

HB3855



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3855

Introduced 10/24/2011, by Rep. Rich Brauer

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.6

from Ch. 95 1/2, par. 11-501.6

Amends the Illinois Vehicle Code. Provides that any person who drives or is in actual control of a motor vehicle upon the public highways of this State and who has been involved in a fatal motor vehicle accident shall be deemed to have given consent, regardless of whether an arrest takes place, to tests of blood, breath, or urine to detect alcohol, drugs, or intoxicating compounds. Provides that both a test of the concentration of alcohol in the person's breath and a test of blood or urine for the purpose of determining the content of alcohol, drugs, or intoxicating compounds of the person's blood shall be administered.

LRB097 13949 HEP 58547 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 6-206 and 11-501.6 and by adding Section 11-501.6a as
6 follows:

7 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

8 Sec. 11-501.6. Driver involvement in personal injury or
9 fatal motor vehicle accident not involving an arrest for a
10 violation of Section 11-501; driving under the influence of
11 alcohol, other drug or drugs, intoxicating compounds, or any
12 combination thereof; chemical test.

13 (a) Any person who drives or is in actual control of a
14 motor vehicle upon the public highways of this State and who
15 has been involved in a personal injury ~~or fatal~~ motor vehicle
16 accident ^r shall be deemed to have given consent to a breath
17 test using a portable device as approved by the Department of
18 State Police or to a chemical test or tests of blood, breath,
19 or urine for the purpose of determining the content of alcohol,
20 other drug or drugs, or intoxicating compound or compounds of
21 such person's blood if arrested as evidenced by the issuance of
22 a Uniform Traffic Ticket for any violation of the Illinois
23 Vehicle Code or a similar provision of a local ordinance, with

1 the exception of equipment violations contained in Chapter 12
2 of this Code, or similar provisions of local ordinances. This
3 Section shall not apply to those persons arrested for a
4 violation of Section 11-501 or a similar violation of a local
5 ordinance, in which case the provisions of Section 11-501.1
6 shall apply. The test or tests shall be administered at the
7 direction of the arresting officer. The law enforcement agency
8 employing the officer shall designate which of the aforesaid
9 tests shall be administered. A urine test may be administered
10 even after a blood or breath test or both have ~~has~~ been
11 administered. Compliance with this Section does not relieve
12 such person from the requirements of Section 11-501.1 of this
13 Code.

14 (a-5) Any person who drives or is in actual control of a
15 motor vehicle upon the public highways of this State and who
16 has been involved in a fatal motor vehicle accident shall be
17 deemed to have given consent to a breath test using a portable
18 device as approved by the Department of State Police and to a
19 chemical test or tests of blood, breath, or urine for the
20 purpose of determining the content of alcohol, other drug or
21 drugs, or intoxicating compound or compounds of such person's
22 blood. This Section shall not apply to those persons arrested
23 for a violation of Section 11-501 or a similar violation of a
24 local ordinance, in which case the provisions of Section
25 11-501.1 shall apply. The tests shall be administered at the
26 direction of the officer responding to the vehicle accident.

1 Both a test of the concentration of alcohol in the person's
2 breath and a test of blood or urine for the purpose of
3 determining the content of alcohol, other drug or drugs, or
4 intoxicating compound or compounds of the person's blood shall
5 be administered. A urine test may be administered even after a
6 blood or breath test or both have been administered. Compliance
7 with this Section does not relieve such person from the
8 requirements of Section 11-501.1 of this Code.

9 (b) Any person who is dead, unconscious or who is otherwise
10 in a condition rendering such person incapable of refusal shall
11 be deemed not to have withdrawn the consent provided by
12 subsection (a) of this Section. In addition, if a driver of a
13 vehicle is receiving medical treatment as a result of a motor
14 vehicle accident, any physician licensed to practice medicine,
15 licensed physician assistant, licensed advanced practice
16 nurse, registered nurse or a phlebotomist acting under the
17 direction of a licensed physician shall withdraw blood for
18 testing purposes to ascertain the presence of alcohol, other
19 drug or drugs, or intoxicating compound or compounds, upon the
20 specific request of a law enforcement officer. However, no such
21 testing shall be performed until, in the opinion of the medical
22 personnel on scene, the withdrawal can be made without
23 interfering with or endangering the well-being of the patient.

24 (c) A person requested to submit to a test as provided
25 above shall be warned by the law enforcement officer requesting
26 the test that a refusal to submit to the test, or submission to

1 the test resulting in an alcohol concentration of 0.08 or more,
2 or any amount of a drug, substance, or intoxicating compound
3 resulting from the unlawful use or consumption of cannabis, as
4 covered by the Cannabis Control Act, a controlled substance
5 listed in the Illinois Controlled Substances Act, an
6 intoxicating compound listed in the Use of Intoxicating
7 Compounds Act, or methamphetamine as listed in the
8 Methamphetamine Control and Community Protection Act as
9 detected in such person's blood or urine, may result in the
10 suspension of such person's privilege to operate a motor
11 vehicle and may result in the disqualification of the person's
12 privilege to operate a commercial motor vehicle, as provided in
13 Section 6-514 of this Code, if the person is a CDL holder. The
14 length of the suspension shall be the same as outlined in
15 Section 6-208.1 of this Code regarding statutory summary
16 suspensions.

