

**SB3775**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB3775**

Introduced 2/11/2010, by Sen. Michael Noland

**SYNOPSIS AS INTRODUCED:**

625 ILCS 5/1-129.1  
625 ILCS 5/6-206.1  
625 ILCS 5/6-208.1

from Ch. 95 1/2, par. 6-206.1  
from Ch. 95 1/2, par. 6-208.1

Amends the Illinois Vehicle Code. Removes the authority of the courts to order the issuance of a monitoring driving device permit (MDDP) and grants the authority to the Secretary of State. Provides that persons issued a MDDP and who must drive a farm tractor to and from a farm, within 150 air miles from the originating farm are exempt from installation of a Breath Alcohol Ignition Interlock Device (BAIID) on the farm tractor, so long as the farm tractor is being used for the exclusive purpose of conducting farm operations. Effective January 1, 2011.

LRB096 18655 AJT 34039 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 1-129.1, 6-206.1, and 6-208.1 as follows:

6 (625 ILCS 5/1-129.1)

7 Sec. 1-129.1. Ignition interlock device, breath alcohol  
8 ignition interlock device (BAIID). A device installed in a  
9 motor vehicle that prevents the vehicle from starting until the  
10 device has determined by an analysis of the driver's breath  
11 that the driver's breath ~~blood~~ alcohol is below a certain  
12 preset level.

13 (Source: P.A. 91-127, eff. 1-1-00.)

14 (625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

15 Sec. 6-206.1. Monitoring Device Driving Permit.  
16 Declaration of Policy. It is hereby declared a policy of the  
17 State of Illinois that the driver who is impaired by alcohol,  
18 other drug or drugs, or intoxicating compound or compounds is a  
19 threat to the public safety and welfare. Therefore, to provide  
20 a deterrent to such practice, a statutory summary driver's  
21 license suspension is appropriate. It is also recognized that  
22 driving is a privilege and therefore, that the granting of

1 driving privileges, in a manner consistent with public safety,  
2 is warranted during the period of suspension in the form of a  
3 monitoring device driving permit. A person who drives and fails  
4 to comply with the requirements of the monitoring device  
5 driving permit commits a violation of Section 6-303 of this  
6 Code.

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

10 (a) The Secretary of State shall notify ~~Subsequent to a~~  
11 ~~notification of a statutory summary suspension of driving~~  
12 ~~privileges as provided in Section 11-501.1, the court, after~~  
13 ~~informing~~ the first offender, as defined in Section 11-500,  
14 that he or she may be eligible for ~~of his or her right to a~~  
15 monitoring device driving permit, hereinafter referred to as a  
16 MDDP, and of the obligations of the MDDP. Should the offender  
17 opt to have a MDDP issued, the offender shall complete an  
18 application in a form and manner prescribed by the Secretary.  
19 Should an offender opt not to participate in the MDDP program,  
20 the offender shall opt out, in writing, in a form and manner as  
21 prescribed by the Secretary. ~~, shall enter an order directing~~  
22 ~~the Secretary of State (hereinafter referred to as the~~  
23 ~~Secretary) to issue a MDDP to the offender, unless the offender~~  
24 ~~has opted, in writing, not to have a MDDP issued.~~ After opting  
25 out of having a MDDP issued, at any time during the summary  
26 suspension, the offender may petition the ~~court for an order~~

1 ~~directing the~~ Secretary to issue a MDDP. However, the ~~court~~  
2 ~~shall not enter the order directing the~~ Secretary shall not ~~to~~  
3 issue the MDDP, ~~in any instance,~~ if the Secretary ~~court~~ finds:

4 (1) The offender's driver's license is otherwise  
5 invalid;

6 (2) Death or great bodily harm resulted from the arrest  
7 for Section 11-501;

8 (3) That the offender has been previously convicted of  
9 reckless homicide or aggravated driving under the  
10 influence involving death; or

11 (4) That the offender is less than 18 years of age at  
12 the time of issuance.

