3 (3) under the influence of any intoxicating compound or  
4 combination of intoxicating compounds to a degree that  
5 renders the person incapable of driving safely;

6 (4) under the influence of any other drug or  
7 combination of drugs to a degree that renders the person  
8 incapable of safely driving;

9 (5) under the combined influence of alcohol, other drug  
10 or drugs, or intoxicating compound or compounds to a degree  
11 that renders the person incapable of safely driving; or

12 (6) there is any amount of a drug, substance, or  
13 compound in the person's breath, blood, or urine resulting  
14 from the unlawful use or consumption of cannabis listed in  
15 the Cannabis Control Act, a controlled substance listed in  
16 the Illinois Controlled Substances Act, an intoxicating  
17 compound listed in the Use of Intoxicating Compounds Act,  
18 or methamphetamine as listed in the Methamphetamine  
19 Control and Community Protection Act.

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

25 (c) Penalties.

26 (1) Except as otherwise provided in this Section, any

1 person convicted of violating subsection (a) of this  
2 Section is guilty of a Class A misdemeanor.

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

8 (3) A person who violates subsection (a) is subject to  
9 6 months of imprisonment, an additional mandatory minimum  
10 fine of \$1,000, and 25 days of community service in a  
11 program benefiting children if the person was transporting  
12 a person under the age of 16 at the time of the violation.

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

20 (5) A person who violates subsection (a) a second time,  
21 if at the time of the second violation the alcohol  
22 concentration in his or her blood, breath, or urine was  
23 0.16 or more based on the definition of blood, breath, or  
24 urine units in Section 11-501.2, shall be subject, in  
25 addition to any other penalty that may be imposed, to a  
26 mandatory minimum of 2 days of imprisonment and a mandatory

1 minimum fine of \$1,250.

2 (d) Aggravated driving under the influence of alcohol,  
3 other drug or drugs, or intoxicating compound or compounds, or  
4 any combination thereof.

5 (1) Every person convicted of committing a violation of  
6 this Section shall be guilty of aggravated driving under  
7 the influence of alcohol, other drug or drugs, or  
8 intoxicating compound or compounds, or any combination  
9 thereof if:

10 (A) the person committed a violation of subsection  
11 (a) or a similar provision for the third or subsequent  
12 time;

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

16 (C) the person in committing a violation of  
17 subsection (a) was involved in a motor vehicle accident  
18 that resulted in great bodily harm or permanent  
19 disability or disfigurement to another, when the  
20 violation was a proximate cause of the injuries;

21 (D) the person committed a violation of subsection  
22 (a) for a second time and has been previously convicted  
23 of violating Section 9-3 of the Criminal Code of 1961  
24 or a similar provision of a law of another state  
25 relating to reckless homicide in which the person was  
26 determined to have been under the influence of alcohol,

1 other drug or drugs, or intoxicating compound or  
2 compounds as an element of the offense or the person  
3 has previously been convicted under subparagraph (C)  
4 or subparagraph (F) of this paragraph (1);

5 (E) the person, in committing a violation of  
6 subsection (a) while driving at any speed in a school  
7 speed zone at a time when a speed limit of 20 miles per  
8 hour was in effect under subsection (a) of Section  
9 11-605 of this Code, was involved in a motor vehicle  
10 accident that resulted in bodily harm, other than great  
11 bodily harm or permanent disability or disfigurement,  
12 to another person, when the violation of subsection (a)  
13 was a proximate cause of the bodily harm;

14 (F) the person, in committing a violation of  
15 subsection (a), was involved in a motor vehicle,  
16 snowmobile, all-terrain vehicle, or watercraft  
17 accident that resulted in the death of another person,  
18 when the violation of subsection (a) was a proximate  
19 cause of the death;

20 (G) the person committed a violation of subsection  
21 (a) during a period in which the defendant's driving  
22 privileges are revoked or suspended, where the  
23 revocation or suspension was for a violation of  
24 subsection (a) or a similar provision, Section  
25 11-501.1, paragraph (b) of Section 11-401, or for  
26 reckless homicide as defined in Section 9-3 of the

1 Criminal Code of 1961;

2 (H) the person committed the violation while he or  
3 she did not possess a driver's license or permit or a  
4 restricted driving permit or a judicial driving permit  
5 or a monitoring device driving permit;

6 (I) the person committed the violation while he or  
7 she knew or should have known that the vehicle he or  
8 she was driving was not covered by a liability  
9 insurance policy;

10 (J) the person in committing a violation of  
11 subsection (a) was involved in a motor vehicle accident  
12 that resulted in bodily harm, but not great bodily  
13 harm, to the child under the age of 16 being  
14 transported by the person, if the violation was the  
15 proximate cause of the injury; or

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

19 (2) (A) Except as provided otherwise, a person  
20 convicted of aggravated driving under the influence of  
21 alcohol, other drug or drugs, or intoxicating compound or  
22 compounds, or any combination thereof is guilty of a Class  
23 4 felony.

24 (B) A third violation of this Section or a similar  
25 provision is a Class 2 felony. If at the time of the third  
26 violation the alcohol concentration in his or her blood,

1 breath, or urine was 0.16 or more based on the definition  
2 of blood, breath, or urine units in Section 11-501.2, a  
3 mandatory minimum of 90 days of imprisonment and a  
4 mandatory minimum fine of \$2,500 shall be imposed in  
5 addition to any other criminal or administrative sanction.  
6 If at the time of the third violation, the defendant was  
7 transporting a person under the age of 16, a mandatory fine  
8 of \$25,000 and 25 days of community service in a program  
9 benefiting children shall be imposed in addition to any  
10 other criminal or administrative sanction.