17 (d) If the person refuses testing or submits to a test
18 which discloses an alcohol concentration of 0.08 or more, or
19 any amount of a drug, substance, or intoxicating compound in
20 such person's blood or urine resulting from the unlawful use or
21 consumption of cannabis listed in the Cannabis Control Act, a
22 controlled substance listed in the Illinois Controlled
23 Substances Act, an intoxicating compound listed in the Use of
24 Intoxicating Compounds Act, or methamphetamine as listed in the
25 Methamphetamine Control and Community Protection Act, the law
26 enforcement officer shall immediately submit a sworn report to

1 the Secretary of State on a form prescribed by the Secretary,
2 certifying that the test or tests were requested pursuant to
3 subsection (a) and the person refused to submit to a test or
4 tests or submitted to testing which disclosed an alcohol
5 concentration of 0.08 or more, or any amount of a drug,
6 substance, or intoxicating compound in such person's blood or
7 urine, resulting from the unlawful use or consumption of
8 cannabis listed in the Cannabis Control Act, a controlled
9 substance listed in the Illinois Controlled Substances Act, an
10 intoxicating compound listed in the Use of Intoxicating
11 Compounds Act, or methamphetamine as listed in the
12 Methamphetamine Control and Community Protection Act.

13 Upon receipt of the sworn report of a law enforcement
14 officer, the Secretary shall enter the suspension and
15 disqualification to the individual's driving record and the
16 suspension and disqualification shall be effective on the 46th
17 day following the date notice of the suspension was given to
18 the person.

19 The law enforcement officer submitting the sworn report
20 shall serve immediate notice of this suspension on the person
21 and such suspension and disqualification shall be effective on
22 the 46th day following the date notice was given.

23 In cases where the blood alcohol concentration of 0.08 or
24 more, or any amount of a drug, substance, or intoxicating
25 compound resulting from the unlawful use or consumption of
26 cannabis as listed in the Cannabis Control Act, a controlled

1 substance listed in the Illinois Controlled Substances Act, an
2 intoxicating compound listed in the Use of Intoxicating
3 Compounds Act, or methamphetamine as listed in the
4 Methamphetamine Control and Community Protection Act, is
5 established by a subsequent analysis of blood or urine
6 collected at the time of arrest, the arresting officer shall
7 give notice as provided in this Section or by deposit in the
8 United States mail of such notice in an envelope with postage
9 prepaid and addressed to such person at his address as shown on
10 the Uniform Traffic Ticket and the suspension and
11 disqualification shall be effective on the 46th day following
12 the date notice was given.

13 Upon receipt of the sworn report of a law enforcement
14 officer, the Secretary shall also give notice of the suspension
15 and disqualification to the driver by mailing a notice of the
16 effective date of the suspension and disqualification to the
17 individual. However, should the sworn report be defective by
18 not containing sufficient information or be completed in error,
19 the notice of the suspension and disqualification shall not be
20 mailed to the person or entered to the driving record, but
21 rather the sworn report shall be returned to the issuing law
22 enforcement agency.

23 (e) A driver may contest this suspension of his or her
24 driving privileges and disqualification of his or her CDL
25 privileges by requesting an administrative hearing with the
26 Secretary in accordance with Section 2-118 of this Code. At the

1 conclusion of a hearing held under Section 2-118 of this Code,
2 the Secretary may rescind, continue, or modify the orders of
3 suspension and disqualification. If the Secretary does not
4 rescind the orders of suspension and disqualification, a
5 restricted driving permit may be granted by the Secretary upon
6 application being made and good cause shown. A restricted
7 driving permit may be granted to relieve undue hardship to
8 allow driving for employment, educational, and medical
9 purposes as outlined in Section 6-206 of this Code. The
10 provisions of Section 6-206 of this Code shall apply. In
11 accordance with 49 C.F.R. 384, the Secretary of State may not
12 issue a restricted driving permit for the operation of a
13 commercial motor vehicle to a person holding a CDL whose
14 driving privileges have been suspended, revoked, cancelled, or
15 disqualified.

16 (f) (Blank).

17 (g) For the purposes of this Section, a personal injury
18 shall include any type A injury as indicated on the traffic
19 accident report completed by a law enforcement officer that
20 requires immediate professional attention in either a doctor's
21 office or a medical facility. A type A injury shall include
22 severely bleeding wounds, distorted extremities, and injuries
23 that require the injured party to be carried from the scene.

24 (Source: P.A. 96-1344, eff. 7-1-11; 97-450, eff. 8-19-11.)