13 Any person issued ~~court order for~~ a MDDP shall ~~order the~~  
14 ~~person to~~ pay the Secretary a MDDP Administration Fee in an  
15 amount not to exceed \$30 per month, to be deposited into the  
16 Monitoring Device Driving Permit Administration Fee Fund. The  
17 Secretary shall establish by rule the amount and the  
18 procedures, terms, and conditions relating to these fees. The  
19 ~~order shall further specify that the~~ offender must have an  
20 ignition interlock device installed within 14 days of the date  
21 the Secretary issues the MDDP. The ignition interlock device  
22 provider must notify the Secretary, in a manner and form  
23 prescribed by the Secretary, of the installation. If the  
24 Secretary does not receive notice of installation, the  
25 Secretary shall cancel the MDDP.

26 A MDDP shall not become effective prior to the 31st day of

1 the original statutory summary suspension.

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

8 (a-2) Persons who are issued a MDDP and must drive  
9 employer-owned vehicles in the course of their employment  
10 duties may seek permission to drive an employer-owned vehicle  
11 that does not have an ignition interlock device. The employer  
12 shall provide to the Secretary a form, as prescribed by the  
13 Secretary, completed by the employer verifying that the  
14 employee must drive an employer-owned vehicle in the course of  
15 employment. If approved by the Secretary, the form must be in  
16 the driver's possession while operating an employer-owner  
17 vehicle not equipped with an ignition interlock device. No  
18 person may use this exemption to drive a school bus, school  
19 vehicle, or a vehicle designed to transport more than 15  
20 passengers. No person may use this exemption to drive an  
21 employer-owned motor vehicle that is owned by an entity that is  
22 wholly or partially owned by the person holding the MDDP, or by  
23 a family member of the person holding the MDDP. No person may  
24 use this exemption to drive an employer-owned vehicle that is  
25 made available to the employee for personal use. No person may  
26 drive the exempted vehicle more than 12 hours per day, 6 days

1 per week.

2 (a-3) Persons who are issued a MDDP and who must drive a  
3 farm tractor to and from a farm, within 150 air miles from the  
4 originating farm are exempt from installation of a BAIID on the  
5 farm tractor, so long as the farm tractor is being used for the  
6 exclusive purpose of conducting farm operations.

7 (b) (Blank).

8 (c) (Blank).

9 (c-1) If the holder of the MDDP is convicted of or receives  
10 court supervision for a violation of Section 6-206.2, 6-303,  
11 11-204, 11-204.1, 11-401, 11-501, 11-503, 11-506 or a similar  
12 provision of a local ordinance or a similar out-of-state  
13 offense or is convicted of or receives court supervision for  
14 any offense for which alcohol or drugs is an element of the  
15 offense and in which a motor vehicle was involved (for an  
16 arrest other than the one for which the MDDP is issued), or  
17 de-installs the BAIID without prior authorization from the  
18 Secretary, the MDDP shall be cancelled.

19 (c-5) If the Secretary ~~court~~ determines that the person  
20 seeking the MDDP is indigent, the Secretary ~~court~~ shall provide  
21 the person with a written document, ~~in a form prescribed by the~~  
22 ~~Secretary,~~ as evidence of that determination, and the person  
23 shall provide that written document to an ignition interlock  
24 device provider. The provider shall install an ignition  
25 interlock device on that person's vehicle without charge to the  
26 person, and seek reimbursement from the Indigent BAIID Fund. If

1 the Secretary ~~court~~ has deemed an offender indigent, the BAIID  
2 provider shall also provide the normal monthly monitoring  
3 services and the de-installation without charge to the offender  
4 and seek reimbursement from the Indigent BAIID Fund. Any other  
5 monetary charges, such as a lockout fee or reset fee, shall be  
6 the responsibility of the MDDP holder. A BAIID provider may not  
7 seek a security deposit from the Indigent BAIID Fund. ~~The court~~  
8 ~~shall also forward a copy of the indigent determination to the~~  
9 ~~Secretary, in a manner and form as prescribed by the Secretary.~~

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

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

26 (e) (Blank).

