



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FOURTH GENERAL ASSEMBLY

97TH LEGISLATIVE DAY

WEDNESDAY, APRIL 5, 2006

10:08 O'CLOCK A.M.

SENATE
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97th Legislative Day

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The Senate met pursuant to adjournment.
 Senator James A. DeLeo, Chicago, Illinois, presiding.
 Prayer by the Reverend Jonathan Dixon, United Methodist Church, Riverton, Illinois.
 Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Thursday, March 23, 2006, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Friday, March 24, 2006, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Hunter moved that reading and approval of the Journal of Tuesday, April 4, 2006, be postponed, pending arrival of the printed Journal.
 The motion prevailed.

INTRODUCTION OF BILLS

SENATE BILL NO. 3181. Introduced by Senator Shadid, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 708

Offered by Senator E. Jones and all Senators:
 Mourns the death of Adolph Paytes of Chicago.

SENATE RESOLUTION 709

Offered by Senator Shadid and all Senators:
 Mourns the death of William A. Groves of Peoria.

SENATE RESOLUTION 710

Offered by Senator Haine and all Senators:
 Mourns the death of William E. Moore, Sr., of Hartford.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

MESSAGES FROM THE HOUSE

A message from the House by
 Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 702

A bill for AN ACT concerning revenue.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 702

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

[April 5, 2006]

AMENDMENT NO. 1 TO SENATE BILL 702

AMENDMENT NO. 1. Amend Senate Bill 702 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Sections 18-165 and 18-185 and by adding Division 14 to Article 10 as follows:

(35 ILCS 200/Art. 10 Div. 14 heading new)

DIVISION 14. VALUATION OF CERTAIN LEASES OF EXEMPT PROPERTY

(35 ILCS 200/10-365 new)

Sec. 10-365. U.S. Military Public/Private Residential Developments. PPV Leases must be classified and valued as set forth in Sections 10-370 through 10-380 during the period beginning January 1, 2006 and ending with the earlier of the year 50 years after January 1, 2006 or the year in which a PPV Lease terminates.

(35 ILCS 200/10-370 new)

Sec. 10-370. Definitions. For the purposes of this Division 14:

(a) "PPV Lease" means a leasehold interest in property that is exempt from taxation under Section 15-50 of this Code and that is leased, pursuant to authority set forth in Chapter 10 of the United States Code, to another whose property is not exempt for the purpose of, after January 1, 2006, the design, finance, construction, renovation, management, operation, and maintenance of rental housing units and associated improvements at naval training and related naval support facilities in the State of Illinois.

(b) "Net operating income" means all revenues received minus the lesser of (i) 42% of all revenues or (ii) actual expenses before interest, taxes, depreciation, and amortization.

(c) "Tax load factor" means the level of assessment, as set forth under item (b) of Section 9-145 or under Section 9-150, multiplied by the cumulative tax rate for the current taxable year.

(35 ILCS 200/10-375 new)

Sec. 10-375. Valuation.

(a) A PPV Lease must be valued at its fair cash value, as provided under item (b) of Section 9-145 or under Section 9-150.

(b) The fair cash value of a PPV Lease must be determined by using an income capitalization approach.

(c) To determine the fair cash value of a PPV Lease, the net operating income is divided by (i) a rate of 7.75% plus (ii) the actual or most recently ascertainable tax load factor for the subject year.

(d) By April 15 of each year, the holder of a PPV Lease must report to the chief county assessment officer in each county in which the leasehold property is located the annual gross income and expenses derived and incurred from the PPV Lease, including the rental of leased property for each military housing facility subject to a PPV Lease.

(35 ILCS 200/10-380 new)

Sec. 10-380. For the taxable years 2006, 2007, 2008, and 2009, the chief county assessment officer in the county in which property subject to a PPV Lease is located shall apply the provisions of 10-370(b)(i) and 10-375(c)(i) of this Division 14 in assessing and determining the value of any PPV lease for purposes of the property tax laws of this State.

(35 ILCS 200/18-165)

Sec. 18-165. Abatement of taxes.

(a) Any taxing district, upon a majority vote of its governing authority, may, after the determination of the assessed valuation of its property, order the clerk of that county to abate any portion of its taxes on the following types of property:

(1) Commercial and industrial.

(A) The property of any commercial or industrial firm, including but not limited to the property of (i) any firm that is used for collecting, separating, storing, or processing recyclable materials, locating within the taxing district during the immediately preceding year from another state, territory, or country, or having been newly created within this State during the immediately preceding year, or expanding an existing facility, or (ii) any firm that is used for the generation and transmission of electricity locating within the taxing district during the immediately preceding year or expanding its presence within the taxing district during the immediately preceding year by construction of a new electric generating facility that uses natural gas as its fuel, or any firm that is used for production operations at a new, expanded, or reopened coal mine within the taxing district, that has been certified as a High Impact Business by the Illinois Department of Commerce and

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~~Economic Opportunity Community Affairs~~. The property of any firm used for the generation and transmission of electricity shall include all property of the firm used for transmission facilities as defined in Section 5.5 of the Illinois Enterprise Zone Act. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed \$4,000,000.

(A-5) Any property in the taxing district of a new electric generating facility, as defined in Section 605-332 of the Department of Commerce and ~~Economic Opportunity Community Affairs~~ Law of the Civil Administrative Code of Illinois. The abatement shall not exceed a period of 10 years. The abatement shall be subject to the following limitations:

(i) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$25,000,000 but less than \$50,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 5% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 20% of the taxing district's taxes from the new electric generating facility;

(ii) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$50,000,000 but less than \$75,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 10% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 35% of the taxing district's taxes from the new electric generating facility;

(iii) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$75,000,000 but less than \$100,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 20% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 50% of the taxing district's taxes from the new electric generating facility;

(iv) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$100,000,000 but less than \$125,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 30% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility;

(v) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$125,000,000 but less than \$150,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 40% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility;

(vi) if the equalized assessed valuation of the new electric generating facility is equal to or greater than \$150,000,000, then the abatement may not exceed (i) over the entire term of the abatement, 50% of the taxing district's aggregate taxes from the new electric generating facility and (ii) in any one year of abatement, 60% of the taxing district's taxes from the new electric generating facility.

The abatement is not effective unless the owner of the new electric generating facility agrees to repay to the taxing district all amounts previously abated, together with interest computed at the rate and in the manner provided for delinquent taxes, in the event that the owner of the new electric generating facility closes the new electric generating facility before the expiration of the entire term of the abatement.

The authorization of taxing districts to abate taxes under this subdivision

(a)(1)(A-5) expires on January 1, 2010.

(B) The property of any commercial or industrial development of at least 500 acres having been created within the taxing district. The abatement shall not exceed a period of 20 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed \$12,000,000.

(C) The property of any commercial or industrial firm currently located in the taxing district that expands a facility or its number of employees. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed \$4,000,000. The abatement period may be renewed at the option of the taxing districts.

(2) Horse racing. Any property in the taxing district which is used for the racing of horses and upon which capital improvements consisting of expansion, improvement or replacement of existing facilities have been made since July 1, 1987. The combined abatements for such property from all taxing districts in any county shall not exceed \$5,000,000 annually and shall not exceed a period of 10 years.

(3) Auto racing. Any property designed exclusively for the racing of motor vehicles. Such abatement shall not exceed a period of 10 years.

(4) Academic or research institute. The property of any academic or research institute in the taxing district that (i) is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code, (ii) operates for the benefit of the public by actually and exclusively performing scientific research and making the results of the research available to the interested public on a non-discriminatory basis, and (iii) employs more than 100 employees. An abatement granted under this paragraph shall be for at least 15 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed \$5,000,000.

(5) Housing for older persons. Any property in the taxing district that is devoted exclusively to affordable housing for older households. For purposes of this paragraph, "older households" means those households (i) living in housing provided under any State or federal program that the Department of Human Rights determines is specifically designed and operated to assist elderly persons and is solely occupied by persons 55 years of age or older and (ii) whose annual income does not exceed 80% of the area gross median income, adjusted for family size, as such gross income and median income are determined from time to time by the United States Department of Housing and Urban Development. The abatement shall not exceed a period of 15 years, and the aggregate amount of abated taxes for all taxing districts shall not exceed \$3,000,000.

(6) Historical society. For assessment years 1998 through 2008, the property of an historical society qualifying as an exempt organization under Section 501(c)(3) of the federal Internal Revenue Code.

(7) Recreational facilities. Any property in the taxing district (i) that is used for a municipal airport, (ii) that is subject to a leasehold assessment under Section 9-195 of this Code and (iii) which is sublet from a park district that is leasing the property from a municipality, but only if the property is used exclusively for recreational facilities or for parking lots used exclusively for those facilities. The abatement shall not exceed a period of 10 years.

(8) Relocated corporate headquarters. If approval occurs within 5 years after the effective date of this amendatory Act of the 92nd General Assembly, any property or a portion of any property in a taxing district that is used by an eligible business for a corporate headquarters as defined in the Corporate Headquarters Relocation Act. Instead of an abatement under this paragraph (8), a taxing district may enter into an agreement with an eligible business to make annual payments to that eligible business in an amount not to exceed the property taxes paid directly or indirectly by that eligible business to the taxing district and any other taxing districts for premises occupied pursuant to a written lease and may make those payments without the need for an annual appropriation. No school district, however, may enter into an agreement with, or abate taxes for, an eligible business unless the municipality in which the corporate headquarters is located agrees to provide funding to the school district in an amount equal to the amount abated or paid by the school district as provided in this paragraph (8). Any abatement ordered or agreement entered into under this paragraph (8) may be effective for the entire term specified by the taxing district, except the term of the abatement or annual payments may not exceed 20 years.

(9) United States Military Public/Private Residential Developments. Each building, structure, or other improvement designed, financed, constructed, renovated, managed, operated, or maintained after January 1, 2006 under a "PPV Lease", as set forth under Division 14 of Article 10, and any such PPV lease.

(b) Upon a majority vote of its governing authority, any municipality may, after the determination of the assessed valuation of its property, order the county clerk to abate any portion of its taxes on any property that is located within the corporate limits of the municipality in accordance with Section 8-3-18 of the Illinois Municipal Code.

(Source: P.A. 92-12, eff. 7-1-01; 92-207, eff. 8-1-01; 92-247, eff. 8-3-01; 92-651, eff. 7-11-02; 93-270, eff. 7-22-03; revised 12-6-03.)

(35 ILCS 200/18-185)

Sec. 18-185. Short title; definitions. This Division 5 may be cited as the Property Tax Extension Limitation Law. As used in this Division 5:

"Consumer Price Index" means the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor.

"Extension limitation" means (a) the lesser of 5% or the percentage increase in the Consumer Price Index during the 12-month calendar year preceding the levy year or (b) the rate of increase approved by voters under Section 18-205.

"Affected county" means a county of 3,000,000 or more inhabitants or a county contiguous to a

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county of 3,000,000 or more inhabitants.

"Taxing district" has the same meaning provided in Section 1-150, except as otherwise provided in this Section. For the 1991 through 1994 levy years only, "taxing district" includes only each non-home rule taxing district having the majority of its 1990 equalized assessed value within any county or counties contiguous to a county with 3,000,000 or more inhabitants. Beginning with the 1995 levy year, "taxing district" includes only each non-home rule taxing district subject to this Law before the 1995 levy year and each non-home rule taxing district not subject to this Law before the 1995 levy year having the majority of its 1994 equalized assessed value in an affected county or counties. Beginning with the levy year in which this Law becomes applicable to a taxing district as provided in Section 18-213, "taxing district" also includes those taxing districts made subject to this Law as provided in Section 18-213.

"Aggregate extension" for taxing districts to which this Law applied before the 1995 levy year means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before October 1, 1991; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before October 1, 1991; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after October 1, 1991 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before October 1, 1991 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before October 1, 1991, to pay for the building project; (g) made for payments due under installment contracts entered into before October 1, 1991; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), (e), and (h) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made by a school district that participates in the Special Education District of Lake County, created by special education joint agreement under Section 10-22.31 of the School Code, for payment of the school district's share of the amounts required to be contributed by the Special Education District of Lake County to the Illinois Municipal Retirement Fund under Article 7 of the Illinois Pension Code; the amount of any extension under this item (k) shall be certified by the school district to the county clerk; (l) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (m) made for temporary relocation loan repayment purposes pursuant to Sections 2-3.77 and 17-2.2d of the School Code; ~~and~~ (n) made for payment of principal and interest on any bonds issued under the authority of Section 17-2.2d of the School Code; and ~~(o)~~ ~~(m)~~ made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18-213) means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before March 1, 1995; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before March 1, 1995; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after March 1, 1995 that were approved by referendum; (e) made for any taxing district to pay interest or principal on revenue bonds issued before March 1, 1995 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission

lease when the lease payments are for the retirement of bonds issued by the commission before March 1, 1995 to pay for the building project; (g) made for payments due under installment contracts entered into before March 1, 1995; (h) made for payments of principal and interest on bonds issued under the Metropolitan Water Reclamation District Act to finance construction projects initiated before October 1, 1991; (h-4) made for stormwater management purposes by the Metropolitan Water Reclamation District of Greater Chicago under Section 12 of the Metropolitan Water Reclamation District Act; (i) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum and bonds described in subsection (h) of this definition; (j) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (k) made for payments of principal and interest on bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium or museum projects; (l) made for payments of principal and interest on bonds authorized by Public Act 87-1191 or 93-601 and (i) issued pursuant to Section 21.2 of the Cook County Forest Preserve District Act, (ii) issued under Section 42 of the Cook County Forest Preserve District Act for zoological park projects, or (iii) issued under Section 44.1 of the Cook County Forest Preserve District Act for botanical gardens projects; (m) made pursuant to Section 34-53.5 of the School Code, whether levied annually or not; (n) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; (o) made by the Chicago Park District for recreational programs for the handicapped under subsection (c) of Section 7.06 of the Chicago Park District Act; and (p) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with Section 18-213, except for those taxing districts subject to paragraph (2) of subsection (e) of Section 18-213, means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the date on which the referendum making this Law applicable to the taxing district is held; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the date on which the referendum making this Law applicable to the taxing district is held if the bonds were approved by referendum after the date on which the referendum making this Law applicable to the taxing district is held; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the date on which the referendum making this Law applicable to the taxing district is held for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the date on which the referendum making this Law applicable to the taxing district is held to pay for the building project; (g) made for payments due under installment contracts entered into before the date on which the referendum making this Law applicable to the taxing district is held; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Aggregate extension" for all taxing districts to which this Law applies in accordance with paragraph

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(2) of subsection (e) of Section 18-213 means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions: (a) made for the taxing district to pay interest or principal on general obligation bonds that were approved by referendum; (b) made for any taxing district to pay interest or principal on general obligation bonds issued before the effective date of this amendatory Act of 1997; (c) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund those bonds issued before the effective date of this amendatory Act of 1997; (d) made for any taxing district to pay interest or principal on bonds issued to refund or continue to refund bonds issued after the effective date of this amendatory Act of 1997 if the bonds were approved by referendum after the effective date of this amendatory Act of 1997; (e) made for any taxing district to pay interest or principal on revenue bonds issued before the effective date of this amendatory Act of 1997 for payment of which a property tax levy or the full faith and credit of the unit of local government is pledged; however, a tax for the payment of interest or principal on those bonds shall be made only after the governing body of the unit of local government finds that all other sources for payment are insufficient to make those payments; (f) made for payments under a building commission lease when the lease payments are for the retirement of bonds issued by the commission before the effective date of this amendatory Act of 1997 to pay for the building project; (g) made for payments due under installment contracts entered into before the effective date of this amendatory Act of 1997; (h) made for payments of principal and interest on limited bonds, as defined in Section 3 of the Local Government Debt Reform Act, in an amount not to exceed the debt service extension base less the amount in items (b), (c), and (e) of this definition for non-referendum obligations, except obligations initially issued pursuant to referendum; (i) made for payments of principal and interest on bonds issued under Section 15 of the Local Government Debt Reform Act; (j) made for a qualified airport authority to pay interest or principal on general obligation bonds issued for the purpose of paying obligations due under, or financing airport facilities required to be acquired, constructed, installed or equipped pursuant to, contracts entered into before March 1, 1996 (but not including any amendments to such a contract taking effect on or after that date); (k) made to fund expenses of providing joint recreational programs for the handicapped under Section 5-8 of the Park District Code or Section 11-95-14 of the Illinois Municipal Code; and (l) made for contributions to a firefighter's pension fund created under Article 4 of the Illinois Pension Code, to the extent of the amount certified under item (5) of Section 4-134 of the Illinois Pension Code.

"Debt service extension base" means an amount equal to that portion of the extension for a taxing district for the 1994 levy year, or for those taxing districts subject to this Law in accordance with Section 18-213, except for those subject to paragraph (2) of subsection (e) of Section 18-213, for the levy year in which the referendum making this Law applicable to the taxing district is held, or for those taxing districts subject to this Law in accordance with paragraph (2) of subsection (e) of Section 18-213 for the 1996 levy year, constituting an extension for payment of principal and interest on bonds issued by the taxing district without referendum, but not including excluded non-referendum bonds. For park districts (i) that were first subject to this Law in 1991 or 1995 and (ii) whose extension for the 1994 levy year for the payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds) was less than 51% of the amount for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds), "debt service extension base" means an amount equal to that portion of the extension for the 1991 levy year constituting an extension for payment of principal and interest on bonds issued by the park district without referendum (but not including excluded non-referendum bonds). The debt service extension base may be established or increased as provided under Section 18-212. "Excluded non-referendum bonds" means (i) bonds authorized by Public Act 88-503 and issued under Section 20a of the Chicago Park District Act for aquarium and museum projects; (ii) bonds issued under Section 15 of the Local Government Debt Reform Act; or (iii) refunding obligations issued to refund or to continue to refund obligations initially issued pursuant to referendum.

"Special purpose extensions" include, but are not limited to, extensions for levies made on an annual basis for unemployment and workers' compensation, self-insurance, contributions to pension plans, and extensions made pursuant to Section 6-601 of the Illinois Highway Code for a road district's permanent road fund whether levied annually or not. The extension for a special service area is not included in the aggregate extension.

"Aggregate extension base" means the taxing district's last preceding aggregate extension as adjusted under Sections 18-215 through 18-230.

"Levy year" has the same meaning as "year" under Section 1-155.

"New property" means (i) the assessed value, after final board of review or board of appeals action, of

new improvements or additions to existing improvements on any parcel of real property that increase the assessed value of that real property during the levy year multiplied by the equalization factor issued by the Department under Section 17-30, (ii) the assessed value, after final board of review or board of appeals action, of real property not exempt from real estate taxation, which real property was exempt from real estate taxation for any portion of the immediately preceding levy year, multiplied by the equalization factor issued by the Department under Section 17-30, including the assessed value, upon final stabilization of occupancy after new construction is complete, of any real property located within the boundaries of an otherwise or previously exempt military reservation that is intended for residential use and owned by or leased to a private corporation or other entity, and (iii) in counties that classify in accordance with Section 4 of Article IX of the Illinois Constitution, an incentive property's additional assessed value resulting from a scheduled increase in the level of assessment as applied to the first year final board of review market value. In addition, the county clerk in a county containing a population of 3,000,000 or more shall include in the 1997 recovered tax increment value for any school district, any recovered tax increment value that was applicable to the 1995 tax year calculations.

"Qualified airport authority" means an airport authority organized under the Airport Authorities Act and located in a county bordering on the State of Wisconsin and having a population in excess of 200,000 and not greater than 500,000.

"Recovered tax increment value" means, except as otherwise provided in this paragraph, the amount of the current year's equalized assessed value, in the first year after a municipality terminates the designation of an area as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. For the taxes which are extended for the 1997 levy year, the recovered tax increment value for a non-home rule taxing district that first became subject to this Law for the 1995 levy year because a majority of its 1994 equalized assessed value was in an affected county or counties shall be increased if a municipality terminated the designation of an area in 1993 as a redevelopment project area previously established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, previously established under the Industrial Jobs Recovery Law in the Illinois Municipal Code, or previously established under the Economic Development Area Tax Increment Allocation Act, by an amount equal to the 1994 equalized assessed value of each taxable lot, block, tract, or parcel of real property in the redevelopment project area over and above the initial equalized assessed value of each property in the redevelopment project area. In the first year after a municipality removes a taxable lot, block, tract, or parcel of real property from a redevelopment project area established under the Tax Increment Allocation Development Act in the Illinois Municipal Code, the Industrial Jobs Recovery Law in the Illinois Municipal Code, or the Economic Development Area Tax Increment Allocation Act, "recovered tax increment value" means the amount of the current year's equalized assessed value of each taxable lot, block, tract, or parcel of real property removed from the redevelopment project area over and above the initial equalized assessed value of that real property before removal from the redevelopment project area.

Except as otherwise provided in this Section, "limiting rate" means a fraction the numerator of which is the last preceding aggregate extension base times an amount equal to one plus the extension limitation defined in this Section and the denominator of which is the current year's equalized assessed value of all real property in the territory under the jurisdiction of the taxing district during the prior levy year. For those taxing districts that reduced their aggregate extension for the last preceding levy year, the highest aggregate extension in any of the last 3 preceding levy years shall be used for the purpose of computing the limiting rate. The denominator shall not include new property. The denominator shall not include the recovered tax increment value.

(Source: P.A. 92-547, eff. 6-13-02; 93-601, eff. 1-1-04; 93-606, eff. 11-18-03; 93-612, eff. 11-18-03; 93-689, eff. 7-1-04; 93-690, eff. 7-1-04; 93-1049, eff. 11-17-04; revised 12-14-04.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 702**, with House Amendment No. 1, was referred to the Secretary's Desk.

[April 5, 2006]

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1705

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1705

House Amendment No. 3 to SENATE BILL NO. 1705

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1705

AMENDMENT NO. 1. Amend Senate Bill 1705 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 16-101A, 16-102, and 16-107 as follows:

(220 ILCS 5/16-101A)

Sec. 16-101A. Legislative findings.

(a) The citizens and businesses of the State of Illinois have been well-served by a comprehensive electrical utility system which has provided safe, reliable, and affordable service. The electrical utility system in the State of Illinois has historically been subject to State and federal regulation, aimed at assuring the citizens and businesses of the State of safe, reliable, and affordable service, while at the same time assuring the utility system of a return on its investment.

(b) Competitive forces are affecting the market for electricity as a result of recent federal regulatory and statutory changes and the activities of other states. Competition in the electric services market may create opportunities for new products and services for customers and lower costs for users of electricity. Long-standing regulatory relationships need to be altered to accommodate the competition that could fundamentally alter the structure of the electric services market.

(c) With the advent of increasing competition in this industry, the State has a continued interest in assuring that the safety, reliability, and affordability of electrical power is not sacrificed to competitive pressures, and to that end, intends to implement safeguards to assure that the industry continues to operate the electrical system in a manner that will serve the public's interest. Under the existing regulatory framework, the industry has been encouraged to undertake certain investments in its physical plant and personnel to enhance its efficient operation, the cost of which it has been permitted to pass on to consumers. The State has an interest in providing the existing utilities a reasonable opportunity to obtain a return on certain investments on which they depended in undertaking those commitments in the first instance while, at the same time, not permitting new entrants into the industry to take unreasonable advantage of the investments made by the formerly regulated industry.

(d) A competitive wholesale and retail market must benefit all Illinois citizens. The Illinois Commerce Commission should act to promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers. Consumer protections must be in place to ensure that all customers continue to receive safe, reliable, affordable, and environmentally safe electric service.

(e) All consumers must benefit in an equitable and timely fashion from the lower costs for electricity that result from retail and wholesale competition and receive sufficient information to make informed choices among suppliers and services. The use of renewable resources and energy efficiency resources should be encouraged in competitive markets.

(f) The efficiency of electric markets depends both upon the competitiveness of supply and upon the price-responsiveness of the demand for service. Therefore, to ensure the lowest total cost of service and to enhance the reliability of service, all classes of the electricity customers of electric utilities should have access to and be able to voluntarily use real-time pricing and other price- and demand-response mechanisms.

(Source: P.A. 90-561, eff. 12-16-97.)

(220 ILCS 5/16-102)

Sec. 16-102. Definitions. For the purposes of this Article the following terms shall be defined as set forth in this Section.

[April 5, 2006]

"Alternative retail electric supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers electric power or energy for sale, lease or in exchange for other value received to one or more retail customers, or that engages in the delivery or furnishing of electric power or energy to such retail customers, and shall include, without limitation, resellers, aggregators and power marketers, but shall not include (i) electric utilities (or any agent of the electric utility to the extent the electric utility provides tariffed services to retail customers through that agent), (ii) any electric cooperative or municipal system as defined in Section 17-100 to the extent that the electric cooperative or municipal system is serving retail customers within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iii) a public utility that is owned and operated by any public institution of higher education of this State, or a public utility that is owned by such public institution of higher education and operated by any of its lessees or operating agents, within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iv) a retail customer to the extent that customer obtains its electric power and energy from that customer's own cogeneration or self-generation facilities, (v) an entity that owns, operates, sells, or arranges for the installation of a customer's own cogeneration or self-generation facilities, but only to the extent the entity is engaged in owning, selling or arranging for the installation of such facility, or operating the facility on behalf of such customer, provided however that any such third party owner or operator of a facility built after January 1, 1999, complies with the labor provisions of Section 16-128(a) as though such third party were an alternative retail electric supplier, or (vi) an industrial or manufacturing customer that owns its own distribution facilities, to the extent that the customer provides service from that distribution system to a third-party contractor located on the customer's premises that is integrally and predominantly engaged in the customer's industrial or manufacturing process; provided, that if the industrial or manufacturing customer has elected delivery services, the customer shall pay transition charges applicable to the electric power and energy consumed by the third-party contractor unless such charges are otherwise paid by the third party contractor, which shall be calculated based on the usage of, and the base rates or the contract rates applicable to, the third-party contractor in accordance with Section 16-102.

"Base rates" means the rates for those tariffed services that the electric utility is required to offer pursuant to subsection (a) of Section 16-103 and that were identified in a rate order for collection of the electric utility's base rate revenue requirement, excluding (i) separate automatic rate adjustment riders then in effect, (ii) special or negotiated contract rates, (iii) delivery services tariffs filed pursuant to Section 16-108, (iv) real-time pricing, or (v) tariffs that were in effect prior to October 1, 1996 and that based charges for services on an index or average of other utilities' charges, but including (vi) any subsequent redesign of such rates for tariffed services that is authorized by the Commission after notice and hearing.

"Competitive service" includes (i) any service that has been declared to be competitive pursuant to Section 16-113 of this Act, (ii) contract service, and (iii) services, other than tariffed services, that are related to, but not necessary for, the provision of electric power and energy or delivery services.

"Contract service" means (1) services, including the provision of electric power and energy or other services, that are provided by mutual agreement between an electric utility and a retail customer that is located in the electric utility's service area, provided that, delivery services shall not be a contract service until such services are declared competitive pursuant to Section 16-113; and also means (2) the provision of electric power and energy by an electric utility to retail customers outside the electric utility's service area pursuant to Section 16-116. Provided, however, contract service does not include electric utility services provided pursuant to (i) contracts that retail customers are required to execute as a condition of receiving tariffed services, or (ii) special or negotiated rate contracts for electric utility services that were entered into between an electric utility and a retail customer prior to the effective date of this amendatory Act of 1997 and filed with the Commission.

"Delivery services" means those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and shall include, without limitation, standard metering and billing services.

"Electric utility" means a public utility, as defined in Section 3-105 of this Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area.

"Mandatory transition period" means the period from the effective date of this amendatory Act of 1997 through January 1, 2007.

"Municipal system" shall have the meaning set forth in Section 17-100.

[April 5, 2006]

"Real-time pricing" means tariffed retail charges for delivered electric power and energy that vary ~~on an~~ hour-to-hour and are determined from wholesale market prices using a methodology approved by the Illinois Commerce Commission ~~basis for nonresidential retail customers and that vary on a periodic basis during the day for residential retail customers.~~

"Retail customer" means a single entity using electric power or energy at a single premises and that (A) either (i) is receiving or is eligible to receive tariffed services from an electric utility, or (ii) that is served by a municipal system or electric cooperative within any area in which the municipal system or electric cooperative is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, or (B) an entity which on the effective date of this Act was receiving electric service from a public utility and (i) was engaged in the practice of resale and redistribution of such electricity within a building prior to January 2, 1957, or (ii) was providing lighting services to tenants in a multi-occupancy building, but only to the extent such resale, redistribution or lighting service is authorized by the electric utility's tariffs that were on file with the Commission on the effective date of this Act.

"Service area" means (i) the geographic area within which an electric utility was lawfully entitled to provide electric power and energy to retail customers as of the effective date of this amendatory Act of 1997, and includes (ii) the location of any retail customer to which the electric utility was lawfully providing electric utility services on such effective date.

"Small commercial retail customer" means those nonresidential retail customers of an electric utility consuming 15,000 kilowatt-hours or less of electricity annually in its service area.

"Tariffed service" means services provided to retail customers by an electric utility as defined by its rates on file with the Commission pursuant to the provisions of Article IX of this Act, but shall not include competitive services.

