

1 AN ACT in relation to vehicles.

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
5 changing Sections 11-501, 11-501.2, 11-501.4, and 11-501.5 as
6 follows:

7 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

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

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

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

16 (2) under the influence of alcohol;

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

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

24 (5) under the combined influence of alcohol, other
25 drug or drugs, or intoxicating compound or compounds to a
26 degree that renders the person incapable of safely
27 driving; or

28 (6) there is any amount of a drug, substance, or
29 compound in the person's breath, blood, or urine
30 resulting from the unlawful use or consumption of
31 cannabis listed in the Cannabis Control Act, a controlled

1 substance listed in the Illinois Controlled Substances
2 Act, or an intoxicating compound listed in the Use of
3 Intoxicating Compounds Act.

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

9 (c) Except as provided under paragraphs (c-3) and (d) of
10 this Section, every person convicted of violating this
11 Section or a similar provision of a local ordinance, shall be
12 guilty of a Class A misdemeanor and, in addition to any other
13 criminal or administrative action, for any second conviction
14 of violating this Section or a similar provision of a ~~law--of~~
15 ~~another--state-or~~ local ordinance committed within 5 years of
16 a previous violation of this Section or a similar provision
17 of a law of another state or a local ordinance shall be
18 mandatorily sentenced to a minimum of 48 consecutive hours of
19 imprisonment or assigned to a minimum of 100 hours of
20 community service as may be determined by the court. Every
21 person convicted of violating this Section or a similar
22 provision of a local ordinance shall be subject to a
23 mandatory minimum fine of \$500 and a mandatory 5 days of
24 community service in a program benefiting children if the
25 person committed a violation of paragraph (a) or a similar
26 provision of a local ordinance while transporting a person
27 under age 16. Every person convicted a second time for
28 violating this Section or a similar provision of a local
29 ordinance within 5 years of a previous violation of this
30 Section or a similar provision of a law of another state or
31 local ordinance shall be subject to a mandatory minimum fine
32 of \$500 and 10 days of mandatory community service in a
33 program benefiting children if the current offense was
34 committed while transporting a person under age 16. The

1 imprisonment or assignment under this subsection shall not be
2 subject to suspension nor shall the person be eligible for
3 probation in order to reduce the sentence or assignment.

4 (c-1) (1) A person who violates this Section during a
5 period in which his or her driving privileges are revoked
6 or suspended, where the revocation or suspension was for
7 a violation of this Section, Section 11-501.1, paragraph
8 (b) of Section 11-401, or Section 9-3 of the Criminal
9 Code of 1961 is guilty of a Class 4 felony.

10 (2) A person who violates this Section a third time
11 during a period in which his or her driving privileges
12 are revoked or suspended where the revocation or
13 suspension was for a violation of this Section, Section
14 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
15 of the Criminal Code of 1961 is guilty of a Class 3
16 felony.

17 (3) A person who violates this Section a fourth or
18 subsequent time during a period in which his or her
19 driving privileges are revoked or suspended where the
20 revocation or suspension was for a violation of this
21 Section, Section 11-501.1, paragraph (b) of Section
22 11-401, or Section 9-3 of the Criminal Code of 1961 is
23 guilty of a Class 2 felony.

24 (c-2) (Blank).

25 (c-3) Every person convicted of violating this Section
26 or a similar provision of a local ordinance who had a child
27 under age 16 in the vehicle at the time of the offense shall
28 have his or her punishment under this Act enhanced by 2 days
29 of imprisonment for a first offense, 10 days of imprisonment
30 for a second offense, 30 days of imprisonment for a third
31 offense, and 90 days of imprisonment for a fourth or
32 subsequent offense, in addition to the fine and community
33 service required under subsection (c) and the possible
34 imprisonment required under subsection (d). The imprisonment

1 or assignment under this subsection shall not be subject to
2 suspension nor shall the person be eligible for probation in
3 order to reduce the sentence or assignment.

