

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), (c-4),  
10 and (d) of this Section, every person convicted of violating  
11 this Section or a similar provision of a local ordinance,  
12 shall be guilty of a Class A misdemeanor and, in addition to  
13 any other criminal or administrative action, for any second  
14 conviction of violating this Section or a similar provision  
15 of a ~~law-of-another-state-or~~ local ordinance committed within  
16 5 years of a previous violation of this Section or a similar  
17 provision of a law of another state or a local ordinance  
18 shall be mandatorily sentenced to a minimum of 5 days of  
19 imprisonment or assigned to a minimum of 30 days of community  
20 service as may be determined by the court. Every person  
21 convicted of violating this Section or a similar provision of  
22 a local ordinance shall be subject to an additional mandatory  
23 minimum fine of \$500 and an additional 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 an additional mandatory  
32 minimum fine of \$500 and an additional 10 days of mandatory  
33 community service in a program benefiting children if the  
34 current offense was committed while transporting a person

1 under age 16. The imprisonment or assignment under this  
2 subsection shall not be subject to suspension nor shall the  
3 person be eligible for probation in order to reduce the  
4 sentence or assignment.

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

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

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

25 (c-2) (Blank).

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

1 subsection (c) and the possible imprisonment required  
2 under subsection (d). The imprisonment or assignment  
3 under this subsection shall not be subject to suspension  
4 nor shall the person be eligible for probation in order  
5 to reduce the sentence or assignment.

6 (c-4) When a person is convicted of violating Section  
7 11-501 of this Code or a similar provision of a local  
8 ordinance, the following penalties apply when his or her  
9 blood, breath, or urine was .16 or more based on the  
10 definition of blood, breath, or urine units in Section  
11 11-501.2 or when that person is convicted of violating this  
12 Section while transporting a child under the age of 16:

13 (1) A person who is convicted of violating  
14 subsection (a) of Section 11-501 of this Code a first  
15 time, in addition to any other penalty that may be  
16 imposed under subsection (c), is subject to a mandatory  
17 minimum of 100 hours of community service and a minimum  
18 fine of \$500.

19 (2) A person who is convicted of violating  
20 subsection (a) of Section 11-501 of this Code a second  
21 time within 10 years, in addition to any other penalty  
22 that may be imposed under subsection (c), is subject to a  
23 mandatory minimum of 2 days of imprisonment and a minimum  
24 fine of \$1,250.

25 (3) A person who is convicted of violating  
26 subsection (a) of Section 11-501 of this Code a third  
27 time within 20 years is guilty of a Class 4 felony and,  
28 in addition to any other penalty that may be imposed  
29 under subsection (c), is subject to a mandatory minimum  
30 of 90 days of imprisonment and a minimum fine of \$2,500.

31 (4) A person who is convicted of violating this  
32 subsection (c-4) a fourth or subsequent time is guilty of  
33 a Class 2 felony and, in addition to any other penalty  
34 that may be imposed under subsection (c), is not eligible

1 for a sentence of probation or conditional discharge and  
2 is subject to a minimum fine of \$2,500.

3 (d) (1) Every person convicted of committing a violation  
4 of this Section shall be guilty of aggravated driving  
5 under 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 this  
9 Section, or a similar provision of a law of another  
10 state or a local ordinance when the cause of action  
11 is the same as or substantially similar to this  
12 Section, for the third or subsequent time;

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

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

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

32 (E) the person, in committing a violation of  
33 paragraph (a) while driving at any speed in a school  
34 speed zone at a time when a speed limit of 20 miles

1 per hour was in effect under subsection (a) of  
2 Section 11-605 of this Code, was involved in a motor  
3 vehicle accident that resulted in bodily harm, other  
4 than great bodily harm or permanent disability or  
5 disfigurement, to another person, when the violation  
6 of paragraph (a) was a proximate cause of the bodily  
7 harm.

8 (2) Aggravated driving under the influence of  
9 alcohol, other drug or drugs, or intoxicating compound or  
10 compounds, or any combination thereof is a Class 4  
11 felony. For ~~7-7-08-(E)~~ a violation of subparagraph (C)  
12 of paragraph (1) of this subsection (d), the defendant,  
13 if sentenced to a term of imprisonment, shall be  
14 sentenced to not less than one year nor more than 12  
15 years. For any prosecution under this subsection (d), a  
16 certified copy of the driving abstract of the defendant  
17 shall be admitted as proof of any prior conviction.

18 (e) After a finding of guilt and prior to any final  
19 sentencing, or an order for supervision, for an offense based  
20 upon an arrest for a violation of this Section or a similar  
21 provision of a local ordinance, individuals shall be required  
22 to undergo a professional evaluation to determine if an  
23 alcohol, drug, or intoxicating compound abuse problem exists  
24 and the extent of the problem, and undergo the imposition of  
25 treatment as appropriate. Programs conducting these  
26 evaluations shall be licensed by the Department of Human  
27 Services. The cost of any professional evaluation shall be  
28 paid for by the individual required to undergo the  
29 professional evaluation.