1 (f) (Blank).

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

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

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

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

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

21 (4) fails to follow any other applicable rules adopted  
22 by the Secretary.

23 (i) Any person or entity that supplies an ignition  
24 interlock device as provided under this Section shall, in  
25 addition to supplying only those devices which fully comply  
26 with all the rules adopted under subsection (g), provide the



1 Secretary, within 7 days of inspection, all monitoring reports  
2 of each person who has had an ignition interlock device  
3 installed. These reports shall be furnished in a manner or form  
4 as prescribed by the Secretary.

5 (j) Upon making a determination that a violation of the  
6 requirements of the MDDP has occurred, the Secretary shall  
7 extend the summary suspension period for an additional 3 months  
8 beyond the originally imposed summary suspension period,  
9 during which time the person shall only be allowed to drive  
10 vehicles equipped with an ignition interlock device; provided  
11 further there are no limitations on the total number of times  
12 the summary suspension may be extended. The Secretary may,  
13 however, limit the number of extensions imposed for violations  
14 occurring during any one monitoring period, as set forth by  
15 rule. Any person whose summary suspension is extended pursuant  
16 to this Section shall have the right to contest the extension  
17 through a hearing with the Secretary, pursuant to Section 2-118  
18 of this Code. If the summary suspension has already terminated  
19 prior to the Secretary receiving the monitoring report that  
20 shows a violation, the Secretary shall be authorized to suspend  
21 the person's driving privileges for 3 months, provided that the  
22 Secretary may, by rule, limit the number of suspensions to be  
23 entered pursuant to this paragraph for violations occurring  
24 during any one monitoring period. Any person whose license is  
25 suspended pursuant to this paragraph, after the summary  
26 suspension had already terminated, shall have the right to

1 contest the suspension through a hearing with the Secretary,  
2 pursuant to Section 2-118 of this Code. The only permit the  
3 person shall be eligible for during this new suspension period  
4 is a MDDP.

5 (k) A person who has had his or her summary suspension  
6 extended for the third time, or has any combination of 3  
7 extensions and new suspensions, entered as a result of a  
8 violation that occurred while holding the MDDP, so long as the  
9 extensions and new suspensions relate to the same summary  
10 suspension, shall have his or her vehicle impounded for a  
11 period of 30 days, at the person's own expense. A person who  
12 has his or her summary suspension extended for the fourth time,  
13 or has any combination of 4 extensions and new suspensions,  
14 entered as a result of a violation that occurred while holding  
15 the MDDP, so long as the extensions and new suspensions relate  
16 to the same summary suspension, shall have his or her vehicle  
17 subject to seizure and forfeiture. The Secretary shall notify  
18 the prosecuting authority of any third or fourth extensions or  
19 new suspension entered as a result of a violation that occurred  
20 while the person held a MDDP. Upon receipt of the notification,  
21 the prosecuting authority shall impound or forfeit the vehicle.

22 (l) A person whose driving privileges have been suspended  
23 under Section 11-501.1 of this Code and who had a MDDP that was  
24 cancelled, or would have been cancelled had notification of a  
25 violation been received prior to expiration of the MDDP,  
26 pursuant to subsection (c-1) of this Section, shall not be

1 eligible for reinstatement when the summary suspension is  
2 scheduled to terminate. Instead, the person's driving  
3 privileges shall be suspended for a period of not less than  
4 twice the original summary suspension period, or for the length  
5 of any extensions entered under subsection (j), whichever is  
6 longer. During the period of suspension, the person shall be  
7 eligible only to apply for a restricted driving permit. If a  
8 restricted driving permit is granted, the offender may only  
9 operate vehicles equipped with a BAIID in accordance with this  
10 Section.

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

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

1 shall seek reimbursement from the Indigent BAIID Fund.

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

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

19 (Source: P.A. 95-400, eff. 1-1-09; 95-578, eff. 1-1-09; 95-855,  
20 eff. 1-1-09; 95-876, eff. 8-21-08; 96-184, eff. 8-10-09.)