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

9 (A) the person committed a violation of this
10 Section, or a similar provision of a law of another state
11 or a local ordinance when the cause of action is the same
12 as or substantially similar to this Section, for the
13 third or subsequent time;

14 (B) the person committed a violation of paragraph
15 (a) while driving a school bus with children on board;

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

21 (D) the person committed a violation of paragraph
22 (a) for a second time and has been previously convicted
23 of violating Section 9-3 of the Criminal Code of 1961
24 relating to reckless homicide in which the person was
25 determined to have been under the influence of alcohol,
26 other drug or drugs, or intoxicating compound or
27 compounds as an element of the offense or the person has
28 previously been convicted under subparagraph (C) of this
29 paragraph (1).

30 (2) Aggravated driving under the influence of alcohol,
31 other drug or drugs, or intoxicating compound or compounds,
32 or any combination thereof is a Class 4 felony. ~~For which A~~
33 ~~person, if sentenced to a term of imprisonment, shall be~~
34 ~~sentenced to not less than one year and not more than 3 years~~

1 for a violation of subparagraph (C) ~~(A)~~, ~~(B)~~ or ~~(D)~~ of
2 paragraph (1) of this subsection (d) shall be sentenced to
3 and not less than one year and not more than 12 years ~~for a~~
4 ~~violation of subparagraph (C) of paragraph (1) of this~~
5 ~~subsection (d)~~. For any prosecution under this subsection
6 (d), a certified copy of the driving abstract of the
7 defendant shall be admitted as proof of any prior conviction.

8 (e) After a finding of guilt and prior to any final
9 sentencing, or an order for supervision, for an offense based
10 upon an arrest for a violation of this Section or a similar
11 provision of a local ordinance, individuals shall be required
12 to undergo a professional evaluation to determine if an
13 alcohol, drug, or intoxicating compound abuse problem exists
14 and the extent of the problem. Programs conducting these
15 evaluations shall be licensed by the Department of Human
16 Services. The cost of any professional evaluation shall be
17 paid for by the individual required to undergo the
18 professional evaluation.

19 (f) Every person found guilty of violating this Section,
20 whose operation of a motor vehicle while in violation of this
21 Section proximately caused any incident resulting in an
22 appropriate emergency response, shall be liable for the
23 expense of an emergency response as provided under Section
24 5-5-3 of the Unified Code of Corrections.

25 (g) The Secretary of State shall revoke the driving
26 privileges of any person convicted under this Section or a
27 similar provision of a local ordinance.

28 (h) Every person sentenced under subsection (d) of this
29 Section and who receives a term of probation or conditional
30 discharge shall be required to serve a minimum term of either
31 30 days community service or, beginning July 1, 1993, 48
32 consecutive hours of imprisonment as a condition of the
33 probation or conditional discharge. This mandatory minimum
34 term of imprisonment or assignment of community service shall

1 not be suspended and shall not be subject to reduction by the
2 court.

3 (i) The Secretary of State may use ignition interlock
4 device requirements when granting driving relief to
5 individuals who have been arrested for a second or subsequent
6 offense of this Section or a similar provision of a local
7 ordinance. The Secretary shall establish by rule and
8 regulation the procedures for use of the interlock system.

9 (j) In addition to any other penalties and liabilities,
10 a person who is found guilty of or pleads guilty to violating
11 this Section, including any person placed on court
12 supervision for violating this Section, shall be fined \$100,
13 payable to the circuit clerk, who shall distribute the money
14 to the law enforcement agency that made the arrest. In the
15 event that more than one agency is responsible for the
16 arrest, the \$100 shall be shared equally. Any moneys
17 received by a law enforcement agency under this subsection
18 (j) shall be used to purchase law enforcement equipment that
19 will assist in the prevention of alcohol related criminal
20 violence throughout the State. This shall include, but is
21 not limited to, in-car video cameras, radar and laser speed
22 detection devices, and alcohol breath testers. Any moneys
23 received by the Department of State Police under this
24 subsection (j) shall be deposited into the State Police DUI
25 Fund and shall be used to purchase law enforcement equipment
26 that will assist in the prevention of alcohol related
27 criminal violence throughout the State.