30 (f) Every person found guilty of violating this Section,  
31 whose operation of a motor vehicle while in violation of this  
32 Section proximately caused any incident resulting in an  
33 appropriate emergency response, shall be liable for the  
34 expense of an emergency response as provided under Section

1 5-5-3 of the Unified Code of Corrections.

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

5 (h) Every person sentenced under paragraph (2) or (3) of  
6 subsection (c-1) of this Section or subsection (d) of this  
7 Section and who receives a term of probation or conditional  
8 discharge shall be required to serve a minimum term of either  
9 60 days community service or 10 days of imprisonment as a  
10 condition of the probation or conditional discharge. This  
11 mandatory minimum term of imprisonment or assignment of  
12 community service shall not be suspended and shall not be  
13 subject to reduction by the court.

14 (i) The Secretary of State shall require the use of  
15 ignition interlock devices on all vehicles owned by an  
16 individual who has been convicted of a second or subsequent  
17 offense of this Section or a similar provision of a local  
18 ordinance. The Secretary shall establish by rule and  
19 regulation the procedures for certification and use of the  
20 interlock system.

21 (j) In addition to any other penalties and liabilities,  
22 a person who is found guilty of or pleads guilty to violating  
23 this Section, including any person placed on court  
24 supervision for violating this Section, shall be fined \$100,  
25 payable to the circuit clerk, who shall distribute the money  
26 to the law enforcement agency that made the arrest. If the  
27 person has been previously convicted of violating this  
28 Section or a similar provision of a local ordinance, the fine  
29 shall be \$200. In the event that more than one agency is  
30 responsible for the arrest, the \$100 or \$200 shall be shared  
31 equally. Any moneys received by a law enforcement agency  
32 under this subsection (j) shall be used to purchase law  
33 enforcement equipment that will assist in the prevention of  
34 alcohol related criminal violence throughout the State. This

1 shall include, but is not limited to, in-car video cameras,  
2 radar and laser speed detection devices, and alcohol breath  
3 testers. Any moneys received by the Department of State  
4 Police under this subsection (j) shall be deposited into the  
5 State Police DUI Fund and shall be used to purchase law  
6 enforcement equipment that will assist in the prevention of  
7 alcohol related criminal violence throughout the State.

8 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;  
9 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.  
10 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,  
11 eff. 1-1-02; 92-431, eff. 1-1-02; revised 10-12-01.)

12 (625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)

13 Sec. 11-501.2. Chemical and other tests.

14 (a) Upon the trial of any civil or criminal action or  
15 proceeding arising out of an arrest for an offense as defined  
16 in Section 11-501 or a similar local ordinance or proceedings  
17 pursuant to Section 2-118.1, evidence of the concentration of  
18 alcohol, other drug or drugs, or intoxicating compound or  
19 compounds, or any combination thereof in a person's blood or  
20 breath at the time alleged, as determined by analysis of the  
21 person's blood, urine, breath or other bodily substance,  
22 shall be admissible. Where such test is made the following  
23 provisions shall apply:

24 1. Chemical analyses of the person's blood, urine,  
25 breath or other bodily substance to be considered valid  
26 under the provisions of this Section shall have been  
27 performed according to standards promulgated by the  
28 Department of State Police by a licensed physician,  
29 registered nurse, trained phlebotomist acting under the  
30 direction of a licensed physician, certified paramedic,  
31 or other individual possessing a valid permit issued by  
32 that Department for this purpose. The Director of State  
33 Police is authorized to approve satisfactory techniques



1 or methods, to ascertain the qualifications and  
2 competence of individuals to conduct such analyses, to  
3 issue permits which shall be subject to termination or  
4 revocation at the discretion of that Department and to  
5 certify the accuracy of breath testing equipment. The  
6 Department of State Police shall prescribe regulations as  
7 necessary to implement this Section.

8 2. When a person in this State shall submit to a  
9 blood test at the request of a law enforcement officer  
10 under the provisions of Section 11-501.1, only a  
11 physician authorized to practice medicine, a registered  
12 nurse, trained phlebotomist, or certified paramedic, or  
13 other qualified person approved by the Department of  
14 State Police may withdraw blood for the purpose of  
15 determining the alcohol, drug, or alcohol and drug  
16 content therein. This limitation shall not apply to the  
17 taking of breath or urine specimens. Upon request by a  
18 law enforcement officer, hospital personnel shall  
19 withdraw blood and obtain urine samples for the purpose  
20 of determining the alcohol or drug content of the  
21 person's blood and urine.