"Transition charge" means a charge expressed in cents per kilowatt-hour that is calculated for a customer or class of customers as follows for each year in which an electric utility is entitled to recover transition charges as provided in Section 16-108:

(1) the amount of revenue that an electric utility would receive from the retail

customer or customers if it were serving such customers' electric power and energy requirements as a tariffed service based on (A) all of the customers' actual usage during the 3 years ending 90 days prior to the date on which such customers were first eligible for delivery services pursuant to Section 16-104, and (B) on (i) the base rates in effect on October 1, 1996 (adjusted for the reductions required by subsection (b) of Section 16-111, for any reduction resulting from a rate decrease under Section 16-101(b), for any restatement of base rates made in conjunction with an elimination of the fuel adjustment clause pursuant to subsection (b), (d), or (f) of Section 9-220 and for any removal of decommissioning costs from base rates pursuant to Section 16-114) and any separate automatic rate adjustment riders (other than a decommissioning rate as defined in Section 16-114) under which the customers were receiving or, had they been customers, would have received electric power and energy from the electric utility during the year immediately preceding the date on which such customers were first eligible for delivery service pursuant to Section 16-104, or (ii) to the extent applicable, any contract rates, including contracts or rates for consolidated or aggregated billing, under which such customers were receiving electric power and energy from the electric utility during such year;

(2) less the amount of revenue, other than revenue from transition charges and

decommissioning rates, that the electric utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated and on the usage identified in paragraph (1);

(3) less the market value for the electric power and energy that the electric utility would have used to supply all of such customers' electric power and energy requirements, as a tariffed service, based on the usage identified in paragraph (1), with such market value determined in accordance with Section 16-112 of this Act;

(4) less the following amount which represents the amount to be attributed to new revenue sources and cost reductions by the electric utility through the end of the period for which transition costs are recovered pursuant to Section 16-108, referred to in this Article XVI as a "mitigation factor":

(A) for nonresidential retail customers, an amount equal to the greater of (i) 0.5

cents per kilowatt-hour during the period October 1, 1999 through December 31, 2004, 0.6 cents per kilowatt-hour in calendar year 2005, and 0.9 cents per kilowatt-hour in calendar year 2006, multiplied in each year by the usage identified in paragraph (1), or (ii) an amount equal to the following percentages of the amount produced by applying the applicable base rates (adjusted as

described in subparagraph (1)(B)) or contract rate to the usage identified in paragraph (1): 8% for the period October 1, 1999 through December 31, 2002, 10% in calendar years 2003 and 2004, 11% in calendar year 2005 and 12% in calendar year 2006; and

(B) for residential retail customers, an amount equal to the following percentages of the amount produced by applying the base rates in effect on October 1, 1996 (adjusted as described in subparagraph (1)(B)) to the usage identified in paragraph (1): (i) 6% from May 1, 2002 through December 31, 2002, (ii) 7% in calendar years 2003 and 2004, (iii) 8% in calendar year 2005, and (iv) 10% in calendar year 2006;

(5) divided by the usage of such customers identified in paragraph (1), provided that the transition charge shall never be less than zero.

"Unbundled service" means a component or constituent part of a tariffed service which the electric utility subsequently offers separately to its customers.

(Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02.)

(220 ILCS 5/16-107)

Sec. 16-107. Real-time pricing.

(a) Each electric utility shall file, on or before May 1, 1998, a tariff or tariffs which allow nonresidential retail customers in the electric utility's service area to elect real-time pricing beginning October 1, 1998.

(b) Each electric utility shall file, on or before May 1, 2000, a tariff or tariffs which allow residential retail customers in the electric utility's service area to elect real-time pricing beginning October 1, 2000.

(b-5) Each electric utility shall file a tariff or tariffs allowing residential retail customers in the electric utility's service area to elect real-time pricing beginning January 1, 2007. The Commission may, after notice and hearing, approve the tariff or tariffs, provided that the Commission finds that the potential for demand reductions will result in net economic benefits to all residential customers of the electric utility. A tariff or tariffs filed pursuant to that order shall describe: (i) the methodology for determining the market price of energy to be reflected in the real-time rate; (ii) cost-based distribution and transmission charges that are no greater than the charges made to other residential customers; (iii) a customer charge no greater than that charged to other residential customers; and (iv) an information system that provides customers ready access to hourly market prices, including, but not limited to, day-ahead hourly energy prices.

A proceeding under this subsection (b-5) may not exceed 120 days in length.

(b-10) Each electric utility providing real-time pricing pursuant to subsection (b-5) shall install a meter capable of recording hourly interval energy use at the service location of each customer that elects real-time pricing pursuant to this subsection.

(b-15) If the Commission issues an order pursuant to subsection (b-5), the affected electric utility shall contract with an entity not affiliated with the electric utility to serve as a program administrator to develop and implement a program to provide consumer outreach, enrollment, and education concerning real-time pricing and to establish and administer an information system and technical and other customer assistance that is necessary to enable customers to manage electricity use. The program administrator: (i) shall be selected and compensated by the electric utility, subject to Commission approval; (ii) shall have demonstrated technical and managerial competence in the development and administration of demand management programs; and (iii) may develop and implement risk management, energy efficiency, and other services related to energy use management for which the program administrator shall be compensated by participants in the program receiving such services. The electric utility shall provide the program administrator with all information and assistance necessary to perform the program administrator's duties, including, but not limited to, customer, account, and energy use data. The electric utility shall permit the program administrator to include inserts in residential customer bills 2 times per year to assist with customer outreach and enrollment.

The program administrator shall submit an annual report to the electric utility no later than April 1 of each year describing the operation and results of the program, including information concerning the number and types of customers using real-time pricing, changes in customers' energy use patterns, an assessment of the value of the program to both participants and non-participants, and recommendations concerning modification of the program and the tariff or tariffs filed under subsection (b-5). This report shall be filed by the electric utility with the Commission within 30 days of receipt and shall be available to the public on the Commission's web site.

(b-20) The Commission shall monitor the performance of programs established pursuant to subsection (b-15) and shall order the termination or modification of a program if it determines that the program is not, after a reasonable period of time for development not to exceed 4 years, resulting in net benefits to the residential customers of the electric utility.

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(b-25) An electric utility shall be entitled to recover reasonable costs incurred in complying with an order issued pursuant to this Section by imposing a uniform charge, included in its customer charge, on the residential customers in its service territory.

(c) The electric utility's tariff or tariffs filed pursuant to this Section shall be subject to Article IX. (Source: P.A. 90-561, eff. 12-16-97.)

Section 99. Effective date. This Act takes effect upon becoming law."

AMENDMENT NO. 3 TO SENATE BILL 1705

AMENDMENT NO. 3. Amend Senate Bill 1705, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 16-101A, 16-102, and 16-107 as follows:

(220 ILCS 5/16-101A)

Sec. 16-101A. Legislative findings.

(a) The citizens and businesses of the State of Illinois have been well-served by a comprehensive electrical utility system which has provided safe, reliable, and affordable service. The electrical utility system in the State of Illinois has historically been subject to State and federal regulation, aimed at assuring the citizens and businesses of the State of safe, reliable, and affordable service, while at the same time assuring the utility system of a return on its investment.

(b) Competitive forces are affecting the market for electricity as a result of recent federal regulatory and statutory changes and the activities of other states. Competition in the electric services market may create opportunities for new products and services for customers and lower costs for users of electricity. Long-standing regulatory relationships need to be altered to accommodate the competition that could fundamentally alter the structure of the electric services market.

(c) With the advent of increasing competition in this industry, the State has a continued interest in assuring that the safety, reliability, and affordability of electrical power is not sacrificed to competitive pressures, and to that end, intends to implement safeguards to assure that the industry continues to operate the electrical system in a manner that will serve the public's interest. Under the existing regulatory framework, the industry has been encouraged to undertake certain investments in its physical plant and personnel to enhance its efficient operation, the cost of which it has been permitted to pass on to consumers. The State has an interest in providing the existing utilities a reasonable opportunity to obtain a return on certain investments on which they depended in undertaking those commitments in the first instance while, at the same time, not permitting new entrants into the industry to take unreasonable advantage of the investments made by the formerly regulated industry.

(d) A competitive wholesale and retail market must benefit all Illinois citizens. The Illinois Commerce Commission should act to promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers. Consumer protections must be in place to ensure that all customers continue to receive safe, reliable, affordable, and environmentally safe electric service.

(e) All consumers must benefit in an equitable and timely fashion from the lower costs for electricity that result from retail and wholesale competition and receive sufficient information to make informed choices among suppliers and services. The use of renewable resources and energy efficiency resources should be encouraged in competitive markets.

(f) The efficiency of electric markets depends both upon the competitiveness of supply and upon the price-responsiveness of the demand for service. Therefore, to ensure the lowest total cost of service and to enhance the reliability of service, all classes of the electricity customers of electric utilities should have access to and be able to voluntarily use real-time pricing and other price-response and demand-response mechanisms.

(Source: P.A. 90-561, eff. 12-16-97.)

(220 ILCS 5/16-102)

Sec. 16-102. Definitions. For the purposes of this Article the following terms shall be defined as set forth in this Section.

"Alternative retail electric supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers electric power or energy for sale, lease or in exchange for other value received to one or more retail customers, or that engages in the delivery or furnishing of electric power or energy to such retail customers, and shall include, without limitation, resellers, aggregators and power marketers, but shall not include (i)

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electric utilities (or any agent of the electric utility to the extent the electric utility provides tariffed services to retail customers through that agent), (ii) any electric cooperative or municipal system as defined in Section 17-100 to the extent that the electric cooperative or municipal system is serving retail customers within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iii) a public utility that is owned and operated by any public institution of higher education of this State, or a public utility that is owned by such public institution of higher education and operated by any of its lessees or operating agents, within any area in which it is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, (iv) a retail customer to the extent that customer obtains its electric power and energy from that customer's own cogeneration or self-generation facilities, (v) an entity that owns, operates, sells, or arranges for the installation of a customer's own cogeneration or self-generation facilities, but only to the extent the entity is engaged in owning, selling or arranging for the installation of such facility, or operating the facility on behalf of such customer, provided however that any such third party owner or operator of a facility built after January 1, 1999, complies with the labor provisions of Section 16-128(a) as though such third party were an alternative retail electric supplier, or (vi) an industrial or manufacturing customer that owns its own distribution facilities, to the extent that the customer provides service from that distribution system to a third-party contractor located on the customer's premises that is integrally and predominantly engaged in the customer's industrial or manufacturing process; provided, that if the industrial or manufacturing customer has elected delivery services, the customer shall pay transition charges applicable to the electric power and energy consumed by the third-party contractor unless such charges are otherwise paid by the third party contractor, which shall be calculated based on the usage of, and the base rates or the contract rates applicable to, the third-party contractor in accordance with Section 16-102.

"Base rates" means the rates for those tariffed services that the electric utility is required to offer pursuant to subsection (a) of Section 16-103 and that were identified in a rate order for collection of the electric utility's base rate revenue requirement, excluding (i) separate automatic rate adjustment riders then in effect, (ii) special or negotiated contract rates, (iii) delivery services tariffs filed pursuant to Section 16-108, (iv) real-time pricing, or (v) tariffs that were in effect prior to October 1, 1996 and that based charges for services on an index or average of other utilities' charges, but including (vi) any subsequent redesign of such rates for tariffed services that is authorized by the Commission after notice and hearing.

"Competitive service" includes (i) any service that has been declared to be competitive pursuant to Section 16-113 of this Act, (ii) contract service, and (iii) services, other than tariffed services, that are related to, but not necessary for, the provision of electric power and energy or delivery services.

"Contract service" means (1) services, including the provision of electric power and energy or other services, that are provided by mutual agreement between an electric utility and a retail customer that is located in the electric utility's service area, provided that, delivery services shall not be a contract service until such services are declared competitive pursuant to Section 16-113; and also means (2) the provision of electric power and energy by an electric utility to retail customers outside the electric utility's service area pursuant to Section 16-116. Provided, however, contract service does not include electric utility services provided pursuant to (i) contracts that retail customers are required to execute as a condition of receiving tariffed services, or (ii) special or negotiated rate contracts for electric utility services that were entered into between an electric utility and a retail customer prior to the effective date of this amendatory Act of 1997 and filed with the Commission.

"Delivery services" means those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and shall include, without limitation, standard metering and billing services.

"Electric utility" means a public utility, as defined in Section 3-105 of this Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area.

"Mandatory transition period" means the period from the effective date of this amendatory Act of 1997 through January 1, 2007.

"Municipal system" shall have the meaning set forth in Section 17-100.

"Real-time pricing" means ~~tariffed retail~~ charges for delivered electric power and energy that vary ~~on an hour-to-hour and are determined from wholesale market prices using a methodology approved by the Illinois Commerce Commission basis for nonresidential retail customers and that vary on a periodic basis during the day for residential retail customers.~~

"Retail customer" means a single entity using electric power or energy at a single premises and that (A) either (i) is receiving or is eligible to receive tariffed services from an electric utility, or (ii) that is

served by a municipal system or electric cooperative within any area in which the municipal system or electric cooperative is or would be entitled to provide service under the law in effect immediately prior to the effective date of this amendatory Act of 1997, or (B) an entity which on the effective date of this Act was receiving electric service from a public utility and (i) was engaged in the practice of resale and redistribution of such electricity within a building prior to January 2, 1957, or (ii) was providing lighting services to tenants in a multi-occupancy building, but only to the extent such resale, redistribution or lighting service is authorized by the electric utility's tariffs that were on file with the Commission on the effective date of this Act.

"Service area" means (i) the geographic area within which an electric utility was lawfully entitled to provide electric power and energy to retail customers as of the effective date of this amendatory Act of 1997, and includes (ii) the location of any retail customer to which the electric utility was lawfully providing electric utility services on such effective date.

"Small commercial retail customer" means those nonresidential retail customers of an electric utility consuming 15,000 kilowatt-hours or less of electricity annually in its service area.

"Tariffed service" means services provided to retail customers by an electric utility as defined by its rates on file with the Commission pursuant to the provisions of Article IX of this Act, but shall not include competitive services.

"Transition charge" means a charge expressed in cents per kilowatt-hour that is calculated for a customer or class of customers as follows for each year in which an electric utility is entitled to recover transition charges as provided in Section 16-108:

(1) the amount of revenue that an electric utility would receive from the retail

customer or customers if it were serving such customers' electric power and energy requirements as a tariffed service based on (A) all of the customers' actual usage during the 3 years ending 90 days prior to the date on which such customers were first eligible for delivery services pursuant to Section 16-104, and (B) on (i) the base rates in effect on October 1, 1996 (adjusted for the reductions required by subsection (b) of Section 16-111, for any reduction resulting from a rate decrease under Section 16-101(b), for any restatement of base rates made in conjunction with an elimination of the fuel adjustment clause pursuant to subsection (b), (d), or (f) of Section 9-220 and for any removal of decommissioning costs from base rates pursuant to Section 16-114) and any separate automatic rate adjustment riders (other than a decommissioning rate as defined in Section 16-114) under which the customers were receiving or, had they been customers, would have received electric power and energy from the electric utility during the year immediately preceding the date on which such customers were first eligible for delivery service pursuant to Section 16-104, or (ii) to the extent applicable, any contract rates, including contracts or rates for consolidated or aggregated billing, under which such customers were receiving electric power and energy from the electric utility during such year;

(2) less the amount of revenue, other than revenue from transition charges and

decommissioning rates, that the electric utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated and on the usage identified in paragraph (1);

(3) less the market value for the electric power and energy that the electric utility

would have used to supply all of such customers' electric power and energy requirements, as a tariffed service, based on the usage identified in paragraph (1), with such market value determined in accordance with Section 16-112 of this Act;

(4) less the following amount which represents the amount to be attributed to new

revenue sources and cost reductions by the electric utility through the end of the period for which transition costs are recovered pursuant to Section 16-108, referred to in this Article XVI as a "mitigation factor":

(A) for nonresidential retail customers, an amount equal to the greater of (i) 0.5

cents per kilowatt-hour during the period October 1, 1999 through December 31, 2004, 0.6 cents per kilowatt-hour in calendar year 2005, and 0.9 cents per kilowatt-hour in calendar year 2006, multiplied in each year by the usage identified in paragraph (1), or (ii) an amount equal to the following percentages of the amount produced by applying the applicable base rates (adjusted as described in subparagraph (1)(B)) or contract rate to the usage identified in paragraph (1): 8% for the period October 1, 1999 through December 31, 2002, 10% in calendar years 2003 and 2004, 11% in calendar year 2005 and 12% in calendar year 2006; and

(B) for residential retail customers, an amount equal to the following percentages

of the amount produced by applying the base rates in effect on October 1, 1996 (adjusted as described in subparagraph (1)(B)) to the usage identified in paragraph (1): (i) 6% from May 1, 2002

through December 31, 2002, (ii) 7% in calendar years 2003 and 2004, (iii) 8% in calendar year 2005, and (iv) 10% in calendar year 2006;

(5) divided by the usage of such customers identified in paragraph (1), provided that the transition charge shall never be less than zero.

"Unbundled service" means a component or constituent part of a tariffed service which the electric utility subsequently offers separately to its customers.

(Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02.)

(220 ILCS 5/16-107)

Sec. 16-107. Real-time pricing.

(a) Each electric utility shall file, on or before May 1, 1998, a tariff or tariffs which allow nonresidential retail customers in the electric utility's service area to elect real-time pricing beginning October 1, 1998.

(b) Each electric utility shall file, on or before May 1, 2000, a tariff or tariffs which allow residential retail customers in the electric utility's service area to elect real-time pricing beginning October 1, 2000.

(b-5) Each electric utility shall file a tariff or tariffs allowing residential retail customers in the electric utility's service area to elect real-time pricing beginning January 2, 2007. A customer who elects real-time pricing shall remain on such rate for a minimum of 12 months. The Commission may, after notice and hearing, approve the tariff or tariffs, provided that the Commission finds that the potential for demand reductions will result in net economic benefits to all residential customers of the electric utility. In examining economic benefits from demand reductions, the Commission shall, at a minimum, consider the following: improvements to system reliability and power quality, reduction in wholesale market prices and price volatility, electric utility cost avoidance and reductions, market power mitigation, and other benefits of demand reductions, but only to the extent that the effects of reduced demand can be demonstrated to lower the cost of electricity delivered to residential customers. A tariff or tariffs approved pursuant to this subsection (b-5) shall, at a minimum, describe (i) the methodology for determining the market price of energy to be reflected in the real-time rate and (ii) the manner in which customers who elect real-time pricing will be provided with ready access to hourly market prices, including, but not limited to, day-ahead hourly energy prices.

A proceeding under this subsection (b-5) may not exceed 120 days in length.

(b-10) Each electric utility providing real-time pricing pursuant to subsection (b-5) shall install a meter capable of recording hourly interval energy use at the service location of each customer that elects real-time pricing pursuant to this subsection.

(b-15) If the Commission issues an order pursuant to subsection (b-5), the affected electric utility shall contract with an entity not affiliated with the electric utility to serve as a program administrator to develop and implement a program to provide consumer outreach, enrollment, and education concerning real-time pricing and to establish and administer an information system and technical and other customer assistance that is necessary to enable customers to manage electricity use. The program administrator: (i) shall be selected and compensated by the electric utility, subject to Commission approval; (ii) shall have demonstrated technical and managerial competence in the development and administration of demand management programs; and (iii) may develop and implement risk management, energy efficiency, and other services related to energy use management for which the program administrator shall be compensated by participants in the program receiving such services. The electric utility shall provide the program administrator with all information and assistance necessary to perform the program administrator's duties, including, but not limited to, customer, account, and energy use data. The electric utility shall permit the program administrator to include inserts in residential customer bills 2 times per year to assist with customer outreach and enrollment.

The program administrator shall submit an annual report to the electric utility no later than April 1 of each year describing the operation and results of the program, including information concerning the number and types of customers using real-time pricing, changes in customers' energy use patterns, an assessment of the value of the program to both participants and non-participants, and recommendations concerning modification of the program and the tariff or tariffs filed under subsection (b-5). This report shall be filed by the electric utility with the Commission within 30 days of receipt and shall be available to the public on the Commission's web site.

(b-20) The Commission shall monitor the performance of programs established pursuant to subsection (b-15) and shall order the termination or modification of a program if it determines that the program is not, after a reasonable period of time for development not to exceed 4 years, resulting in net benefits to the residential customers of the electric utility.

(b-25) An electric utility shall be entitled to recover reasonable costs incurred in complying with this Section, provided that recovery of the costs is fairly apportioned among its residential customers as

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provided in this subsection (b-25). The electric utility may apportion greater costs on the residential customers who elect real-time pricing, but may also impose some of the costs of real-time pricing on customers who do not elect real-time pricing, provided that the Commission determines that the cost savings resulting from real-time pricing will exceed the costs imposed on customers for maintaining the program.

(c) The electric utility's tariff or tariffs filed pursuant to this Section shall be subject to Article IX.

(d) This Section does not apply to any electric utility providing service to 100,000 or fewer customers.
(Source: P.A. 90-561, eff. 12-16-97.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 1705**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2159

A bill for AN ACT concerning procurement.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2159

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2159

AMENDMENT NO. 1. Amend Senate Bill 2159 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Procurement Code is amended by adding Section 20-155 as follows:
(30 ILCS 500/20-155 new)

Sec. 20-155. Solicitation and contract documents. After award of a contract and subject to provisions of the Freedom of Information Act, the procuring agency shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to that particular contract.

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 2159**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2272

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2272

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

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AMENDMENT NO. 1 TO SENATE BILL 2272

AMENDMENT NO. 1. Amend Senate Bill 2272 on page 3, after line 16, by adding the following:

The clerk of the circuit court shall deposit the 5% retained under this subsection into the Circuit Court Clerk Operation and Administrative Fund to be used to defray the costs of collection and disbursement of the drug court fee."; and

on page 3, after line 24, by inserting the following:

"Section 5. The Clerks of Courts Act is amended by adding Section 27.3d as follows:

(705 ILCS 105/27.3d new)

Sec. 27.3d. Circuit Court Clerk Operation and Administrative Fund. Each circuit court clerk shall create a Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law. The circuit court clerk shall be the custodian, ex officio, of this Fund and shall use the Fund to perform the duties required by the office. The Fund shall be audited by an auditor retained by the clerk for the purpose of conducting an annual audit. Expenditures shall be made from the Fund by the circuit court clerk for expenses related to the cost of collection for and disbursement to entities of State and local government."

Under the rules, the foregoing **Senate Bill No. 2272**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2290

A bill for AN ACT concerning housing.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2290

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2290

AMENDMENT NO. 1. Amend Senate Bill 2290 on page 8, line 5, after "file", by inserting ", if the issuer utilized the bond volume cap for any housing purpose.".

Under the rules, the foregoing **Senate Bill No. 2290**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2391

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2391

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

[April 5, 2006]

AMENDMENT NO. 1 TO SENATE BILL 2391

AMENDMENT NO. 1. Amend Senate Bill 2391 on page 1, by inserting after line 3 the following:

"Section 2. The Illinois Controlled Substances Act is amended by changing Section 312 as follows:
(720 ILCS 570/312) (from Ch. 56 1/2, par. 1312)

Sec. 312. Requirements for dispensing controlled substances.

(a) A practitioner, in good faith, may dispense a Schedule II controlled substance, which is a narcotic drug listed in Section 206 of this Act; or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; or pentazocine; and Schedule III, IV, or V controlled substances to any person upon a written prescription of any prescriber, dated and signed by the person prescribing on the day when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the prescriber, if he is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The practitioner filling the prescription shall write the date of filling and his own signature on the face of the written prescription. The written prescription shall be retained on file by the practitioner who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any officer or employee engaged in the enforcement of this Act. Whenever the practitioner's or pharmacy's copy of any prescription is removed by an officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the practitioner or pharmacy a receipt in lieu thereof. A prescription for a Schedule II controlled substance shall not be filled more than 7 days after the date of issuance. A written prescription for Schedule III, IV or V controlled substances shall not be filled or refilled more than 6 months after the date thereof or refilled more than 5 times unless renewed, in writing, by the prescriber.

(b) In lieu of a written prescription required by this Section, a pharmacist, in good faith, may dispense Schedule III, IV, or V substances to any person either upon receiving a facsimile of a written, signed prescription transmitted by the prescriber or the prescriber's agent or upon a lawful oral prescription of a prescriber which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the ultimate user for whom, or of the owner of the animal for which the controlled substance is dispensed, and the full name, address, and registry number under the law of the United States relating to controlled substances of the prescriber prescribing if he is required by those laws to be so registered, and the pharmacist filling such oral prescription shall write the date of filling and his own signature on the face of such written memorandum thereof. The facsimile copy of the prescription or written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of not less than two years, so as to be readily accessible for inspection by any officer or employee engaged in the enforcement of this Act in the same manner as a written prescription. The facsimile copy of the prescription or oral prescription and the written memorandum thereof shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed, in writing, by the prescriber.

(c) Except for any ~~non-prescription~~ targeted methamphetamine precursor ~~regulated by as defined in~~ the Methamphetamine Precursor Control Act, a controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose and not for the purpose of evading this Act, and then:

- (1) only personally by a person registered to dispense a Schedule V controlled substance and then only to his patients, or
- (2) only personally by a pharmacist, and then only to a person over 21 years of age who has identified himself to the pharmacist by means of 2 positive documents of identification.
- (3) the dispenser shall record the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the dispenser's signature.

(4) no person shall purchase or be dispensed more than 120 milliliters or more than 120 grams of any Schedule V substance which contains codeine, dihydrocodeine, or any salts thereof, or ethylmorphine, or any salts thereof, in any 96 hour period. The purchaser shall sign a form, approved by the Department of Professional Regulation, attesting that he has not purchased any Schedule V controlled substances within the immediately preceding 96 hours.

(5) a copy of the records of sale, including all information required by paragraph (3), shall be forwarded to the Department of Professional Regulation at its principal office by the 15th day

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of the following month.

(6) all records of purchases and sales shall be maintained for not less than 2 years.

(7) no person shall obtain or attempt to obtain within any consecutive 96 hour period any Schedule V substances of more than 120 milliliters or more than 120 grams containing codeine, dihydrocodeine or any of its salts, or ethylmorphine or any of its salts. Any person obtaining any such preparations or combination of preparations in excess of this limitation shall be in unlawful possession of such controlled substance.

(8) a person qualified to dispense controlled substances under this Act and registered thereunder shall at no time maintain or keep in stock a quantity of Schedule V controlled substances defined and listed in Section 212 (b) (1), (2) or (3) in excess of 4.5 liters for each substance; a pharmacy shall at no time maintain or keep in stock a quantity of Schedule V controlled substances as defined in excess of 4.5 liters for each substance, plus the additional quantity of controlled substances necessary to fill the largest number of prescription orders filled by that pharmacy for such controlled substances in any one week in the previous year. These limitations shall not apply to Schedule V controlled substances which Federal law prohibits from being dispensed without a prescription.

(9) no person shall distribute or dispense butyl nitrite for inhalation or other introduction into the human body for euphoric or physical effect.

(d) Every practitioner shall keep a record of controlled substances received by him and a record of all such controlled substances administered, dispensed or professionally used by him otherwise than by prescription. It shall, however, be sufficient compliance with this paragraph if any practitioner utilizing controlled substances listed in Schedules III, IV and V shall keep a record of all those substances dispensed and distributed by him other than those controlled substances which are administered by the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject. A practitioner who dispenses, other than by administering, a controlled substance in Schedule II, which is a narcotic drug listed in Section 206 of this Act, or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers, pentazocine, or methaqualone shall do so only upon the issuance of a written prescription blank by a prescriber.

(e) Whenever a manufacturer distributes a controlled substance in a package prepared by him, and whenever a wholesale distributor distributes a controlled substance in a package prepared by him or the manufacturer, he shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the manufacturer, the distributor and the quantity, kind and form of controlled substance contained therein. No person except a pharmacist and only for the purposes of filling a prescription under this Act, shall alter, deface or remove any label so affixed.

(f) Whenever a practitioner dispenses any controlled substance except a non-prescription targeted methamphetamine precursor ~~regulated by as defined in~~ the Methamphetamine Precursor Control Act, he shall affix to the container in which such substance is sold or dispensed, a label indicating the date of initial filling, the practitioner's name and address, the name of the patient, the name of the prescriber, the directions for use and cautionary statements, if any, contained in any prescription or required by law, the proprietary name or names or the established name of the controlled substance, and the dosage and quantity, except as otherwise authorized by regulation by the Department of Professional Regulation. No person shall alter, deface or remove any label so affixed.

(g) A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner, or other persons authorized under this Act, and the owner of any animal for which such substance has been prescribed or dispensed by a veterinarian, may lawfully possess such substance only in the container in which it was delivered to him by the person dispensing such substance.