28 (Source: P.A. 90-43, eff. 7-2-97; 90-400, eff. 8-15-97;
29 90-611, eff. 1-1-99; 90-655, eff. 7-30-98; 90-738, eff.
30 1-1-99; 90-779, eff. 1-1-99; 91-126, eff. 7-16-99; 91-357,
31 eff. 7-29-99; 91-692, eff. 4-13-00; 91-822, eff. 6-13-00.)

32 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)
33 Sec. 11-501.2. Chemical and other tests.

1 (a) Upon the trial of any civil or criminal action or
2 proceeding arising out of an arrest for an offense as defined
3 in Section 11-501 or a similar local ordinance or proceedings
4 pursuant to Section 2-118.1, evidence of the concentration of
5 alcohol, other drug or drugs, or intoxicating compound or
6 compounds, or any combination thereof in a person's blood or
7 breath at the time alleged, as determined by analysis of the
8 person's blood, urine, breath or other bodily substance,
9 shall be admissible. Where such test is made the following
10 provisions shall apply:

11 1. Chemical analyses of the person's blood, urine,
12 breath or other bodily substance to be considered valid
13 under the provisions of this Section shall have been
14 performed according to standards promulgated by the
15 Department of State Police by a licensed physician,
16 registered nurse, trained phlebotomist acting under the
17 direction of a licensed physician, certified paramedic,
18 or other individual possessing a valid permit issued by
19 that Department for this purpose. The Director of State
20 Police is authorized to approve satisfactory techniques
21 or methods, to ascertain the qualifications and
22 competence of individuals to conduct such analyses, to
23 issue permits which shall be subject to termination or
24 revocation at the discretion of that Department and to
25 certify the accuracy of breath testing equipment. The
26 Department of State Police shall prescribe regulations as
27 necessary to implement this Section.

28 2. When a person in this State shall submit to a
29 blood test at the request of a law enforcement officer
30 under the provisions of Section 11-501.1, only a
31 physician authorized to practice medicine, a registered
32 nurse, trained phlebotomist, or certified paramedic, or
33 other qualified person approved by the Department of
34 State Police may withdraw blood for the purpose of

1 determining the alcohol, drug, or alcohol and drug
2 content therein. This limitation shall not apply to the
3 taking of breath or urine specimens. Upon request by a
4 law enforcement officer, hospital personnel shall
5 withdraw blood and obtain urine samples for the purpose
6 of determining the alcohol or drug content of the
7 person's blood and urine.

8 When a blood test of a person who has been taken to
9 an adjoining state for medical treatment is requested by
10 an Illinois law enforcement officer, the blood may be
11 withdrawn only by a physician authorized to practice
12 medicine in the adjoining state, a registered nurse, a
13 trained phlebotomist acting under the direction of the
14 physician, or certified paramedic. The law enforcement
15 officer requesting the test shall take custody of the
16 blood sample, and the blood sample shall be analyzed by a
17 laboratory certified by the Department of State Police
18 for that purpose.

19 3. The person tested may have a physician, or a
20 qualified technician, chemist, registered nurse, or other
21 qualified person of their own choosing administer a
22 chemical test or tests in addition to any administered at
23 the direction of a law enforcement officer. The failure
24 or inability to obtain an additional test by a person
25 shall not preclude the admission of evidence relating to
26 the test or tests taken at the direction of a law
27 enforcement officer.

28 4. Upon the request of the person who shall submit
29 to a chemical test or tests at the request of a law
30 enforcement officer, full information concerning the test
31 or tests shall be made available to the person or such
32 person's attorney.

33 5. Alcohol concentration shall mean either grams of
34 alcohol per 100 milliliters of blood or grams of alcohol

1 per 210 liters of breath.

2 (b) Upon the trial of any civil or criminal action or
3 proceeding arising out of acts alleged to have been committed
4 by any person while driving or in actual physical control of
5 a vehicle while under the influence of alcohol, the
6 concentration of alcohol in the person's blood or breath at
7 the time alleged as shown by analysis of the person's blood,
8 urine, breath, or other bodily substance shall give rise to
9 the following presumptions:

10 1. If there was at that time an alcohol
11 concentration of 0.05 or less, it shall be presumed that
12 the person was not under the influence of alcohol.

