



Rep. Tom Cross

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LRB098 04205 MLW 45979 a

1 AMENDMENT TO SENATE BILL 1764

2 AMENDMENT NO. _____. Amend Senate Bill 1764 as follows:

3 on page 1, line 5, by replacing "Section 6-303" with "Sections
4 6-303 and 11-501"; and

5 on page 13, below line 16 by inserting the following:

6 "(625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or
13 breath is 0.08 or more based on the definition of blood and
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

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

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

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

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

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

23 (c) Penalties.

24 (1) Except as otherwise provided in this Section, any
25 person convicted of violating subsection (a) of this
26 Section is guilty of a Class A misdemeanor.

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

6 (3) A person who violates subsection (a) is subject to
7 6 months of imprisonment, an additional mandatory minimum
8 fine of \$1,000, and 25 days of community service in a
9 program benefiting children if the person was transporting
10 a person under the age of 16 at the time of the violation.

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

18 (5) A person who violates subsection (a) a second time,
19 if at the time of the second violation the alcohol
20 concentration in his or her blood, breath, or urine was
21 0.16 or more based on the definition of blood, breath, or
22 urine units in Section 11-501.2, shall be subject, in
23 addition to any other penalty that may be imposed, to a
24 mandatory minimum of 2 days of imprisonment and a mandatory
25 minimum fine of \$1,250.

26 (d) Aggravated driving under the influence of alcohol,

1 other drug or drugs, or intoxicating compound or compounds, or
2 any combination thereof.

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

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

11 (B) the person committed a violation of subsection
12 (a) while driving a school bus with one or more
13 passengers ~~persons 18 years of age or younger~~ on board;

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

19 (D) the person committed a violation of subsection
20 (a) and has been previously convicted of violating
21 Section 9-3 of the Criminal Code of 1961 or the
22 Criminal Code of 2012 or a similar provision of a law
23 of another state relating to reckless homicide in which
24 the person was determined to have been under the
25 influence of alcohol, other drug or drugs, or
26 intoxicating compound or compounds as an element of the

1 offense or the person has previously been convicted
2 under subparagraph (C) or subparagraph (F) of this
3 paragraph (1);

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

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

19 (G) the person committed a violation of subsection
20 (a) during a period in which the defendant's driving
21 privileges are revoked or suspended, where the
22 revocation or suspension was for a violation of
23 subsection (a) or a similar provision, Section
24 11-501.1, paragraph (b) of Section 11-401, or for
25 reckless homicide as defined in Section 9-3 of the
26 Criminal Code of 1961 or the Criminal Code of 2012;

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

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

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

15 (K) the person in committing a second violation of
16 subsection (a) or a similar provision was transporting
17 a person under the age of 16; or ~~-~~

18 (L) the person committed a violation of subsection
19 (a) of this Section while transporting one or more
20 passengers in a vehicle for-hire.

21 (2) (A) Except as provided otherwise, a person
22 convicted of aggravated driving under the influence of
23 alcohol, other drug or drugs, or intoxicating compound or
24 compounds, or any combination thereof is guilty of a Class
25 4 felony.

26 (B) A third violation of this Section or a similar

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

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

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

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

1 sanction.

2 (F) For a violation of subparagraph (C) of paragraph
3 (1) of this subsection (d), the defendant, if sentenced to
4 a term of imprisonment, shall be sentenced to not less than
5 one year nor more than 12 years.

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

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

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

1 was the proximate cause of that injury, a mandatory fine of
2 \$5,000 and 25 days of community service in a program
3 benefiting children shall be imposed in addition to any
4 other criminal or administrative sanction.

5 (J) A violation of subparagraph (D) of paragraph (1) of
6 this subsection (d) is a Class 3 felony, for which a
7 sentence of probation or conditional discharge may not be
8 imposed.

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

15 (e) Any reference to a prior violation of subsection (a) or
16 a similar provision includes any violation of a provision of a
17 local ordinance or a provision of a law of another state or an
18 offense committed on a military installation that is similar to
19 a violation of subsection (a) of this Section.

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

23 (g) Any penalty imposed for driving with a license that has
24 been revoked for a previous violation of subsection (a) of this
25 Section shall be in addition to the penalty imposed for any
26 subsequent violation of subsection (a).

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

4 (Source: P.A. 96-289, eff. 8-11-09; 97-1150, eff. 1-25-13.)".