

SB2980



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2980

Introduced 2/18/2016, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a person shall not drive or be in actual physical control of any vehicle within this State while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the use or consumption of a controlled substance listed in the Illinois Controlled Substances Act in excess of the prescribed amount in the person's prescription for the controlled substance.

LRB099 19070 AXK 43459 b

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 as follows:

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;

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

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

22 (5) under the combined influence of alcohol, other drug
23 or drugs, or intoxicating compound or compounds to a degree

1 that renders the person incapable of safely driving; ~~or~~

2 (6) there is any amount of a drug, substance, or
3 compound in the person's breath, blood, or urine resulting
4 from the unlawful use or consumption of cannabis listed in
5 the Cannabis Control Act, a controlled substance listed in
6 the Illinois Controlled Substances Act, an intoxicating
7 compound listed in the Use of Intoxicating Compounds Act,
8 or methamphetamine as listed in the Methamphetamine
9 Control and Community Protection Act. Subject to all other
10 requirements and provisions under this Section, this
11 paragraph (6) does not apply to the lawful consumption of
12 cannabis by a qualifying patient licensed under the
13 Compassionate Use of Medical Cannabis Pilot Program Act who
14 is in possession of a valid registry card issued under that
15 Act, unless that person is impaired by the use of cannabis;
16 or -

17 (7) there is any amount of a drug, substance, or
18 compound in the person's breath, blood, or urine resulting
19 from the use or consumption of a controlled substance
20 listed in the Illinois Controlled Substances Act in excess
21 of the prescribed amount in the person's prescription for
22 the controlled substance.

23 (b) The fact that any person charged with violating this
24 Section is or has been legally entitled to use alcohol,
25 cannabis under the Compassionate Use of Medical Cannabis Pilot
26 Program Act, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof, shall not constitute a
2 defense against any charge of violating this Section.

3 (c) Penalties.

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

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

12 (3) A person who violates subsection (a) is subject to
13 6 months of imprisonment, an additional mandatory minimum
14 fine of \$1,000, and 25 days of community service in a
15 program benefiting children if the person was transporting
16 a person under the age of 16 at the time of the violation.

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

24 (5) A person who violates subsection (a) a second time,
25 if at the time of the second violation the alcohol
26 concentration in his or her blood, breath, or urine was

1 0.16 or more based on the definition of blood, breath, or
2 urine units in Section 11-501.2, shall be subject, in
3 addition to any other penalty that may be imposed, to a
4 mandatory minimum of 2 days of imprisonment and a mandatory
5 minimum fine of \$1,250.

6 (d) Aggravated driving under the influence of alcohol,
7 other drug or drugs, or intoxicating compound or compounds, or
8 any combination thereof.

9 (1) Every person convicted of committing a violation of
10 this Section shall be guilty of aggravated driving under
11 the influence of alcohol, other drug or drugs, or
12 intoxicating compound or compounds, or any combination
13 thereof if:

14 (A) the person committed a violation of subsection
15 (a) or a similar provision for the third or subsequent
16 time;

17 (B) the person committed a violation of subsection
18 (a) while driving a school bus with one or more
19 passengers on board;

20 (C) the person in committing a violation of
21 subsection (a) was involved in a motor vehicle accident
22 that resulted in great bodily harm or permanent
23 disability or disfigurement to another, when the
24 violation was a proximate cause of the injuries;

25 (D) the person committed a violation of subsection
26 (a) and has been previously convicted of violating

1 Section 9-3 of the Criminal Code of 1961 or the
2 Criminal Code of 2012 or a similar provision of a law
3 of another state relating to reckless homicide in which
4 the person was determined to have been under the
5 influence of alcohol, other drug or drugs, or
6 intoxicating compound or compounds as an element of the
7 offense or the person has previously been convicted
8 under subparagraph (C) or subparagraph (F) of this
9 paragraph (1);

10 (E) the person, in committing a violation of
11 subsection (a) while driving at any speed in a school
12 speed zone at a time when a speed limit of 20 miles per
13 hour was in effect under subsection (a) of Section
14 11-605 of this Code, was involved in a motor vehicle
15 accident that resulted in bodily harm, other than great
16 bodily harm or permanent disability or disfigurement,
17 to another person, when the violation of subsection (a)
18 was a proximate cause of the bodily harm;

19 (F) the person, in committing a violation of
20 subsection (a), was involved in a motor vehicle,
21 snowmobile, all-terrain vehicle, or watercraft
22 accident that resulted in the death of another person,
23 when the violation of subsection (a) was a proximate
24 cause of the death;

25 (G) the person committed a violation of subsection
26 (a) during a period in which the defendant's driving

