



National Committee on Uniform Traffic Control Devices

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Item No. 21B-ROR-03

NCUTCD Proposal for Rules of the Road

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6 **TECHNICAL COMMITTEE:** Rules of Road Joint Task Force
7 **ITEM NUMBER:** 21B-ROR-03
8 **TOPIC:** Omission of existing Chapter 11 Articles not
9 applicable to the NCUTCD Rules of the Road
10 **ORIGIN OF REQUEST:** Rules of Road Joint Task Force
11 **AFFECTED SECTIONS OF MUTCD:** NA – applies to the Rules of the Road document
12 **DEVELOPMENT HISTORY:**
13 • Approved by Rules of the Road Joint Task Force 10-12-2021
14 • Approved by NCUTCD Council: MM/DD/YYYY

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16 *This is a proposal to omit three articles included in Chapter 11, Rules of the Road, of the 2000*
17 *Uniform Vehicle Code (UVC) from the NCUTCD Rules of the Road as these three articles (IX,*
18 *XV, and XVI) do not address traffic control devices or their applications. This has been*
19 *developed by a joint task force of the NCUTCD. The NCUTCD is distributing it to its sponsoring*
20 *organizations for review and comment. Sponsor comments will be considered in revising the*
21 *proposal prior to NCUTCD Council consideration. This proposal does not represent a revision of*
22 *the NCUTCD Rules of the Road unless and until approved by the NCUTCD Council.*

SUMMARY:

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25 The Rules of the Road are to be posted on the NCUTCD webpage for the information of users
26 thereof. The Rules of the Road were previously published by the National Committee of
27 Uniform Laws and Ordinances (NCUTLO). They suspended operations in July 2008 with the
28 last published Uniform Vehicle Code (UVC) dated 2000. The NCUTCD determined that they
29 would maintain the Rules of the Road, Chapter 11, UVC to update it with changes to the
30 MUTCD providing a Rules of the Road publication that is consistent with the MUTCD for the
31 information and use of those jurisdictions that want update their vehicle laws that are compatible
32 with the MUTCD. This recommendation is one step in the process to establish the NCUTCD
33 Rules of the Road.

DISCUSSION:

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36 The UVC, including the Rules of the Road (ROR) chapter, needs to be updated to reflect
37 revisions to the MUTCD since that time. Updating the Rules of the Road chapter and related
38 definitions will be addressed in separate recommendations. This recommendation is to omit
39 Article IX - DUI and Other Serious Traffic Offenses, Article XV - Victims of a Traffic-Related
40 Offenses, and Article XVI - "Safe Streets Act" - Vehicle Immobilization Resulting from

41 Continuing to Drive When the Driver's License is Suspended or Revoked for DWI or DUI from
42 the NCUTCD Rules of the Road. It also includes omission of references in Section 11-102 to
43 sections 11-901, 11-902, 11-907, and 11-908.

44
45 **RECOMMENDED RULES OF THE ROAD CHANGES:**

46 Text from Chapter 11 of the 2000 UVC that is proposed to be omitted from the NCUTCD Rules
47 of the Road is shown in ~~red strikethrough~~. There is no proposed new text or previously approved
48 changes in this recommendation. In some cases, background comments may be provided with
49 the text. These comments are **[enclosed in brackets and have light blue highlighting]**.

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53 **§ 11-102 Required obedience to traffic laws**

- 54 (a) It is unlawful, and unless otherwise declared in this chapter with respect to particular
55 offenses, it is a (misdemeanor) (violation) for any person to do any act forbidden or fail
56 to perform any act required in this chapter.
- 57 (b) ~~OPTIONAL~~ Any person who violates section 11-809, ~~11-901, 11-902, 11-907, or 11-~~
58 ~~908~~ shall be guilty of a misdemeanor.⁷² **[Proposed to be omitted since all 11-9xx sections**
59 **are included in Article IX which is proposed for omission.]**
- 60 (c) ~~OPTIONAL~~ Any person who violates any other section in this chapter shall be guilty of
61 an infraction.⁷²

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64 ~~**ARTICLE IX—DUI AND OTHER SERIOUS TRAFFIC OFFENSES.**~~⁷⁸

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66 ~~**§ 11-901—Unlawful to consume alcoholic beverages while driving a motor vehicle or to**~~
67 ~~**possess an open container of alcoholic beverage within the passenger area of a**~~
68 ~~**motor vehicle while on a highway**~~

- 69 ~~(a) It is unlawful for a person to consume an alcoholic beverage while driving a vehicle on a~~
70 ~~public highway.~~
- 71 ~~(b) Except as otherwise provided in this subsection, it is unlawful for a person to possess an~~
72 ~~open container of an alcoholic beverage within the passenger area of a motor vehicle~~
73 ~~while the motor vehicle is on a public highway. This prohibition does not apply to a~~
74 ~~motor vehicle being used primarily for the transportation of persons for compensation or~~
75 ~~to the living quarters of a house coach, house trailer, or recreational vehicle nor does it~~
76 ~~apply to a vehicle operated by a chauffeur in his or her for-hire capacity.~~
- 77 ~~(c) Violations of this section are punishable by a fine of not more than (\$500), or~~
78 ~~imprisonment for not more than (30) days, or both such fine and imprisonment.~~

79
80 ~~**§ 11-902—Driving under the influence of alcohol or drugs; under the extreme influence of**~~
81 ~~**alcohol; alcohol and drug abuse evaluation and treatment**~~

