



Sen. Julie A. Morrison

Filed: 3/12/2013

09800SB1477sam001

LRB098 10154 MLW 42090 a

1 AMENDMENT TO SENATE BILL 1477

2 AMENDMENT NO. _____. Amend Senate Bill 1477 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Section 6-208.1 as follows:

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

7 (Text of Section from P.A. 96-1526)

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

10 (a) Unless the statutory summary suspension has been
11 rescinded, any person whose privilege to drive a motor vehicle
12 on the public highways has been summarily suspended, pursuant
13 to Section 11-501.1, shall not be eligible for restoration of
14 the privilege until the expiration of:

15 1. Twelve months from the effective date of the
16 statutory summary suspension for a refusal or failure to

1 complete a test or tests to determine the alcohol, drug, or
2 intoxicating compound concentration, pursuant to Section
3 11-501.1; or

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

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

21 4. One year from the effective date of the summary
22 suspension imposed for any person other than a first
23 offender following submission to a chemical test which
24 disclosed an alcohol concentration of 0.08 or more pursuant
25 to Section 11-501.1 or any amount of a drug, substance or
26 compound in such person's blood or urine resulting from the

1 unlawful use or consumption of cannabis listed in the
2 Cannabis Control Act, a controlled substance listed in the
3 Illinois Controlled Substances Act, an intoxicating
4 compound listed in the Use of Intoxicating Compounds Act,
5 or methamphetamine as listed in the Methamphetamine
6 Control and Community Protection Act.

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

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

20 (d) Where a driving privilege has been summarily suspended
21 under Section 11-501.1 and the person is subsequently convicted
22 of violating Section 11-501, or a similar provision of a local
23 ordinance, for the same incident, any period served on
24 statutory summary suspension shall be credited toward the
25 minimum period of revocation of driving privileges imposed
26 pursuant to Section 6-205.

1 (e) (Blank).

2 (f) (Blank).

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

7 (h) (Blank).

8 (i) Unless the statutory summary suspension has been
9 rescinded, any person whose privilege to drive a motor vehicle
10 on the public highways has been summarily suspended, pursuant
11 to Section 5-16 of the Boat Registration and Safety Act, shall
12 not be eligible for restoration of the privilege until the
13 expiration of 3 months from the effective date of the statutory
14 summary suspension imposed following a person's conviction for
15 violating Section 5-16 of the Boat Registration and Safety Act.

16 (Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876,
17 eff. 8-21-08; 96-1526, eff. 2-14-11.)

18 (Text of Section from P.A. 96-1344 and 97-229)

19 Sec. 6-208.1. Period of statutory summary alcohol, other
20 drug, or intoxicating compound related suspension or
21 revocation.

22 (a) Unless the statutory summary suspension has been
23 rescinded, any person whose privilege to drive a motor vehicle
24 on the public highways has been summarily suspended, pursuant
25 to Section 11-501.1, shall not be eligible for restoration of

1 the privilege until the expiration of:

2 1. Twelve months from the effective date of the
3 statutory summary suspension for a refusal or failure to
4 complete a test or tests to determine the alcohol, drug, or
5 intoxicating compound concentration, pursuant to Section
6 11-501.1, if the person was not involved in a motor vehicle
7 crash that caused personal injury or death to another; or

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

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

25 4. One year from the effective date of the summary
26 suspension imposed for any person other than a first

1 offender following submission to a chemical test which
2 disclosed an alcohol concentration of 0.08 or more pursuant
3 to Section 11-501.1 or any amount of a drug, substance or
4 compound in such person's blood or urine resulting from the
5 unlawful use or consumption of cannabis listed in the
6 Cannabis Control Act, a controlled substance listed in the
7 Illinois Controlled Substances Act, an intoxicating
8 compound listed in the Use of Intoxicating Compounds Act,
9 or methamphetamine as listed in the Methamphetamine
10 Control and Community Protection Act.

11 (a-1) Unless the statutory summary revocation has been
12 rescinded, any person whose privilege to drive has been
13 summarily revoked pursuant to Section 11-501.1 may not make
14 application for a license or permit until the expiration of one
15 year from the effective date of the summary revocation.

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

25 (c) Driving privileges may not be restored until all
26 applicable reinstatement fees, as provided by this Code, have

1 been paid to the Secretary of State and the appropriate entry
2 made to the driver's record.

3 (d) Where a driving privilege has been summarily suspended
4 or revoked under Section 11-501.1 and the person is
5 subsequently convicted of violating Section 11-501, or a
6 similar provision of a local ordinance, for the same incident,
7 any period served on statutory summary suspension or revocation
8 shall be credited toward the minimum period of revocation of
9 driving privileges imposed pursuant to Section 6-205.

10 (e) Following a statutory summary suspension of driving
11 privileges pursuant to Section 11-501.1, for a first offender,
12 the circuit court shall, unless the offender has opted in
13 writing not to have a monitoring device driving permit issued,
14 order the Secretary of State to issue a monitoring device
15 driving permit as provided in Section 6-206.1. A monitoring
16 device driving permit shall not be effective prior to the 31st
17 day of the statutory summary suspension. A first offender who
18 refused chemical testing and whose driving privileges were
19 summarily revoked pursuant to Section 11-501.1 shall not be
20 eligible for a monitoring device driving permit, but may make
21 application for reinstatement or for a restricted driving
22 permit after a period of one year has elapsed from the
23 effective date of the revocation.