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

25 (D) A fifth violation of this Section or a similar  
26 provision is a Class 1 felony, for which a sentence of

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

13           (E) A sixth or subsequent violation of this Section or  
14          similar provision is a Class X felony. If at the time of  
15          the violation, the alcohol concentration in the  
16          defendant's blood, breath, or urine was 0.16 or more based  
17          on the definition of blood, breath, or urine units in  
18          Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
19          be imposed in addition to any other criminal or  
20          administrative sanction. If at the time of the violation,  
21          the defendant was transporting a person under the age of  
22          16, a mandatory fine of \$25,000 and 25 days of community  
23          service in a program benefiting children shall be imposed  
24          in addition to any other criminal or administrative  
25          sanction.

26           (F) For a violation of subparagraph (C) of paragraph



1 (1) of this subsection (d), the defendant, if sentenced to  
2 a term of imprisonment, shall be sentenced to not less than  
3 one year nor more than 12 years.

4 (G) A violation of subparagraph (F) of paragraph (1) of  
5 this subsection (d) is a Class 2 felony, for which the  
6 defendant, unless the court determines that extraordinary  
7 circumstances exist and require probation, shall be  
8 sentenced to: (i) a term of imprisonment of not less than 3  
9 years and not more than 14 years if the violation resulted  
10 in the death of one person; or (ii) a term of imprisonment  
11 of not less than 6 years and not more than 28 years if the  
12 violation resulted in the deaths of 2 or more persons.

13 (H) For a violation of subparagraph (J) of paragraph  
14 (1) of this subsection (d), a mandatory fine of \$2,500, and  
15 25 days of community service in a program benefiting  
16 children shall be imposed in addition to any other criminal  
17 or administrative sanction.

18 (I) A violation of subparagraph (K) of paragraph (1) of  
19 this subsection (d), is a Class 2 felony and a mandatory  
20 fine of \$2,500, and 25 days of community service in a  
21 program benefiting children shall be imposed in addition to  
22 any other criminal or administrative sanction. If the child  
23 being transported suffered bodily harm, but not great  
24 bodily harm, in a motor vehicle accident, and the violation  
25 was the proximate cause of that injury, a mandatory fine of  
26 \$5,000 and 25 days of community service in a program

1           benefiting children shall be imposed in addition to any  
2           other criminal or administrative sanction.

3           (3) Any person sentenced under this subsection (d) who  
4           receives a term of probation or conditional discharge must  
5           serve a minimum term of either 480 hours of community  
6           service or 10 days of imprisonment as a condition of the  
7           probation or conditional discharge in addition to any other  
8           criminal or administrative sanction.

9           (e) Any reference to a prior violation of subsection (a) or  
10          a similar provision includes any violation of a provision of a  
11          local ordinance or a provision of a law of another state or an  
12          offense committed on a military installation that is similar to  
13          a violation of subsection (a) of this Section.

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

17          (g) Any penalty imposed for driving with a license that has  
18          been revoked for a previous violation of subsection (a) of this  
19          Section shall be in addition to the penalty imposed for any  
20          subsequent violation of subsection (a).

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

24          (Source: P.A. 94-110, eff. 1-1-06; 94-113, eff. 1-1-06; 94-114,  
25          eff. 1-1-06; 94-116, eff. 1-1-06; 94-329, eff. 1-1-06; 94-609,  
26          eff. 1-1-06; 94-963, eff. 6-28-06; 95-149, eff. 8-14-07;

1 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08;  
2 95-778, eff. 8-4-08; 95-876, eff. 8-21-08.)

3 Section 10. The Snowmobile Registration and Safety Act is  
4 amended by changing Sections 5-7 and 5-7.1 as follows:

5 (625 ILCS 40/5-7)

6 Sec. 5-7. Operating a snowmobile while under the influence  
7 of alcohol or other drug or drugs, intoxicating compound or  
8 compounds, or a combination of them; criminal penalties;  
9 suspension of operating privileges.

10 (a) A person may not operate or be in actual physical  
11 control of a snowmobile within this State while:

12 1. The alcohol concentration in that person's blood or  
13 breath is a concentration at which driving a motor vehicle  
14 is prohibited under subdivision (1) of subsection (a) of  
15 Section 11-501 of the Illinois Vehicle Code;

16 2. The person is under the influence of alcohol;

17 3. The person is under the influence of any other drug  
18 or combination of drugs to a degree that renders that  
19 person incapable of safely operating a snowmobile;

20 3.1. The person is under the influence of any  
21 intoxicating compound or combination of intoxicating  
22 compounds to a degree that renders the person incapable of  
23 safely operating a snowmobile;

24 4. The person is under the combined influence of

1 alcohol and any other drug or drugs or intoxicating  
2 compound or compounds to a degree that renders that person  
3 incapable of safely operating a snowmobile; or

4 5. There is any amount of a drug, substance, or  
5 compound in that person's breath, blood, or urine resulting  
6 from the unlawful use or consumption of cannabis listed in  
7 the Cannabis Control Act, controlled substance listed in  
8 the Illinois Controlled Substances Act, or intoxicating  
9 compound listed in the use of Intoxicating Compounds Act.

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

15 (c) Every person convicted of violating this Section or a  
16 similar provision of a local ordinance is guilty of a Class A  
17 misdemeanor, except as otherwise provided in this Section.