13 2. If there was at that time an alcohol
14 concentration in excess of 0.05 but less than 0.08, such
15 facts shall not give rise to any presumption that the
16 person was or was not under the influence of alcohol, but
17 such fact may be considered with other competent evidence
18 in determining whether the person was under the influence
19 of alcohol.

20 3. If there was at that time an alcohol
21 concentration of 0.08 or more, it shall be presumed that
22 the person was under the influence of alcohol.

23 4. The foregoing provisions of this Section shall
24 not be construed as limiting the introduction of any
25 other relevant evidence bearing upon the question whether
26 the person was under the influence of alcohol.

27 (c) 1. If a person under arrest refuses to submit to a
28 chemical test under the provisions of Section 11-501.1,
29 evidence of refusal shall be admissible in any civil or
30 criminal action or proceeding arising out of acts alleged to
31 have been committed while the person under the influence of
32 alcohol, other drug or drugs, or intoxicating compound or
33 compounds, or any combination thereof was driving or in
34 actual physical control of a motor vehicle.

1 2. Notwithstanding any ability to refuse under this
2 Code to submit to these tests or any ability to revoke
3 the implied consent to these tests, if a law enforcement
4 officer has probable cause to believe that a motor
5 vehicle driven by or in actual physical control of a
6 person under the influence of alcohol, other drug or
7 drugs, or intoxicating compound or compounds, or any
8 combination thereof has caused the death or personal
9 injury to another, that person shall submit, upon the
10 request of a law enforcement officer, to a chemical test
11 or tests of his or her blood, breath or urine for the
12 purpose of determining the alcohol content thereof or the
13 presence of any other drug or combination of both. Upon
14 request by a law enforcement officer, hospital personnel
15 shall withdraw blood and obtain urine samples for the
16 purpose of determining the alcohol or drug content of the
17 person's blood and urine.

18 This provision does not affect the applicability of or
19 imposition of driver's license sanctions under Section
20 11-501.1 of this Code.

21 3. For purposes of this Section, a personal injury
22 includes any Type A injury as indicated on the traffic
23 accident report completed by a law enforcement officer
24 that requires immediate professional attention in either
25 a doctor's office or a medical facility. A Type A injury
26 includes severe bleeding wounds, distorted extremities,
27 and injuries that require the injured party to be carried
28 from the scene.

29 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99;
30 91-828, eff. 1-1-01.)

31 (625 ILCS 5/11-501.4) (from Ch. 95 1/2, par. 11-501.4)
32 Sec. 11-501.4. Admissibility of chemical tests of blood
33 conducted in the regular course of providing emergency

1 medical treatment.

2 (a) Notwithstanding any other provision of law, the
3 results of blood tests performed for the purpose of
4 determining the content of alcohol, other drug or drugs, or
5 intoxicating compound or compounds, or any combination
6 thereof, of an individual's blood conducted upon persons
7 receiving medical treatment in a hospital emergency room are
8 admissible in evidence as a business record exception to the
9 hearsay rule only in prosecutions for any violation of
10 Section 11-501 of this Code or a similar provision of a local
11 ordinance, or in prosecutions for reckless homicide brought
12 under the Criminal Code of 1961, when each of the following
13 criteria are met:

14 (1) the chemical tests performed upon an
15 individual's blood were ordered in the regular course of
16 providing emergency medical treatment and not at the
17 request of law enforcement authorities;

18 (2) the chemical tests performed upon an
19 individual's blood were performed by the laboratory
20 routinely used by the hospital; and

21 (3) results of chemical tests performed upon an
22 individual's blood are admissible into evidence
23 regardless of the time that the records were prepared.

24 (b) The confidentiality provisions of law pertaining to
25 medical records and medical treatment shall not be applicable
26 with regard to chemical tests performed upon an individual's
27 blood under the provisions of this Section in prosecutions as
28 specified in subsection (a) of this Section. No person shall
29 be liable for civil damages as a result of the evidentiary
30 use of chemical testing of an individual's blood test results
31 under this Section, or as a result of that person's testimony
32 made available under this Section.