24 (f) (Blank).

25 (g) Following a statutory summary suspension of driving
26 privileges pursuant to Section 11-501.1 where the person was

1 not a first offender, as defined in Section 11-500, the
2 Secretary of State may not issue a restricted driving permit.

3 (h) (Blank).

4 (i) Unless the statutory summary suspension has been
5 rescinded, any person whose privilege to drive a motor vehicle
6 on the public highways has been summarily suspended, pursuant
7 to Section 5-16 of the Boat Registration and Safety Act, shall
8 not be eligible for restoration of the privilege until the
9 expiration of 3 months from the effective date of the statutory
10 summary suspension imposed following a person's conviction for
11 violating Section 5-16 of the Boat Registration and Safety Act.

12 (Source: P.A. 96-1344, eff. 7-1-11; 97-229, eff. 7-28-11.)

13 Section 10. The Boat Registration and Safety Act is amended
14 by changing Section 5-16 as follows:

15 (625 ILCS 45/5-16)

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

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

21 (a) The alcohol concentration in such person's
22 blood or breath is a concentration at which driving a
23 motor vehicle is prohibited under subdivision (1) of
24 subsection (a) of Section 11-501 of the Illinois

1 Vehicle Code;

2 (b) Under the influence of alcohol;

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

6 (c-1) Under the influence of any intoxicating
7 compound or combination of intoxicating compounds to a
8 degree that renders the person incapable of safely
9 operating any watercraft;

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

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

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

25 3. Every person convicted of violating this Section
26 shall be guilty of a Class A misdemeanor, except as

1 otherwise provided in this Section.

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

4 (a) He has a previous conviction under this
5 Section;

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

14 (c) The offense occurred during a period in which
15 his or her privileges to operate a watercraft are
16 revoked or suspended, and the revocation or suspension
17 was for a violation of this Section or was imposed
18 under subsection (B).

19 5. Every person convicted of violating this Section
20 shall be guilty of a Class 2 felony if the offense results
21 in the death of a person. A person guilty of a Class 2
22 felony under this paragraph 5, if sentenced to a term of
23 imprisonment, shall be sentenced to a term of not less than
24 3 years and not more than 14 years.

25 5.1. A person convicted of violating this Section or a
26 similar provision of a local ordinance who had a child

1 under the age of 16 aboard the watercraft at the time of
2 offense is subject to a mandatory minimum fine of \$500 and
3 to a mandatory minimum of 5 days of community service in a
4 program benefiting children. The assignment under this
5 paragraph 5.1 is not subject to suspension and the person
6 is not eligible for probation in order to reduce the
7 assignment.

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

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

1 in-car video cameras, radar and laser speed detection
2 devices, and alcohol breath testers.

3 6. (a) In addition to any criminal penalties imposed,
4 the Department of Natural Resources shall suspend the
5 watercraft operation privileges of any person
6 convicted or found guilty of a misdemeanor under this
7 Section, a similar provision of a local ordinance, or
8 Title 46 of the U.S. Code of Federal Regulations for a
9 period of one year, except that a first time offender
10 is exempt from this mandatory one year suspension.

11 As used in this subdivision (A)6(a), "first time
12 offender" means any person who has not had a previous
13 conviction or been assigned supervision for violating
14 this Section, a similar provision of a local ordinance
15 or, Title 46 of the U.S. Code of Federal Regulations,
16 or any person who has not had a suspension imposed
17 under subdivision (B)3.1 of Section 5-16.

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

24 (c) In addition to any criminal penalties imposed,
25 the Secretary of State shall suspend the driver's
26 license of any person convicted of a misdemeanor or

1 felony under this Section, a similar provision of a
2 local ordinance, or Title 46 of the U.S. Code of
3 Federal Regulations for a period of 3 months, except
4 that a first time offender is exempt from this
5 mandatory 3 month suspension.

6 As used in this subdivision (A)6(c), "first time
7 offender" means any person who has not had a previous
8 conviction or been assigned supervision for violating
9 this Section, a similar provision of a local ordinance,
10 or Title 46 of the U.S. Code of Federal Regulations.

11 (B) 1. Any person who operates or is in actual physical
12 control of any watercraft upon the waters of this State
13 shall be deemed to have given consent to a chemical test or
14 tests of blood, breath or urine for the purpose of
15 determining the content of alcohol, other drug or drugs,
16 intoxicating compound or compounds, or combination thereof
17 in the person's blood if arrested for any offense of
18 subsection (A) above. The chemical test or tests shall be
19 administered at the direction of the arresting officer. The
20 law enforcement agency employing the officer shall
21 designate which of the tests shall be administered. A urine
22 test may be administered even after a blood or breath test
23 or both has been administered.