(h) The responsibility for the proper prescribing or dispensing of controlled substances is upon the prescriber and the responsibility for the proper filling of a prescription for controlled substance drugs rests with the pharmacist. An order purporting to be a prescription issued to any individual, which is not in the regular course of professional treatment nor part of an authorized methadone maintenance program, nor in legitimate and authorized research instituted by any accredited hospital, educational institution, charitable foundation, or federal, state or local governmental agency, and which is intended to provide that individual with controlled substances sufficient to maintain that individual's or any other individual's physical or psychological addiction, habitual or customary use, dependence, or diversion of that controlled substance is not a prescription within the meaning and intent of this Act; and the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

(i) A prescriber shall not preprint or cause to be preprinted a prescription for any controlled substance; nor shall any practitioner issue, fill or cause to be issued or filled, a preprinted prescription for any

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controlled substance.

(j) No person shall manufacture, dispense, deliver, possess with intent to deliver, prescribe, or administer or cause to be administered under his direction any anabolic steroid, for any use in humans other than the treatment of disease in accordance with the order of a physician licensed to practice medicine in all its branches for a valid medical purpose in the course of professional practice. The use of anabolic steroids for the purpose of hormonal manipulation that is intended to increase muscle mass, strength or weight without a medical necessity to do so, or for the intended purpose of improving physical appearance or performance in any form of exercise, sport, or game, is not a valid medical purpose or in the course of professional practice. (Source: P.A. 94-694, eff. 1-15-06.); and

on page 14, by inserting after line 1 the following:

"Section 10. The Methamphetamine Precursor Control Act is amended by changing Sections 5, 10, 15, 20, 25, and 35 and by adding Section 60 as follows:

(720 ILCS 648/5)

Sec. 5. Purpose. The purpose of this Act is to reduce the harm that methamphetamine manufacturing and manufacturers are inflicting on individuals, families, communities, first responders, the economy, and the environment in Illinois, by making it more difficult for persons engaged in the unlawful manufacture of methamphetamine and related activities to obtain methamphetamine's essential ingredient, ephedrine or pseudoephedrine. It is the intent of the General Assembly that this Act operate in tandem with and be interpreted as consistent with federal laws and regulations relating to the subject matter of this Act to the greatest extent possible.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/10)

Sec. 10. Definitions. In this Act:

"Administer" or "administration" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Agent" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Convenience package" means any package that contains 360 milligrams or less of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers in liquid or liquid-filled capsule form.

"Deliver" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Dispense" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Distribute" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"List I chemical" has the meaning provided in 21 U.S.C. Section 802.

"Methamphetamine precursor" has the meaning provided in Section 10 of the Methamphetamine Control and Community Protection Act.

"Package" means an item packaged and marked for retail sale that is not designed to be further broken down or subdivided for the purpose of retail sale.

"Pharmacist" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Pharmacy" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Practitioner" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Prescriber" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Prescription" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

"Readily retrievable" has the meaning provided in 21 C.F.R. part 1300.

"Retail distributor" means a grocery store, general merchandise store, drug store, other merchandise store, or other entity or person whose activities as a distributor relating to drug products containing targeted methamphetamine precursor are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

"Sales employee" means any employee or agent, other than a pharmacist or pharmacy technician who works exclusively or almost exclusively behind a pharmacy counter, who at any time (a) operates a cash register at which targeted packages may be sold, (b) ~~works at or behind a pharmacy counter,~~ (c) stocks shelves containing targeted packages, or (c) ~~(d)~~ trains or supervises any other employee or agent who engages in any of the preceding activities.

"Single retail transaction" means a sale by a retail distributor to a specific customer at a specific time.

"Targeted methamphetamine precursor" means any compound, mixture, or preparation that contains any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical

isomers.

"Targeted package" means a package, including a convenience package, containing any amount of targeted methamphetamine precursor.

"Ultimate user" has the meaning provided in Section 102 of the Illinois Controlled Substances Act.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/15)

Sec. 15. Basic provisions.

(a) No targeted methamphetamine precursor shall be purchased, received, or otherwise acquired in any manner other than that described in Section 20 of this Act.

(b) No targeted methamphetamine precursor shall be knowingly administered, dispensed, or distributed for any purpose other than a medical purpose.

(c) No targeted methamphetamine precursor shall be knowingly administered, dispensed, or distributed for the purpose of violating or evading this Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

(d) No targeted methamphetamine precursor shall be administered, dispensed, or distributed with knowledge that it will be used to manufacture methamphetamine or with reckless disregard of its likely use to manufacture methamphetamine.

(e) No targeted methamphetamine precursor shall be administered, dispensed, or distributed except by:

- (1) a pharmacist pursuant to the valid order of a prescriber;
- (2) any other practitioner authorized to do so by the Illinois Controlled Substances Act;

- (3) a drug abuse treatment program, pursuant to subsection (d) of Section 313 of the Illinois Controlled Substances Act;

- (4) a pharmacy pursuant to Section 25 of this Act;

- (5) a retail distributor pursuant to Sections 30 and 35 of this Act; or

- (6) a distributor authorized by the Drug Enforcement Administration to distribute bulk

quantities of a list I chemical under the federal Controlled Substances Act and corresponding regulations, or the employee or agent of such a distributor acting in the normal course of business.

(f) Notwithstanding any provision of this Act to the contrary, it is lawful for persons to provide small quantities of targeted methamphetamine precursors to immediate family or household members for legitimate medical purposes, and it is lawful for persons to receive small quantities of targeted methamphetamine precursors from immediate family or household members for legitimate medical purposes.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/20)

Sec. 20. Restrictions on purchase, receipt, or acquisition.

(a) Except as provided in subsection (e) of this Section, any person 18 years of age or older wishing to purchase, receive, or otherwise acquire a targeted methamphetamine precursor shall, prior to taking possession of the targeted methamphetamine precursor:

- (1) provide a driver's license or other government-issued identification showing the person's name, date of birth, and photograph; and

- (2) sign a log documenting the name and address of the person, date and time of the transaction, and brand and product name and total quantity distributed of ephedrine or pseudoephedrine, their salts, or optical isomers, or salts of optical isomers.

(b) Except as provided in subsection (e) of this Section, no person shall knowingly purchase, receive, or otherwise acquire, within any 30-day period products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(c) Except as provided in subsections (d) and (e) of this Section, no person shall knowingly purchase, receive, or otherwise acquire more than 2 targeted packages in a single retail transaction.

(d) Except as provided in subsection (e) of this Section, no person shall knowingly purchase, receive, or otherwise acquire more than one convenience package from a retail location other than a pharmacy counter in a 24-hour period.

(e) This Section shall not apply to any person who purchases, receives, or otherwise acquires a targeted methamphetamine precursor for the purpose of dispensing, distributing, or administering it in a lawful manner described in subsection (e) of Section 15 of this Act.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/25)

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Sec. 25. Pharmacies.

(a) No targeted methamphetamine precursor may be knowingly distributed through a pharmacy, including a pharmacy located within, owned by, operated by, or associated with a retail distributor unless all terms of this Section are satisfied.

(b) Any targeted methamphetamine precursor other than a convenience package or a liquid, including but not limited to any targeted methamphetamine precursor in liquid-filled capsules, The targeted methamphetamine precursor shall: (1) be packaged in blister packs, with each blister containing not more than 2 dosage units, or when the use of blister packs is technically infeasible, in unit dose packets. Each targeted package shall ~~and (2)~~ contain no more than 3,000 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(c) The targeted methamphetamine precursor shall be stored behind the pharmacy counter and distributed by a pharmacist or pharmacy technician licensed under the Pharmacy Practice Act of 1987.

(d) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall ensure that any person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor complies with subsection (a) of Section 20 of this Act.

(e) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall verify that:

(1) The person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor is 18 years of age or older and resembles the photograph of the person on the government-issued identification presented by the person; and

(2) The name entered into the log referred to in subsection (a) of Section 20 of this Act corresponds to the name on the government-issued identification presented by the person.

(f) The logs referred to in subsection (a) of Section 20 of this Act shall be kept confidential, maintained for not less than 2 years, and made available for inspection and copying by any law enforcement officer upon request of that officer. These logs may be kept in an electronic format if they include all the information specified in subsection (a) of Section 20 of this Act in a manner that is readily retrievable and reproducible in hard-copy format.

(g) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute any targeted methamphetamine precursor to any person under 18 years of age.

~~(h) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person in any 24 hour period more than one convenience package.~~

~~(i) Except as provided in subsection (h) of this Section, no~~

~~(h) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person more than 2 targeted packages in a single retail transaction.~~

~~(i) (j) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person in any 30-day period products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.~~

(j) A pharmacist or pharmacy technician may distribute a targeted methamphetamine precursor to a person who is without a form of identification specified in paragraph (1) of subsection (a) of Section 20 of this Act only if all other provisions of this Act are followed and either:

(1) the person presents a driver's license issued without a photograph by the State of Illinois pursuant to the Illinois Administrative Code, Title 92, Section 1030.90(b)(1) or 1030.90(b)(2); or

(2) the person is known to the pharmacist or pharmacy technician, the person presents some form of identification, and the pharmacist or pharmacy technician reasonably believes that the targeted methamphetamine precursor will be used for a legitimate medical purpose and not to manufacture methamphetamine.

(k) When a pharmacist or pharmacy technician distributes a targeted methamphetamine precursor to a person according to the procedures set forth in this Act, and the pharmacist or pharmacy technician does not have access to a working cash register at the pharmacy counter, the pharmacist or pharmacy technician may instruct the person to pay for the targeted methamphetamine precursor at a cash register located elsewhere in the retail establishment, whether that register is operated by a pharmacist, pharmacy technician, or other employee or agent of the retail establishment.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/35)

Sec. 35. Retail distributors; training requirements.

(a) Every retail distributor of any targeted methamphetamine precursor shall train each sales employee on the topics listed on the certification form described in subsection (b) of this Section. This training

may be conducted by a live trainer or by means of a computer-based training program. This training shall be completed within 30 days of the effective date of this Act or within 30 days of the date that each sales employee begins working for the retail distributor, whichever of these 2 dates comes later.

(b) Immediately after training each sales employee as required in subsection (a) of this Section, every retail distributor of any targeted methamphetamine precursor shall have each sales employee read, sign, and date a certification containing the following language:

(1) My name is (insert name of employee) and I am an employee of (insert name of business) at (insert street address).

(2) I understand that in Illinois there are laws governing the sale of certain over-the-counter medications that contain a chemical called ephedrine or a second chemical called pseudoephedrine. Medications that are subject to these laws are called "targeted methamphetamine precursors".

(3) I understand that "targeted methamphetamine precursors" can be used to manufacture the illegal and dangerous drug methamphetamine and that methamphetamine is causing great harm to individuals, families, communities, the economy, and the environment throughout Illinois.

(4) I understand that under Illinois law, unless they are at a pharmacy counter, customers can only purchase small "convenience packages" of "targeted methamphetamine precursors".

(5) I understand that under Illinois law, customers can only purchase these "convenience packages" if they are 18 years of age or older, show identification, and sign a log according to procedures that have been described to me.

(6) I understand that under Illinois law, I cannot sell more than one "convenience package" to a single customer in one 24-hour period.

(7) I understand that under Illinois law, I cannot sell "targeted methamphetamine precursors" to a person if I know that the person is going to use them to make methamphetamine.

(8) I understand that there are a number of ingredients that are used to make the illegal drug methamphetamine, including "targeted methamphetamine precursors" sold in "convenience packages". My employer has shown me a list of these various ingredients, and I have reviewed the list.

(9) I understand that there are certain procedures that I should follow if I suspect that a store customer is purchasing "targeted methamphetamine precursors" or other products for the purpose of manufacturing methamphetamine. These procedures have been described to me, and I understand them.

(c) A certification form of the type described in subsection (b) of this Section may be signed with a handwritten signature or an electronic signature that includes a unique identifier for each employee. The certification shall be retained by the retail distributor for each sales employee for the duration of his or her employment and for at least 30 days following the end of his or her employment. Any such form shall be made available for inspection and copying by any law enforcement officer upon request of that officer. These records may be kept in electronic format if they include all the information specified in this Section in a manner that is readily retrievable and reproducible in hard-copy format.

(d) The Office of the Illinois Attorney General shall make available to retail distributors the list of methamphetamine ingredients referred to in subsection (b) of this Section.

(e) The training requirements set forth in this Section apply to the distribution of convenience packages away from pharmacy counters as set forth in Section 30 of this Act but do not apply to the distribution of targeted methamphetamine precursors through a pharmacy as set forth in Section 25 of this Act.

(Source: P.A. 94-694, eff. 1-15-06.)

(720 ILCS 648/60 new)

Sec. 60. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes."

Under the rules, the foregoing **Senate Bill No. 2391**, with House Amendment No. 1, was referred to the Secretary's Desk.

[April 5, 2006]

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2680

A bill for AN ACT concerning law enforcement.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2680

House Amendment No. 2 to SENATE BILL NO. 2680

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2680

AMENDMENT NO. 1. Amend Senate Bill 2680 on page 20, by replacing lines 19 through 35 with the following:

"(b-10) No person may use, in the title of any organization, magazine, or other publication, the words "officer", "peace officer", "police", "law enforcement", "trooper", "sheriff", "deputy", "deputy sheriff", or "state police" in combination with the name of any state, state agency, public university, or unit of local government without the express written authorization of that state, state agency, or unit of local government."

AMENDMENT NO. 2 TO SENATE BILL 2680

AMENDMENT NO. 2. Amend Senate Bill 2680 on page 8, by replacing lines 5 through 7 with the following:

"in the performance of their duties. Auxiliary ~~police officers~~ ~~policemen~~, when on duty, shall also be conservators of the peace and shall have the powers specified in Section 3.1-15-25."

Under the rules, the foregoing **Senate Bill No. 2680**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2469

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2469

House Amendment No. 2 to SENATE BILL NO. 2469

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2469

AMENDMENT NO. 1. Amend Senate Bill 2469 on page 11, by replacing lines 3 and 4 with the following:

"chief enforcement officer of this Act."

AMENDMENT NO. 2 TO SENATE BILL 2469

AMENDMENT NO. 2. Amend Senate Bill 2469 on page 18, immediately below line 33, by inserting the following:

"All licenses without "Therapeutic Certification" on March 31, 2006 shall be placed on non-renewed status and may only be renewed after the licensee meets those requirements established by the Department that may not be waived."; and

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on page 19, line 19, after "Department", by inserting "that may not be waived".

Under the rules, the foregoing **Senate Bill No. 2469**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2798

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2798

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2798

AMENDMENT NO. 1. Amend Senate Bill 2798 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 5-25012 as follows:

(55 ILCS 5/5-25012) (from Ch. 34, par. 5-25012)

Sec. 5-25012. Board of health. Except in those cases where a board of 10 or 12 members is provided for as authorized in this Section, each county health department shall be managed by a board of health consisting of 8 members appointed by the president or chairman of the county board, with the approval of the county board, for a 3 year term, except that of the first appointees 2 shall serve for one year, 2 for 2 years, 3 for 3 years and the term of the member appointed from the county board, as provided in this Section, shall be one year and shall continue until reappointment or until a successor is appointed. Each board of health which has 8 members, may have one additional member appointed by the president or chairman of the county board, with the approval of the county board. The additional member shall first be appointed within 90 days after the effective date of this amendatory Act for a term ending July 1, 2002.

The county health department in a county having a population of 200,000 or more may, if the county board, by resolution, so provides, be managed by a board of health consisting of 12 members appointed by the president or chairman of the county board, with the approval of the county board, for a 3 year term, except that of the first appointees 3 shall serve for one year, 4 for 2 years, 4 for 3 years and the term of the member appointed from the county board, as provided in this Section, shall be one year and shall continue until reappointment or until a successor is appointed. In counties with a population of 200,000 or more which have a board of health of 8 members, the county board may, by resolution, increase the size of the board of health to 12 members, in which case the 4 members added shall be appointed, as of the next anniversary of the present appointments, 2 for terms of 3 years, one for 2 years and one for one year.

The county board in counties with a population of more than 100,000 but less than 3,000,000 inhabitants and contiguous to any county with a metropolitan area with more than 1,000,000 inhabitants, may establish compensation for the board of health, as remuneration for their services as members of the board of health. Monthly compensation shall not exceed \$200 except in the case of the president of the board of health whose monthly compensation shall not exceed \$400.

When a county board of health consisting of 8 members assumes the responsibilities of a municipal department of public health, and both the county board and the city council adopt resolutions or ordinances to that effect, the county board may, by resolution or ordinance, increase the membership of the county board of health to 10 members. The additional 2 members shall initially be appointed by the mayor of the municipality, with the approval of the city council, each such member to serve for a term of 2 years; thereafter the successors shall be appointed by the president or chairman of the county board, with the approval of the county board, for terms of 2 years.

Each multiple-county health department shall be managed by a board of health consisting of 4 members appointed from each county by the president or chairman of the county board with the approval

[April 5, 2006]

of the county board for a 3 year term, except that of the first appointees from each county one shall serve for one year, one for 2 years, one for 3 years and the term of the member appointed from the county board of each member county, as hereinafter provided, shall be one year and shall continue until reappointment or until a successor is appointed.

The term of office of original appointees shall begin on July 1 following their appointment, and the term of all members shall continue until their successors are appointed. All members shall serve without compensation but may be reimbursed for actual necessary expenses incurred in the performance of their duties. At least 2 members of each county board of health shall be physicians licensed in Illinois to practice medicine in all of its branches and at least one member shall be a dentist licensed in Illinois. In counties with a population under 500,000, one member shall be chosen from the county board or the board of county commissioners as the case may be. In counties with a population over 500,000, two members shall be chosen from the county board or the board of county commissioners as the case may be. At least one member from each county on each multiple-county board of health shall be a physician licensed in Illinois to practice medicine in all of its branches, one member from each county on each multiple-county board of health shall be chosen from the county board or the board of county commissioners, as the case may be, and at least one member of the board of health shall be a dentist licensed in Illinois. Whenever possible, at least one member shall have experience in the field of mental health. All members shall be chosen for their special fitness for membership on the board.

Any member may be removed for misconduct or neglect of duty by the chairman or president of the county board, with the approval of the county board, of the county which appointed him.

Vacancies shall be filled as in the case of appointment for a full term.

Notwithstanding any other provision of this Act to the contrary, a county with a population of 240,000 or more inhabitants that does not currently have a county health department may, by resolution of the county board, establish a board of health consisting of the members of such board. Such board of health shall be advised by a committee which shall consist of at least 5 members appointed by the president or chairman of the county board with the approval of the county board for terms of 3 years; except that of the first appointees at least 2 shall serve for 3 years, at least 2 shall serve for 2 years and at least one shall serve for one year. At least one member of the advisory committee shall be a physician licensed in Illinois to practice medicine in all its branches, at least one shall be a dentist licensed in Illinois, and one shall be a nurse licensed in Illinois. All members shall be chosen for their special fitness for membership on the advisory committee.

All members of a board established under this Section must be residents of the county, except that a member who is required to be a physician, dentist, or nurse may reside outside the county if no physician, dentist, or nurse, as applicable, who resides in the county is willing and able to serve. (Source: P.A. 94-457, eff. 1-1-06.)"

Under the rules, the foregoing **Senate Bill No. 2798**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2898

A bill for AN ACT concerning schools.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2898

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2898

AMENDMENT NO. 1. Amend Senate Bill 2898 on page 1, line 9, by deleting "disposable single-use"; and

on page 1, line 11, by replacing "with a history" with "at risk".

[April 5, 2006]

Under the rules, the foregoing **Senate Bill No. 2898**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2931

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2931

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2931

AMENDMENT NO. 1. Amend Senate Bill 2931 as follows:

on page 1, line 26, after "sizes", by inserting "that choose to participate in the program".

Under the rules, the foregoing **Senate Bill No. 2931**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2962

A bill for AN ACT concerning driving privileges.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2962

Passed the House, as amended, April 4, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2962

AMENDMENT NO. 1. Amend Senate Bill 2962 on page 1, line 5, by replacing "6-201, and 6-206" with "and 6-201"; and

on page 7, by deleting lines 28 through 35; and

by deleting pages 8 through 16; and

on page 17, by deleting lines 1 through 17.

Under the rules, the foregoing **Senate Bill No. 2962**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4604

[April 5, 2006]

A bill for AN ACT concerning State government.
Passed the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 4604** was taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 838

A bill for AN ACT concerning local government.

SENATE BILL NO. 841

A bill for AN ACT concerning local government.

SENATE BILL NO. 2358

A bill for AN ACT concerning government.

SENATE BILL NO. 2448

A bill for AN ACT concerning aging.

SENATE BILL NO. 2613

A bill for AN ACT concerning criminal law.

Passed the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2255

A bill for AN ACT concerning local government.

SENATE BILL NO. 2899

A bill for AN ACT making revisory changes relating to the renaming of the Bureau of the Budget and the Department of Commerce and Community Affairs.

SENATE BILL NO. 2913

A bill for AN ACT concerning children.

SENATE BILL NO. 3011

A bill for AN ACT concerning public safety.

SENATE BILL NO. 3076

A bill for AN ACT concerning law enforcement.

Passed the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2774

A bill for AN ACT concerning regulation.

Passed the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

[April 5, 2006]

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
 HOUSE BILL 1620

A bill for AN ACT concerning safety.
 Which amendment is as follows:
 Senate Amendment No. 1 to HOUSE BILL NO. 1620
 Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
 HOUSE BILL 4135

A bill for AN ACT concerning regulation.
 Which amendment is as follows:
 Senate Amendment No. 1 to HOUSE BILL NO. 4135
 Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
 HOUSE BILL 4193

A bill for AN ACT concerning criminal law.
 Which amendment is as follows:
 Senate Amendment No. 1 to HOUSE BILL NO. 4193
 Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
 HOUSE BILL 4238

A bill for AN ACT concerning animals.
 Which amendment is as follows:
 Senate Amendment No. 2 to HOUSE BILL NO. 4238
 Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:
 HOUSE BILL 4449

A bill for AN ACT concerning consumer fraud.
 Which amendment is as follows:

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Senate Amendment No. 1 to HOUSE BILL NO. 4449
Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4727

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4727

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4853

A bill for AN ACT concerning health.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4853

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4987

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4987

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5259

A bill for AN ACT concerning organ donation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5259

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

[April 5, 2006]

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:
HOUSE BILL 5506

A bill for AN ACT concerning transportation.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5506

Senate Amendment No. 2 to HOUSE BILL NO. 5506

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:
HOUSE BILL 5555

A bill for AN ACT concerning regulation.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5555

Senate Amendment No. 2 to HOUSE BILL NO. 5555

Concurred in by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

LEGISLATIVE MEASURES FILED

The following Committee amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Committee Amendment No. 1 to Senate Resolution No. 692

The following Floor amendment to the Senate Joint Resolution listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to Senate Joint Resolution No. 82

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to Senate Bill 585

Senate Floor Amendment No. 1 to Senate Bill 627

Senate Floor Amendment No. 1 to Senate Bill 895

Senate Floor Amendment No. 3 to Senate Bill 929

Senate Floor Amendment No. 1 to Senate Bill 931

Senate Floor Amendment No. 2 to Senate Bill 1144

Senate Floor Amendment No. 1 to Senate Bill 1216

Senate Floor Amendment No. 5 to Senate Bill 2983

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 3 to House Bill 4342

Senate Floor Amendment No. 3 to House Bill 4357

Senate Floor Amendment No. 2 to House Bill 4715

Senate Floor Amendment No. 2 to House Bill 5524

[April 5, 2006]

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 702
 Motion to Concur in House Amendments 1 and 3 to Senate Bill 1705
 Motion to Concur in House Amendment 1 to Senate Bill 2159
 Motion to Concur in House Amendment 1 to Senate Bill 2272
 Motion to Concur in House Amendment 1 to Senate Bill 2290
 Motion to Concur in House Amendment 1 to Senate Bill 2391
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 2469
 Motion to Concur in House Amendment 1 to Senate Bill 2483
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 2680
 Motion to Concur in House Amendment 1 to Senate Bill 2798
 Motion to Concur in House Amendment 1 to Senate Bill 2898
 Motion to Concur in House Amendment 1 to Senate Bill 2931
 Motion to Concur in House Amendment 1 to Senate Bill 2962

READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 4604, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Rules.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its April 5, 2006 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Education: **Motion to Concur in House Amendment 1 to Senate Bill 2235, Motion to Concur in House Amendment 1 to Senate Bill 2336**

Environment & Energy: **Motion to Concur in House Amendments 1 and 3 to Senate Bill 1705**

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 2302**

Financial Institutions: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 385, Motion to Concur in House Amendment 1 to Senate Bill 2569**

Health & Human Services: **Motion to Concur in House Amendment 1 to Senate Bill 951, Motion to Concur in House Amendment 1 to Senate Bill 2195, Motion to Concur in House Amendment 1 to Senate Bill 2254, Motion to Concur in House Amendment 1 to Senate Bill 3010**

Housing & Community Affairs: **Motion to Concur in House Amendment 1 to Senate Bill 2290**

Judiciary: **Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 2137, Motion to Concur in House Amendment 1 to Senate Bill 2272, Motion to Concur in House Amendment 1 to Senate Bill 2391, Motion to Concur in House Amendments 1 and 2 to Senate Bill 2680, Motion to Concur in House Amendment 1 to Senate Bill 2873, Motion to Concur in House Amendment 1 to Senate Bill 2962**

Licensed Activities: **Motion to Concur in House Amendment 1 to Senate Bill 2732**

[April 5, 2006]

Local Government: **Motion to Concur in House Amendment 1 to Senate Bill 2360, Motion to Concur in House Amendment 1 to Senate Bill 2631, Motion to Concur in House Amendment 1 to Senate Bill 2798, Motion to Concur in House Amendment 1 to Senate Bill 2986, Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 3046**

Revenue: **Motion to Concur in House Amendment 1 to Senate Bill 702**

State Government: **Motion to Concur in House Amendment 1 to Senate Bill 2159, Motion to Concur in House Amendment 1 to Senate Bill 2356, Motion to Concur in House Amendment 1 to Senate Bill 2456, Motion to Concur in House Amendment 1 to Senate Bill 2931**

Transportation: **Motion to Concur in House Amendment 2 to Senate Bill 509, Motion to Concur in House Amendments 1 and 2 to Senate Bill 2650, Motion to Concur in House Amendment 1 to Senate Bill 2865, Motion to Concur in House Amendment 1 to Senate Bill 2878**

Senator Viverito, Chairperson of the Committee on Rules, during its April 5, 2006 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **Senate Floor Amendment No. 2 to Senate Bill 858; Senate Floor Amendment No. 1 to Senate Joint Resolution 82**

Environment & Energy: **Floor Amendment Nos. 2 and 3 to Senate Bill 929**

Executive: **Senate Floor Amendment No. 2 to House Bill 5524; Senate Floor Amendment No. 5 to Senate Bill 2983**

Higher Education: **Senate Floor Amendment No. 1 to House Bill 4339**

Judiciary: **Senate Floor Amendment No. 3 to House Bill 4357; Senate Floor Amendment No. 2 to House Bill 4715; Senate Floor Amendment No. 2 to Senate Bill 1144; Senate Floor Amendment No. 2 to Senate Bill 1145**

Revenue: **Senate Floor Amendment No. 2 to Senate Bill 711**

State Government: **Senate Committee Amendment No. 1 to Senate Resolution No. 692, Senate Committee Amendment No. 1 to Senate Resolution No. 700; Senate Committee Amendment No. 1 to Senate Joint Resolution No. 87, Senate Committee Amendment No. 1 to Senate Joint Resolution No. 88; Senate Committee Amendment No. 1 to House Joint Resolution No. 24**

Senator Viverito, Chairperson of the Committee on Rules, during its April 5, 2006 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committee of the Senate:

State Government: **Senate Resolutions Numbered 664, 701 and 707**

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **Senate Bills Numbered 585, 627, 895, 931 and 1216** on July 1, 2005, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **Senate Bills Numbered 585, 627, 895, 931 and 1216** were returned to the order of third reading.

[April 5, 2006]

COMMITTEE MEETING ANNOUNCEMENTS

Senator del Valle, Vice-Chairperson of the Committee on Education, announced that the Education Committee will meet today in Room 212, at 11:30 o'clock a.m.

Senator Crotty, Chairperson of the Committee on Local Government, announced that the Local Government Committee will meet today in Room A-1 Stratton Building, at 11:30 o'clock a.m.

Senator Shadid, Vice-Chairperson of the Committee on Transportation, announced that the Transportation Committee will meet today in Room 400, at 12:00 o'clock p.m.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, announced that the Environment & Energy Committee will meet today in Room 212, at 12:30 o'clock p.m.

Senator Maloney, Chairperson of the Committee on Higher Education, announced that the Higher Education Committee will meet today in Room 400, at 2:00 o'clock p.m.

Senator Collins, Chairperson of the Committee on Financial Institutions, announced that the Financial Institutions Committee will meet today in Room 400, at 2:30 o'clock p.m.

Senator Garrett, Chairperson of the Committee on State Government, announced that the State Government Committee will meet today in Room A-1 Stratton Building, at 1:00 o'clock p.m.

Senator Demuzio, Chairperson of the Committee on Licensed Activities, announced that the Licensed Activities Committee will meet today in Room A-1 Stratton Building, at 1:30 o'clock p.m.