18 (c-1) As used in this Section, "first ~~time~~ offender" has  
19 the meaning ascribed to that term in Section 11-500 of the  
20 Illinois Vehicle Code. ~~means any person who has not had a~~  
21 ~~previous conviction or been assigned supervision for violating~~  
22 ~~this Section or a similar provision of a local ordinance, or~~  
23 ~~any person who has not had a suspension imposed under~~  
24 ~~subsection (c) of Section 5-7.1.~~

25 (c-2) For purposes of this Section, the following are  
26 equivalent to a conviction:

1           (1) a forfeiture of bail or collateral deposited to  
2           secure a defendant's appearance in court when forfeiture  
3           has not been vacated; or

4           (2) the failure of a defendant to appear for trial.

5           (d) Every person convicted of violating this Section is  
6           guilty of a Class 4 felony if:

7           1. The person has a previous conviction under this  
8           Section;

9           2. The offense results in personal injury where a  
10           person other than the operator suffers great bodily harm or  
11           permanent disability or disfigurement, when the violation  
12           was a proximate cause of the injuries. A person guilty of a  
13           Class 4 felony under this paragraph 2, if sentenced to a  
14           term of imprisonment, shall be sentenced to not less than  
15           one year nor more than 12 years; or

16           3. The offense occurred during a period in which the  
17           person's privileges to operate a snowmobile are revoked or  
18           suspended, and the revocation or suspension was for a  
19           violation of this Section or was imposed under Section  
20           5-7.1.

21           (e) Every person convicted of violating this Section is  
22           guilty of a Class 2 felony if the offense results in the death  
23           of a person. A person guilty of a Class 2 felony under this  
24           subsection (e), if sentenced to a term of imprisonment, shall  
25           be sentenced to a term of not less than 3 years and not more  
26           than 14 years.

1 (e-1) Every person convicted of violating this Section or a  
2 similar provision of a local ordinance who had a child under  
3 the age of 16 on board the snowmobile at the time of offense  
4 shall be subject to a mandatory minimum fine of \$500 and shall  
5 be subject to a mandatory minimum of 5 days of community  
6 service in a program benefiting children. The assignment under  
7 this subsection shall not be subject to suspension nor shall  
8 the person be eligible for probation in order to reduce the  
9 assignment.

10 (e-2) Every person found guilty of violating this Section,  
11 whose operation of a snowmobile while in violation of this  
12 Section proximately caused any incident resulting in an  
13 appropriate emergency response, shall be liable for the expense  
14 of an emergency response as provided in subsection (m) of  
15 Section 11-501 of the Illinois Vehicle Code.

16 (e-3) In addition to any other penalties and liabilities, a  
17 person who is found guilty of violating this Section, including  
18 any person placed on court supervision, shall be fined \$100,  
19 payable to the circuit clerk, who shall distribute the money to  
20 the law enforcement agency that made the arrest. In the event  
21 that more than one agency is responsible for the arrest, the  
22 \$100 shall be shared equally. Any moneys received by a law  
23 enforcement agency under this subsection (e-3) shall be used to  
24 purchase law enforcement equipment or to provide law  
25 enforcement training that will assist in the prevention of  
26 alcohol related criminal violence throughout the State. Law

1 enforcement equipment shall include, but is not limited to,  
2 in-car video cameras, radar and laser speed detection devices,  
3 and alcohol breath testers.

4 (f) In addition to any criminal penalties imposed, the  
5 Department of Natural Resources shall suspend the snowmobile  
6 operation privileges of a person convicted or found guilty of a  
7 misdemeanor under this Section for a period of one year, except  
8 that first ~~first-time~~ offenders are exempt from this mandatory  
9 one year suspension.

10 (g) In addition to any criminal penalties imposed, the  
11 Department of Natural Resources shall suspend for a period of 5  
12 years the snowmobile operation privileges of any person  
13 convicted or found guilty of a felony under this Section.

14 (Source: P.A. 94-214, eff. 1-1-06; 95-149, eff. 8-14-07.)

15 (625 ILCS 40/5-7.1)

16 Sec. 5-7.1. Implied consent.

17 (a) A person who operates or is in actual physical control  
18 of a snowmobile in this State is deemed to have given consent  
19 to a chemical test or tests of blood, breath, or urine for the  
20 purpose of determining the content of alcohol, other drug or  
21 drugs, intoxicating compound or compounds, or a combination of  
22 them in that person's blood if arrested for a violation of  
23 Section 5-7. The chemical test or tests shall be administered  
24 at the direction of the arresting officer. The law enforcement  
25 agency employing the officer shall designate which tests shall

1 be administered. A urine test may be administered even after a  
2 blood or breath test or both has been administered.

3 (a-1) For the purposes of this Section, an Illinois law  
4 enforcement officer of this State who is investigating the  
5 person for any offense defined in Section 5-7 may travel into  
6 an adjoining state, where the person has been transported for  
7 medical care to complete an investigation and to request that  
8 the person submit to the test or tests set forth in this  
9 Section. The requirements of this Section that the person be  
10 arrested are inapplicable, but the officer shall issue the  
11 person a uniform citation for an offense as defined in Section  
12 5-7 or a similar provision of a local ordinance prior to  
13 requesting that the person submit to the test or tests. The  
14 issuance of the uniform citation shall not constitute an  
15 arrest, but shall be for the purpose of notifying the person  
16 that he or she is subject to the provisions of this Section and  
17 of the officer's belief of the existence of probable cause to  
18 arrest. Upon returning to this State, the officer shall file  
19 the uniform citation with the circuit clerk of the county where  
20 the offense was committed and shall seek the issuance of an  
21 arrest warrant or a summons for the person.