24 1.1. For the purposes of this Section, an Illinois Law
25 Enforcement officer of this State who is investigating the
26 person for any offense defined in Section 5-16 may travel

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

18 1.2. Notwithstanding any ability to refuse under this
19 Act to submit to these tests or any ability to revoke the
20 implied consent to these tests, if a law enforcement
21 officer has probable cause to believe that a watercraft
22 operated by or under actual physical control of a person
23 under the influence of alcohol, other drug or drugs,
24 intoxicating compound or compounds, or any combination of
25 them has caused the death of or personal injury to another,
26 that person shall submit, upon the request of a law

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

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

14 3. A person requested to submit to a chemical test as
15 provided above shall be verbally advised by the law
16 enforcement officer requesting the test that a refusal to
17 submit to the test will result in suspension of such
18 person's privilege to operate a watercraft for a minimum of
19 2 years. Following this warning, if a person under arrest
20 refuses upon the request of a law enforcement officer to
21 submit to a test designated by the officer, no test shall
22 be given, but the law enforcement officer shall file with
23 the clerk of the circuit court for the county in which the
24 arrest was made, and with the Department of Natural
25 Resources, a sworn statement naming the person refusing to
26 take and complete the chemical test or tests requested

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

18 3.1. The law enforcement officer submitting the sworn
19 statement as provided in paragraph 3 of this subsection (B)
20 shall serve immediate written notice upon the person
21 refusing the chemical test or tests that the person's
22 privilege to operate a watercraft within this State will be
23 suspended for a period of 2 years unless, within 28 days
24 from the date of the notice, the person requests in writing
25 a hearing on the suspension.

26 If the person desires a hearing, such person shall file

1 a complaint in the circuit court for and in the county in
2 which such person was arrested for such hearing. Such
3 hearing shall proceed in the court in the same manner as
4 other civil proceedings, shall cover only the issues of
5 whether the person was placed under arrest for an offense
6 as defined in this Section or a similar provision of a
7 local ordinance as evidenced by the issuance of a uniform
8 citation; whether the arresting officer had reasonable
9 grounds to believe that such person was operating a
10 watercraft while under the influence of alcohol, other drug
11 or drugs, intoxicating compound or compounds, or
12 combination thereof; and whether such person refused to
13 submit and complete the chemical test or tests upon the
14 request of the law enforcement officer. Whether the person
15 was informed that such person's privilege to operate a
16 watercraft would be suspended if such person refused to
17 submit to the chemical test or tests shall not be an issue.

18 If the person fails to request in writing a hearing
19 within 28 days from the date of notice, or if a hearing is
20 held and the court finds against the person on the issues
21 before the court, the clerk shall immediately notify the
22 Department of Natural Resources, and the Department shall
23 suspend the watercraft operation privileges of the person
24 for at least 2 years.

25 3.2. If the person submits to a test that discloses an
26 alcohol concentration of 0.08 or more, or any amount of a

1 drug, substance or intoxicating compound in the person's
2 breath, blood, or urine resulting from the unlawful use of
3 cannabis listed in the Cannabis Control Act, a controlled
4 substance listed in the Illinois Controlled Substances
5 Act, or an intoxicating compound listed in the Use of
6 Intoxicating Compounds Act, the law enforcement officer
7 shall immediately submit a sworn report to the circuit
8 clerk of venue and the Department of Natural Resources,
9 certifying that the test or tests were requested under
10 paragraph 1 of this subsection (B) and the person submitted
11 to testing that disclosed an alcohol concentration of 0.08
12 or more.

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

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

25 5. The provisions of Section 11-501.2 of the Illinois
26 Vehicle Code, as amended, concerning the certification and

1 use of chemical tests apply to the use of such tests under
2 this Section.

3 (C) Upon the trial of any civil or criminal action or
4 proceeding arising out of acts alleged to have been committed
5 by any person while operating a watercraft while under the
6 influence of alcohol, the concentration of alcohol in the
7 person's blood or breath at the time alleged as shown by
8 analysis of a person's blood, urine, breath, or other bodily
9 substance shall give rise to the presumptions specified in
10 subdivisions 1, 2, and 3 of subsection (b) of Section 11-501.2
11 of the Illinois Vehicle Code. The foregoing provisions of this
12 subsection (C) shall not be construed as limiting the
13 introduction of any other relevant evidence bearing upon the
14 question whether the person was under the influence of alcohol.

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

22 (E) The owner of any watercraft or any person given
23 supervisory authority over a watercraft, may not knowingly
24 permit a watercraft to be operated by any person under the
25 influence of alcohol, other drug or drugs, intoxicating
26 compound or compounds, or combination thereof.

1 (F) Whenever any person is convicted or found guilty of a
2 violation of this Section, including any person placed on court
3 supervision, the court shall notify the Office of Law
4 Enforcement of the Department of Natural Resources, to provide
5 the Department with the records essential for the performance
6 of the Department's duties to monitor and enforce any order of
7 suspension or revocation concerning the privilege to operate a
8 watercraft.

9 Whenever any person is convicted or found guilty of a
10 violation of this Section, including any person placed on court
11 supervision, the court shall also notify the Secretary of State
12 and provide the Secretary of State with the records necessary
13 to monitor and enforce any order of suspension or revocation
14 concerning the person's driver's license.

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

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