Senator Harmon, Vice-Chairperson of the Committee on Judiciary, announced that the Judiciary Committee will meet today in Room 212, at 12:00 o'clock p.m.

Senator Harmon, Chairperson of the Committee on Revenue, announced that the Revenue Committee will meet today in Room 400, at 1:00 o'clock p.m.

Senator Ronen, Chairperson of the Committee on Health & Human Services, announced that the Health & Human Services Committee will meet today in Room 400, at 12:30 o'clock p.m.

Senator Silverstein, Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212, at 1:00 o'clock p.m.

Senator Martinez, Vice-Chairperson of the Committee on Housing & Community Affairs, announced that the Housing & Community Affairs Committee will meet today in Room A-1 Stratton Building, at 12:00 o'clock p.m.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its April 5, 2006 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **Senate Floor Amendment No. 1 to Senate Bill 585.**

Financial Institutions: **Senate Floor Amendment No. 1 to Senate Bill 895.**

Health & Human Services: **Senate Floor Amendment No. 1 to Senate Bill 627.**

Judiciary: **Senate Floor Amendment No. 1 to Senate Bill 1216**

Licensed Activities: **Senate Floor Amendment No. 1 to Senate Bill 931.**

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VOTE JOURNALIZED

Senator Syverson asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 1088**, which passed on April 4, 2006.

At the hour of 11:04 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 3:55 o'clock p.m., the Senate resumed consideration of business.
Honorable Emil Jones, Jr., President of the Senate, presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 3 to House Bill 4715

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 3 to Senate Bill 854

REPORTS FROM STANDING COMMITTEES

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **Senate Resolutions numbered 675, 686, 687, 688 and 689**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **Senate Resolutions numbered 675, 686, 687, 688 and 689** were placed on the Secretary's Desk.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **House Joint Resolutions numbered 76 and 98**, reported the same back with the recommendation that the resolutions be adopted.

Under the rules, **House Joint Resolutions numbered 76 and 98** were placed on the Secretary's Desk.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **Senate Resolutions numbered 692 and 700**, reported the same back with amendments having been adopted thereto, with the recommendation that the resolutions, as amended, be adopted.

Under the rules, **Senate Resolutions numbered 698 and 700** were placed on the Secretary's Desk.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **Senate Joint Resolution No. 87 and 88**, reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.

Under the rules, **Senate Joint Resolution No. 87 and 88** was placed on the Secretary's Desk.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **House Joint Resolution No. 24**, reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.

Under the rules, **House Joint Resolution No. 24** was placed on the Secretary's Desk.

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Senator Lightford, Chairperson of the Committee on Education, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 858
Senate Amendment No. 1 to Senate Joint Resolution 82

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Lightford, Chairperson of the Committee on Education, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2235; Motion to Concur in House Amendment 1 to Senate Bill 2336

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2360; Motion to Concur in House Amendment 1 to Senate Bill 2631; Motion to Concur in House Amendment 1 to Senate Bill 2798; Motion to Concur in House Amendment 1 to Senate Bill 2986; Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 3046

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Meeks, Chairperson of the Committee on Housing & Community Affairs, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2290

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Cullerton and Senator Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 3 to House Bill 4357
Senate Amendment No. 2 to House Bill 4715
Senate Amendment No. 2 to Senate Bill 1144
Senate Amendment No. 2 to Senate Bill 1145
Senate Amendment No. 1 to Senate Bill 1216

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Cullerton and Senator Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 2137; Motion to Concur in House Amendment 1 to Senate Bill 2272; Motion to Concur in House Amendment 1 to Senate Bill 2391; Motion to Concur in House Amendments 1 and 2 to Senate Bill 2680; Motion to Concur in House Amendment 1 to Senate Bill 2873; Motion to Concur in House Amendment 1 to Senate Bill 2962

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Munoz, Chairperson of the Committee on Transportation, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 2 to Senate Bill 509; Motion to Concur in House Amendments 1 and 2 to Senate Bill 2650; Motion to Concur in House Amendment 1 to Senate Bill 2865; Motion to Concur in House Amendment 1 to Senate Bill 2878

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendments numbered 2 and 3 to Senate Bill 929

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 3 to Senate Bill 1705

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Ronen, Chairperson of the Committee on Health & Human Services, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 627

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Ronen, Chairperson of the Committee on Health & Human Services, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 951; Motion to Concur in House Amendment 1 to Senate Bill 2195; Motion to Concur in House Amendment 1 to Senate Bill 2254; Motion to Concur in House Amendment 1 to Senate Bill 3010

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 585
Senate Amendment No. 5 to Senate Bill 2983

Senate Amendment No. 2 to House Bill 5524

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

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Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2302

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Harmon, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to Senate Bill 711

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Harmon, Chairperson of the Committee on Revenue, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 702

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2159; Motion to Concur in House Amendment 1 to Senate Bill 2356; Motion to Concur in House Amendment 1 to Senate Bill 2456; Motion to Concur in House Amendment 1 to Senate Bill 2931

Under the rules, the foregoing motions are eligible for consideration by the Senate.

Senator Demuzio, Chairperson of the Committee on Licensed Activities, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 931

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Demuzio, Chairperson of the Committee on Licensed Activities, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 2732

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Maloney, Chairperson of the Committee on Higher Education, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 4339

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Collins, Chairperson of the Committee on Financial Institutions, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 895

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Collins, Chairperson of the Committee on Financial Institutions, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 385; Motion to Concur in House Amendment 1 to Senate Bill 2569

Under the rules, the foregoing motions are eligible for consideration by the Senate.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2197

A bill for AN ACT concerning truant minors.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2197

Passed the House, as amended, April 5, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2197

AMENDMENT NO. 1. Amend Senate Bill 2197 on page 1, line 9, by replacing "fines for violators" with the following:

"a graduated fine schedule for repeat violations, which may not exceed \$100, or community service, or both, for violators 10 years of age or older"; and

on page 1, line 10, by replacing the period with the following:

"or through administrative hearings as determined by ordinance. If the violator is under 10 years of age, the parent or custodian of the violator is subject to the fine or community service, or both."; and

on page 1, line 12, by inserting after the period the following:

"A home rule unit may not regulate truants in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State."; and

on page 1, lines 18 and 19, by replacing "fines for violators" with the following:

"a graduated fine schedule for repeat violations, which may not exceed \$100, or community service, or both, for violators 10 years of age or older"; and

on page 1, line 19, by replacing the period with the following:

"or through administrative hearings as determined by ordinance. If the violator is under 10 years of age, the parent or custodian of the violator is subject to the fine or community service, or both."; and

on page 1, line 21, by inserting after the period the following:

"A home rule unit may not regulate truants in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on

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the concurrent exercise by home rule units of the powers and functions exercised by the State."; and

on page 1, by inserting immediately below line 21 the following:

"Section 11. The School Code is amended by changing Section 34-4.5 as follows:

(105 ILCS 5/34-4.5)

Sec. 34-4.5. Chronic truants.

(a) Office of Chronic Truant Adjudication. The board shall establish and implement an Office of Chronic Truant Adjudication, which shall be responsible for administratively adjudicating cases of chronic truancy and imposing appropriate sanctions. The board shall appoint or employ hearing officers to perform the adjudicatory functions of that Office. Principals and other appropriate personnel may refer pupils suspected of being chronic truants, as defined in Section 26-2a of this Code, to the Office of Chronic Truant Adjudication.

(b) Notices. Before any hearing may be held under subsection (c), the principal of the school attended by the pupil or the principal's designee shall notify the pupil's parent or guardian by personal visit, letter, or telephone of each unexcused absence of the pupil. After giving the parent or guardian notice of the tenth unexcused absence of the pupil, the principal or the principal's designee shall send the pupil's parent or guardian a letter, by certified mail, return receipt requested, notifying the parent or guardian that he or she is subjecting himself or herself to a hearing procedure as provided under subsection (c) and clearly describing any and all possible penalties that may be imposed as provided for in subsections (d) and (e) of this Section.

(c) Hearing. Once a pupil has been referred to the Office of Chronic Truant Adjudication, a hearing shall be scheduled before an appointed hearing officer, and the pupil and the pupil's parents or guardian shall be notified by certified mail, return receipt requested stating the time, place, and purpose of the hearing. The hearing officer shall hold a hearing and render a written decision within 14 days determining whether the pupil is a chronic truant as defined in Section 26-2a of this Code and whether the parent or guardian took reasonable steps to assure the pupil's attendance at school. The hearing shall be private unless a public hearing is requested by the pupil's parent or guardian, and the pupil may be present at the hearing with a representative in addition to the pupil's parent or guardian. The board shall present evidence of the pupil's truancy, and the pupil and the parent or guardian or representative of the pupil may cross examine witnesses, present witnesses and evidence, and present defenses to the charges. All testimony at the hearing shall be taken under oath administered by the hearing officer. The decision of the hearing officer shall constitute an "administrative decision" for purposes of judicial review under the Administrative Review Law.

(d) Penalties. The hearing officer may require the pupil or the pupil's parent or guardian or both the pupil and the pupil's parent or guardian to do any or all of the following: perform reasonable school or community services for a period not to exceed 30 days; complete a parenting education program; obtain counseling or other supportive services; and comply with an individualized educational plan or service plan as provided by appropriate school officials. If the parent or guardian of the chronic truant shows that he or she took reasonable steps to insure attendance of the pupil at school, he or she shall not be required to perform services.

(e) Non-compliance with sanctions. If a pupil determined by a hearing officer to be a chronic truant or the parent or guardian of the pupil fails to comply with the sanctions ordered by the hearing officer under subsection (c) of this Section, the Office of Chronic Truant Adjudication may refer the matter to the State's Attorney for prosecution under Section ~~3-33.5~~ ~~3-33~~ of the Juvenile Court Act of 1987.

(f) Limitation on applicability. Nothing in this Section shall be construed to apply to a parent or guardian of a pupil not required to attend a public school pursuant to Section 26-1.

(Source: P.A. 90-143, eff. 7-23-97; 90-566, eff. 1-2-98.)"; and

by replacing lines 23 through 28 on page 1, all of page 2, and lines 1 through 9 on page 3 with the following:

"changing Sections 3-1 and 3-15 and by adding Section 3-33.5 as follows:

(705 ILCS 405/3-1) (from Ch. 37, par. 803-1)

Sec. 3-1. Jurisdictional facts. Proceedings may be instituted under this Article concerning boys and girls who require authoritative intervention as defined in Section 3-3 or who are truant minors in need of supervision as defined in Section ~~3-33.5~~ ~~3-33~~.

(Source: P.A. 85-1235.)

(705 ILCS 405/3-15) (from Ch. 37, par. 803-15)

Sec. 3-15. Petition; supplemental petitions. (1) Any adult person, any agency or association by its

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representative may file, or the court on its own motion may direct the filing through the State's Attorney of a petition in respect to a minor under this Act. The petition and all subsequent court documents shall be entitled "In the interest of _____, a minor".

(2) The petition shall be verified but the statements may be made upon information and belief. It shall allege that the minor requires authoritative intervention and set forth (a) facts sufficient to bring the minor under Section 3-3 or ~~3-33.5 3-33~~; (b) the name, age and residence of the minor; (c) the names and residences of his parents; (d) the name and residence of his legal guardian or the person or persons having custody or control of the minor, or of the nearest known relative if no parent or guardian can be found; and (e) if the minor upon whose behalf the petition is brought is sheltered in custody, the date on which shelter care was ordered by the court or the date set for a shelter care hearing. If any of the facts herein required are not known by the petitioner, the petition shall so state.

(3) The petition must allege that it is in the best interests of the minor and of the public that he be adjudged a ward of the court and may pray generally for relief available under this Act. The petition need not specify any proposed disposition following adjudication of wardship.

(4) If appointment of a guardian of the person with power to consent to adoption of the minor under Section 3-30 is sought, the petition shall so state.

(5) At any time before dismissal of the petition or before final closing and discharge under Section 3-32, one or more supplemental petitions may be filed in respect to the same minor. (Source: P.A. 85-1209; 85-1235; 86-1440.); and

on page 3, by replacing lines 11 through 13 with the following:

"Sec. 3-33.5. Truant minors in need of supervision."; and

on page 3, line 15, by inserting after "schools" the following:

", or, in cities of over 500,000 inhabitants, by the Office of Chronic Truant Adjudication."; and

on page 3, line 19, by inserting after "schools" the following:

", the Office of Chronic Truant Adjudication."; and

on page 3, line 28, by inserting after "education" the following:

", the Office of Chronic Truant Adjudication."; and

on page 3, line 33, by deleting "or unwilling"; and

on page 4, line 2, by inserting after "schools" the following:

", the Office of Chronic Truant Adjudication."; and

on page 4, line 4, by inserting after "schools" the following:

", the Office of Chronic Truant Adjudication."; and

on page 4, line 10, by inserting after "schools" the following:

", the Office of Chronic Truant Adjudication."; and

on page 4, line 15, by inserting after "schools" the following:

", the Office of Chronic Truant Adjudication."; and

on page 4, line 33, by inserting after "schools" the following:

", or, in cities of over 500,000 inhabitants, by the Office of Chronic Truant Adjudication."; and

on page 4, line 34, by inserting after "schools" the following:

", or, in cities of over 500,000 inhabitants, the Office of Chronic Truant Adjudication."; and

on page 4, line 36, by inserting after "designee" the following:

", or, in cities of over 500,000 inhabitants, the general superintendent of schools or his or her designee."; and

on page 5, line 4, by inserting after "education" the following:

"or the Office of Chronic Truant Adjudication."; and

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on page 6, by inserting immediately below line 2 the following:

(705 ILCS 405/3-33 rep.)

"Section 20. The Juvenile Court Act of 1987 is amended by repealing Section 3-33."

Under the rules, the foregoing **Senate Bill No. 2197**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2204

A bill for AN ACT concerning health.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2204

Passed the House, as amended, April 5, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2204

AMENDMENT NO. 1. Amend Senate Bill 2204 on page 1, by replacing lines 28 through 30 with the following:

"Governor; one representative of an organization representing State, county, and municipal employees, appointed by the Governor; one representative of an organization representing public employees, appointed by the Governor; and 3"; and

on page 2, between lines 10 and 11, by inserting the following:

"(c) The Department of Human Services shall provide all necessary administrative support to the task force."

Under the rules, the foregoing **Senate Bill No. 2204**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2985

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2985

Passed the House, as amended, April 5, 2006.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2985

AMENDMENT NO. 1. Amend Senate Bill 2985 on page 9, line 24, by replacing "February" with "August February"; and

by replacing lines 28 through 35 on page 9 and lines 1 through 7 on page 10 with the following:

"(1) the extent of the backlog of cases awaiting testing or awaiting DNA analysis by that Department, including but not limited to those tests conducted under Section 5-4-3, as of ~~June 30 December 31~~ of the previous fiscal year, with the backlog being defined as all cases awaiting forensic testing whether in the physical custody of the State Police or in the physical custody of local law enforcement, provided that the State Police have written notice of any evidence in the physical

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custody of local law enforcement prior to June 1 of that year; and".

Under the rules, the foregoing **Senate Bill No. 2985**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 87

WHEREAS, According to a recent study by the Center for Labor Market Studies at Northeastern University in Boston, Massachusetts, there are 174,168 Illinois youth ages 16 to 24 years old and 98,908 youth ages 16 to 21 years old who have not graduated from high school and are out of school; and

WHEREAS, This study outlines that in Illinois, of the 174,168 youth who are out of school without a high school diploma, 50,877 are White, 74,645 are Hispanic, 42,294 are Black, and 6,352 are listed as other; and

WHEREAS, The vast majority of Chicago area and downstate Illinois youth who are out of school without a high school diploma come from lower income areas; and

WHEREAS, The vast majority of these youth who are out of school without a high school diploma see themselves as students who want to return to school and earn a high school diploma, but there are currently not enough options and opportunities for many of these re-enrolled students; and

WHEREAS, A comprehensive system is needed for all students - those in school and those who want to return to school, but the school experience that will help "out of school students" succeed when they re-enroll must be different; people learn in different ways, and smaller schools offer a more personal, flexible, and accountable curriculum that successfully re-enrolls, teaches, and graduates these out of school students; and

WHEREAS, Illinois employers are experiencing a shortage of skilled workers, and these "re-enrolled students" could provide the needed addition to the workforce needs of the Illinois economy and Illinois businesses; and

WHEREAS, Eighty percent of prison inmates are students who left school without a high school diploma and, as such, can pose a problem in terms of crime and public safety to the general public in their communities and neighborhoods; and

WHEREAS, Out-of-school students without a high school diploma earn \$516,000 less over their lifetimes than people who have a high school diploma and some college education; and

WHEREAS, The benefit to Illinois taxpayers is \$312,000 over the lifetime of a "re-enrolled student" who returns to school and earns a high school diploma in terms of that person paying more taxes on his or her increased earnings as well as the reduced social costs in terms of his or her utilizing welfare services, mental health services, and other dependency services, and being less likely to enter prison or incur other costs related to crime; and

WHEREAS, There is significant research and program experience to draw on and use to develop successful programs to re-enroll, teach, and graduate students who left school before earning a high school diploma; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there is

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created the "Task Force on Re-enrolling Students Who Dropped Out Of School" in order to examine and develop ways to address the growing issue of students who left school before earning a high school diploma; and be it further

RESOLVED, That the purpose of the Task Force is to examine policies, programs, and other issues related to developing a variety of successful approaches using best program practices to re-enroll, teach, and graduate students who left school before earning a high school diploma and, in doing so, improve community safety and the Illinois economy; and be it further

RESOLVED, That the Task Force shall be composed of the following members: 8 legislators (2 of whom shall be appointed by the President of the Senate, 2 of whom shall be appointed by the Speaker of the House, 2 of whom shall be appointed by the House Minority Leader, and 2 of whom shall be appointed by the Senate Minority Leader); 1 representative from the Governor's office appointed by the Governor; 1 representative of the State Board of Education appointed by the State Superintendent of Education; 1 representative of the Department of Human Services appointed by the Secretary of Human Services; 1 representative of the Department of Children and Family Services appointed by the Director of Children and Family Services; 1 representative of the Department of Commerce and Economic Opportunity appointed by the Director of Commerce and Economic Opportunity; 1 representative of the Illinois Community College Board appointed by the President of the Illinois Community College Board; 13 representatives from the public (4 of whom should come from schools/programs working with students who had left school before earning a high school diploma and 9 other appointees) appointed by the Governor, with one of these public representatives serving as chairperson of the Task Force; and be it further

RESOLVED, That the duties of the Task Force shall include conducting a series of public hearings throughout the State to discuss the impact of students who have left school without a high school diploma on various regions of the State, completing a review of data regarding students who have left school without a high school diploma that allows for a comparison of Illinois data both nationally and with other states in the region and across the country, completing a review of various financing and funding mechanisms used by other states, counties, cities, foundations, and other financial funding sources and producing a final report with recommendations to the Governor and the General Assembly on ways and means to address the challenge of re-enrolling students who have left school without a high school diploma; and be it further

RESOLVED, That the State Board of Education shall be responsible for facilitating the Task Force; and be it further

RESOLVED, That the Task Force shall issue an interim report of its findings to the Governor and the General Assembly no later than January 10, 2007; and be it further

RESOLVED, That the Task Force shall issue a final report by January 10, 2008, and upon filing this report, the Task Force is dissolved.

Adopted by the House, April 4, 2006.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 87 was referred to the Committee on Rules.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of bills of the following titles, to-wit:

SENATE BILL NO. 2869

A bill for AN ACT concerning criminal law.

SENATE BILL NO. 2870

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A bill for AN ACT concerning State government.
Passed the House, April 5, 2006.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 2197

SENATE BILL RECALLED

On motion of Senator Crotty, **Senate Bill No. 711** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 711

AMENDMENT NO. 1. Amend Senate Bill 711 by replacing everything after the enacting clause with the following:

"Section 5. The Service Use Tax Act is amended by changing Section 2 as follows:
(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

"Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.

"Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

"Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

- (1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.
- (2) a sale of tangible personal property for the purpose of resale made in compliance

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with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(4) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer, executed or in effect at the time of purchase of personal property, to interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by such interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors, or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignee of such property to a destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not

subject to sale or resale.

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

(8) for purposes of this definition, veterinary practices are engaged in a service occupation and are subject to this Act when they transfer tangible personal property in conjunction with providing professional veterinary services. Veterinary practices are acting as servicemen and not retailers when they transfer tangible personal property incident to these services. This includes:

(1) medicines, drugs, and other products having medicinal purposes that are directly applied or administered during a veterinary exam or procedure;

(2) medicines, drugs, and other products having medicinal purposes that are recommended or prescribed as a result of a veterinary exam; and

(3) medicines, drugs, and other products having medicinal purposes that are sold as a part of a continuing plan for the health and well being of an animal under the care of the veterinarian.

The criteria for determining as to whether a continuing plan for health and well being has been established between a veterinary practice and a customer is whether a valid Veterinarian-Client-Patient Relationship (VCPR) has been established in accordance with the Veterinary Medicine and Surgery Practice Act of 2004.

Veterinary practices must maintain appropriate information within their records to indicate that a particular sale or transfer of tangible personal property made in conjunction with providing veterinary services was a part of a valid VCPR between the veterinarian and the customer. A notation must be maintained that a particular product was prescribed or recommended as a result of an exam or after consultation with the client.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes

chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

1. having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

2. soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

3. pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

4. soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

5. being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

6. having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

7. pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or

8. engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.)

Section 10. The Service Occupation Tax Act is amended by changing Section 2 as follows:
(35 ILCS 115/2) (from Ch. 120, par. 439.102)

Sec. 2. "Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

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"Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of Service" means any transaction except:

(a) A retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(d) A sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1) A sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1.1) On and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(d-2) The repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-3) A sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard

uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-4) Until January 1, 1997, a sale, by a registered serviceman paying tax under this Act to the Department, of special order printed materials delivered outside Illinois and which are not returned to this State, if delivery is made by the seller or agent of the seller, including an agent who causes the product to be delivered outside Illinois by a common carrier or the U.S. postal service.

(d-5) For purposes of this definition, veterinary practices are engaged in a service occupation and are subject to this Act when they transfer tangible personal property in conjunction with providing professional veterinary services. Veterinary practices are acting as servicemen and not retailers when they transfer tangible personal property incident to these services. This includes:

(1) medicines, drugs, and other products having medicinal purposes that are directly applied or administered during a veterinary exam or procedure;

(2) medicines, drugs, and other products having medicinal purposes that are recommended or prescribed as a result of a veterinary exam; and

(3) medicines, drugs, and other products having medicinal purposes that are sold as a part of a continuing plan for the health and well being of an animal under the care of the veterinarian.

The criteria for determining as to whether a continuing plan for health and well being has been established between a veterinary practice and a customer is whether a valid Veterinarian-Client-Patient Relationship (VCPR) has been established in accordance with the Veterinary Medicine and Surgery Practice Act of 2004.

Veterinary practices must maintain appropriate information within their records to indicate that a particular sale or transfer of tangible personal property made in conjunction with providing veterinary services was a part of a valid VCPR between the veterinarian and the customer. A notation must be maintained that a particular product was prescribed or recommended as a result of an exam or after consultation with the client.

(e) A sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax.

(f) Until July 1, 2003, the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(g) At the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (e) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (e), each of these terms shall have the following meanings:

(1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually

constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (e) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (c) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at Retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 711

AMENDMENT NO. 2. Amend Senate Bill 711, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 3. The Service Use Tax Act is amended by changing Section 2 as follows:

(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to

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destinations outside the State of Illinois.

"Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.

"Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

"Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(4) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer, executed or in effect at the time of purchase of personal property, to interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by such interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors, or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in

furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

(8) for purposes of this definition, veterinary practices are engaged in a service occupation and are subject to this Act when they transfer tangible personal property in conjunction with providing professional veterinary services. Veterinary practices are acting as servicemen and not retailers when they transfer tangible personal property incident to these services. This includes:

(1) medicines, drugs, and other products having medicinal purposes that are directly applied or administered during a veterinary exam or procedure;

(2) medicines, drugs, and other products having medicinal purposes that are recommended or prescribed as a result of a veterinary exam; and

(3) medicines, drugs, and other products having medicinal purposes that are sold as a part of a continuing plan for the health and well being of an animal under the care of the veterinarian.

The criteria for determining as to whether a continuing plan for health and well being has been established between a veterinary practice and a customer is whether a valid Veterinarian-Client-Patient Relationship (VCPR) has been established in accordance with the Veterinary Medicine and Surgery Practice Act of 2004.

Veterinary practices must maintain appropriate information within their records to indicate that a particular sale or transfer of tangible personal property made in conjunction with providing veterinary services was a part of a valid VCPR between the veterinarian and the customer. A notation must be maintained that a particular product was prescribed or recommended as a result of an exam or after consultation with the client.

Tangible personal property transferred incident to the completion of a maintenance agreement is

[April 5, 2006]

exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

1. having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

2. soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

3. pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

4. soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

5. being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

6. having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

7. pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or

8. engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.); and

Section 5. The Service Occupation Tax Act is amended by changing Section 2 as follows:
(35 ILCS 115/2) (from Ch. 120, par. 439.102)

Sec. 2. "Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

"Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of Service" means any transaction except:

(a) A retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(d) A sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1) A sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a

telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1.1) On and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(d-2) The repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-3) A sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-4) Until January 1, 1997, a sale, by a registered serviceman paying tax under this Act to the Department, of special order printed materials delivered outside Illinois and which are not returned to this State, if delivery is made by the seller or agent of the seller, including an agent who causes the product to be delivered outside Illinois by a common carrier or the U.S. postal service.

(d-5) For purposes of this definition, veterinary practices are engaged in a service occupation and are subject to this Act when they transfer tangible personal property in conjunction with providing professional veterinary services. Veterinary practices are acting as servicemen and not retailers when they transfer tangible personal property incident to these services. This includes:

(1) medicines, drugs, and other products having medicinal purposes that are directly applied or administered during a veterinary exam or procedure;

(2) medicines, drugs, and other products having medicinal purposes that are recommended or prescribed as a result of a veterinary exam; and

(3) medicines, drugs, and other products having medicinal purposes that are sold as a part of a continuing plan for the health and well being of an animal under the care of the veterinarian.

The criteria for determining as to whether a continuing plan for health and well being has been established between a veterinary practice and a customer is whether a valid Veterinarian-Client-Patient Relationship (VCPR) has been established in accordance with the Veterinary Medicine and Surgery Practice Act of 2004.

Veterinary practices must maintain appropriate information within their records to indicate that a particular sale or transfer of tangible personal property made in conjunction with providing veterinary services was a part of a valid VCPR between the veterinarian and the customer. A notation must be maintained that a particular product was prescribed or recommended as a result of an exam or after consultation with the client.

(e) A sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax.

(f) Until July 1, 2003, the sale or transfer of distillation machinery and equipment, sold as a unit or kit

and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(g) At the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. For purposes of this Section, a serviceman is not required to register as a retailer under Section 2a of the Retailers' Occupation Tax Act if: (i) all of his or her sales activities constitute accommodation retail sales made to service customers; and (ii) these accommodation retail sales do not exceed 3% of the serviceman's annual revenues from sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (e) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (e), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (e) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information,

where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (c) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at Retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Crotty, **Senate Bill No. 711**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Forby, **Senate Bill No. 929** was recalled from the order of third reading to the order of second reading.

Senator Forby offered the following amendment and moved its adoption:

[April 5, 2006]

AMENDMENT NO. 1 TO SENATE BILL 929

AMENDMENT NO. 1. Amend Senate Bill 929 by replacing everything after the enacting clause with the following:

"Section 5. The Coal Mining Act is amended by changing Sections 11.01, 19.11, 22.18, and 38.3 and the heading of Article 29 and by adding Sections 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 10.08, 11.07, 11.08, 11.09, 11.10, 11.11, 13.16, 13.17, 13.18, 29.05, 29.06, 29.07, 38.4, and 38.5 as follows:

(225 ILCS 705/1.19 new)

Sec. 1.19. "Lifeline cord" means a fire-retardant, nylon line of at least one quarter inch thickness, with cone-shaped directional indicators incorporated into it, that is permanently installed in an escape way and gives a clear indication of the direction out of a mine.

(225 ILCS 705/1.20 new)

Sec. 1.20. "Self-contained self-rescue (SCSR) device" means a breathing apparatus approved by the Mine Safety and Health Administration of the U.S. Department of Labor and the Mining Board.

(225 ILCS 705/1.21 new)

Sec. 1.21. "Surface supervisor of an underground mine" means a certified supervisor at a mine whose duties do not include the extraction of coal, but do include other activities resulting in the preparation of coal, supervision of construction or demolition of mine buildings, earth moving, gob moving projects, or other surface projects involving the supervision of people and machinery.

(225 ILCS 705/1.22 new)

Sec. 1.22. "Tag-line" means a nylon line of at least one quarter inch thickness that has mechanical clips or other suitable connecting devices incorporated therein that are spaced between 3 feet and 5 feet apart that allow a group of persons underground to attach themselves together.