33 (c) As a result of a blood test taken under this
34 Section, a serum blood alcohol level of 0.10 or more is prima

1 facie evidence of a violation of Section 11-501(a)(1).

2 (d) Evidence of serum blood alcohol is evidence of
3 impairment in a prosecution under Section 11-501(a)(2).

4 (Source: P.A. 90-779, eff. 1-1-99.)

5 (625 ILCS 5/11-501.5) (from Ch. 95 1/2, par. 11-501.5)

6 Sec. 11-501.5. Preliminary Breath Screening Test.

7 (a) If a law enforcement officer has reasonable
8 suspicion to believe that a person is violating or has
9 violated Section 11-501 or a similar provision of a local
10 ordinance, the officer, prior to an arrest, may request the
11 person to provide a sample of his or her breath for a
12 preliminary breath screening test using a portable device
13 approved by the Department of State Police. The person may
14 refuse the test. The results of this preliminary breath
15 screening test may be used by the law enforcement officer for
16 the purpose of assisting with the determination of whether to
17 require a chemical test as authorized under Sections 11-501.1
18 and 11-501.2, and the appropriate type of test to request.
19 Any chemical test authorized under Sections 11-501.1 and
20 11-501.2 may be requested by the officer regardless of the
21 result of the preliminary breath screening test, if probable
22 cause for an arrest exists. The result of a preliminary
23 breath screening test may be used by the defendant as
24 evidence in any administrative or court proceeding involving
25 a violation of Section 11-501 or 11-501.1.

26 (b) The Department of State Police shall create a pilot
27 program to establish the effectiveness of pupillometer
28 technology (the measurement of the pupil's reaction to light)
29 as a noninvasive technique to detect and measure possible
30 impairment of any person who drives or is in actual physical
31 control of a motor vehicle resulting from the suspected usage
32 of alcohol, other drug or drugs, intoxicating compound or
33 compounds or any combination thereof. This technology shall

1 also be used to detect fatigue levels of the operator of a
2 Commercial Motor Vehicle as defined in Section 6-500(6),
3 pursuant to Section 18b-105 (Part 395-Hours of Service of
4 Drivers) of the Illinois Vehicle Code. A State Police
5 officer may request that the operator of a commercial motor
6 vehicle have his or her eyes examined or tested with a
7 pupillometer device. The person may refuse the examination
8 or test. The State Police officer shall have the device
9 readily available to limit undue delays.

10 If a State Police officer has reasonable suspicion to
11 believe that a person is violating or has violated Section
12 11-501, the officer may use the pupillometer technology, when
13 available. The officer, prior to an arrest, may request the
14 person to have his or her eyes examined or tested with a
15 pupillometer device. The person may refuse the examination
16 or test. The results of this examination or test may be used
17 by the officer for the purpose of assisting with the
18 determination of whether to require a chemical test as
19 authorized under Sections 11-501.1 and 11-501.2 and the
20 appropriate type of test to request. Any chemical test
21 authorized under Sections 11-501.1 and 11-501.2 may be
22 requested by the officer regardless of the result of the
23 pupillometer examination or test, if probable cause for an
24 arrest exists. The result of the examination or test may be
25 used by the defendant as evidence in any administrative or
26 court proceeding involving a violation of 11-501 or 11-501.1.

27 The pilot program shall last for a period of 18 months
28 and involve the testing of 15 pupillometer devices. Within
29 90 days of the completion of the pilot project, the
30 Department of State Police shall file a report with the
31 President of the Senate and Speaker of the House evaluating
32 the project.

33 (b) The results of a preliminary breath screening test
34 are admissible by the State during any civil or criminal

1 proceeding challenging a police officer's determination that
2 probable cause existed to arrest the defendant for driving
3 while under the influence of alcohol. Evidence of
4 non-compliance with manufacturer's recommendations does not
5 affect the admissibility of a preliminary breath screening
6 test at a hearing challenging probable cause.

7 (Source: P.A. 91-828, eff. 1-1-01; 91-881, eff. 6-30-00;
8 revised 7-12-00.)