1 privileges are revoked or suspended, where the
2 revocation or suspension was for a violation of
3 subsection (a) or a similar provision, Section
4 11-501.1, paragraph (b) of Section 11-401, or for
5 reckless homicide as defined in Section 9-3 of the
6 Criminal Code of 1961 or the Criminal Code of 2012;

7 (H) the person committed the violation while he or
8 she did not possess a driver's license or permit or a
9 restricted driving permit or a judicial driving permit
10 or a monitoring device driving permit;

11 (I) the person committed the violation while he or
12 she knew or should have known that the vehicle he or
13 she was driving was not covered by a liability
14 insurance policy;

15 (J) the person in committing a violation of
16 subsection (a) was involved in a motor vehicle accident
17 that resulted in bodily harm, but not great bodily
18 harm, to the child under the age of 16 being
19 transported by the person, if the violation was the
20 proximate cause of the injury;

21 (K) the person in committing a second violation of
22 subsection (a) or a similar provision was transporting
23 a person under the age of 16; or

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

1 (2) (A) Except as provided otherwise, a person
2 convicted of aggravated driving under the influence of
3 alcohol, other drug or drugs, or intoxicating compound or
4 compounds, or any combination thereof is guilty of a Class
5 4 felony.

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

19 (C) A fourth violation of this Section or a similar
20 provision is a Class 2 felony, for which a sentence of
21 probation or conditional discharge may not be imposed. If
22 at the time of the violation, the alcohol concentration in
23 the defendant's blood, breath, or urine was 0.16 or more
24 based on the definition of blood, breath, or urine units in
25 Section 11-501.2, a mandatory minimum fine of \$5,000 shall
26 be imposed in addition to any other criminal or

1 administrative sanction. If at the time of the fourth
2 violation, the defendant was transporting a person under
3 the age of 16 a mandatory fine of \$25,000 and 25 days of
4 community service in a program benefiting children shall be
5 imposed in addition to any other criminal or administrative
6 sanction.

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

21 (E) A sixth or subsequent violation of this Section or
22 similar provision is a Class X felony. If at the time of
23 the violation, the alcohol concentration in the
24 defendant's blood, breath, or urine was 0.16 or more based
25 on the definition of blood, breath, or urine units in
26 Section 11-501.2, a mandatory minimum fine of \$5,000 shall

1 be imposed in addition to any other criminal or
2 administrative sanction. If at the time of the violation,
3 the defendant was transporting a person under the age of
4 16, a mandatory fine of \$25,000 and 25 days of community
5 service in a program benefiting children shall be imposed
6 in addition to any other criminal or administrative
7 sanction.

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

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

21 (H) For a violation of subparagraph (J) of paragraph
22 (1) of this subsection (d), a mandatory fine of \$2,500, and
23 25 days of community service in a program benefiting
24 children shall be imposed in addition to any other criminal
25 or administrative sanction.

26 (I) A violation of subparagraph (K) of paragraph (1) of

1 this subsection (d), is a Class 2 felony and a mandatory
2 fine of \$2,500, and 25 days of community service in a
3 program benefiting children shall be imposed in addition to
4 any other criminal or administrative sanction. If the child
5 being transported suffered bodily harm, but not great
6 bodily harm, in a motor vehicle accident, and the violation
7 was the proximate cause of that injury, a mandatory fine of
8 \$5,000 and 25 days of community service in a program
9 benefiting children shall be imposed in addition to any
10 other criminal or administrative sanction.

11 (J) A violation of subparagraph (D) of paragraph (1) of
12 this subsection (d) is a Class 3 felony, for which a
13 sentence of probation or conditional discharge may not be
14 imposed.

15 (3) Any person sentenced under this subsection (d) who
16 receives a term of probation or conditional discharge must
17 serve a minimum term of either 480 hours of community
18 service or 10 days of imprisonment as a condition of the
19 probation or conditional discharge in addition to any other
20 criminal or administrative sanction.

21 (e) Any reference to a prior violation of subsection (a) or
22 a similar provision includes any violation of a provision of a
23 local ordinance or a provision of a law of another state or an
24 offense committed on a military installation that is similar to
25 a violation of subsection (a) of this Section.

26 (f) The imposition of a mandatory term of imprisonment or

1 assignment of community service for a violation of this Section
2 shall not be suspended or reduced by the court.

3 (g) Any penalty imposed for driving with a license that has
4 been revoked for a previous violation of subsection (a) of this
5 Section shall be in addition to the penalty imposed for any
6 subsequent violation of subsection (a).

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

10 (Source: P.A. 97-1150, eff. 1-25-13; 98-122, eff. 1-1-14;
11 98-573, eff. 8-27-13; 98-756, eff. 7-16-14.)