(225 ILCS 705/1.23 new)

Sec. 1.23. "Rescue chamber" means a chamber within a mine that is properly constructed to protect against potential hazards in case of an emergency and is properly equipped with first aid materials, an oxygen-generating device capable of providing a minimum of 48 hours of oxygen for at least 10 people, and proper accommodations for persons underground awaiting rescue, as determined by the Mining Board.

(225 ILCS 705/1.24 new)

Sec. 1.24. "Cache" means a storage facility within a mine that is properly constructed to store SCSR devices in case of an emergency for use by persons underground in emergency situations, as determined by the Mining Board.

(225 ILCS 705/10.08 new)

Sec. 10.08. Use of telecommunications center. In order to ensure a quick and efficient means of effectively disseminating duties and responsibilities to those agencies involved in mining emergency response, the Department shall use the telecommunications center maintained by the Illinois Emergency Management Agency to notify agents of the Department and other State, federal, and local agencies in the event of an emergency in or about any coal mine. The Illinois Emergency Management Agency, in conjunction with the Mining Board, shall establish procedures concerning the manner in which the Illinois Emergency Management Agency shall record pertinent information regarding a mining emergency, determine the urgency of a call, and forward information to the Department.

(225 ILCS 705/11.01) (from Ch. 96 1/2, par. 1101)

Sec. 11.01. Mine rescue stations. For the purpose of providing prompt and efficient means of fighting fires and of saving lives and property jeopardized by fires, explosions or other accidents in coal mines in Illinois, there shall be constructed, equipped and maintained at public expense ~~4~~ ~~four~~ mine rescue stations, certified by the Mine Safety and Health Administration of the U.S. Department of Labor, to serve the coal fields of the State. Notwithstanding any other law of this State, the primary responsibility for the control and maintenance of the mine rescue stations shall be vested with the Department. Each station shall be equipped with a mobile mine rescue unit. The Department may establish, equip and maintain three additional substations for preservation of health and safety if the conditions warrant. Temporary certification may be issued by the Mining Board for a maximum of 6 months after the effective date of this amendatory Act of the 94th General Assembly.

(Source: P.A. 87-895.)

(225 ILCS 705/11.07 new)

Sec. 11.07. Rescue teams. Rescue teams shall be based out of each mine rescue station to serve the Illinois coal industry as either a primary or secondary responder. Every operator in the State must provide employees to serve on a rescue team and must compensate these employees who are serving as rescue team members at their regular rate of pay.

[April 5, 2006]

(225 ILCS 705/11.08 new)

Sec. 11.08. Self-contained self-rescuer (SCSR) devices; caches; strobe lights; luminescent signs.

(a) An operator must require each person underground to carry a SCSR device on his or her person or, alternatively, a SCSR device must be kept within 25 feet of the person underground or may be kept more than 25 feet from the person underground if done according to a plan approved by the Mining Board.

(b) An operator must provide a minimum of 30 SCSR devices in each cache located within a mine. Caches must be located no more than 4,000 feet apart throughout a mine.

(c) An operator must submit for approval a plan addressing the requirements of subsection (b) of this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

(d) An operator must require luminescent direction signs leading to each cache and rescue chamber to be posted in a mine and a luminescent sign with the words "SELF-CONTAINED SELF-RESCUER" or "SELF-CONTAINED SELF-RESCUERS" must be conspicuously posted at each cache and rescue chamber.

(e) Intrinsically safe, battery-powered strobe lights must be affixed to each cache and rescue chamber and must be capable of automatic activation in the event of an emergency.

(f) The Mining Board shall adopt and impose all federal requirements concerning the testing and storage of the SCSR devices.

(g) Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any self-contained self-rescue device or battery-powered strobe light approved by the Department from a mine or mine site with the intent to permanently deprive the operator of the device or light or who knowingly tampers with or attempts to tamper with the device or light is guilty of a Class 4 felony.

(225 ILCS 705/11.09 new)

Sec. 11.09. Rescue chambers. Rescue chambers approved by the Mining Board must be provided and located no more than 3,000 feet apart throughout a mine.

An operator must submit a plan for approval concerning the construction and maintenance of rescue chambers required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

(225 ILCS 705/11.10 new)

Sec. 11.10. Materials for barricade. Each working section of a mine must have an emergency sled or wagon located no more than 1,000 feet from the working faces of the mine with the following materials and amounts in constant supply:

- (1) 8 timbers of suitable length or roof jacks of equal capability;
- (2) 200 linear feet of brattice cloth of adequate height to the coal seam;
- (3) 2 hand saws;
- (4) 20 1 x 6 brattice boards at least 12 feet long each;
- (5) 10 pounds of 10d nails;
- (6) 10 pounds of 16d nails;
- (7) 10 pounds of spads;
- (8) 25 cap boards;
- (9) 20 header boards;
- (10) 2 axes;
- (11) 2 claw hammers;
- (12) one sledge hammer;
- (13) one shovel;
- (14) 10 bags of wood fiber plaster or 5 bags of cement or the equivalent;
- (15) 4 sets of rubber gloves; and
- (16) 5 gallons of sealed, distilled drinking water.

(225 ILCS 705/11.11 new)

Sec. 11.11. Rulemaking. The Mining Board shall adopt all rules necessary for the administration of this Article.

(225 ILCS 705/13.16 new)

Sec. 13.16. Tag-lines. Tag-lines must be provided in every working section of a mine and on any vehicle capable of hauling 4 or more people within the mine.

(225 ILCS 705/13.17 new)

Sec. 13.17. Methane extraction prohibited. Methane extraction from sealed areas of active mines or abandoned mines that are attached to active working mines is prohibited.

(225 ILCS 705/13.18 new)

Sec. 13.18. Non-production related bore holes exempt. Non-production related bore holes that are drilled or operated by an operator and are intended for the safety or maintenance of a mine are exempt from this Act.

(225 ILCS 705/19.11) (from Ch. 96 1/2, par. 1911)

Sec. 19.11. Travelable passageways; obstructions; ventilation of escape ways. There shall be at least two travelable passageways, to be designated as escape ways, from each working section to the surface whether the mine openings are shafts, slopes, or drifts. At least one of these passageways must be equipped with a lifeline cord. Escape ways ~~They~~ shall be kept in safe condition for travel and reasonably free from standing water and other obstructions. One of the designated escape ways may be the haulage road. One of the escape ways shall be ventilated with intake air. At mines now operating with only one free passageway to the surface, immediate action shall be taken to provide a second passageway. The return air passageway to the surface must be marked with reflectors or other appropriate signage, as approved by the Department.

(Source: Laws 1953, p. 701.)

(225 ILCS 705/22.18) (from Ch. 96 1/2, par. 2218)

Sec. 22.18. Vehicle for transporting workforce and injured persons. A vehicle suitable for transporting all persons underground working on a unit and injured persons shall be maintained in ~~on~~ each underground working section ~~where workers are working for use in case of accident.~~

(Source: P.A. 79-460.)

(225 ILCS 705/Art. 29 heading)

ARTICLE 29. TELEPHONE AND WIRELESS COMMUNICATION SYSTEMS

(225 ILCS 705/29.05 new)

Sec. 29.05. Wireless emergency communication devices. A wireless emergency communication device approved by the Mining Board must be worn by each person underground. The operator shall provide these devices. The wireless emergency communication device must, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator must provide for the training of each underground employee in the use of the device and, annually, provide a refresher training course for all underground employees. The operator must install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

An operator must submit for approval a plan concerning the implementation of the wireless emergency communication devices required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any wireless emergency communication device or related equipment approved by the Mining Board from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or who knowingly tampers with or attempts to tamper with the device or equipment is guilty of a Class 4 felony.

(225 ILCS 705/29.06 new)

Sec. 29.06. Wireless tracking devices. A wireless tracking device approved by the Mining Board must be worn by each person underground. The operator shall provide these devices. The tracking device must be capable of providing real-time monitoring of the physical location of each person underground in the event of an accident or other emergency. No person may discharge or discriminate against any underground employee based on information gathered by a wireless tracking device during non-emergency monitoring. Each operator must provide for the training of each underground employee in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator must install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

An operator must submit for approval a plan concerning the implementation of the wireless tracking devices required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any wireless tracking device or related equipment approved by the Mining Board from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or who knowingly tampers with or attempts to tamper with the device or equipment is guilty of a Class 4 felony.

(225 ILCS 705/29.07 new)

Sec. 29.07. Communication and tracking systems technology. The Mining Board and the Department

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shall work in consultation with the mining industry to study communication and tracking systems technology in order to ensure that the communication and tracking capabilities necessary in the event of an emergency are employed.

(225 ILCS 705/38.3) (from Ch. 96 1/2, par. 3803)

Sec. 38.3. Surface mine supervisor Supervisors. On or after September 1, 1977, it shall be unlawful for any operator of a surface coal mine to employ, in a supervisory capacity listed below any person who does not hold a certificate of competency issued by the Mining Board.

Those persons assigned to supervise:

- (a) Overburden stripping
- (b) Drilling and shooting
- (c) The pit coal loading operation
- (d) Reclamation work at the mine.

Each applicant must have a minimum of 2 years of surface mining experience and pass an examination, administered by the Mining Board, based on Illinois State Mining Law as it pertains to his responsibilities. Temporary certification will be provided by the Mining Board for persons with at least 2 years surface mining experience up to the time of the next examination or up to a maximum of 6 months. (Source: P.A. 79-460; 79-1505.)

(225 ILCS 705/38.4 new)

Sec. 38.4. General surface supervisor of an underground mine. On or after July 1, 2006, it shall be unlawful for an operator of an underground coal mine surface facility or a coal preparation plant or a contractor engaged in the construction, demolition, or dismantling of an underground coal mine surface facility or a coal preparation plant to employ, in a supervisory capacity, any person who does not hold a certificate of competency issued by the Mining Board to oversee any of the following activities:

- (1) Coal preparation and storage.
- (2) Mine equipment storage and repair.
- (3) Mobile equipment operation.
- (4) Site construction, demolition, or dismantling operations.

Each applicant for a certificate as a general surface supervisor of an underground mine must have a minimum of 2 years of work experience at an underground coal mine surface facility or coal preparation plant. In addition to the work experience requirement set forth in this Section, a contractor engaged in the construction, demolition, or dismantling of surface structures must successfully complete an examination concerning the Department's health and safety regulations as these regulations pertain to the contractor's responsibilities, which shall be administered by the Mining Board. Temporary certification may be issued by the Mining Board for persons with at least 2 years of the required work experience and shall be valid until the time of the next examination or for a maximum of 6 months, whichever is shorter.

(225 ILCS 705/38.5 new)

Sec. 38.5. Independent contractor supervisor. On or after July 1, 2006, it shall be unlawful for an operator of an underground coal mine surface facility or a surface coal mine facility to employ an independent contractor who does not have an independent contractor supervisor certificate issued by the Mining Board to oversee and supervise the work for which the services of an independent contractor have been obtained, including, but not limited to, work in the area of construction, demolition, repair or maintenance, or major renovations of existing facilities or other heavy or extensive work planned for an extended period of time.

Each applicant for an independent contractor supervisor certificate must provide proof of at least 2 years of experience in independent contract work at surface mines or at the surface of underground mines and successfully complete an examination based on the mining laws of this State as these laws pertain to the applicant's responsibilities, which shall be administered by the Mining Board. Temporary certification may be issued by the Mining Board for persons with at least 2 years of the required work experience and shall be valid until the time of the next examination or for a maximum of 6 months, whichever is shorter.

Independent contractors employed to engage in routine maintenance work within a facility, including, but not limited to, plumbing repair, roof repair, and carpentry work, are not required to possess an independent contractor supervisor certificate to engage in such routine maintenance work within a facility.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

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Senator Forby offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 929

AMENDMENT NO. 2. Amend Senate Bill 929, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Coal Mining Act is amended by changing Sections 11.01, 19.11, 22.18, and 38.3 and the heading of Article 29 and by adding Sections 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 10.08, 11.07, 11.08, 11.09, 11.10, 11.11, 13.16, 13.17, 13.18, 29.05, 29.06, 29.07, 38.4, and 38.5 as follows:

(225 ILCS 705/1.19 new)

Sec. 1.19. "Lifeline cord" means a fire-retardant, nylon line of at least one quarter inch thickness, with cone-shaped directional indicators incorporated into it, that is permanently installed in an escape way and gives a clear indication of the direction out of a mine.

(225 ILCS 705/1.20 new)

Sec. 1.20. "Self-contained self-rescue (SCSR) device" means a breathing apparatus approved by the Mine Safety and Health Administration of the U.S. Department of Labor and the Mining Board.

(225 ILCS 705/1.21 new)

Sec. 1.21. "Surface supervisor of an underground mine" means a certified supervisor at a mine whose duties do not include the extraction of coal, but do include other activities resulting in the preparation of coal, supervision of construction or demolition of mine buildings, earth moving, gob moving projects, or other surface projects involving the supervision of people and machinery.

(225 ILCS 705/1.22 new)

Sec. 1.22. "Tag-line" means a nylon line of at least one quarter inch thickness that has mechanical clips or other suitable connecting devices incorporated therein that are spaced between 3 feet and 5 feet apart that allow a group of persons underground to attach themselves together.

(225 ILCS 705/1.23 new)

Sec. 1.23. "Rescue chamber" means a chamber within a mine that is properly constructed to protect against potential hazards in case of an emergency and is properly equipped with first aid materials, an oxygen-generating device capable of providing a minimum of 48 hours of oxygen for at least 10 people, and proper accommodations for persons underground awaiting rescue, as determined by the Mining Board.

(225 ILCS 705/1.24 new)

Sec. 1.24. "Cache" means a storage facility within a mine that is properly constructed to store SCSR devices in case of an emergency for use by persons underground in emergency situations, as determined by the Mining Board.

(225 ILCS 705/10.08 new)

Sec. 10.08. Use of telecommunications center. In order to ensure a quick and efficient means of effectively disseminating duties and responsibilities to those agencies involved in mining emergency response, the Department shall use the telecommunications center maintained by the Illinois Emergency Management Agency to notify agents of the Department and other State, federal, and local agencies in the event of an emergency in or about any coal mine. The Illinois Emergency Management Agency, in conjunction with the Mining Board, shall establish procedures concerning the manner in which the Illinois Emergency Management Agency shall record pertinent information regarding a mining emergency, determine the urgency of a call, and forward information to the Department.

(225 ILCS 705/11.01) (from Ch. 96 1/2, par. 1101)

Sec. 11.01. Mine rescue stations. For the purpose of providing prompt and efficient means of fighting fires and of saving lives and property jeopardized by fires, explosions or other accidents in coal mines in Illinois, there shall be constructed, equipped and maintained at public expense ~~4~~ ~~four~~ mine rescue stations, certified by the Mine Safety and Health Administration of the U.S. Department of Labor, to serve the coal fields of the State. Notwithstanding any other law of this State, the primary responsibility for the control and maintenance of the mine rescue stations shall be vested with the Department. Each station shall be equipped with a mobile mine rescue unit. The Department may establish, equip and maintain three additional substations for preservation of health and safety if the conditions warrant. Temporary certification may be issued by the Mining Board for a maximum of 6 months after the effective date of this amendatory Act of the 94th General Assembly.

(Source: P.A. 87-895.)

(225 ILCS 705/11.07 new)

Sec. 11.07. Rescue teams. Rescue teams shall be based out of each mine rescue station to serve the Illinois coal industry as either a primary or secondary responder. Every operator in the State must

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provide employees to serve on a rescue team and must compensate these employees who are serving as rescue team members at their regular rate of pay.

(225 ILCS 705/11.08 new)

Sec. 11.08. Self-contained self-rescuer (SCSR) devices; caches; strobe lights; luminescent signs.

(a) An operator must require each person underground to carry a SCSR device on his or her person or, alternatively, a SCSR device must be kept within 25 feet of the person underground or may be kept more than 25 feet from the person underground if done according to a plan approved by the Mining Board.

(b) An operator must provide for an adequate number of SCSR devices to be maintained in all rescue chambers and caches located throughout a mine.

(c) An operator must submit for approval a plan addressing the requirements of subsection (b) of this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

(d) An operator must require luminescent direction signs leading to each cache and rescue chamber to be posted in a mine and a luminescent sign with the words "SELF-CONTAINED SELF-RESCUER" or "SELF-CONTAINED SELF-RESCUERS" must be conspicuously posted at each cache and rescue chamber.

(e) Intrinsically safe, battery-powered strobe lights must be affixed to each cache and rescue chamber and must be capable of automatic activation in the event of an emergency.

(f) The Mining Board shall adopt and impose all federal requirements concerning the testing and storage of the SCSR devices.

(g) Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any self-contained self-rescue device or battery-powered strobe light approved by the Department from a mine or mine site with the intent to permanently deprive the operator of the device or light or who knowingly tampers with or attempts to tamper with the device or light is guilty of a Class 4 felony.

(225 ILCS 705/11.09 new)

Sec. 11.09. Rescue chambers. Rescue chambers approved by the Mining Board must be provided at suitable locations throughout a mine.

An operator must submit a plan for approval concerning the construction and maintenance of rescue chambers required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

(225 ILCS 705/11.10 new)

Sec. 11.10. Materials for barricade. Each working section of a mine must have an emergency sled or wagon located no more than 1,000 feet from the working faces of the mine with the following materials and amounts in constant supply:

- (1) 8 timbers of suitable length or roof jacks of equal capability;
- (2) 200 linear feet of brattice cloth of adequate height to the coal seam;
- (3) 2 hand saws;
- (4) 20 1 x 6 brattice boards at least 12 feet long each;
- (5) 10 pounds of 10d nails;
- (6) 10 pounds of 16d nails;
- (7) 10 pounds of spads;
- (8) 25 cap boards;
- (9) 20 header boards;
- (10) 2 axes;
- (11) 2 claw hammers;
- (12) one sledge hammer;
- (13) one shovel;
- (14) 10 bags of wood fiber plaster or 5 bags of cement or the equivalent;
- (15) 4 sets of rubber gloves; and
- (16) 5 gallons of sealed, distilled drinking water.

(225 ILCS 705/11.11 new)

Sec. 11.11. Rulemaking. The Mining Board shall adopt all rules necessary for the administration of this Article.

(225 ILCS 705/13.16 new)

Sec. 13.16. Tag-lines. Tag-lines must be provided in every working section of a mine and on any vehicle capable of hauling 4 or more people within the mine.

(225 ILCS 705/13.17 new)

Sec. 13.17. Methane extraction prohibited. Methane extraction from sealed areas of active mines or

abandoned mines that are attached to active working mines is prohibited.

(225 ILCS 705/13.18 new)

Sec. 13.18. Non-production related bore holes exempt. Non-production related bore holes that are drilled or operated by an operator and are intended for the safety or maintenance of a mine are exempt from this Act.

(225 ILCS 705/19.11) (from Ch. 96 1/2, par. 1911)

Sec. 19.11. Travelable passageways; obstructions; ventilation of escape ways. There shall be at least two travelable passageways, to be designated as escape ways, from each working section to the surface whether the mine openings are shafts, slopes, or drifts. At least one of these passageways must be equipped with a lifeline cord. Escape ways ~~They~~ shall be kept in safe condition for travel and reasonably free from standing water and other obstructions. One of the designated escape ways may be the haulage road. One of the escape ways shall be ventilated with intake air. At mines now operating with only one free passageway to the surface, immediate action shall be taken to provide a second passageway. The return air passageway to the surface must be marked with reflectors or other appropriate signage, as approved by the Department.

(Source: Laws 1953, p. 701.)

(225 ILCS 705/22.18) (from Ch. 96 1/2, par. 2218)

Sec. 22.18. Vehicle for transporting workforce and injured persons. A vehicle suitable for transporting all persons underground working on a unit and injured persons shall be maintained in ~~in~~ ~~on~~ each underground working section ~~where workers are working for use in case of accident.~~

(Source: P.A. 79-460.)

(225 ILCS 705/Art. 29 heading)

ARTICLE 29. TELEPHONE AND WIRELESS COMMUNICATION SYSTEMS

(225 ILCS 705/29.05 new)

Sec. 29.05. Wireless emergency communication devices. A wireless emergency communication device approved by the Mining Board must be worn by each person underground. The operator shall provide these devices. The wireless emergency communication device must, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator must provide for the training of each underground employee in the use of the device and, annually, provide a refresher training course for all underground employees. The operator must install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

An operator must submit for approval a plan concerning the implementation of the wireless emergency communication devices required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any wireless emergency communication device or related equipment approved by the Mining Board from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or who knowingly tampers with or attempts to tamper with the device or equipment is guilty of a Class 4 felony.

(225 ILCS 705/29.06 new)

Sec. 29.06. Wireless tracking devices. A wireless tracking device approved by the Mining Board must be worn by each person underground. The operator shall provide these devices. The tracking device must be capable of providing real-time monitoring of the physical location of each person underground in the event of an accident or other emergency. No person may discharge or discriminate against any underground employee based on information gathered by a wireless tracking device during non-emergency monitoring. Each operator must provide for the training of each underground employee in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator must install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

An operator must submit for approval a plan concerning the implementation of the wireless tracking devices required under this Section to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

Any person who, without the authorization of the operator or the Mining Board, knowingly removes or attempts to remove any wireless tracking device or related equipment approved by the Mining Board from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or who knowingly tampers with or attempts to tamper with the device or equipment is guilty of a Class 4 felony.

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(225 ILCS 705/29.07 new)

Sec. 29.07. Mine Technology Task Force; provision of rescue chambers and wireless devices.

(a) The Director shall establish a Mine Technology Task Force composed of representatives of the United Mine Workers of America (UMWA), coal operators, academia, and the communications industry. The task force shall review and make recommendations to the Mining Board regarding the best available mine safety technologies, including, but not limited to, rescue chambers, wireless communications equipment, and wireless tracking devices for use in underground mines. The task force shall submit its initial findings to the Mining Board within 3 months after the effective date of this amendatory Act of the 94th General Assembly.

(b) Rescue chambers, wireless emergency communications devices, and wireless tracking devices must be provided in each underground mine once this equipment is approved by the federal Mine Safety and Health Administration and is commercially available.

(225 ILCS 705/38.3) (from Ch. 96 1/2, par. 3803)

Sec. 38.3. Surface mine supervisor Supervisors. On or after September 1, 1977, it shall be unlawful for any operator of a surface coal mine to employ, in a supervisory capacity listed below any person who does not hold a certificate of competency issued by the Mining Board.

Those persons assigned to supervise:

- (a) Overburden stripping
- (b) Drilling and shooting
- (c) The pit coal loading operation
- (d) Reclamation work at the mine.

Each applicant must have a minimum of 2 years of surface mining experience and pass an examination, administered by the Mining Board, based on Illinois State Mining Law as it pertains to his responsibilities. Temporary certification will be provided by the Mining Board for persons with at least 2 years surface mining experience up to the time of the next examination or up to a maximum of 6 months. (Source: P.A. 79-460; 79-1505.)

(225 ILCS 705/38.4 new)

Sec. 38.4. General surface supervisor of an underground mine. On or after July 1, 2006, it shall be unlawful for an operator of an underground coal mine surface facility or a coal preparation plant or a contractor engaged in the construction, demolition, or dismantling of an underground coal mine surface facility or a coal preparation plant to employ, in a supervisory capacity, any person who does not hold a certificate of competency issued by the Mining Board to oversee any of the following activities:

- (1) Coal preparation and storage.
- (2) Mine equipment storage and repair.
- (3) Mobile equipment operation.
- (4) Site construction, demolition, or dismantling operations.

Each applicant for a certificate as a general surface supervisor of an underground mine must have a minimum of 2 years of work experience at a coal mine surface facility or coal preparation plant. In addition to the work experience requirement set forth in this Section, a contractor engaged in the construction, demolition, or dismantling of surface structures must successfully complete an examination concerning the Department's health and safety regulations as these regulations pertain to the contractor's responsibilities, which shall be administered by the Mining Board. Temporary certification may be issued by the Mining Board for persons with at least 2 years of the required work experience and shall be valid until the time of the next examination or for a maximum of 6 months, whichever is shorter.

(225 ILCS 705/38.5 new)

Sec. 38.5. Independent contractor supervisor. On or after July 1, 2006, it shall be unlawful for an operator of an underground coal mine surface facility or a surface coal mine facility to employ an independent contractor who does not have an independent contractor supervisor certificate issued by the Mining Board to oversee and supervise the work for which the services of an independent contractor have been obtained, including, but not limited to, work in the area of construction, demolition, repair or maintenance, or major renovations of existing facilities or other heavy or extensive work planned for an extended period of time.

Each applicant for an independent contractor supervisor certificate must provide proof of at least 2 years of experience in independent contract work at surface mines or at the surface of underground mines and successfully complete an examination based on the mining laws of this State as these laws pertain to the applicant's responsibilities, which shall be administered by the Mining Board. Temporary certification may be issued by the Mining Board for persons with at least 2 years of the required work experience and shall be valid until the time of the next examination or for a maximum of 6 months, whichever is shorter.

Independent contractors employed to engage in routine maintenance work within a facility, including, but not limited to, plumbing repair, roof repair, and carpentry work, are not required to possess an independent contractor supervisor certificate to engage in such routine maintenance work within a facility.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Forby offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 929

AMENDMENT NO. 3. Amend Senate Bill 929, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 on page 9, line 19, after the period, by inserting the following: "Each group shall submit the name of its representative to the Director."; and

on page 9, by replacing lines 29 through 31 with the following:

"underground mine within 90 days after the equipment is approved by the federal Mine Safety and Health Administration. To the extent that any of these devices have already been approved by the federal Mine Safety and Health Administration, the operator shall provide the equipment in each underground mine within 90 days after the effective date of this amendatory Act of the 94th General Assembly."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1, 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Forby, **Senate Bill No. 929**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

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SENATE BILL RECALLED

On motion of Senator Halvorson, **Senate Bill No. 1143** was recalled from the order of third reading to the order of second reading.

Senator Halvorson offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1143

AMENDMENT NO. 1. Amend Senate Bill 1143 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 6-103, 6-208, 6-514, and 11-501 and by adding Section 11-501.9 as follows:

(625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

Sec. 6-103. What persons shall not be licensed as drivers or granted permits. The Secretary of State shall not issue, renew, or allow the retention of any driver's license nor issue any permit under this Code:

1. To any person, as a driver, who is under the age of 18 years except as provided in

Section 6-107, and except that an instruction permit may be issued under Section 6-107.1 to a child who is not less than 15 years of age if the child is enrolled in an approved driver education course as defined in Section 1-103 of this Code and requires an instruction permit to participate therein, except that an instruction permit may be issued under the provisions of Section 6-107.1 to a child who is 17 years and 9 months of age without the child having enrolled in an approved driver education course and except that an instruction permit may be issued to a child who is at least 15 years and 6 months of age, is enrolled in school, meets the educational requirements of the Driver Education Act, and has passed examinations the Secretary of State in his or her discretion may prescribe;

2. To any person who is under the age of 18 as an operator of a motorcycle other than a motor driven cycle unless the person has, in addition to meeting the provisions of Section 6-107 of this Code, successfully completed a motorcycle training course approved by the Illinois Department of Transportation and successfully completes the required Secretary of State's motorcycle driver's examination;

3. To any person, as a driver, whose driver's license or permit has been suspended, during the suspension, nor to any person whose driver's license or permit has been revoked, except as provided in Sections 6-205, 6-206, and 6-208;

4. To any person, as a driver, who is a user of alcohol or any other drug to a degree that renders the person incapable of safely driving a motor vehicle;

5. To any person, as a driver, who has previously been adjudged to be afflicted with or suffering from any mental or physical disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

6. To any person, as a driver, who is required by the Secretary of State to submit an alcohol and drug evaluation or take an examination provided for in this Code unless the person has successfully passed the examination and submitted any required evaluation;

7. To any person who is required under the provisions of the laws of this State to deposit security or proof of financial responsibility and who has not deposited the security or proof;

8. To any person when the Secretary of State has good cause to believe that the person by reason of physical or mental disability would not be able to safely operate a motor vehicle upon the highways, unless the person shall furnish to the Secretary of State a verified written statement, acceptable to the Secretary of State, from a competent medical specialist to the effect that the operation of a motor vehicle by the person would not be inimical to the public safety;

9. To any person, as a driver, who is 69 years of age or older, unless the person has successfully complied with the provisions of Section 6-109;

10. To any person convicted, within 12 months of application for a license, of any of the sexual offenses enumerated in paragraph 2 of subsection (b) of Section 6-205;

11. To any person who is under the age of 21 years with a classification prohibited in paragraph (b) of Section 6-104 and to any person who is under the age of 18 years with a classification prohibited in paragraph (c) of Section 6-104;

12. To any person who has been either convicted of or adjudicated under the Juvenile Court Act of 1987 based upon a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act while that person

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was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. The Secretary of State shall not issue a new license or permit for a period of one year;

13. To any person who is under the age of 18 years and who has committed the offense of operating a motor vehicle without a valid license or permit in violation of Section 6-101;

14. To any person who is 90 days or more delinquent in court ordered child support payments or has been adjudicated in arrears in an amount equal to 90 days' obligation or more and who has been found in contempt of court for failure to pay the support, subject to the requirements and procedures of Article VII of Chapter 7 of the Illinois Vehicle Code;

15. To any person released from a term of imprisonment for violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide or for violating ~~Section 11-501.9 subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501~~ of this Code relating to ~~homicide while aggravated~~ driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, within 24 months of release from a term of imprisonment;

16. To any person who, with intent to influence any act related to the issuance of any driver's license or permit, by an employee of the Secretary of State's Office, or the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer all or part of a driver's license examination, promises or tenders to that person any property or personal advantage which that person is not authorized by law to accept. Any persons promising or tendering such property or personal advantage shall be disqualified from holding any class of driver's license or permit for 120 consecutive days. The Secretary of State shall establish by rule the procedures for implementing this period of disqualification and the procedures by which persons so disqualified may obtain administrative review of the decision to disqualify; or

17. To any person for whom the Secretary of State cannot verify the accuracy of any information or documentation submitted in application for a driver's license.