22 (a-2) Notwithstanding any ability to refuse under this Act  
23 to submit to these tests or any ability to revoke the implied  
24 consent to these tests, if a law enforcement officer has  
25 probable cause to believe that a snowmobile operated by or  
26 under actual physical control of a person under the influence



1 of alcohol, other drug or drugs, intoxicating compound or  
2 compounds, or any combination of them has caused the death or  
3 personal injury to another, that person shall submit, upon the  
4 request of a law enforcement officer, to a chemical test or  
5 tests of his or her blood, breath, or urine for the purpose of  
6 determining the alcohol content or the presence of any other  
7 drug or combination of both. For the purposes of this Section,  
8 a personal injury includes severe bleeding wounds, distorted  
9 extremities, and injuries that require the injured party to be  
10 carried from the scene for immediate professional attention in  
11 either a doctor's office or a medical facility.

12 (b) A person who is dead, unconscious, or who is otherwise  
13 in a condition rendering that person incapable of refusal, is  
14 deemed not to have withdrawn the consent provided in subsection  
15 (a), and the test or tests may be administered.

16 (c) A person requested to submit to a test as provided in  
17 this Section shall be verbally advised by the law enforcement  
18 officer requesting the test that a refusal to submit to the  
19 test will result in suspension of that person's privilege to  
20 operate a snowmobile for a minimum of 2 years, and the  
21 statutory summary suspension of the person's privilege to  
22 operate a motor vehicle, as provided in Section 6-208.1 of the  
23 Illinois Vehicle Code, and will also result in the  
24 disqualification of the person's privilege to operate a  
25 commercial motor vehicle, as provided in Section 6-514 of the  
26 Illinois Vehicle Code, if the person is a CDL holder. The

1 person shall also be warned by the law enforcement officer that  
2 if the person submits to the test or tests provided in  
3 paragraph (a) of this Section and the alcohol concentration in  
4 the person's blood or breath is 0.08 or greater, or any amount  
5 of a drug, substance, or compound resulting from the unlawful  
6 use or consumption of cannabis as covered by the Cannabis  
7 Control Act, a controlled substance listed in the Illinois  
8 Controlled Substances Act, an intoxicating compound listed in  
9 the Use of Intoxicating Compounds Act, or methamphetamine as  
10 listed in the Methamphetamine Control and Community Protection  
11 Act is detected in the person's blood or urine, a statutory  
12 summary suspension of the person's privilege to operate a motor  
13 vehicle, as provided in Sections 6-208.1 and 11-501.1 of the  
14 Illinois Vehicle Code, and a disqualification of the person's  
15 privilege to operate a commercial motor vehicle, as provided in  
16 Section 6-514 of the Illinois Vehicle Code, if the person is a  
17 CDL holder, will be imposed.

18 A person who is under the age of 21 at the time the person  
19 is requested to submit to a test as provided above shall, in  
20 addition to the warnings provided for in this Section, be  
21 further warned by the law enforcement officer requesting the  
22 test that if the person submits to the test or tests provided  
23 in paragraph (a) of this Section and the alcohol concentration  
24 in the person's blood or breath is greater than 0.00 and less  
25 than 0.08, a suspension of the person's privilege to operate a  
26 motor vehicle, as provided under Sections 6-208.2 and 11-501.8

1 of the Illinois Vehicle Code, will be imposed. The results of  
2 this test shall be admissible in a civil or criminal action or  
3 proceeding arising from an arrest for an offense as defined in  
4 Section 5-7 of this Act or a similar provision of a local  
5 ordinance or pursuant to Section 11-501.4 of the Illinois  
6 Vehicle Code in prosecutions for reckless homicide brought  
7 under the Criminal Code of 1961. These test results, however,  
8 shall be admissible only in actions or proceedings directly  
9 related to the incident upon which the test request was made.

10 (d) Following this warning, if a person under arrest  
11 refuses upon the request of a law enforcement officer to submit  
12 to a test designated by the officer, no tests may be given, but  
13 the law enforcement officer shall file with the clerk of the  
14 circuit court for the county in which the arrest was made, and  
15 with the Department of Natural Resources, a sworn statement  
16 naming the person refusing to take and complete the chemical  
17 test or tests requested under the provisions of this Section.  
18 The sworn statement shall identify the arrested person, the  
19 person's current residence address and shall specify that a  
20 refusal by that person to take the chemical test or tests was  
21 made. The sworn statement shall include a statement that the  
22 officer had reasonable cause to believe the person was  
23 operating or was in actual physical control of the snowmobile  
24 within this State while under the influence of alcohol, other  
25 drug or drugs, an intoxicating compound or compound, or a  
26 combination of them and that a chemical test or tests were

1 requested as an incident to and following the lawful arrest for  
2 an offense as defined in Section 5-7 or a similar provision of  
3 a local ordinance, and that the person, after being arrested  
4 for an offense arising out of acts alleged to have been  
5 committed while operating a snowmobile, refused to submit to  
6 and complete a chemical test or tests as requested by the law  
7 enforcement officer.

8 (e) The law enforcement officer submitting the sworn  
9 statement shall serve immediate written notice upon the person  
10 refusing the chemical test or tests that the person's privilege  
11 to operate a snowmobile within this State will be suspended for  
12 a period of 2 years, a statutory summary suspension of the  
13 person's privilege to operate a motor vehicle, as provided in  
14 Sections 6-208.1 and 6-208.2 of the Illinois Vehicle Code will  
15 be imposed, and a disqualification of the person's privilege to  
16 operate a commercial motor vehicle, as provided in Section  
17 6-514 of the Illinois Vehicle Code, if the person is a CDL  
18 holder, will be imposed unless, within 28 days from the date of  
19 the notice, the person requests in writing a hearing on the  
20 suspension.

