



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0436

by Rep. Jehan A. Gordon-Booth

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. Provides that the required tests be conducted within one hour of the arrival of law enforcement personnel at the scene of the accident or, if the driver has fled the scene of the accident, within one hour of apprehending the driver.

LRB099 04180 RJF 24201 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 Section 11-501.6 as follows:

6 (625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

7 Sec. 11-501.6. Driver involvement in personal injury or
8 fatal motor vehicle accident; chemical test.

9 (a) Any person who drives or is in actual control of a
10 motor vehicle upon the public highways of this State and who
11 has been involved in a personal injury ~~or fatal~~ motor vehicle
12 accident, shall be deemed to have given consent to a breath
13 test using a portable device as approved by the Department of
14 State Police or to a chemical test or tests of blood, breath,
15 or urine for the purpose of determining the content of alcohol,
16 other drug or drugs, or intoxicating compound or compounds of
17 such person's blood if arrested as evidenced by the issuance of
18 a Uniform Traffic Ticket for any violation of the Illinois
19 Vehicle Code or a similar provision of a local ordinance, with
20 the exception of equipment violations contained in Chapter 12
21 of this Code, or similar provisions of local ordinances. The
22 test or tests shall be administered at the direction of the
23 arresting officer within one hour of the arrival of law

1 enforcement personnel at the scene of the accident or, if the
2 driver has fled the scene of the accident, within one hour of
3 apprehending the driver. The law enforcement agency employing
4 the officer shall designate which of the aforesaid tests shall
5 be administered. A urine test may be administered even after a
6 blood or breath test or both have ~~has~~ been administered.
7 Compliance with this Section does not relieve such person from
8 the requirements of Section 11-501.1 of this Code.

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

1 of the arrival of law enforcement personnel at the scene of the
2 accident or, if the driver has fled the scene of the accident,
3 within one hour of apprehending the driver. A urine test may be
4 administered even after a blood or breath test or both have
5 been administered. Compliance with this Section does not
6 relieve such person from the requirements of Section 11-501.1
7 of this Code.

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

23 (c) A person requested to submit to a test as provided
24 above shall be warned by the law enforcement officer requesting
25 the test that a refusal to submit to the test, or submission to
26 the test resulting in an alcohol concentration of 0.08 or more,

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

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

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

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

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

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

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

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

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

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

15 (f) (Blank).

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

23 (Source: P.A. 96-1344, eff. 7-1-11; 97-450, eff. 8-19-11;
24 97-835, eff. 7-20-12.)