The Secretary of State shall retain all conviction information, if the information is required to be held confidential under the Juvenile Court Act of 1987.

(Source: P.A. 93-174, eff. 1-1-04; 93-712, eff. 1-1-05; 93-783, eff. 1-1-05; 93-788, eff. 1-1-05; 93-895, eff. 1-1-05; 94-556, eff. 9-11-05.)

(625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

Sec. 6-208. Period of Suspension - Application After Revocation.

(a) Except as otherwise provided by this Code or any other law of this State, the Secretary of State shall not suspend a driver's license, permit or privilege to drive a motor vehicle on the highways for a period of more than one year.

(b) Any person whose license, permit or privilege to drive a motor vehicle on the highways has been revoked shall not be entitled to have such license, permit or privilege renewed or restored. However, such person may, except as provided under subsection (d) of Section 6-205, make application for a license pursuant to Section 6-106 (i) if the revocation was for a cause which has been removed or (ii) as provided in the following subparagraphs:

1. Except as provided in subparagraphs 2, 3, and 4, the person may make application for a license after the expiration of one year from the effective date of the revocation or, in the case of a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance, after the expiration of 3 years from the effective date of the revocation or, in the case of a violation of Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to the offense of reckless homicide or a violation of ~~Section 11-501.9 subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501~~ of this Code relating to ~~homicide while aggravated~~ driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, after the expiration of 2 years from the effective date of the revocation or after the expiration of 24 months from the date of release from a period of imprisonment as provided in Section 6-103 of this Code, whichever is later.

2. If such person is convicted of committing a second violation within a 20 year period of:

- (A) Section 11-501 of this Code, or a similar provision of a local ordinance; or
- (B) Paragraph (b) of Section 11-401 of this Code, or a similar provision of a local ordinance; or
- (C) Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide; or

(D) any combination of the above offenses committed at different instances; then such person may not make application for a license until after the expiration of 5 years from the effective date of the most recent revocation. The 20 year period shall be computed by using the dates the offenses were committed and shall also include similar out-of-state offenses.

3. However, except as provided in subparagraph 4, if such person is convicted of committing a third, or subsequent, violation or any combination of the above offenses, including similar out-of-state offenses, contained in subparagraph 2, then such person may not make application for a license until after the expiration of 10 years from the effective date of the most recent revocation.

4. The person may not make application for a license if the person is convicted of committing a fourth or subsequent violation of Section 11-501 of this Code or a similar provision of a local ordinance, Section 11-401 of this Code, Section 9-3 of the Criminal Code of 1961, or a combination of these offenses or similar provisions of local ordinances or similar out-of-state offenses.

Notwithstanding any other provision of this Code, all persons referred to in this paragraph (b) may not have their privileges restored until the Secretary receives payment of the required reinstatement fee pursuant to subsection (b) of Section 6-118.

In no event shall the Secretary issue such license unless and until such person has had a hearing pursuant to this Code and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.

(c) (Blank).

(Source: P.A. 92-343, eff. 1-1-02; 92-418, eff. 8-17-01; 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-712, eff. 1-1-05; 93-788, eff. 1-1-05; revised 10-14-04.)

(625 ILCS 5/6-514) (from Ch. 95 1/2, par. 6-514)

Sec. 6-514. Commercial Driver's License (CDL) - Disqualifications.

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of not less than 12 months for the first violation of:

(1) Refusing to submit to or failure to complete a test or tests to determine the driver's blood concentration of alcohol, other drug, or both, while driving a commercial motor vehicle or, if the driver is a CDL holder, while driving a non-CMV; or

(2) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or urine is at least 0.04, or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act or a controlled substance listed in the Illinois Controlled Substances Act as indicated by a police officer's sworn report or other verified evidence; or

(3) Conviction for a first violation of:

(i) Driving a commercial motor vehicle or, if the driver is a CDL holder, driving a non-CMV while under the influence of alcohol, or any other drug, or combination of drugs to a degree which renders such person incapable of safely driving; or

(ii) Knowingly and wilfully leaving the scene of an accident while operating a commercial motor vehicle or, if the driver is a CDL holder, while driving a non-CMV; or

(iii) Driving a commercial motor vehicle or, if the driver is a CDL holder, driving a non-CMV while committing any felony; or

(iv) Driving a commercial motor vehicle if, as a result of prior violations committed while operating a commercial motor vehicle, the driver's CDL is revoked, suspended, or cancelled or the driver is disqualified from operating a commercial motor vehicle; or

(v) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of reckless driving under Section 9-3 of the Criminal Code of 1961 and ~~homicide while aggravated~~ driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof under Section 11-501.9 subdivision (d)(1)(F) of Section 11-501 of this Code.

If any of the above violations or refusals occurred while transporting hazardous material(s) required to be placarded, the person shall be disqualified for a period of not less than 3 years.

(b) A person is disqualified for life for a second conviction of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from 2 or more separate incidents.

(c) A person is disqualified from driving a commercial motor vehicle for life if the person either (i) uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance or (ii) if the person is a CDL holder, uses a non-CMV in the commission of a felony involving any of those activities.

(d) The Secretary of State may, when the United States Secretary of Transportation so authorizes, issue regulations in which a disqualification for life under paragraph (b) may be reduced to a period of not less than 10 years. If a reinstated driver is subsequently convicted of another disqualifying offense, as specified in subsection (a) of this Section, he or she shall be permanently disqualified for life and shall be ineligible to again apply for a reduction of the lifetime disqualification.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than 2 months if convicted of 2 serious traffic violations, committed in a commercial motor vehicle, arising from separate incidents, occurring within a 3 year period. However, a person will be disqualified from driving a commercial motor vehicle for a period of not less than 4 months if convicted of 3 serious traffic violations, committed in a commercial motor vehicle, arising from separate incidents, occurring within a 3 year period.

(e-1) A person is disqualified from driving a commercial motor vehicle for a period of not less than 2 months if convicted of 2 serious traffic violations committed in a non-CMV while holding a CDL, arising from separate incidents, occurring within a 3 year period, if the convictions would result in the suspension or revocation of the CDL holder's non-CMV privileges. A person shall be disqualified from driving a commercial motor vehicle for a period of not less than 4 months, however, if he or she is convicted of 3 or more serious traffic violations committed in a non-CMV while holding a CDL, arising from separate incidents, occurring within a 3 year period, if the convictions would result in the suspension or revocation of the CDL holder's non-CMV privileges.

(f) Notwithstanding any other provision of this Code, any driver disqualified from operating a commercial motor vehicle, pursuant to this UCCLA, shall not be eligible for restoration of commercial driving privileges during any such period of disqualification.

(g) After suspending, revoking, or cancelling a commercial driver's license, the Secretary of State must update the driver's records to reflect such action within 10 days. After suspending or revoking the driving privilege of any person who has been issued a CDL or commercial driver instruction permit from another jurisdiction, the Secretary shall originate notification to such issuing jurisdiction within 10 days.

(h) The "disqualifications" referred to in this Section shall not be imposed upon any commercial motor vehicle driver, by the Secretary of State, unless the prohibited action(s) occurred after March 31, 1992.

(i) A person is disqualified from driving a commercial motor vehicle in accordance with the following:

- (1) For 6 months upon a first conviction of paragraph (2) of subsection (b) of Section 6-507 of this Code.
- (2) For one year upon a second conviction of paragraph (2) of subsection (b) of Section 6-507 of this Code within a 10-year period.
- (3) For 3 years upon a third or subsequent conviction of paragraph (2) of subsection (b) of Section 6-507 of this Code within a 10-year period.
- (4) For one year upon a first conviction of paragraph (3) of subsection (b) of Section 6-507 of this Code.
- (5) For 3 years upon a second conviction of paragraph (3) of subsection (b) of Section 6-507 of this Code within a 10-year period.
- (6) For 5 years upon a third or subsequent conviction of paragraph (3) of subsection (b) of Section 6-507 of this Code within a 10-year period.

(j) Disqualification for railroad-highway grade crossing violation.

(1) General rule. A driver who is convicted of a violation of a federal, State, or local law or regulation pertaining to one of the following 6 offenses at a railroad-highway grade crossing must be disqualified from operating a commercial motor vehicle for the period of time specified in paragraph (2) of this subsection (j) if the offense was committed while operating a commercial motor vehicle:

- (i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train, as described in subsection (a-5) of Section 11-1201 of this Code;
- (ii) For drivers who are not required to always stop, failing to stop before

reaching the crossing, if the tracks are not clear, as described in subsection (a) of Section 11-1201 of this Code;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing, as described in Section 11-1202 of this Code;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping, as described in subsection (b) of Section 11-1425 of this Code;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing, as described in subdivision (a)2 of Section 11-1201 of this Code;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance, as described in subsection (d-1) of Section 11-1201 of this Code.

(2) Duration of disqualification for railroad-highway grade crossing violation.

(i) First violation. A driver must be disqualified from operating a commercial motor vehicle for not less than 60 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had no convictions for a violation described in paragraph (1) of this subsection (j).

(ii) Second violation. A driver must be disqualified from operating a commercial motor vehicle for not less than 120 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had one other conviction for a violation described in paragraph (1) of this subsection (j) that was committed in a separate incident.

(iii) Third or subsequent violation. A driver must be disqualified from operating a commercial motor vehicle for not less than one year if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had 2 or more other convictions for violations described in paragraph (1) of this subsection (j) that were committed in separate incidents.

(k) Upon notification of a disqualification of a driver's commercial motor vehicle privileges imposed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, in accordance with 49 C.F.R. 383.52, the Secretary of State shall immediately record to the driving record the notice of disqualification and confirm to the driver the action that has been taken.

(Source: P.A. 94-307, eff. 9-30-05.)

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

(Text of Section from P.A. 93-1093)

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

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

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

(2) under the influence of alcohol;

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

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

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

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

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

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5)(1) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(1) is not subject to suspension, nor is the person eligible for a reduced sentence.

(2) Except as provided in subdivisions (c-5)(3) and (c-5)(4) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subdivision (c-5)(2) is not subject to suspension, nor is the person eligible for a reduced sentence.

(3) Except as provided in subdivision (c-5)(4), any person convicted of violating subdivision (c-5)(2) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12

days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subdivision (c-5)(3) is not subject to suspension, nor is the person eligible for a reduced sentence.

(4) Any person convicted of violating subdivision (c-5)(2) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subdivision (c-5)(4) is not subject to suspension, nor is the person eligible for a reduced sentence.

(5) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(6) Any person convicted of violating subdivision (c-5)(5) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subdivision (c-5)(6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(7) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-6)(1) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(2) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(3) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(4) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(d) (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or

compounds, or any combination thereof if:

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1); or

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

~~(F) (Blank), the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.~~

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

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

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

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

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

(h) (Blank).

(i) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by

an individual who has been convicted of a second or subsequent offense of this Section or a similar provision of a local ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system.

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 93-1093, eff. 3-29-05.)

(Text of Section from P.A. 94-110)

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

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

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

(2) under the influence of alcohol;

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

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

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

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

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

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) Except as provided in subsection (c-5.1), a person 21 years of age or older who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is

subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-5.1) A person 21 years of age or older who is convicted of violating subsection (a) of this Section a first time and who in committing that violation was involved in a motor vehicle accident that resulted in bodily harm to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury, is guilty of a Class 4 felony and is subject to one year of imprisonment, a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children. The imprisonment or assignment to community service under this subsection (c-5.1) shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-6) Except as provided in subsections (c-7) and (c-7.1), a person 21 years of age or older who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-7.1), any person 21 years of age or older convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and, in addition to any other penalty imposed, is subject to one year of imprisonment, 25 days of mandatory community service in a program benefiting children, and a mandatory fine of \$2,500. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7.1) A person 21 years of age or older who is convicted of violating subsection (a) of this Section a second time within 10 years and who in committing that violation was involved in a motor vehicle accident that resulted in bodily harm to the child under the age of 16 being transported, if the violation was the proximate cause of the injury, is guilty of a Class 4 felony and is subject to 18 months of imprisonment, a mandatory fine of \$5,000, and 25 days of community service in a program benefiting children. The imprisonment or assignment to community service under this subsection (c-7.1) shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(c-8) (Blank).

(c-9) Any person 21 years of age or older convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and is subject to 18 months of imprisonment, a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person 21 years of age or older convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 3 felony and, in addition to any other penalty imposed, is subject to 3 years of imprisonment, 25 days of community service in a program benefiting children, and a mandatory fine of \$25,000. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person 21 years of age or older convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$25,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the

second violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

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

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1); or

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

(F) ~~(Blank). the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.~~

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

(e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense

based upon an arrest for a violation of this Section or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

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

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

(h) (Blank).

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

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public

agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 94-110, eff. 1-1-06.)

(Text of Section from P.A. 94-113 and 94-609)

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

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

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

(2) under the influence of alcohol;

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

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

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

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

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

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section

11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this

subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

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

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1); or

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

(F) ~~(Blank). the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.~~

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving

under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

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

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

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

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

(h) (Blank).

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

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 94-113, eff. 1-1-06; 94-609, eff. 1-1-06.)

(Text of Section from P.A. 94-114)

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

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

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

(2) under the influence of alcohol;

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

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

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

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a

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mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

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

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or fifth time, if the fourth or fifth violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty

imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth or fifth time for violating subsection (a) or a similar provision, if at the time of the fourth or fifth violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or fifth violation of subsection (a) or a similar provision, if at the time of the fourth or fifth violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

(c-16) Any person convicted of a sixth or subsequent violation of subsection (a) is guilty of a Class X felony.

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

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1); ~~or~~

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

(F) ~~(Blank), the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.~~

(2) Except as provided in this paragraph (2), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

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

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

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

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

(h) (Blank).

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

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a),

shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 94-114, eff. 1-1-06.)

(Text of Section from P.A. 94-116)

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

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

- (1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;
- (2) under the influence of alcohol;
- (3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;
- (4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;
- (5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or
- (6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall

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not constitute a defense against any charge of violating this Section.

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third violation committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant is guilty of a Class 2 felony, and in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

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

(2) A person who violates subsection (a) a third time is guilty of a Class 2 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of a Class 2 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a) or Section 11-501.1, shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth time is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge.

(4) A person who violates subsection (a) a fifth or subsequent time is guilty of a Class 1 felony and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and

an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 2 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 2 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth time for violating subsection (a) or a similar provision, if at the time of the fourth violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth violation of subsection (a) or a similar provision, if at the time of the fourth violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not

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

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

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1); or

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

(F) ~~(Blank). the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death.~~

(2) Except as provided in this paragraph (2) and in paragraphs (3) and (4) of subsection (c-1), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. Except as provided in paragraph (4) of subsection (c-1), aggravated driving under the influence of alcohol, other drug, or drugs, intoxicating compounds or compounds, or any combination thereof as defined in subparagraph (A) of paragraph (1) of this subsection (d) is a Class 2 felony. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

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

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in

violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided under Section 5-5-3 of the Unified Code of Corrections.

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

(h) (Blank).

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

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 94-116, eff. 1-1-06.)

(Text of Section from P.A. 94-329)

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

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

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

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

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

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

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

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

(b-1) With regard to penalties imposed under this Section:

(1) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state that is similar to a violation of subsection (a) of this Section.

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

(b-2) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(b-3) In addition to any other criminal or administrative sanction for any second conviction of violating subsection (a) or a similar provision committed within 5 years of a previous violation of subsection (a) or a similar provision, the defendant shall be sentenced to a mandatory minimum of 5 days of imprisonment or assigned a mandatory minimum of 240 hours of community service as may be determined by the court.

(b-4) In the case of a third or subsequent violation committed within 5 years of a previous violation of subsection (a) or a similar provision, in addition to any other criminal or administrative sanction, a mandatory minimum term of either 10 days of imprisonment or 480 hours of community service shall be imposed.

(b-5) The imprisonment or assignment of community service under subsections (b-3) and (b-4) shall not be subject to suspension, nor shall the person be eligible for a reduced sentence.

(c) (Blank).

(c-1) (1) A person who violates subsection (a) during a period in which his or her driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 4 felony.

(2) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 3 felony.

(2.1) A person who violates subsection (a) a third time, if the third violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, subsection (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 3 felony; and if the person receives a term of probation or conditional discharge, he or she shall be required to serve a mandatory minimum of 10 days of imprisonment or shall be assigned a mandatory minimum of 480 hours of community service, as may be determined by the court, as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(2.2) A person who violates subsection (a), if the violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was

for a violation of subsection (a) or Section 11-501.1, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and shall also be sentenced to an additional mandatory minimum term of 30 consecutive days of imprisonment, 40 days of 24-hour periodic imprisonment, or 720 hours of community service, as may be determined by the court. This mandatory term of imprisonment or assignment of community service shall not be suspended or reduced by the court.

(3) A person who violates subsection (a) a fourth or subsequent time, if the fourth or subsequent violation occurs during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for a violation of subsection (a), Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961, is guilty of aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof and is guilty of a Class 2 felony, and is not eligible for a sentence of probation or conditional discharge.

(c-2) (Blank).

(c-3) (Blank).

(c-4) (Blank).

(c-5) A person who violates subsection (a), if the person was transporting a person under the age of 16 at the time of the violation, is subject to an additional mandatory minimum fine of \$1,000, an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children, and an additional 2 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-5) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-6) Except as provided in subsections (c-7) and (c-8) a person who violates subsection (a) a second time, if at the time of the second violation the person was transporting a person under the age of 16, is subject to an additional 10 days of imprisonment, an additional mandatory minimum fine of \$1,000, and an additional mandatory minimum 140 hours of community service, which shall include 40 hours of community service in a program benefiting children. The imprisonment or assignment of community service under this subsection (c-6) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-7) Except as provided in subsection (c-8), any person convicted of violating subsection (c-6) or a similar provision within 10 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, a mandatory minimum 12 days imprisonment, an additional 40 hours of mandatory community service in a program benefiting children, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-7) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-8) Any person convicted of violating subsection (c-6) or a similar provision within 5 years of a previous violation of subsection (a) or a similar provision shall receive, in addition to any other penalty imposed, an additional 80 hours of mandatory community service in a program benefiting children, an additional mandatory minimum 12 days of imprisonment, and a mandatory minimum fine of \$1,750. The imprisonment or assignment of community service under this subsection (c-8) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-9) Any person convicted a third time for violating subsection (a) or a similar provision, if at the time of the third violation the person was transporting a person under the age of 16, is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory fine of \$1,000, an additional mandatory 140 hours of community service, which shall include 40 hours in a program benefiting children, and a mandatory minimum 30 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-9) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-10) Any person convicted of violating subsection (c-9) or a similar provision a third time within 20 years of a previous violation of subsection (a) or a similar provision is guilty of a Class 4 felony and shall receive, in addition to any other penalty imposed, an additional mandatory 40 hours of community service in a program benefiting children, an additional mandatory fine of \$3,000, and a mandatory minimum 120 days of imprisonment. The imprisonment or assignment of community service under this subsection (c-10) is not subject to suspension, nor is the person eligible for a reduced sentence.

(c-11) Any person convicted a fourth or subsequent time for violating subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the person was transporting a person under the age of 16, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is

guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and is subject to a minimum fine of \$3,000.

(c-12) Any person convicted of a first violation of subsection (a) or a similar provision, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(c-13) Any person convicted of a second violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision committed within 10 years of a previous violation of subsection (a) or a similar provision, if at the time of the second violation of subsection (a) the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(c-14) Any person convicted of a third violation of subsection (a) or a similar provision within 20 years of a previous violation of subsection (a) or a similar provision, if at the time of the third violation of subsection (a) or a similar provision the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 4 felony and shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500.

(c-15) Any person convicted of a fourth or subsequent violation of subsection (a) or a similar provision, if at the time of the fourth or subsequent violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, and if the person's 3 prior violations of subsection (a) or a similar provision occurred while transporting a person under the age of 16 or while the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, is guilty of a Class 2 felony and is not eligible for a sentence of probation or conditional discharge and is subject to a minimum fine of \$2,500.

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

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

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

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

(D) the person committed a violation of subsection (a) for a second time and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

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

(F) ~~(blank); the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;~~

(G) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit; or

(H) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy.

(2) Except as provided in this paragraph (2) and in paragraphs (2), (2.1), and (3) of

subsection (c-1), a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4

felony. For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years. ~~Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (A) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (B) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.~~ For any prosecution under this subsection (d), a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction. Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge. This mandatory minimum term of imprisonment or assignment of community service may not be suspended or reduced by the court.

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

(e-1) Any person who is found guilty of or pleads guilty to violating this Section, including any person receiving a disposition of court supervision for violating this Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a County State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

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

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

(h) (Blank).

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

(j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating subsection (a), including any person placed on court supervision for violating subsection (a), shall be fined \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating subsection (a) or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(k) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (j) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(l) Whenever an individual is sentenced for an offense based upon an arrest for a violation of subsection (a) or a similar provision of a local ordinance, and the professional evaluation recommends

remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(m) In addition to any other fine or penalty required by law, an individual convicted of a violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of subsection (a), Section 5-7 of the Snowmobile Registration and Safety Act, Section 5-16 of the Boat Registration and Safety Act, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (m), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 93-156, eff. 1-1-04; 93-213, eff. 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800, eff. 1-1-05; 93-840, eff. 7-30-04; 94-329, eff. 1-1-06.)

(625 ILCS 5/11-501.9 new)

Sec. 11-501.9. Homicide while driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof.

(a) A person violates this Section if:

(1) he or she violates Section 11-501 of the Illinois Vehicle Code;
(2) in committing the violation, he or she was involved in a motor vehicle, snowmobile, all terrain vehicle or watercraft accident that resulted in the death of another person; and

(3) the violation was a proximate cause of the death.

(b) Violation of this Section is a Class 2 felony, for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to: (1) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (2) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

Section 10. The Juvenile Court Act of 1987 is amended by changing Section 5-401.5 as follows:
 (705 ILCS 405/5-401.5)

Sec. 5-401.5. When statements by minor may be used.

(a) In this Section, "custodial interrogation" means any interrogation (i) during which a reasonable person in the subject's position would consider himself or herself to be in custody and (ii) during which a question is asked that is reasonably likely to elicit an incriminating response.

In this Section, "electronic recording" includes motion picture, audiotape, videotape, or digital recording.

In this Section, "place of detention" means a building or a police station that is a place of operation for a municipal police department or county sheriff department or other law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons or allegations that those persons are delinquent minors.

(b) An oral, written, or sign language statement of a minor who, at the time of the commission of the offense was under the age of 17 years, made as a result of a custodial interrogation conducted at a police station or other place of detention on or after the effective date of this amendatory Act of the 93rd General Assembly shall be presumed to be inadmissible as evidence against the minor in any criminal proceeding or juvenile court proceeding, for an act that if committed by an adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or under Section 11-501.9 ~~clause (d)(1)(F) of Section 11-501~~ of the Illinois Vehicle Code unless:

(1) an electronic recording is made of the custodial interrogation; and

(2) the recording is substantially accurate and not intentionally altered.

(c) Every electronic recording required under this Section must be preserved until such time as the minor's adjudication for any offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or the prosecution of such offenses is barred by law.

(d) If the court finds, by a preponderance of the evidence, that the minor was subjected to a custodial interrogation in violation of this Section, then any statements made by the minor during or following that

non-recorded custodial interrogation, even if otherwise in compliance with this Section, are presumed to be inadmissible in any criminal proceeding or juvenile court proceeding against the minor except for the purposes of impeachment.

(e) Nothing in this Section precludes the admission (i) of a statement made by the minor in open court in any criminal proceeding or juvenile court proceeding, before a grand jury, or at a preliminary hearing, (ii) of a statement made during a custodial interrogation that was not recorded as required by this Section because electronic recording was not feasible, (iii) of a voluntary statement, whether or not the result of a custodial interrogation, that has a bearing on the credibility of the accused as a witness, (iv) of a spontaneous statement that is not made in response to a question, (v) of a statement made after questioning that is routinely asked during the processing of the arrest of the suspect, (vi) of a statement made during a custodial interrogation by a suspect who requests, prior to making the statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, provided that an electronic recording is made of the statement of agreeing to respond to the interrogator's question, only if a recording is not made of the statement, (vii) of a statement made during a custodial interrogation that is conducted out-of-state, (viii) of a statement given at a time when the interrogators are unaware that a death has in fact occurred, or (ix) of any other statement that may be admissible under law. The State shall bear the burden of proving, by a preponderance of the evidence, that one of the exceptions described in this subsection (e) is applicable. Nothing in this Section precludes the admission of a statement, otherwise inadmissible under this Section, that is used only for impeachment and not as substantive evidence.

(f) The presumption of inadmissibility of a statement made by a suspect at a custodial interrogation at a police station or other place of detention may be overcome by a preponderance of the evidence that the statement was voluntarily given and is reliable, based on the totality of the circumstances.

(g) Any electronic recording of any statement made by a minor during a custodial interrogation that is compiled by any law enforcement agency as required by this Section for the purposes of fulfilling the requirements of this Section shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the information shall not be transmitted to anyone except as needed to comply with this Section.

(Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05; 94-117, eff. 7-5-05.)

Section 15. The Criminal Code of 1961 is amended by changing Section 9-3 as follows:

(720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

(a) A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly, except in cases in which the cause of the death consists of the driving of a motor vehicle or operating a snowmobile, all-terrain vehicle, or watercraft, in which case, except as otherwise provided in subsection (a-5), the person commits reckless homicide. Except as otherwise provided in subsection (a-5), a ~~A~~ person commits reckless homicide if he or she unintentionally kills an individual while driving a vehicle and using an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne.

(a-5) A person who otherwise would be guilty of reckless homicide is instead guilty of violating Section 11-501.9 of the Illinois Vehicle Code if he or she was under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof at the time of the offense.

(b) (Blank).

(c) (Blank).

(d) Sentence.

(1) Involuntary manslaughter is a Class 3 felony.

(2) Reckless homicide is a Class 3 felony.

(e) (Blank).

(e-5) (Blank).

(e-7) Except as otherwise provided in subsection (e-8), in cases involving reckless homicide in which the defendant was driving in a construction or maintenance zone, as defined in Section 11-605 of the Illinois Vehicle Code, the penalty is a Class 2 felony, for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(e-8) In cases involving reckless homicide in which the defendant was driving in a construction or maintenance zone, as defined in Section 11-605 of the Illinois Vehicle Code, and caused the deaths of 2 or more persons as part of a single course of conduct, the penalty is a Class 2 felony, for which a person,

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if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 6 years and not more than 28 years.

(e-9) In cases involving reckless homicide in which the defendant drove a vehicle and used an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne, and caused the deaths of 2 or more persons as part of a single course of conduct, the penalty is a Class 2 felony.

(f) In cases involving involuntary manslaughter in which the victim was a family or household member as defined in paragraph (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, the penalty shall be a Class 2 felony, for which a person if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(Source: P.A. 92-16, eff. 6-28-01; 93-178, eff. 6-1-04; 93-213, eff. 7-18-03; 93-682, eff. 1-1-05.)

Section 20. The Code of Criminal Procedure of 1963 is amended by changing Section 103-2.1 as follows:

(725 ILCS 5/103-2.1)

Sec. 103-2.1. When statements by accused may be used.

(a) In this Section, "custodial interrogation" means any interrogation during which (i) a reasonable person in the subject's position would consider himself or herself to be in custody and (ii) during which a question is asked that is reasonably likely to elicit an incriminating response.

In this Section, "place of detention" means a building or a police station that is a place of operation for a municipal police department or county sheriff department or other law enforcement agency, not a courthouse, that is owned or operated by a law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons.

In this Section, "electronic recording" includes motion picture, audiotape, or videotape, or digital recording.

(b) An oral, written, or sign language statement of an accused made as a result of a custodial interrogation at a police station or other place of detention shall be presumed to be inadmissible as evidence against the accused in any criminal proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3 of the Criminal Code of 1961 or under ~~Section 11-501.9 clause (d)(1)(F) of Section 11-501~~ of the Illinois Vehicle Code unless:

- (1) an electronic recording is made of the custodial interrogation; and
- (2) the recording is substantially accurate and not intentionally altered.

(c) Every electronic recording required under this Section must be preserved until such time as the defendant's conviction for any offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or the prosecution of such offenses is barred by law.