21 If the person desires a hearing, the person shall file a  
22 complaint in the circuit court in the county where that person  
23 was arrested within 28 days from the date of the notice. The  
24 hearing shall proceed in the court in the same manner as other  
25 civil proceedings. The hearing shall cover only the following  
26 issues: (1) whether the person was placed under arrest for an

1 offense as defined in Section 5-7 or a similar provision of a  
2 local ordinance as evidenced by the issuance of a uniform  
3 citation; (2) whether the arresting officer had reasonable  
4 grounds to believe that the person was operating a snowmobile  
5 while under the influence of alcohol, other drug or drugs, an  
6 intoxicating compound or compounds, or a combination of them;  
7 and (3) whether that person refused to submit to and complete  
8 the chemical test or tests upon the request of the law  
9 enforcement officer. Whether the person was informed that the  
10 person's privilege to operate a snowmobile would be suspended  
11 if that person refused to submit to the chemical test or tests  
12 may not be an issue in the hearing.

13 If the person fails to request a hearing in writing within  
14 28 days of the date of the notice, or if a hearing is held and  
15 the court finds against the person on the issues before the  
16 court, the clerk shall immediately notify the Department of  
17 Natural Resources, and the Department shall suspend the  
18 snowmobile operation privileges of that person for at least 2  
19 years.

20 If the person fails to request in writing a hearing within  
21 28 days from the date of notice, or if a hearing is held and the  
22 court finds against the person on the issues before the court,  
23 the clerk shall immediately notify the Secretary of State, and  
24 the Secretary of State shall impose a statutory summary  
25 suspension of the person's privilege to operate a motor  
26 vehicle, as provided in Sections 6-208.1 and 6-208.2 of the

1 Illinois Vehicle Code, and a disqualification of the person's  
2 privilege to operate a commercial motor vehicle, as provided in  
3 Section 6-514 of the Illinois Vehicle Code, if the person is a  
4 CDL holder.

5 (f) (Blank).

6 (f-1) If the person submits to a test that discloses an  
7 alcohol concentration of 0.08 or more, or any amount of a drug,  
8 substance, or intoxicating compound in the person's breath,  
9 blood, or urine resulting from the unlawful use of cannabis  
10 listed in the Cannabis Control Act, a controlled substance  
11 listed in the Illinois Controlled Substances Act, or an  
12 intoxicating compound listed in the Use of Intoxicating  
13 Compounds Act, the law enforcement officer shall immediately  
14 submit a sworn report to the circuit clerk of venue and the  
15 Department of Natural Resources, certifying that the test or  
16 tests was or were requested under subsection (a-1) of this  
17 Section and the person submitted to testing that disclosed an  
18 alcohol concentration of 0.08 or more.

19 In cases where the blood alcohol concentration of 0.08 or  
20 greater or any amount of drug, substance, or compound resulting  
21 from the unlawful use of cannabis, a controlled substance, or  
22 an intoxicating compound is established by a subsequent  
23 analysis of blood or urine collected at the time of arrest, the  
24 arresting officer or arresting agency shall immediately submit  
25 a sworn report to the circuit clerk of venue and the Department  
26 of Natural Resources upon receipt of the test results.

1 (g) A person must submit to each chemical test offered by  
2 the law enforcement officer in order to comply with implied  
3 consent provisions of this Section.

4 (h) The provision of Section 11-501.2 of the Illinois  
5 Vehicle Code concerning the certification and use of chemical  
6 tests applies to the use of those tests under this Section.

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

8 Section 15. The Boat Registration and Safety Act is amended  
9 by changing Section 5-16 as follows:

10 (625 ILCS 45/5-16)

11 Sec. 5-16. Operating a watercraft under the influence of  
12 alcohol, other drug or drugs, intoxicating compound or  
13 compounds, or combination thereof.

14 (A) 1. A person shall not operate or be in actual physical  
15 control of any watercraft within this State while:

16 (a) The alcohol concentration in such person's  
17 blood or breath is a concentration at which driving a  
18 motor vehicle is prohibited under subdivision (1) of  
19 subsection (a) of Section 11-501 of the Illinois  
20 Vehicle Code;

21 (b) Under the influence of alcohol;

22 (c) Under the influence of any other drug or  
23 combination of drugs to a degree which renders such  
24 person incapable of safely operating any watercraft;

1 (c-1) Under the influence of any intoxicating  
2 compound or combination of intoxicating compounds to a  
3 degree that renders the person incapable of safely  
4 operating any watercraft;

5 (d) Under the combined influence of alcohol and any  
6 other drug or drugs to a degree which renders such  
7 person incapable of safely operating a watercraft; or

8 (e) There is any amount of a drug, substance, or  
9 compound in the person's blood or urine resulting from  
10 the unlawful use or consumption of cannabis listed in  
11 the Cannabis Control Act, a controlled substance  
12 listed in the Illinois Controlled Substances Act, or an  
13 intoxicating compound listed in the Use of  
14 Intoxicating Compounds Act.

15 2. The fact that any person charged with violating this  
16 Section is or has been legally entitled to use alcohol,  
17 other drug or drugs, any intoxicating compound or  
18 compounds, or any combination of them, shall not constitute  
19 a defense against any charge of violating this Section.

20 3. Every person convicted of violating this Section  
21 shall be guilty of a Class A misdemeanor, except as  
22 otherwise provided in this Section.