22 When a blood test of a person who has been taken to  
23 an adjoining state for medical treatment is requested by  
24 an Illinois law enforcement officer, the blood may be  
25 withdrawn only by a physician authorized to practice  
26 medicine in the adjoining state, a registered nurse, a  
27 trained phlebotomist acting under the direction of the  
28 physician, or certified paramedic. The law enforcement  
29 officer requesting the test shall take custody of the  
30 blood sample, and the blood sample shall be analyzed by a  
31 laboratory certified by the Department of State Police  
32 for that purpose.

33 3. The person tested may have a physician, or a  
34 qualified technician, chemist, registered nurse, or other

1 qualified person of their own choosing administer a  
2 chemical test or tests in addition to any administered at  
3 the direction of a law enforcement officer. The failure  
4 or inability to obtain an additional test by a person  
5 shall not preclude the admission of evidence relating to  
6 the test or tests taken at the direction of a law  
7 enforcement officer.

8 4. Upon the request of the person who shall submit  
9 to a chemical test or tests at the request of a law  
10 enforcement officer, full information concerning the test  
11 or tests shall be made available to the person or such  
12 person's attorney.

13 5. Alcohol concentration shall mean either grams of  
14 alcohol per 100 milliliters of blood or grams of alcohol  
15 per 210 liters of breath.

16 (b) Upon the trial of any civil or criminal action or  
17 proceeding arising out of acts alleged to have been committed  
18 by any person while driving or in actual physical control of  
19 a vehicle while under the influence of alcohol, the  
20 concentration of alcohol in the person's blood or breath at  
21 the time alleged as shown by analysis of the person's blood,  
22 urine, breath, or other bodily substance shall give rise to  
23 the following presumptions:

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

27 2. If there was at that time an alcohol  
28 concentration in excess of 0.05 but less than 0.08, such  
29 facts shall not give rise to any presumption that the  
30 person was or was not under the influence of alcohol, but  
31 such fact may be considered with other competent evidence  
32 in determining whether the person was under the influence  
33 of alcohol.

34 3. If there was at that time an alcohol

1 concentration of 0.08 or more, it shall be presumed that  
2 the person was under the influence of alcohol.

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

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

15 2. Notwithstanding any ability to refuse under this  
16 Code to submit to these tests or any ability to revoke  
17 the implied consent to these tests, if a law enforcement  
18 officer has probable cause to believe that a motor  
19 vehicle driven by or in actual physical control of a  
20 person under the influence of alcohol, other drug or  
21 drugs, or intoxicating compound or compounds, or any  
22 combination thereof has caused the death or personal  
23 injury to another, that person shall submit, upon the  
24 request of a law enforcement officer, to a chemical test  
25 or tests of his or her blood, breath or urine for the  
26 purpose of determining the alcohol content thereof or the  
27 presence of any other drug or combination of both. Upon  
28 request by a law enforcement officer, hospital personnel  
29 shall withdraw blood and obtain urine samples for the  
30 purpose of determining the alcohol or drug content of the  
31 person's blood and urine.

32 This provision does not affect the applicability of or  
33 imposition of driver's license sanctions under Section  
34 11-501.1 of this Code.

1           3. For purposes of this Section, a personal injury  
2 includes any Type A injury as indicated on the traffic  
3 accident report completed by a law enforcement officer  
4 that requires immediate professional attention in either  
5 a doctor's office or a medical facility. A Type A injury  
6 includes severe bleeding wounds, distorted extremities,  
7 and injuries that require the injured party to be carried  
8 from the scene.

9 (Source: P.A. 90-43, eff. 7-2-97; 90-779, eff. 1-1-99;  
10 91-828, eff. 1-1-01.)

11 (625 ILCS 5/11-501.4) (from Ch. 95 1/2, par. 11-501.4)

12 Sec. 11-501.4. Admissibility of chemical tests of blood  
13 conducted in the regular course of providing emergency  
14 medical treatment.

15 (a) Notwithstanding any other provision of law, the  
16 results of blood tests performed for the purpose of  
17 determining the content of alcohol, other drug or drugs, or  
18 intoxicating compound or compounds, or any combination  
19 thereof, of an individual's blood conducted upon persons  
20 receiving medical treatment in a hospital emergency room are  
21 admissible in evidence as a business record exception to the  
22 hearsay rule only in prosecutions for any violation of  
23 Section 11-501 of this Code or a similar provision of a local  
24 ordinance, or in prosecutions for reckless homicide brought  
25 under the Criminal Code of 1961, when each of the following  
26 criteria are met:

27 (1) the chemical tests performed upon an  
28 individual's blood were ordered in the regular course of  
29 providing emergency medical treatment and not at the  
30 request of law enforcement authorities;

31 (2) the chemical tests performed upon an  
32 individual's blood were performed by the laboratory  
33 routinely used by the hospital; and

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

4           (b) The confidentiality provisions of law pertaining to  
 5 medical records and medical treatment shall not be applicable  
 6 with regard to chemical tests performed upon an individual's  
 7 blood under the provisions of this Section in prosecutions as  
 8 specified in subsection (a) of this Section. No person shall  
 9 be liable for civil damages as a result of the evidentiary  
 10 use of chemical testing of an individual's blood test results  
 11 under this Section, or as a result of that person's testimony  
 12 made available under this Section.