(d) If the court finds, by a preponderance of the evidence, that the defendant was subjected to a custodial interrogation in violation of this Section, then any statements made by the defendant during or following that non-recorded custodial interrogation, even if otherwise in compliance with this Section, are presumed to be inadmissible in any criminal proceeding against the defendant except for the purposes of impeachment.

(e) Nothing in this Section precludes the admission (i) of a statement made by the accused in open court at his or her trial, before a grand jury, or at a preliminary hearing, (ii) of a statement made during a custodial interrogation that was not recorded as required by this Section, because electronic recording was not feasible, (iii) of a voluntary statement, whether or not the result of a custodial interrogation, that has a bearing on the credibility of the accused as a witness, (iv) of a spontaneous statement that is not made in response to a question, (v) of a statement made after questioning that is routinely asked during the processing of the arrest of the suspect, (vi) of a statement made during a custodial interrogation by a suspect who requests, prior to making the statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, provided that an electronic recording is made of the statement of agreeing to respond to the interrogator's question, only if a recording is not made of the statement, (vii) of a statement made during a custodial interrogation that is conducted out-of-state, (viii) of a statement given at a time when the interrogators are unaware that a death has in fact occurred, or (ix) of any other statement that may be admissible under law. The State shall bear the burden of proving, by a preponderance of the evidence, that one of the exceptions described in this subsection (e) is applicable. Nothing in this Section precludes the admission of a statement, otherwise inadmissible under this Section, that is used only for impeachment and not as substantive evidence.

(f) The presumption of inadmissibility of a statement made by a suspect at a custodial interrogation at a police station or other place of detention may be overcome by a preponderance of the evidence that the statement was voluntarily given and is reliable, based on the totality of the circumstances.

(g) Any electronic recording of any statement made by an accused during a custodial interrogation that is compiled by any law enforcement agency as required by this Section for the purposes of fulfilling the requirements of this Section shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, and the information shall not be transmitted to anyone except as needed to comply with this Section.
(Source: P.A. 93-206, eff. 7-18-05; 93-517, eff. 8-6-05; 94-117, eff. 7-5-05.)

Section 25. The Unified Code of Corrections is amended by changing Sections 3-6-3 and 5-4-1 as follows:

(730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

Sec. 3-6-3. Rules and Regulations for Early Release.

(a) (1) The Department of Corrections shall prescribe rules and regulations for the early release on account of good conduct of persons committed to the Department which shall be subject to review by the Prisoner Review Board.

(2) The rules and regulations on early release shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005 (the effective date of Public Act 94-71) ~~this amendatory Act of the 94th General Assembly~~ or with respect to the offense of being an armed habitual criminal committed on or after August 2, 2005 (the effective date of Public Act 94-398) ~~this amendatory Act of the 94th General Assembly~~, the following:

(i) that a prisoner who is serving a term of imprisonment for first degree murder or for the offense of terrorism shall receive no good conduct credit and shall serve the entire sentence imposed by the court;

(ii) that a prisoner serving a sentence for attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm, heinous battery, being an armed habitual criminal, aggravated battery of a senior citizen, or aggravated battery of a child shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(iii) that a prisoner serving a sentence for home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, when the court has made and entered a finding, pursuant to subsection (c-1) of Section 5-4-1 of this Code, that the conduct leading to conviction for the enumerated offense resulted in great bodily harm to a victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment; and

(iv) that a prisoner serving a sentence for aggravated discharge of a firearm, whether or not the conduct leading to conviction for the offense resulted in great bodily harm to the victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998 or subdivision (a)(2)(iv) committed on or after June 23, 2005 (the effective date of Public Act 94-71) ~~this amendatory Act of the 94th General Assembly~~, and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or recommitment under Section 3-3-9. Each day of good conduct credit shall reduce by one day the prisoner's period of imprisonment or recommitment under Section 3-3-9.

(2.2) A prisoner serving a term of natural life imprisonment or a prisoner who has been sentenced to death shall receive no good conduct credit.

(2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois

Vehicle Code, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.4) The rules and regulations on early release shall provide with respect to the offenses of aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm or aggravated discharge of a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm, committed on or after July 15, 1999 (the effective date of Public Act 91-121), that a prisoner serving a sentence for any of these offenses shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.5) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for aggravated arson committed on or after July 27, 2001 (the effective date of Public Act 92-176) shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(3) The rules and regulations shall also provide that the Director may award up to 180 days additional good conduct credit for meritorious service in specific instances as the Director deems proper; except that no more than 90 days of good conduct credit for meritorious service shall be awarded to any prisoner who is serving a sentence for conviction of first degree murder, reckless homicide while under the influence of alcohol or any other drug, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, aggravated kidnapping, kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, cruelty to a child, or narcotic racketeering. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2)(i), (ii), or (iii) when the offense is committed on or after June 19, 1998 or subdivision (a)(2)(iv) when the offense is committed on or after June 23, 2005 (the effective date of Public Act 94-71) ~~this amendatory Act of the 94th General Assembly~~, (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense is committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, (iii) one of the offenses enumerated in subdivision (a)(2.4) when the offense is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or (iv) aggravated arson when the offense is committed on or after July 27, 2001 (the effective date of Public Act 92-176).

(4) The rules and regulations shall also provide that the good conduct credit accumulated and retained under paragraph (2.1) of subsection (a) of this Section by any inmate during specific periods of time in which such inmate is engaged full-time in substance abuse programs, correctional industry assignments, or educational programs provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall be multiplied by a factor of 1.25 for program participation before August 11, 1993 and 1.50 for program participation on or after that date. However, no inmate shall be eligible for the additional good conduct credit under this paragraph (4) or (4.1) of this subsection (a) while assigned to a boot camp; or electronic detention, or if convicted of an offense enumerated in subdivision (a)(2)(i), (ii), or (iii) of this Section that is committed on or after June 19, 1998 or subdivision (a)(2)(iv) of this Section that is committed on or after June 23, 2005 (the effective date of Public Act 94-71) ~~this amendatory Act of the 94th General Assembly~~, or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or homicide while aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in Section 11-501.9 ~~subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501~~ of the Illinois Vehicle Code, or if convicted of an offense enumerated in paragraph (a)(2.4) of this Section that is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery with a firearm, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses. No inmate

shall be eligible for the additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased under this paragraph (4) and paragraph (4.1) of this subsection (a) shall be evaluated by the Department on the basis of documented standards. The Department shall report the results of these evaluations to the Governor and the General Assembly by September 30th of each year. The reports shall include data relating to the recidivism rate among program participants.

Availability of these programs shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. Eligible inmates who are denied immediate admission shall be placed on a waiting list under criteria established by the Department. The inability of any inmate to become engaged in any such programs by reason of insufficient program resources or for any other reason established under the rules and regulations of the Department shall not be deemed a cause of action under which the Department or any employee or agent of the Department shall be liable for damages to the inmate.

(4.1) The rules and regulations shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who passes the high school level Test of General Educational Development (GED) and receives a GED certificate while the prisoner is incarcerated. The good conduct credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of good conduct under any other paragraph of this Section, but shall also be pursuant to the guidelines and restrictions set forth in paragraph (4) of subsection (a) of this Section.

(4.5) The rules and regulations on early release shall also provide that when the court's sentencing order recommends a prisoner for substance abuse treatment and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the prisoner shall receive no good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or complete a substance abuse treatment program and award the good conduct credit in specific instances if the prisoner is not a good candidate for a substance abuse treatment program for medical, programming, or operational reasons. Availability of substance abuse treatment shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. If treatment is not available and the requirement to participate and complete the treatment has not been waived by the Director, the prisoner shall be placed on a waiting list under criteria established by the Department. The Director may allow a prisoner placed on a waiting list to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program. A prisoner on a waiting list who is not placed in a substance abuse program prior to release may be eligible for a waiver and receive good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.

(5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of good conduct credit for meritorious service given at any time during the term, the Department shall give reasonable advance notice of the impending release to the State's Attorney of the county where the prosecution of the inmate took place.

(b) Whenever a person is or has been committed under several convictions, with separate sentences, the sentences shall be construed under Section 5-8-4 in granting and forfeiting of good time.

(c) The Department shall prescribe rules and regulations for revoking good conduct credit, or suspending or reducing the rate of accumulation of good conduct credit for specific rule violations, during imprisonment. These rules and regulations shall provide that no inmate may be penalized more than one year of good conduct credit for any one infraction.

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(4) of Section 3-3-2 of this Code, if the amount of credit at issue exceeds 30 days or when during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In those cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of 30 days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

The Director of the Department of Corrections, in appropriate cases, may restore up to 30 days good conduct credits which have been revoked, suspended or reduced. Any restoration of good conduct credits in excess of 30 days shall be subject to review by the Prisoner Review Board. However, the Board may not restore good conduct credit in excess of the amount requested by the Director.

Nothing contained in this Section shall prohibit the Prisoner Review Board from ordering, pursuant to Section 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the sentence imposed by the court that was not served due to the accumulation of good conduct credit.

(d) If a lawsuit is filed by a prisoner in an Illinois or federal court against the State, the Department of Corrections, or the Prisoner Review Board, or against any of their officers or employees, and the court makes a specific finding that a pleading, motion, or other paper filed by the prisoner is frivolous, the Department of Corrections shall conduct a hearing to revoke up to 180 days of good conduct credit by bringing charges against the prisoner sought to be deprived of the good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(8) of Section 3-3-2 of this Code. If the prisoner has not accumulated 180 days of good conduct credit at the time of the finding, then the Prisoner Review Board may revoke all good conduct credit accumulated by the prisoner.

For purposes of this subsection (d):

(1) "Frivolous" means that a pleading, motion, or other filing which purports to be a legal document filed by a prisoner in his or her lawsuit meets any or all of the following criteria:

(A) it lacks an arguable basis either in law or in fact;

(B) it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(C) the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(D) the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or

(E) the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

(2) "Lawsuit" means a petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963, a motion pursuant to Section 116-3 of the Code of Criminal Procedure of 1963, a habeas corpus action under Article X of the Code of Civil Procedure or under federal law (28 U.S.C. 2254), a petition for claim under the Court of Claims Act or an action under the federal Civil Rights Act (42 U.S.C. 1983).

(e) Nothing in Public Act 90-592 or 90-593 affects the validity of Public Act 89-404. (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; revised 8-19-05.)

(730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

Sec. 5-4-1. Sentencing Hearing.

(a) Except when the death penalty is sought under hearing procedures otherwise specified, after a determination of guilt, a hearing shall be held to impose the sentence. However, prior to the imposition of sentence on an individual being sentenced for an offense based upon a charge for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the individual must undergo a professional evaluation to determine if an alcohol or other drug abuse problem exists and the extent of such a problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may, in its discretion, accept an evaluation from a program in the state of such individual's residence. The court may in its sentencing order approve an eligible defendant for placement in a Department of Corrections impact incarceration program as provided in Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing order recommend a defendant for placement in a Department of Corrections substance abuse treatment program as provided in paragraph (a) of subsection (1) of Section 3-2-2 conditioned upon the defendant being accepted in a program by the Department of Corrections. At the hearing the court shall:

(1) consider the evidence, if any, received upon the trial;

(2) consider any presentence reports;

(3) consider the financial impact of incarceration based on the financial impact statement filed with the clerk of the court by the Department of Corrections;

(4) consider evidence and information offered by the parties in aggravation and mitigation;

(4.5) consider substance abuse treatment, eligibility screening, and an assessment, if

any, of the defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois courts;

(5) hear arguments as to sentencing alternatives;

(6) afford the defendant the opportunity to make a statement in his own behalf;

(7) afford the victim of a violent crime or a violation of Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, or a qualified individual affected by: (i) a violation of Section 405, 405.1, 405.2, or 407 of the Illinois Controlled Substances Act or a violation of Section 55 or Section 65 of the Methamphetamine Control and Community Protection Act, or (ii) a Class 4 felony violation of Section 11-14, 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of 1961, committed by the defendant the opportunity to make a statement concerning the impact on the victim and to offer evidence in aggravation or mitigation; provided that the statement and evidence offered in aggravation or mitigation must first be prepared in writing in conjunction with the State's Attorney before it may be presented orally at the hearing. Any sworn testimony offered by the victim is subject to the defendant's right to cross-examine. All statements and evidence offered under this paragraph (7) shall become part of the record of the court. For the purpose of this paragraph (7), "qualified individual" means any person who (i) lived or worked within the territorial jurisdiction where the offense took place when the offense took place; and (ii) is familiar with various public places within the territorial jurisdiction where the offense took place when the offense took place. For the purposes of this paragraph (7), "qualified individual" includes any peace officer, or any member of any duly organized State, county, or municipal peace unit assigned to the territorial jurisdiction where the offense took place when the offense took place;

(8) in cases of reckless homicide afford the victim's spouse, guardians, parents or other immediate family members an opportunity to make oral statements; and

(9) in cases involving a felony sex offense as defined under the Sex Offender Management Board Act, consider the results of the sex offender evaluation conducted pursuant to Section 5-3-2 of this Act.

(b) All sentences shall be imposed by the judge based upon his independent assessment of the elements specified above and any agreement as to sentence reached by the parties. The judge who presided at the trial or the judge who accepted the plea of guilty shall impose the sentence unless he is no longer sitting as a judge in that court. Where the judge does not impose sentence at the same time on all defendants who are convicted as a result of being involved in the same offense, the defendant or the State's Attorney may advise the sentencing court of the disposition of any other defendants who have been sentenced.

(c) In imposing a sentence for a violent crime or for an offense of operating or being in physical control of a vehicle while under the influence of alcohol, any other drug or any combination thereof, or a similar provision of a local ordinance, when such offense resulted in the personal injury to someone other than the defendant, the trial judge shall specify on the record the particular evidence, information, factors in mitigation and aggravation or other reasons that led to his sentencing determination. The full verbatim record of the sentencing hearing shall be filed with the clerk of the court and shall be a public record.

(c-1) In imposing a sentence for the offense of aggravated kidnapping for ransom, home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, the trial judge shall make a finding as to whether the conduct leading to conviction for the offense resulted in great bodily harm to a victim, and shall enter that finding and the basis for that finding in the record.

(c-2) If the defendant is sentenced to prison, other than when a sentence of natural life imprisonment or a sentence of death is imposed, at the time the sentence is imposed the judge shall state on the record in open court the approximate period of time the defendant will serve in custody according to the then current statutory rules and regulations for early release found in Section 3-6-3 and other related provisions of this Code. This statement is intended solely to inform the public, has no legal effect on the defendant's actual release, and may not be relied on by the defendant on appeal.

The judge's statement, to be given after pronouncing the sentence, other than when the sentence is imposed for one of the offenses enumerated in paragraph (a)(3) of Section 3-6-3, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, assuming the defendant receives all of his or her good conduct credit, the period of estimated actual custody is ... years and ... months, less up to 180 days

additional good conduct credit for meritorious service. If the defendant, because of his or her own misconduct or failure to comply with the institutional regulations, does not receive those credits, the actual time served in prison will be longer. The defendant may also receive an additional one-half day good conduct credit for each day of participation in vocational, industry, substance abuse, and educational programs as provided for by Illinois statute."

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(3) of Section 3-6-3, other than when the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3 committed on or after June 19, 1998, and other than when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and other than when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176), the judge's statement, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, assuming the defendant receives all of his or her good conduct credit, the period of estimated actual custody is ... years and ... months, less up to 90 days additional good conduct credit for meritorious service. If the defendant, because of his or her own misconduct or failure to comply with the institutional regulations, does not receive those credits, the actual time served in prison will be longer. The defendant may also receive an additional one-half day good conduct credit for each day of participation in vocational, industry, substance abuse, and educational programs as provided for by Illinois statute."

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3, other than first degree murder, and the offense was committed on or after June 19, 1998, and when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and when the sentence is imposed for ~~homicide while aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in Section 11-501.9 subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501~~ of the Illinois Vehicle Code, and when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176), the judge's statement, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant is entitled to no more than 4 1/2 days of good conduct credit for each month of his or her sentence of imprisonment. Therefore, this defendant will serve at least 85% of his or her sentence. Assuming the defendant receives 4 1/2 days credit for each month of his or her sentence, the period of estimated actual custody is ... years and ... months. If the defendant, because of his or her own misconduct or failure to comply with the institutional regulations receives lesser credit, the actual time served in prison will be longer."

When a sentence of imprisonment is imposed for first degree murder and the offense was committed on or after June 19, 1998, the judge's statement, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant is not entitled to good conduct credit. Therefore, this defendant will serve 100% of his or her sentence."

When the sentencing order recommends placement in a substance abuse program for any offense that results in incarceration in a Department of Corrections facility and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the judge's statement, in addition to any other judge's statement required under this Section, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant shall receive no good conduct credit under clause (3) of subsection (a) of Section 3-6-3 until he or she participates in and completes a

substance abuse treatment program or receives a waiver from the Director of Corrections pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

(d) When the defendant is committed to the Department of Corrections, the State's Attorney shall and counsel for the defendant may file a statement with the clerk of the court to be transmitted to the department, agency or institution to which the defendant is committed to furnish such department, agency or institution with the facts and circumstances of the offense for which the person was committed together with all other factual information accessible to them in regard to the person prior to his commitment relative to his habits, associates, disposition and reputation and any other facts and circumstances which may aid such department, agency or institution during its custody of such person. The clerk shall within 10 days after receiving any such statements transmit a copy to such department, agency or institution and a copy to the other party, provided, however, that this shall not be cause for delay in conveying the person to the department, agency or institution to which he has been committed.

(e) The clerk of the court shall transmit to the department, agency or institution, if any, to which the defendant is committed, the following:

(1) the sentence imposed;

(2) any statement by the court of the basis for imposing the sentence;

(3) any presentence reports;

(3.5) any sex offender evaluations;

(3.6) any substance abuse treatment eligibility screening and assessment of the defendant by an agent designated by the State of Illinois to provide assessment services for the Illinois courts;

(4) the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff;

(4.1) any finding of great bodily harm made by the court with respect to an offense enumerated in subsection (c-1);

(5) all statements filed under subsection (d) of this Section;

(6) any medical or mental health records or summaries of the defendant;

(7) the municipality where the arrest of the offender or the commission of the offense has occurred, where such municipality has a population of more than 25,000 persons;

(8) all statements made and evidence offered under paragraph (7) of subsection (a) of this Section; and

(9) all additional matters which the court directs the clerk to transmit.

(Source: P.A. 93-213, eff. 7-18-03; 93-317, eff. 1-1-04; 93-354, eff. 9-1-03; 93-616, eff. 1-1-04; 94-156, eff. 7-8-05; 94-556, eff. 9-11-05; revised 8-19-05.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Halvorson, **Senate Bill No. 1143**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein

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Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Laufen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 1144** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment:

AMENDMENT NO. 1 TO SENATE BILL 1144

AMENDMENT NO. 1. Amend Senate Bill 1144 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by adding Section 26-6 as follows:
(720 ILCS 5/26-6 new)

Sec. 26-6. Disorderly conduct at a funeral or memorial service.

(a) The General Assembly finds and declares that due to the unique nature of funeral and memorial services and the heightened opportunity for extreme emotional distress on such occasions, the purpose of this Section is to protect the privacy and ability to mourn of grieving families directly before, during, and after a funeral or memorial service.

(b) For purposes of this Section, "funeral site" means a church, synagogue, mosque, funeral home, gravesite, or other place at which a funeral or memorial service is being conducted or is scheduled to be conducted within the next 30 minutes or has been conducted within the last 30 minutes.

(c) A person commits the offense of disorderly conduct at a funeral or memorial service when he or she:

(1) engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking with, or without, noise amplification including, but not limited to, bullhorns, auto horns, and microphones within 200 feet of any ingress or egress of that funeral site, where the volume of such singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site;

(2) displays, with knowledge of the existence of a funeral site and within 200 feet of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other person;

(3) with knowledge of the existence of a funeral site, knowingly obstructs, hinders, impedes, or blocks another person's entry to or exit from that funeral site or a facility containing that funeral site, except that the owner or occupant of property may take lawful actions to exclude others from that property; or

(4) with knowledge of the existence of a funeral site, knowingly engages in a march or picket at the funeral site at any public location located within 200 feet of any ingress or egress of that funeral site.

(d) Disorderly conduct at a funeral or memorial service is a Class C misdemeanor. A second or subsequent violation of disorderly conduct at a funeral or memorial service is a Class 4 felony.

(e) This Section does not apply to peaceful activity regulated by the National Labor Relations Act or the Illinois Public Labor Relations Act.

(f) If any clause, sentence, section, provision, or part of this Section or the application thereof to any person or circumstance is adjudged to be unconstitutional, the remainder of this Section or its application to persons or circumstances other than those to which it is held invalid, is not affected thereby.

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Section 99. Effective date. This Act takes effect upon becoming law."

Senator Wilhelmi moved the foregoing amendment be ordered to lie on the table.

The motion to table prevailed.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1144

AMENDMENT NO. 2. Amend Senate Bill 1144 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by adding Section 26-6 as follows:

(720 ILCS 5/26-6 new)

Sec. 26-6. Disorderly conduct at a funeral or memorial service.

(a) The General Assembly finds and declares that due to the unique nature of funeral and memorial services and the heightened opportunity for extreme emotional distress on such occasions, the purpose of this Section is to protect the privacy and ability to mourn of grieving families directly before, during, and after a funeral or memorial service.

(b) For purposes of this Section:

(1) "Funeral" means the ceremonies, rituals, processions, and memorial services held at a funeral site in connection with the burial, cremation, or memorial of a deceased person.

(2) "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next 30 minutes or has been conducted within the last 30 minutes.

(c) A person commits the offense of disorderly conduct at a funeral or memorial service when he or she:

(1) engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking with, or without, noise amplification including, but not limited to, bullhorns, auto horns, and microphones within 200 feet of any ingress or egress of that funeral site, where the volume of such singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site;

(2) displays, with knowledge of the existence of a funeral site and within 200 feet of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other person; or

(3) with knowledge of the existence of a funeral site, knowingly obstructs, hinders, impedes, or blocks another person's entry to or exit from that funeral site or a facility containing that funeral site, except that the owner or occupant of property may take lawful actions to exclude others from that property.

(d) Disorderly conduct at a funeral or memorial service is a Class C misdemeanor. A second or subsequent violation is a Class 4 felony.

(e) If any clause, sentence, section, provision, or part of this Section or the application thereof to any person or circumstance is adjudged to be unconstitutional, the remainder of this Section or its application to persons or circumstances other than those to which it is held invalid, is not affected thereby.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 1144**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

[April 5, 2006]

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 1145** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1145

AMENDMENT NO. 1. Amend Senate Bill 1145 by replacing everything after the enacting clause with the following:

"Section 5. The Probation and Probation Officers Act is amended by changing Section 16.1 as follows:

(730 ILCS 110/16.1)

Sec. 16.1. Redeploy Illinois Program.

(a) The purpose of this Section is to encourage the deinstitutionalization of juvenile offenders establishing pilot projects in counties or groups of counties that reallocate State funds from juvenile correctional confinement to local jurisdictions, which will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would be incarcerated if those local services and sanctions did not exist. The allotment of funds will be based on a formula that rewards local jurisdictions for the establishment or expansion of local alternatives to incarceration, and requires them to pay for utilization of incarceration as a sanction. This redeployment of funds shall be made in a manner consistent with the Juvenile Court Act of 1987 and the following purposes and policies:

(1) The juvenile justice system should protect the community, impose accountability to victims and communities for violations of law, and equip juvenile offenders with competencies to live responsibly and productively.

(2) Juveniles should be treated in the least restrictive manner possible while maintaining the safety of the community.

(3) A continuum of services and sanctions from least restrictive to most restrictive should be available in every community.

(4) There should be local responsibility and authority for planning, organizing, and coordinating service resources in the community. People in the community can best choose a range of services which reflect community values and meet the needs of their own youth.

(5) Juveniles who pose a threat to the community or themselves need special care,

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including secure settings. Such services as detention, long-term incarceration, or residential treatment are too costly to provide in each community and should be coordinated and provided on a regional or Statewide basis.

(6) The roles of State and local government in creating and maintaining services to youth in the juvenile justice system should be clearly defined. The role of the State is to fund services, set standards of care, train service providers, and monitor the integration and coordination of services. The role of local government should be to oversee the provision of services.

(b) Each county or circuit participating in the pilot program must create a local plan demonstrating how it will reduce the county or circuit's utilization of secure confinement of juvenile offenders in the Illinois Department of Juvenile Justice or county detention centers by the creation or expansion of individualized services or programs that may include but are not limited to the following:

(1) Assessment and evaluation services to provide the juvenile justice system with accurate individualized case information on each juvenile offender including mental health, substance abuse, educational, and family information;

(2) Direct services to individual juvenile offenders including educational, vocational, mental health, substance abuse, supervision, and service coordination; and

(3) Programs that seek to restore the offender to the community, such as victim offender panels, teen courts, competency building, enhanced accountability measures, restitution, and community service. The local plan must be directed in such a manner as to emphasize an individualized approach to providing services to juvenile offenders in an integrated community based system including probation as the broker of services. The plan must also detail the reduction in utilization of secure confinement. The local plan shall be limited to services and shall not include costs for:

(i) capital expenditures;

(ii) renovations or remodeling;

(iii) personnel costs for probation.

The local plan shall be submitted to the Department of Human Services.

(c) A county or group of counties may develop an agreement with the Department of Human Services to reduce their number of commitments of juvenile offenders, excluding minors sentenced based upon a finding of guilt of first degree murder or an offense which is a Class X forcible felony as defined in the Criminal Code of 1961, to the Department of Juvenile Justice, and then use the savings to develop local programming for youth who would otherwise have been committed to the Department of Juvenile Justice. A county or group of counties with a population less than 1,000,000 shall agree to limit their commitments to 75% of the level of commitments from the average number of juvenile commitments for the past 3 years, and will receive the savings to redeploy for local programming for juveniles who would otherwise be held in confinement. Because of successful strategies already employed, any county with a decrease of juvenile commitments of at least 25% of its most immediate 3-year average chosen to participate in Redeploy Illinois shall negotiate with the Redeploy Illinois Oversight Board the targeted percentage of future juvenile offender commitment reductions outlined in its local plan. A county may identify a part of the county or specific juvenile offenders as the targeted population for its local plan. The agreement shall set forth the following:

(1) a Statement of the number and type of juvenile offenders from the county who were held in secure confinement by the Illinois Department of Juvenile Justice or in county detention the previous year, and an explanation of which, and how many, of these offenders might be served through the proposed Redeploy Illinois Program for which the funds shall be used;

(2) a Statement of the service needs of currently confined juveniles;

(3) a Statement of the type of services and programs to provide for the individual needs of the juvenile offenders, and the research or evidence base that qualifies those services and programs as proven or promising practices;

(4) a budget indicating the costs of each service or program to be funded under the plan;

(5) a summary of contracts and service agreements indicating the treatment goals and number of juvenile offenders to be served by each service provider; and

(6) a Statement indicating that the Redeploy Illinois Program will not duplicate existing services and programs. Funds for this plan shall not supplant existing county funded programs.

(d) (Blank).

(e) The Department of Human Services shall be responsible for the following:

(1) Reviewing each Redeploy Illinois Program plan for compliance with standards established for such plans. A plan may be approved as submitted, approved with modifications, or

rejected. No plan shall be considered for approval if the circuit or county is not in full compliance with all regulations, standards and guidelines pertaining to the delivery of basic probation services as established by the Supreme Court.

(2) Monitoring on a continual basis and evaluating annually both the program and its fiscal activities in all counties receiving an allocation under the Redeploy Illinois Program. Any program or service that has not met the goals and objectives of its contract or service agreement shall be subject to denial for funding in subsequent years. The Department of Human Services shall evaluate the effectiveness of the Redeploy Illinois Program in each circuit or county. In determining the future funding for the Redeploy Illinois Program under this Act, the evaluation shall include, as a primary indicator of success, a decreased number of confinement days for the county's juvenile offenders.

(f) Any Redeploy Illinois Program allocations not applied for and approved by the Department of Human Services shall be available for redistribution to approved plans for the remainder of that fiscal year. Any county that invests local moneys in the Redeploy Illinois Program shall be given first consideration for any redistribution of allocations. Jurisdictions participating in Redeploy Illinois that exceed their agreed upon level of commitments to the Department of Juvenile Justice shall reimburse the Department of Corrections for each commitment above the agreed upon level.

(g) Implementation of Redeploy Illinois.

(1) Planning Phase.

(i) Redeploy Illinois Oversight Board. The Department of Human Services shall convene an oversight board to develop plans for a pilot Redeploy Illinois Program. The Board shall include, but not be limited to, designees from the Department of Juvenile Justice, the Administrative Office of Illinois Courts, the Illinois Juvenile Justice Commission, the Illinois Criminal Justice Information Authority, the Department of Children and Family Services, the State Board of Education, the Cook County State's Attorney, and a State's Attorney selected by the President of the Illinois State's Attorney's Association.

(ii) Responsibilities of the Redeploy Illinois Oversight Board. The Oversight Board shall:

(A) Identify jurisdictions to be invited in the initial pilot program of Redeploy Illinois.