23 4. Every person convicted of violating this Section  
24 shall be guilty of a Class 4 felony if:

25 (a) He has a previous conviction under this  
26 Section;



1           (b) The offense results in personal injury where a  
2           person other than the operator suffers great bodily  
3           harm or permanent disability or disfigurement, when  
4           the violation was a proximate cause of the injuries. A  
5           person guilty of a Class 4 felony under this  
6           subparagraph (b), if sentenced to a term of  
7           imprisonment, shall be sentenced to a term of not less  
8           than one year nor more than 12 years; or

9           (c) The offense occurred during a period in which  
10          his or her privileges to operate a watercraft are  
11          revoked or suspended, and the revocation or suspension  
12          was for a violation of this Section or was imposed  
13          under subsection (B).

14          5. Every person convicted of violating this Section  
15          shall be guilty of a Class 2 felony if the offense results  
16          in the death of a person. A person guilty of a Class 2  
17          felony under this paragraph 5, if sentenced to a term of  
18          imprisonment, shall be sentenced to a term of not less than  
19          3 years and not more than 14 years.

20          5.1. A person convicted of violating this Section or a  
21          similar provision of a local ordinance who had a child  
22          under the age of 16 aboard the watercraft at the time of  
23          offense is subject to a mandatory minimum fine of \$500 and  
24          to a mandatory minimum of 5 days of community service in a  
25          program benefiting children. The assignment under this  
26          paragraph 5.1 is not subject to suspension and the person

1 is not eligible for probation in order to reduce the  
2 assignment.

3 5.2. A person found guilty of violating this Section,  
4 if his or her operation of a watercraft while in violation  
5 of this Section proximately caused any incident resulting  
6 in an appropriate emergency response, is liable for the  
7 expense of an emergency response as provided in subsection  
8 (m) of Section 11-501 of the Illinois Vehicle Code.

9 5.3. In addition to any other penalties and  
10 liabilities, a person who is found guilty of violating this  
11 Section, including any person placed on court supervision,  
12 shall be fined \$100, payable to the circuit clerk, who  
13 shall distribute the money to the law enforcement agency  
14 that made the arrest. In the event that more than one  
15 agency is responsible for the arrest, the \$100 shall be  
16 shared equally. Any moneys received by a law enforcement  
17 agency under this paragraph 5.3 shall be used to purchase  
18 law enforcement equipment or to provide law enforcement  
19 training that will assist in the prevention of alcohol  
20 related criminal violence throughout the State. Law  
21 enforcement equipment shall include, but is not limited to,  
22 in-car video cameras, radar and laser speed detection  
23 devices, and alcohol breath testers.

24 6. (a) In addition to any criminal penalties imposed,  
25 the Department of Natural Resources shall suspend the  
26 watercraft operation privileges of any person

1 convicted or found guilty of a misdemeanor under this  
2 Section, a similar provision of a local ordinance, or  
3 Title 46 of the U.S. Code of Federal Regulations for a  
4 period of one year, except that a first ~~time~~ offender  
5 is exempt from this mandatory one year suspension.

6 As used in this subdivision (A)6(a), "first ~~time~~  
7 offender" has the meaning ascribed to that term  
8 offender" in Section 11-500 of the Illinois Vehicle  
9 Code. ~~means any person who has not had a previous~~  
10 ~~conviction or been assigned supervision for violating~~  
11 ~~this Section, a similar provision of a local ordinance~~  
12 ~~or, Title 46 of the U.S. Code of Federal Regulations,~~  
13 ~~or any person who has not had a suspension imposed~~  
14 ~~under subdivision (B)3.1 of Section 5-16.~~

15 (b) In addition to any criminal penalties imposed,  
16 the Department of Natural Resources shall suspend the  
17 watercraft operation privileges of any person  
18 convicted of a felony under this Section, a similar  
19 provision of a local ordinance, or Title 46 of the U.S.  
20 Code of Federal Regulations for a period of 3 years.

21 (B) 1. Any person who operates or is in actual physical  
22 control of any watercraft upon the waters of this State  
23 shall be deemed to have given consent to a chemical test or  
24 tests of blood, breath or urine for the purpose of  
25 determining the content of alcohol, other drug or drugs,  
26 intoxicating compound or compounds, or combination thereof

1 in the person's blood if arrested for any offense of  
2 subsection (A) above. The chemical test or tests shall be  
3 administered at the direction of the arresting officer. The  
4 law enforcement agency employing the officer shall  
5 designate which of the tests shall be administered. A urine  
6 test may be administered even after a blood or breath test  
7 or both has been administered.

8 1.1. For the purposes of this Section, an Illinois Law  
9 Enforcement officer of this State who is investigating the  
10 person for any offense defined in Section 5-16 may travel  
11 into an adjoining state, where the person has been  
12 transported for medical care to complete an investigation,  
13 and may request that the person submit to the test or tests  
14 set forth in this Section. The requirements of this Section  
15 that the person be arrested are inapplicable, but the  
16 officer shall issue the person a uniform citation for an  
17 offense as defined in Section 5-16 or a similar provision  
18 of a local ordinance prior to requesting that the person  
19 submit to the test or tests. The issuance of the uniform  
20 citation shall not constitute an arrest, but shall be for  
21 the purpose of notifying the person that he or she is  
22 subject to the provisions of this Section and of the  
23 officer's belief in the existence of probable cause to  
24 arrest. Upon returning to this State, the officer shall  
25 file the uniform citation with the circuit clerk of the  
26 county where the offense was committed and shall seek the

1 issuance of an arrest warrant or a summons for the person.