21 (625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)

22 Sec. 6-208.1. Period of statutory summary alcohol, other  
23 drug, or intoxicating compound related suspension.

24 (a) Unless the statutory summary suspension has been  
25 rescinded, any person whose privilege to drive a motor vehicle

1 on the public highways has been summarily suspended, pursuant  
2 to Section 11-501.1, shall not be eligible for restoration of  
3 the privilege until the expiration of:

4 1. Twelve months from the effective date of the  
5 statutory summary suspension for a refusal or failure to  
6 complete a test or tests to determine the alcohol, drug, or  
7 intoxicating compound concentration, pursuant to Section  
8 11-501.1; or

9 2. Six months from the effective date of the statutory  
10 summary suspension imposed following the person's  
11 submission to a chemical test which disclosed an alcohol  
12 concentration of 0.08 or more, or any amount of a drug,  
13 substance, or intoxicating compound in such person's  
14 breath, blood, or urine resulting from the unlawful use or  
15 consumption of cannabis listed in the Cannabis Control Act,  
16 a controlled substance listed in the Illinois Controlled  
17 Substances Act, an intoxicating compound listed in the Use  
18 of Intoxicating Compounds Act, or methamphetamine as  
19 listed in the Methamphetamine Control and Community  
20 Protection Act, pursuant to Section 11-501.1; or

21 3. Three years from the effective date of the statutory  
22 summary suspension for any person other than a first  
23 offender who refuses or fails to complete a test or tests  
24 to determine the alcohol, drug, or intoxicating compound  
25 concentration pursuant to Section 11-501.1; or

26 4. One year from the effective date of the summary

1 suspension imposed for any person other than a first  
2 offender following submission to a chemical test which  
3 disclosed an alcohol concentration of 0.08 or more pursuant  
4 to Section 11-501.1 or any amount of a drug, substance or  
5 compound in such 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 listed in the Use of Intoxicating Compounds Act,  
10 or methamphetamine as listed in the Methamphetamine  
11 Control and Community Protection Act.

12 (b) Following a statutory summary suspension of the  
13 privilege to drive a motor vehicle under Section 11-501.1,  
14 driving privileges shall be restored unless the person is  
15 otherwise suspended, revoked, or cancelled by this Code. If the  
16 court has reason to believe that the person's driving privilege  
17 should not be restored, the court shall notify the Secretary of  
18 State prior to the expiration of the statutory summary  
19 suspension so appropriate action may be taken pursuant to this  
20 Code.

21 (c) Driving privileges may not be restored until all  
22 applicable reinstatement fees, as provided by this Code, have  
23 been paid to the Secretary of State and the appropriate entry  
24 made to the driver's record.

25 (d) Where a driving privilege has been summarily suspended  
26 under Section 11-501.1 and the person is subsequently convicted

1 of violating Section 11-501, or a similar provision of a local  
2 ordinance, for the same incident, any period served on  
3 statutory summary suspension shall be credited toward the  
4 minimum period of revocation of driving privileges imposed  
5 pursuant to Section 6-205.

6 (e) Following a statutory summary suspension of driving  
7 privileges pursuant to Section 11-501.1, for a first offender,  
8 the Secretary of State ~~circuit court~~ shall, ~~unless the offender~~  
9 ~~has opted in writing not to have a monitoring device driving~~  
10 ~~permit issued, order the Secretary of State to issue a~~  
11 ~~monitoring device driving permit,~~ if requested in writing, as  
12 provided in Section 6-206.1. A monitoring device driving permit  
13 shall not be effective prior to the 31st day of the statutory  
14 summary suspension.

15 (f) (Blank).

16 (g) Following a statutory summary suspension of driving  
17 privileges pursuant to Section 11-501.1 where the person was  
18 not a first offender, as defined in Section 11-500, the  
19 Secretary of State may not issue a restricted driving permit.

20 (h) (Blank).

21 (Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876,  
22 eff. 8-21-08.)

23 Section 99. Effective date. This Act takes effect January  
24 1, 2011.