(B) Develop a formula for reimbursement of local jurisdictions for local and community-based services utilized in lieu of commitment to the Department of Juvenile Justice, as well as for any charges for local jurisdictions for commitments above the agreed upon limit in the approved plan.

(C) Identify resources sufficient to support the administration and evaluation of Redeploy Illinois.

(D) Develop a process and identify resources to support on-going monitoring and evaluation of Redeploy Illinois.

(E) Develop a process and identify resources to support training on Redeploy Illinois.

(F) Report to the Governor and the General Assembly on an annual basis on the progress of Redeploy Illinois.

(iii) Length of Planning Phase. The planning phase may last up to, but may in no event last longer than, July 1, 2004.

(2) Pilot Phase. In the second phase of the Redeploy Illinois program, the Department of Human Services shall implement several pilot programs of Redeploy Illinois in counties or groups of counties as identified by the Oversight Board. Annual review of the Redeploy Illinois program by the Oversight Board shall include recommendations for future sites for Redeploy Illinois. (Source: P.A. 93-641, eff. 12-31-03; 94-696, eff. 6-1-06)."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1145

AMENDMENT NO. 2. Amend Senate Bill 1145 by replacing everything after the enacting clause with the following:

"Section 5. The Probation and Probation Officers Act is amended by changing Section 16.1 as

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follows:

(730 ILCS 110/16.1)

Sec. 16.1. Redeploy Illinois Program.

(a) The purpose of this Section is to encourage the deinstitutionalization of juvenile offenders establishing pilot projects in counties or groups of counties that reallocate State funds from juvenile correctional confinement to local jurisdictions, which will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would be incarcerated if those local services and sanctions did not exist. The allotment of funds will be based on a formula that rewards local jurisdictions for the establishment or expansion of local alternatives to incarceration, and requires them to pay for utilization of incarceration as a sanction. This redeployment of funds shall be made in a manner consistent with the Juvenile Court Act of 1987 and the following purposes and policies:

(1) The juvenile justice system should protect the community, impose accountability to victims and communities for violations of law, and equip juvenile offenders with competencies to live responsibly and productively.

(2) Juveniles should be treated in the least restrictive manner possible while maintaining the safety of the community.

(3) A continuum of services and sanctions from least restrictive to most restrictive should be available in every community.

(4) There should be local responsibility and authority for planning, organizing, and coordinating service resources in the community. People in the community can best choose a range of services which reflect community values and meet the needs of their own youth.

(5) Juveniles who pose a threat to the community or themselves need special care, including secure settings. Such services as detention, long-term incarceration, or residential treatment are too costly to provide in each community and should be coordinated and provided on a regional or Statewide basis.

(6) The roles of State and local government in creating and maintaining services to youth in the juvenile justice system should be clearly defined. The role of the State is to fund services, set standards of care, train service providers, and monitor the integration and coordination of services. The role of local government should be to oversee the provision of services.

(b) Each county or circuit participating in the pilot program must create a local plan demonstrating how it will reduce the county or circuit's utilization of secure confinement of juvenile offenders in the Illinois Department of Juvenile Justice or county detention centers by the creation or expansion of individualized services or programs that may include but are not limited to the following:

(1) Assessment and evaluation services to provide the juvenile justice system with accurate individualized case information on each juvenile offender including mental health, substance abuse, educational, and family information;

(2) Direct services to individual juvenile offenders including educational, vocational, mental health, substance abuse, supervision, and service coordination; and

(3) Programs that seek to restore the offender to the community, such as victim offender panels, teen courts, competency building, enhanced accountability measures, restitution, and community service. The local plan must be directed in such a manner as to emphasize an individualized approach to providing services to juvenile offenders in an integrated community based system including probation as the broker of services. The plan must also detail the reduction in utilization of secure confinement. The local plan shall be limited to services and shall not include costs for:

(i) capital expenditures;

(ii) renovations or remodeling;

(iii) personnel costs for probation.

The local plan shall be submitted to the Department of Human Services.

(c) A county or group of counties may develop an agreement with the Department of Human Services to reduce their number of commitments of juvenile offenders, excluding minors sentenced based upon a finding of guilt of first degree murder or an offense which is a Class X forcible felony as defined in the Criminal Code of 1961, to the Department of Juvenile Justice, and then use the savings to develop local programming for youth who would otherwise have been committed to the Department of Juvenile Justice. ~~A~~ The county or group of counties shall agree to limit their commitments to 75% of the level of commitments from the average number of juvenile commitments for the past 3 years, and will receive the savings to redeploy for local programming for juveniles who would otherwise be held in confinement. For any county or group of counties with a decrease of juvenile commitments of at least

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25% based on the average reductions of the prior 3 years, which are chosen to participate or continue as pilot sites, the Redeploy Illinois Oversight Board has the authority to reduce the required percentage of future commitments to achieve the purpose of this Section. The agreement shall set forth the following:

(1) a Statement of the number and type of juvenile offenders from the county who were held in secure confinement by the Illinois Department of Juvenile Justice or in county detention the previous year, and an explanation of which, and how many, of these offenders might be served through the proposed Redeploy Illinois Program for which the funds shall be used;

(2) a Statement of the service needs of currently confined juveniles;

(3) a Statement of the type of services and programs to provide for the individual needs of the juvenile offenders, and the research or evidence base that qualifies those services and programs as proven or promising practices;

(4) a budget indicating the costs of each service or program to be funded under the plan;

(5) a summary of contracts and service agreements indicating the treatment goals and number of juvenile offenders to be served by each service provider; and

(6) a Statement indicating that the Redeploy Illinois Program will not duplicate existing services and programs. Funds for this plan shall not supplant existing county funded programs.

(d) (Blank).

(e) The Department of Human Services shall be responsible for the following:

(1) Reviewing each Redeploy Illinois Program plan for compliance with standards established for such plans. A plan may be approved as submitted, approved with modifications, or rejected. No plan shall be considered for approval if the circuit or county is not in full compliance with all regulations, standards and guidelines pertaining to the delivery of basic probation services as established by the Supreme Court.

(2) Monitoring on a continual basis and evaluating annually both the program and its fiscal activities in all counties receiving an allocation under the Redeploy Illinois Program. Any program or service that has not met the goals and objectives of its contract or service agreement shall be subject to denial for funding in subsequent years. The Department of Human Services shall evaluate the effectiveness of the Redeploy Illinois Program in each circuit or county. In determining the future funding for the Redeploy Illinois Program under this Act, the evaluation shall include, as a primary indicator of success, a decreased number of confinement days for the county's juvenile offenders.

(f) Any Redeploy Illinois Program allocations not applied for and approved by the Department of Human Services shall be available for redistribution to approved plans for the remainder of that fiscal year. Any county that invests local moneys in the Redeploy Illinois Program shall be given first consideration for any redistribution of allocations. Jurisdictions participating in Redeploy Illinois that exceed their agreed upon level of commitments to the Department of Juvenile Justice shall reimburse the Department of Corrections for each commitment above the agreed upon level.

(g) Implementation of Redeploy Illinois.

(1) Planning Phase.

(i) Redeploy Illinois Oversight Board. The Department of Human Services shall convene an oversight board to develop plans for a pilot Redeploy Illinois Program. The Board shall include, but not be limited to, designees from the Department of Juvenile Justice, the Administrative Office of Illinois Courts, the Illinois Juvenile Justice Commission, the Illinois Criminal Justice Information Authority, the Department of Children and Family Services, the State Board of Education, the Cook County State's Attorney, and a State's Attorney selected by the President of the Illinois State's Attorney's Association.

(ii) Responsibilities of the Redeploy Illinois Oversight Board. The Oversight Board shall:

(A) Identify jurisdictions to be invited in the initial pilot program of Redeploy Illinois.

(B) Develop a formula for reimbursement of local jurisdictions for local and community-based services utilized in lieu of commitment to the Department of Juvenile Justice, as well as for any charges for local jurisdictions for commitments above the agreed upon limit in the approved plan.

(C) Identify resources sufficient to support the administration and evaluation of Redeploy Illinois.

(D) Develop a process and identify resources to support on-going monitoring and evaluation of Redeploy Illinois.

(E) Develop a process and identify resources to support training on Redeploy Illinois.

(F) Report to the Governor and the General Assembly on an annual basis on the progress of Redeploy Illinois.

(iii) Length of Planning Phase. The planning phase may last up to, but may in no event last longer than, July 1, 2004.

(2) Pilot Phase. In the second phase of the Redeploy Illinois program, the Department of Human Services shall implement several pilot programs of Redeploy Illinois in counties or groups of counties as identified by the Oversight Board. Annual review of the Redeploy Illinois program by the Oversight Board shall include recommendations for future sites for Redeploy Illinois.
(Source: P.A. 93-641, eff. 12-31-03; 94-696, eff. 6-1-06.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 1145**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

HOUSE BILL RECALLED

On motion of Senator Lightford, **House Bill No. 4339** was recalled from the order of third reading to the order of second reading.

Senator Lightford offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 4339

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AMENDMENT NO. 1. Amend House Bill 4339 on page 1, line 10, after "in", by inserting "Community College District No. 504".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

At the hour of 4:55 o'clock p.m., Senator Link presiding.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Lightford, **House Bill No. 4339**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 34; Nays 23; Present 1.

The following voted in the affirmative:

Axley	Geo-Karis	Maloney	Shadid
Clayborne	Haine	Martinez	Silverstein
Collins	Halvorson	Meeks	Sullivan
Cronin	Harmon	Millner	Trotter
Crotty	Hendon	Munoz	Viverito
Cullerton	Hunter	Raoul	Winkel
del Valle	Jacobs	Ronen	Mr. President
DeLeo	Lightford	Sandoval	
Forby	Link	Schoenberg	

The following voted in the negative:

Althoff	Jones, J.	Petka	Rutherford
Bomke	Jones, W.	Radogno	Sieben
Brady	Lauzen	Rauschenberger	Syverson
Burzynski	Luechtefeld	Righter	Watson
Dahl	Pankau	Risinger	Wilhelmi
Demuzio	Peterson	Roskam	

The following voted present:

Dillard

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Cullerton, **House Bill No. 4357** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 1 was held in the Committee on Judiciary.

Floor Amendment No. 2 was held in the Committee on Rules.

Senator Cullerton offered the following amendment and moved its adoption:

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AMENDMENT NO. 3 TO HOUSE BILL 4357

AMENDMENT NO. 3. Amend House Bill 4357 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 607 as follows:

(750 ILCS 5/607) (from Ch. 40, par. 607)

Sec. 607. Visitation.

(a) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral or emotional health. If the custodian's street address is not identified, pursuant to Section 708, the court shall require the parties to identify reasonable alternative arrangements for visitation by a non-custodial parent, including but not limited to visitation of the minor child at the residence of another person or at a local public or private facility.

(a-3) Grandparents, great-grandparents, and siblings of a minor child, who is one year old or older, have standing to bring an action in circuit court by petition, requesting visitation in accordance with this Section. The term "sibling" in this Section means a brother, sister, stepbrother, or stepsister of the minor child. Grandparents, great-grandparents, and siblings also have standing to file a petition for visitation rights in a pending dissolution proceeding or any other proceeding that involves custody or visitation issues, requesting visitation in accordance with this Section. A petition for visitation with a child by a person other than a parent must be filed in the county in which the child resides. Nothing in this subsection (a-3) and subsection (a-5) of this Section shall apply to a child in whose interests a petition is pending under Section 2-13 of the Juvenile Court Act of 1987 or a petition to adopt an unrelated child is pending under the Adoption Act.

(a-5)(1) Except as otherwise provided in this subsection (a-5), any grandparent, great-grandparent, or sibling may file a petition for visitation rights to a minor child if there is an unreasonable denial of visitation by a parent and at least one of the following conditions exists:

(A) ~~(Blank); one parent of the child is incompetent as a matter of law or deceased or has been sentenced to a period of imprisonment for more than 1 year;~~

(A-5) the child's other parent is deceased or has been missing for at least 3 months. For the purposes of this Section a parent is considered to be missing if the parent's location has not been determined and the parent has been reported as missing to a law enforcement agency;

(A-10) a parent of the child is incompetent as a matter of law;

(A-15) a parent has been incarcerated in jail or prison during the 3 month period preceding the filing of the petition;

(B) the child's mother and father are divorced or have been legally separated from each other or there is pending a dissolution proceeding involving a parent of the child or another court proceeding involving custody or visitation of the child (other than any adoption proceeding of an unrelated child) ~~during the 3 month period prior to the filing of the petition~~ and at least one parent does not object to the grandparent, great-grandparent, or sibling having visitation with the child. The visitation of the grandparent, great-grandparent, or sibling must not diminish the visitation of the parent who is not related to the grandparent, great-grandparent, or sibling seeking visitation;

~~(C) (Blank); the court, other than a Juvenile Court, has terminated a parent-child relationship and the grandparent, great-grandparent, or sibling is the parent of the person whose parental rights have been terminated, except in cases of adoption. The visitation must not be used to allow the parent who lost parental rights to unlawfully visit with the child;~~

(D) the child is born out of wedlock, the parents are not living together, and the petitioner is a maternal grandparent, great-grandparent, or sibling of the child born out of wedlock; or

(E) the child is born out of wedlock, the parents are not living together, the petitioner is a paternal grandparent, great-grandparent, or sibling, and the paternity has been established by a court of competent jurisdiction.

(2) Any visitation rights granted pursuant to this Section before the filing of a petition for adoption of a child shall automatically terminate by operation of law upon the entry of an order terminating parental rights or granting the adoption of the child, whichever is earlier. If the person or persons who adopted the child are related to the child, as defined by Section 1 of the Adoption Act, any person who was related to the child as grandparent, great-grandparent, or sibling prior to the adoption shall have standing to bring an action pursuant to this Section requesting visitation with the child. ~~The grandparent, great-grandparent, or sibling of a parent whose parental rights have been terminated through an adoption~~

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~~proceeding may not petition for visitation rights.~~

(3) In making a determination under this subsection (a-5), there is a rebuttable presumption that a fit parent's actions and decisions regarding grandparent, great-grandparent, or sibling visitation are not harmful to the child's mental, physical, or emotional health. The burden is on the party filing a petition under this Section to prove that the parent's actions and decisions regarding visitation times are harmful to the child's mental, physical, or emotional health.

(4) In determining whether to grant visitation, the court shall consider the following:

(A) the preference of the child if the child is determined to be of sufficient maturity to express a preference;

(B) the mental and physical health of the child;

(C) the mental and physical health of the grandparent, great-grandparent, or sibling;

(D) the length and quality of the prior relationship between the child and the grandparent, great-grandparent, or sibling;

(E) the good faith of the party in filing the petition;

(F) the good faith of the person denying visitation;

(G) the quantity of the visitation time requested and the potential adverse impact that visitation would have on the child's customary activities;

(H) whether the child resided with the petitioner for at least 6 consecutive months with or without the current custodian present;

(I) whether the petitioner had frequent or regular contact or visitation with the child for at least 12 consecutive months; ~~and~~

(J) any other fact that establishes that the loss of the relationship between the petitioner and the child is likely to harm the child's mental, physical, or emotional health; and -

(K) whether the grandparent, great-grandparent, or sibling was a primary caretaker of the child for a period of not less than 6 consecutive months.

(5) The court may order visitation rights for the grandparent, great-grandparent, or sibling that include reasonable access without requiring overnight or possessory visitation.

(a-7)(1) Unless by stipulation of the parties, no motion to modify a grandparent, great-grandparent, or sibling visitation order may be made earlier than 2 years after the date the order was filed, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously the child's mental, physical, or emotional health.

(2) The court shall not modify an a-prior grandparent, great-grandparent, or sibling visitation order that grants visitation to a grandparent, great-grandparent, or sibling unless it finds by clear and convincing evidence,

upon the basis of facts that have arisen since the prior visitation order or that were unknown to the court at the time of entry of the prior visitation, that a change has occurred in the circumstances of the child or his or her custodian, and that the modification is necessary to protect the mental, physical, or emotional health of the child. The court shall state in its decision specific findings of fact in support of its modification or termination of the grandparent, great-grandparent, or sibling visitation. A child's parent may always petition to modify visitation upon changed circumstances when necessary to promote the child's best interest.

(3) Attorney fees and costs shall be assessed against a party seeking modification of the visitation order if the court finds that the modification action is vexatious and constitutes harassment.

(4) Notice under this subsection (a-7) shall be given as provided in subsections (c) and (d) of Section 601.

(b) (1) (Blank.)

(1.5) The Court may grant reasonable visitation privileges to a stepparent upon petition to the court by the stepparent, with notice to the parties required to be notified under Section 601 of this Act, if the court determines that it is in the best interests and welfare of the child, and may issue any necessary orders to enforce those visitation privileges. A petition for visitation privileges may be filed under this paragraph (1.5) whether or not a petition pursuant to this Act has been previously filed or is currently pending if the following circumstances are met:

(A) the child is at least 12 years old;

(B) the child resided continuously with the parent and stepparent for at least 5 years;

(C) the parent is deceased or is disabled and is unable to care for the child;

(D) the child wishes to have reasonable visitation with the stepparent; and

(E) the stepparent was providing for the care, control, and welfare to the child prior to the initiation of the petition for visitation.

(2)(A) A petition for visitation privileges shall not be filed pursuant to this subsection (b) by the

parents or grandparents of a putative father if the paternity of the putative father has not been legally established.

(B) A petition for visitation privileges may not be filed under this subsection (b) if the child who is the subject of the grandparents' or great-grandparents' petition has been voluntarily surrendered by the parent or parents, except for a surrender to the Illinois Department of Children and Family Services or a foster care facility, or has been previously adopted by an individual or individuals who are not related to the biological parents of the child or is the subject of a pending adoption petition by an individual or individuals who are not related to the biological parents of the child.

(3) (Blank).

(c) The court may modify an order granting or denying visitation rights of a parent whenever modification would serve the best interest of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral or emotional health. ~~The court may modify an order granting, denying, or limiting visitation rights of a grandparent, great-grandparent, or sibling of any minor child whenever a change of circumstances has occurred based on facts occurring subsequent to the judgment and the court finds by clear and convincing evidence that the modification is in the best interest of the minor child.~~

(d) If any court has entered an order prohibiting a non-custodial parent of a child from any contact with a child or restricting the non-custodial parent's contact with the child, the following provisions shall apply:

(1) If an order has been entered granting visitation privileges with the child to a grandparent or great-grandparent who is related to the child through the non-custodial parent, the visitation privileges of the grandparent or great-grandparent may be revoked if:

(i) a court has entered an order prohibiting the non-custodial parent from any contact with the child, and the grandparent or great-grandparent is found to have used his or her visitation privileges to facilitate contact between the child and the non-custodial parent; or

(ii) a court has entered an order restricting the non-custodial parent's contact with the child, and the grandparent or great-grandparent is found to have used his or her visitation privileges to facilitate contact between the child and the non-custodial parent in a manner that violates the terms of the order restricting the non-custodial parent's contact with the child.

Nothing in this subdivision (1) limits the authority of the court to enforce its orders in any manner permitted by law.

(2) Any order granting visitation privileges with the child to a grandparent or great-grandparent who is related to the child through the non-custodial parent shall contain the following provision:

"If the (grandparent or great-grandparent, whichever is applicable) who has been granted visitation privileges under this order uses the visitation privileges to facilitate contact between the child and the child's non-custodial parent, the visitation privileges granted under this order shall be permanently revoked."

(e) No parent, not granted custody of the child, or grandparent, or great-grandparent, or stepparent, or sibling of any minor child, convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age including but not limited to offenses for violations of Article 12 of the Criminal Code of 1961, is entitled to visitation rights while incarcerated or while on parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for that offense, and upon discharge from incarceration for a misdemeanor offense or upon discharge from parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for a felony offense, visitation shall be denied until the person successfully completes a treatment program approved by the court.

(f) Unless the court determines, after considering all relevant factors, including but not limited to those set forth in Section 602(a), that it would be in the best interests of the child to allow visitation, the court shall not enter an order providing visitation rights and pursuant to a motion to modify visitation shall revoke visitation rights previously granted to any person who would otherwise be entitled to petition for visitation rights under this Section who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child who is the subject of the order. Until an order is entered pursuant to this subsection, no person shall visit, with the child present, a person who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child without the consent of the child's parent, other than a parent convicted of first degree murder as set forth herein, or legal guardian.

~~(g) (Blank). If an order has been entered limiting, for cause, a minor child's contact or visitation with a grandparent, great-grandparent, or sibling on the grounds that it was in the best interest of the child to do~~

~~so, that order may be modified only upon a showing of a substantial change in circumstances occurring subsequent to the entry of the order with proof by clear and convincing evidence that modification is in the best interest of the minor child.~~
(Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Cullerton, **House Bill No. 4357**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Athoff	Forby	Maloney	Rutherford
Axley	Garrett	Martinez	Sandoval
Bomke	Geo-Karis	Meeks	Schoenberg
Brady	Haine	Millner	Shadid
Burzynski	Halvorson	Munoz	Sieben
Clayborne	Harmon	Pankau	Silverstein
Collins	Hendon	Peterson	Sullivan
Cronin	Hunter	Petka	Syverson
Crotty	Jacobs	Radogno	Trotter
Cullerton	Jones, J.	Raoul	Viverito
Dahl	Jones, W.	Rauschenberger	Watson
del Valle	Lauzen	Righter	Wilhelmi
DeLeo	Lightford	Risinger	Winkel
Demuzio	Link	Ronen	Mr. President
Dillard	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Hendon, **House Bill No. 5524** was recalled from the order of third reading to the order of second reading.

Senator Hendon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 5524

AMENDMENT NO. 1. Amend House Bill 5524 by replacing everything after the enacting clause with the following:

"Section 5. The Film Production Services Tax Credit Act is amended by changing Sections 10, 40, and 90 as follows:

(35 ILCS 15/10)

(Section scheduled to be repealed on January 1, 2007)

Sec. 10. Definitions. As used in this Act:

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"Accredited production" means: (i) for productions commencing before May 1, 2006, a film, video, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production, in the period that ends 12 months after the time principal filming or taping of the production began, exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of less than 30 minutes; and (ii) for productions commencing on or after May 1, 2006, a film, video, or television production that has been certified by the Department in which the Illinois production spending included in the cost of production in the period that ends 12 months after the time principal filming or taping of the production began exceeds \$100,000 for productions of 30 minutes or longer or exceeds \$50,000 for productions of less than 30 minutes. "Accredited production" ~~but~~ does not include a production that:

- (1) is news, current events, or public programming, or a program that includes weather or market reports;
- (2) is a talk show;
- (3) is a production in respect of a game, questionnaire, or contest;
- (4) is a sports event or activity;
- (5) is a gala presentation or awards show;
- (6) is a finished production that solicits funds;
- (7) is a production produced by a film production company if records, as required by 18 U.S.C. 2257, are to be maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or
- (8) is a production produced primarily for industrial, corporate, or institutional purposes.

"Accredited production certificate" means a certificate issued by the Department certifying that the production is an accredited production that meets the guidelines of this Act.

"Applicant" means a taxpayer that is a film production company that is operating or has operated an accredited production located within the State of Illinois and that (i) owns the copyright in the accredited production throughout the Illinois production period or (ii) has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the production, where the owner of the copyright is not an eligible production corporation.

"Credit" means:

(1) for an accredited production approved by the Department on or before January 1, 2005 and commencing before May 1, 2006, the amount equal to 25% of the Illinois labor expenditure approved by the Department.

The applicant is deemed to have paid, on its balance due day for the year, an amount equal to 25% of its qualified Illinois labor expenditure for the tax year. For Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department, in an accredited production commencing before May 1, 2006 and approved by the Department after January 1, 2005, the applicant shall receive an enhanced credit of 10% in addition to the 25% credit; and -

(2) for an accredited production commencing on or after May 1, 2006, the amount equal to 20% of the Illinois production spending for the taxable year plus:

(i) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department; and

(ii) for an accredited film or television production commencing on or after May 1, 2007, the amount equal to 5% of the Illinois labor expenditures generated during the use of a qualified production facility that is located in a geographic area of high poverty or high unemployment, as determined by the Department. To qualify under this item (ii), at least 50% of the total facility related expenses must be completed in Illinois if studio space is available. No labor expenditures for the additional credit under item (i) may also qualify for the additional credit under item (ii).

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Illinois labor expenditure" means salary or wages paid to employees of the applicant for services on the accredited production;

To qualify as an Illinois labor expenditure, the expenditure must be:

- (1) Reasonable in the circumstances.
- (2) Included in the federal income tax basis of the property.
- (3) Incurred by the applicant for services on or after January 1, 2004.
- (4) Incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage.

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(5) Limited to the first \$25,000 of wages paid or incurred to each employee of ~~a the~~ production commencing before May 1, 2006 and the first \$100,000 of wages paid or incurred to each ~~employee of a production commencing on or after May 1, 2006.~~

(6) For a production commencing before May 1, 2006, ~~exclusive~~ ~~Exclusive~~ of the salary or wages paid to or incurred for the 2 highest paid employees of the production.

(7) Directly attributable to the accredited production.

(8) Paid in the tax year for which the applicant is claiming the credit or no later than 60 days after the end of the tax year.

(9) Paid to persons resident in Illinois at the time the payments were made.

(10) Paid for services rendered in Illinois.

"Illinois production spending" means the expenses incurred by the applicant for an accredited production, including, without limitation, all of the following:

(1) expenses to purchase, from vendors within Illinois, tangible personal property that is used in the accredited production;

(2) expenses to acquire services, from vendors in Illinois, for film production, editing, or processing; and

(3) the compensation, not to exceed \$100,000 for any one employee, for contractual or salaried employees who are Illinois residents performing services with respect to the accredited production.

"Qualified production facility" means stage facilities in the State in which television shows and films are or are intended to be regularly produced and that contain least one sound stage of at least 15,000 square feet.

(Source: P.A. 93-543, eff. 1-1-04; 94-171, eff. 7-11-05.)

(35 ILCS 15/40)

(Section scheduled to be repealed on January 1, 2007)

Sec. 40. Amount and duration of the credit. The amount of the credit awarded under this Act is based on the amount of the Illinois labor expenditure and Illinois production spending approved by the Department for the production as set forth under Section 10. The duration of the credit may not exceed one taxable year.

(Source: P.A. 93-543, eff. 1-1-04.)

(35 ILCS 15/90)

(Section scheduled to be repealed on January 1, 2007)

Sec. 90. Repeal. This Act is repealed on January 1, ~~2009~~ ~~2007~~.

(Source: P.A. 93-543, eff. 1-1-04; 93-840, eff. 7-30-04; 94-171, eff. 7-11-05.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Hendon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 5524

AMENDMENT NO. 2. Amend House Bill 5524, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 1, line 5, by changing "40," to "40, 45, "; and

on page 5, immediately below line 19, by inserting the following:

"(35 ILCS 15/45)

(Section scheduled to be repealed on January 1, 2007)

Sec. 45. Evaluation of tax credit program; reports to the General Assembly.

(a) The Department shall evaluate the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend, modify, or not extend the program based on this evaluation.

(b) At the end of each fiscal quarter, the Department must submit to the General Assembly a report that includes, without limitation, the following information:

[April 5, 2006]

(1) the economic impact of the tax credit program, including the number of jobs created and retained, including whether the job positions are entry level, management, talent-related, vendor-related, or production-related;

(2) the amount of film production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited production; and

(3) an overall picture of whether the human infrastructure of the motion picture industry in Illinois reflects the geographical, racial and ethnic, gender, and income-level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department must submit to the General Assembly a report that includes, without limitation, the following information:

(1) an identification of each vendor that provided goods or services that were included in an accredited production's Illinois production spending;

(2) the amount paid to each identified vendor by the accredited production;

(3) for each identified vendor, a statement as to whether the vendor is a minority owned business or a female owned business, as defined under Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; and

(4) a description of any steps taken by the Department to encourage accredited productions to use vendors who are a minority owned business or a female owned business.

(Source: P.A. 93-543, eff. 1-1-04; 94-171, eff. 7-11-05.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Hendon, **House Bill No. 5524**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Forby	Martinez	Sandoval
Axley	Garrett	Meeks	Schoenberg
Bomke	Geo-Karis	Millner	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, W.	Rauschenberger	Watson
Dahl	Lauzen	Righter	Wilhelmi
del Valle	Lightford	Risinger	Winkel
DeLeo	Link	Ronen	Mr. President
Demuzio	Luechtefeld	Roskam	
Dillard	Maloney	Rutherford	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Burzynski announced a Republican caucus to begin immediately upon adjournment.

[April 5, 2006]

MOTION IN WRITING

Pursuant to Senate Rule 7-9, I move that the Senate Rules Committee be discharged from further consideration of House Bill 4804 and that House Bill 4804 be placed on the Senate Calendar on the order of Second Reading and that all applicable Senate deadlines be waived.

Date: 4/5/06

s/Adeline J. Geo-Karis
s/Kirk Dillard

The foregoing Motion in Writing was filed with the Secretary and placed on the Senate Calendar.

At the hour of 5:27 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, April 6, 2006, at 10:00 o'clock a.m.

[April 5, 2006]