2 1.2. Notwithstanding any ability to refuse under this  
3 Act to submit to these tests or any ability to revoke the  
4 implied consent to these tests, if a law enforcement  
5 officer has probable cause to believe that a watercraft  
6 operated by or under actual physical control of a person  
7 under the influence of alcohol, other drug or drugs,  
8 intoxicating compound or compounds, or any combination of  
9 them has caused the death of or personal injury to another,  
10 that person shall submit, upon the request of a law  
11 enforcement officer, to a chemical test or tests of his or  
12 her blood, breath, or urine for the purpose of determining  
13 the alcohol content or the presence of any other drug,  
14 intoxicating compound, or combination of them. For the  
15 purposes of this Section, a personal injury includes severe  
16 bleeding wounds, distorted extremities, and injuries that  
17 require the injured party to be carried from the scene for  
18 immediate professional attention in either a doctor's  
19 office or a medical facility.

20 2. Any person who is dead, unconscious or who is  
21 otherwise in a condition rendering such person incapable of  
22 refusal, shall be deemed not to have withdrawn the consent  
23 provided above, and the test may be administered.

24 3. A person requested to submit to a chemical test as  
25 provided above shall be verbally advised by the law  
26 enforcement officer requesting the test that a refusal to

1 submit to the test will result in suspension of such  
2 person's privilege to operate a watercraft for a minimum of  
3 2 years, and the statutory summary suspension of the  
4 person's privilege to operate a motor vehicle, as provided  
5 in Section 6-208.1 of the Illinois Vehicle Code, and will  
6 also result in the disqualification of the person's  
7 privilege to operate a commercial motor vehicle, as  
8 provided in Section 6-514 of the Illinois Vehicle Code, if  
9 the person is a CDL holder. The person shall also be warned  
10 by the law enforcement officer that if the person submits  
11 to the test or tests provided in paragraph 1 of this  
12 subsection and the alcohol concentration in the person's  
13 blood or breath is 0.08 or greater, or any amount of a  
14 drug, substance, or compound resulting from the unlawful  
15 use or consumption of cannabis as covered by the Cannabis  
16 Control Act, a controlled substance listed in the Illinois  
17 Controlled Substances Act, an intoxicating compound listed  
18 in the Use of Intoxicating Compounds Act, or  
19 methamphetamine as listed in the Methamphetamine Control  
20 and Community Protection Act is detected in the person's  
21 blood or urine, a statutory summary suspension of the  
22 person's privilege to operate a motor vehicle, as provided  
23 in Sections 6-208.1 and 11-501.1 of the Illinois Vehicle  
24 Code, and a disqualification of the person's privilege to  
25 operate a commercial motor vehicle, as provided in Section  
26 6-514 of the Illinois Vehicle Code, if the person is a CDL

1       holder, will be imposed.

2       A person who is under the age of 21 at the time the  
3       person is requested to submit to a test as provided above  
4       shall, in addition to the warnings provided for in this  
5       Section, be further warned by the law enforcement officer  
6       requesting the test that if the person submits to the test  
7       or tests provided in paragraph (a) of this Section and the  
8       alcohol concentration in the person's blood or breath is  
9       greater than 0.00 and less than 0.08, a suspension of the  
10       person's privilege to operate a motor vehicle, as provided  
11       under Sections 6-208.2 and 11-501.8 of the Illinois Vehicle  
12       Code, will be imposed. The results of this test shall be  
13       admissible in a civil or criminal action or proceeding  
14       arising from an arrest for an offense as defined in Section  
15       5-16 of this Act or a similar provision of a local  
16       ordinance or pursuant to Section 11-501.4 of the Illinois  
17       Vehicle Code in prosecutions for reckless homicide brought  
18       under the Criminal Code of 1961. These test results,  
19       however, shall be admissible only in actions or proceedings  
20       directly related to the incident upon which the test  
21       request was made.

22       Following this warning, if a person under arrest  
23       refuses upon the request of a law enforcement officer to  
24       submit to a test designated by the officer, no test shall  
25       be given, but the law enforcement officer shall file with  
26       the clerk of the circuit court for the county in which the

1       arrest was made, and with the Department of Natural  
2       Resources, a sworn statement naming the person refusing to  
3       take and complete the chemical test or tests requested  
4       under the provisions of this Section. Such sworn statement  
5       shall identify the arrested person, such person's current  
6       residence address and shall specify that a refusal by such  
7       person to take the chemical test or tests was made. Such  
8       sworn statement shall include a statement that the  
9       arresting officer had reasonable cause to believe the  
10      person was operating or was in actual physical control of  
11      the watercraft within this State while under the influence  
12      of alcohol, other drug or drugs, intoxicating compound or  
13      compounds, or combination thereof and that such chemical  
14      test or tests were made as an incident to and following the  
15      lawful arrest for an offense as defined in this Section or  
16      a similar provision of a local ordinance, and that the  
17      person after being arrested for an offense arising out of  
18      acts alleged to have been committed while so operating a  
19      watercraft refused to submit to and complete a chemical  
20      test or tests as requested by the law enforcement officer.

21           3.1. The law enforcement officer submitting the sworn  
22      statement as provided in paragraph 3 of this subsection (B)  
23      shall serve immediate written notice upon the person  
24      refusing the chemical test or tests that the person's  
25      privilege to operate a watercraft within this State will be  
26      suspended for a period of 2 years, a statutory summary



1       suspension of the person's privilege to operate a motor  
2       vehicle, as provided in Sections 6-208.1 and 6-208.2 of the  
3       Illinois Vehicle Code will be imposed, and a  
4       disqualification of the person's privilege to operate a  
5       commercial motor vehicle, as provided in Section 6-514 of  
6       the Illinois Vehicle Code, if the person is a CDL holder,  
7       will be imposed unless, within 28 days from the date of the  
8       notice, the person requests in writing a hearing on the  
9       suspension.