13           (c) As a result of a blood test taken under this  
 14 Section, a serum blood alcohol level of .10 or more is prima  
 15 facie evidence of a violation of paragraph (1) of subsection  
 16 (a) of Section 11-501.

17           (d) Evidence of serum blood alcohol is evidence of  
 18 impairment in a prosecution under paragraph (2) of subsection  
 19 (a) of Section 11-501.

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

21           (625 ILCS 5/11-501.5) (from Ch. 95 1/2, par. 11-501.5)  
 22 Sec. 11-501.5. Preliminary Breath Screening Test.

23           (a) If a law enforcement officer has reasonable  
 24 suspicion to believe that a person is violating or has  
 25 violated Section 11-501 or a similar provision of a local  
 26 ordinance, the officer, prior to an arrest, may request the  
 27 person to provide a sample of his or her breath for a  
 28 preliminary breath screening test using a portable device  
 29 approved by the Department of State Police. The person may  
 30 refuse the test. The results of this preliminary breath  
 31 screening test may be used by the law enforcement officer for  
 32 the purpose of assisting with the determination of whether to  
 33 require a chemical test as authorized under Sections 11-501.1

1 and 11-501.2, and the appropriate type of test to request.  
2 Any chemical test authorized under Sections 11-501.1 and  
3 11-501.2 may be requested by the officer regardless of the  
4 result of the preliminary breath screening test, if probable  
5 cause for an arrest exists. The result of a preliminary  
6 breath screening test may be used by the defendant as  
7 evidence in any administrative or court proceeding involving  
8 a violation of Section 11-501 or 11-501.1.

9 (b) The Department of State Police shall create a pilot  
10 program to establish the effectiveness of pupillometer  
11 technology (the measurement of the pupil's reaction to light)  
12 as a noninvasive technique to detect and measure possible  
13 impairment of any person who drives or is in actual physical  
14 control of a motor vehicle resulting from the suspected usage  
15 of alcohol, other drug or drugs, intoxicating compound or  
16 compounds or any combination thereof. This technology shall  
17 also be used to detect fatigue levels of the operator of a  
18 Commercial Motor Vehicle as defined in Section 6-500(6),  
19 pursuant to Section 18b-105 (Part 395-Hours of Service of  
20 Drivers) of the Illinois Vehicle Code. A State Police officer  
21 may request that the operator of a commercial motor vehicle  
22 have his or her eyes examined or tested with a pupillometer  
23 device. The person may refuse the examination or test. The  
24 State Police officer shall have the device readily available  
25 to limit undue delays.

26 If a State Police officer has reasonable suspicion to  
27 believe that a person is violating or has violated Section  
28 11-501, the officer may use the pupillometer technology, when  
29 available. The officer, prior to an arrest, may request the  
30 person to have his or her eyes examined or tested with a  
31 pupillometer device. The person may refuse the examination  
32 or test. The results of this examination or test may be used  
33 by the officer for the purpose of assisting with the  
34 determination of whether to require a chemical test as

1 authorized under Sections 11-501.1 and 11-501.2 and the  
2 appropriate type of test to request. Any chemical test  
3 authorized under Sections 11-501.1 and 11-501.2 may be  
4 requested by the officer regardless of the result of the  
5 pupillometer examination or test, if probable cause for an  
6 arrest exists. The result of the examination or test may be  
7 used by the defendant as evidence in any administrative or  
8 court proceeding involving a violation of 11-501 or 11-501.1.

9 The pilot program shall last for a period of 18 months  
10 and involve the testing of 15 pupillometer devices. Within  
11 90 days of the completion of the pilot project, the  
12 Department of State Police shall file a report with the  
13 President of the Senate and Speaker of the House evaluating  
14 the project.

15 (c) The results of a preliminary breath screening test  
16 are admissible by the State during any civil or criminal  
17 proceeding challenging a police officer's determination that  
18 probable cause existed to arrest the defendant for driving  
19 while under the influence of alcohol. Evidence of  
20 non-compliance with manufacturer's recommendations shall not  
21 affect the admissibility of a preliminary breath screening  
22 test at a hearing challenging probable cause.

23 (Source: P.A. 91-828, eff. 1-1-01; 91-881, eff. 6-30-00;  
24 92-16, eff. 6-28-01.)