10       If the person desires a hearing, such person shall file  
11       a complaint in the circuit court for and in the county in  
12       which such person was arrested for such hearing. Such  
13       hearing shall proceed in the court in the same manner as  
14       other civil proceedings, shall cover only the issues of  
15       whether the person was placed under arrest for an offense  
16       as defined in this Section or a similar provision of a  
17       local ordinance as evidenced by the issuance of a uniform  
18       citation; whether the arresting officer had reasonable  
19       grounds to believe that such person was operating a  
20       watercraft while under the influence of alcohol, other drug  
21       or drugs, intoxicating compound or compounds, or  
22       combination thereof; and whether such person refused to  
23       submit and complete the chemical test or tests upon the  
24       request of the law enforcement officer. Whether the person  
25       was informed that such person's privilege to operate a  
26       watercraft would be suspended if such person refused to

1 submit to the chemical test or tests shall not be an issue.

2 If the person fails to request in writing a hearing  
3 within 28 days from the date of notice, or if a hearing is  
4 held and the court finds against the person on the issues  
5 before the court, the clerk shall immediately notify the  
6 Department of Natural Resources, and the Department shall  
7 suspend the watercraft operation privileges of the person  
8 for at least 2 years.

9 If the person fails to request in writing a hearing  
10 within 28 days from the date of notice, or if a hearing is  
11 held and the court finds against the person on the issues  
12 before the court, the clerk shall immediately notify the  
13 Secretary of State, and the Secretary of State shall impose  
14 a statutory summary suspension of the person's privilege to  
15 operate a motor vehicle, as provided in Sections 6-208.1  
16 and 6-208.2 of the Illinois Vehicle Code, and a  
17 disqualification of the person's privilege to operate a  
18 commercial motor vehicle, as provided in Section 6-514 of  
19 the Illinois Vehicle Code, if the person is a CDL holder.

20 3.2. If the person submits to a test that discloses an  
21 alcohol concentration of 0.08 or more, or any amount of a  
22 drug, substance or intoxicating compound in the person's  
23 breath, blood, or urine resulting from the unlawful use of  
24 cannabis listed in the Cannabis Control Act, a controlled  
25 substance listed in the Illinois Controlled Substances  
26 Act, or an intoxicating compound listed in the Use of

1 Intoxicating Compounds Act, the law enforcement officer  
2 shall immediately submit a sworn report to the circuit  
3 clerk of venue and the Department of Natural Resources,  
4 certifying that the test or tests were requested under  
5 paragraph 1 of this subsection (B) and the person submitted  
6 to testing that disclosed an alcohol concentration of 0.08  
7 or more.

8 In cases where the blood alcohol concentration of 0.08  
9 or greater or any amount of drug, substance or compound  
10 resulting from the unlawful use of cannabis, a controlled  
11 substance or an intoxicating compound is established by a  
12 subsequent analysis of blood or urine collected at the time  
13 of arrest, the arresting officer or arresting agency shall  
14 immediately submit a sworn report to the circuit clerk of  
15 venue and the Department of Natural Resources upon receipt  
16 of the test results.

17 4. A person must submit to each chemical test offered  
18 by the law enforcement officer in order to comply with the  
19 implied consent provisions of this Section.

20 5. The provisions of Section 11-501.2 of the Illinois  
21 Vehicle Code, as amended, concerning the certification and  
22 use of chemical tests apply to the use of such tests under  
23 this Section.

24 (C) Upon the trial of any civil or criminal action or  
25 proceeding arising out of acts alleged to have been committed  
26 by any person while operating a watercraft while under the

1 influence of alcohol, the concentration of alcohol in the  
2 person's blood or breath at the time alleged as shown by  
3 analysis of a person's blood, urine, breath, or other bodily  
4 substance shall give rise to the presumptions specified in  
5 subdivisions 1, 2, and 3 of subsection (b) of Section 11-501.2  
6 of the Illinois Vehicle Code. The foregoing provisions of this  
7 subsection (C) shall not be construed as limiting the  
8 introduction of any other relevant evidence bearing upon the  
9 question whether the person was under the influence of alcohol.

10 (D) If a person under arrest refuses to submit to a  
11 chemical test under the provisions of this Section, evidence of  
12 refusal shall be admissible in any civil or criminal action or  
13 proceeding arising out of acts alleged to have been committed  
14 while the person under the influence of alcohol, other drug or  
15 drugs, intoxicating compound or compounds, or combination of  
16 them was operating a watercraft.

17 (E) The owner of any watercraft or any person given  
18 supervisory authority over a watercraft, may not knowingly  
19 permit a watercraft to be operated by any person under the  
20 influence of alcohol, other drug or drugs, intoxicating  
21 compound or compounds, or combination thereof.

22 (F) Whenever any person is convicted or found guilty of a  
23 violation of this Section, including any person placed on court  
24 supervision, the court shall notify the Office of Law  
25 Enforcement of the Department of Natural Resources, to provide  
26 the Department with the records essential for the performance

1 of the Department's duties to monitor and enforce any order of  
2 suspension or revocation concerning the privilege to operate a  
3 watercraft.

4 (G) No person who has been arrested and charged for  
5 violating paragraph 1 of subsection (A) of this Section shall  
6 operate any watercraft within this State for a period of 24  
7 hours after such arrest.

8 (Source: P.A. 94-214, eff. 1-1-06; 95-149, eff. 8-14-07.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.