- 82 ~~(a) A person shall not drive any vehicle while:~~

⁷⁸—~~This article covers serious traffic offenses: sections 11-901 through 11-908 are related to driving~~
~~under the influence; sections 11-909 through 11-911 relate to reckless driving, homicide by vehicle,~~
~~and fleeing or attempting to elude a police officer.~~

- 83 1. — the alcohol concentration in such person's blood or breath is 0.08 or more;
84 2. — the alcohol concentration in such persons blood or breath as measured within (two)
85 hours of the time of driving is 0.08 or more;
86 3. — under the influence of alcohol;
87 4. — under the influence of any drug or combination of drugs to a degree which renders
88 such person incapable of safely driving; or,
89 5. — under the combined influence of alcohol and any drug or drugs to a degree that
90 renders such person incapable of safely driving.
- 91 (b) — Under the extreme influence of alcohol: a person shall not drive any vehicle while:
92 1. — the alcohol concentration in such person's blood or breath is (0.16)⁷⁹ or more; or,
93 2. — the alcohol concentration in such person's blood or breath as measured within (two)
94 hours of the time of driving is (0.16) or more.
- 95 (c) — A person convicted of violating subsection (a) shall be punished as follows:
96 1. — For a first offense, a person shall be sentenced to imprisonment for not less than
97 (ten) days or more than (one) year or to pay a fine of not less than (\$250) nor more
98 than (\$1,000) or to both such imprisonment and fine. The department shall suspend
99 the person's license for (180) days.
100 2. — For a second or subsequent conviction within (five) years, a person shall be
101 sentenced to imprisonment for not less than (90) days nor more than (one year) and
102 shall pay a fine of not less than (\$500) nor more than (\$1,000). The department
103 shall revoke the person's license for (one year).⁸⁰
- 104 (d) — A person convicted of violating subsection (b) shall be punished as follows:
105 1. — For a first offense a person shall be sentenced to imprisonment for not less than (30)
106 days and not more than (one year) with at least (30) consecutive days in jail without
107 the benefit of probation or suspension of the sentence and shall pay a fine of not
108 less than (\$500) nor more than (\$1000). The department shall revoke the person's
109 license for (one year).⁸¹
110 2. — For a second or subsequent offense within (five) years, a person shall be sentenced
111 to imprisonment for not less than (120) days and not more than (one) year with at
112 least (60) days to be served consecutively without the benefit of probation or
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⁷⁹—States may wish to change this number; the National Committee recommends that the minimum BAC for extreme influence be twice the minimum BAC for driving under the influence.

⁸⁰—States concerned about the hardship that might result from a one-year license revocation could enact the following (or another hardship) provision: Notwithstanding any other provision of law, after 30 days following a license suspension or revocation the department may issue a limited license to the driver if no prior limited license has been issued within the preceding 12 months and there has been no prior license suspension or revocation. In issuing a limited license, the department may impose the conditions and limitations that in its judgment are necessary to the interests of the public safety and welfare. The license may be limited to the operation of a particular vehicle (or vehicles) or to a particular class (or classes) of vehicle, and to time of operation. The limited license issued by the department shall indicate the limitations imposed, and the driver operating under a limited license shall have the license in his or her possession at all times when driving a motor vehicle.

⁸¹—See footnote 80.

114 ~~suspension and shall pay a fine of not less than (\$1,000) nor more than (\$2,000).—~~
115 ~~The department shall revoke the person’s license for (two)⁸² years.~~

116 ~~(e)—~~

- 117 ~~1.— Before sentencing any person convicted of violating either subsections (a) or (b),~~
118 ~~the court shall conduct or order an appropriate examination or examinations to~~
119 ~~determine whether the person needs or would benefit from treatment for alcohol or~~
120 ~~other drug abuse.~~
 - 121 ~~2.— In addition to the penalties imposed under subsections (c) and (d) and after~~
122 ~~receiving the results of the examination in subparagraph (1) under this subsection,~~
123 ~~or upon a hearing and determination that the person is an habitual user of alcohol or~~
124 ~~other drugs, the court may order supervised treatment on an outpatient basis, or~~
125 ~~upon additional determinations that the person constitutes a danger to self or others~~
126 ~~and that adequate treatment facilities are available, the court may order such person~~
127 ~~committed for treatment at a facility or institution approved by the (state department~~
128 ~~of health).~~
 - 129 ~~3.— Any person subject to this subsection may be examined by a physician of such~~
130 ~~person’s own choosing. The court shall consider the results of any such~~
131 ~~examination.~~
 - 132 ~~4.— Upon application for a driver’s license by any person under an order of commitment~~
133 ~~or supervised treatment pursuant to subparagraph (2) under this subsection, the~~
134 ~~results of the examination referred to in subparagraph (1) of this subsection and a~~
135 ~~report of the progress of the treatment ordered shall be forwarded by the applicant~~
136 ~~to the department for consideration by the health advisory board.~~
 - 137 ~~5.— The department may after receiving the advice of the health advisory board issue a~~
138 ~~license to such person with conditions and restrictions that are consistent with the~~
139 ~~progress of the person’s rehabilitation and the protection of the public.~~
- 140 ~~(f) A court may order a person convicted of a violation of either subsections (a) or (b), who~~
141 ~~has had his or her license restored, to only operate motor vehicles that are equipped with~~
142 ~~a certified ignition interlock device.~~
- 143 ~~(g) The fact that any person charged with violating either subsections (a) or (b) is or has~~
144 ~~been legally entitled to use alcohol or any drug shall not constitute a defense against any~~
145 ~~charge of violating this section.~~
- 146 ~~(h) A sentencing judge may permit any jail sentence or any portion of a jail sentence~~
147 ~~imposed for violating either subsections (a) or (b) and punished under either subsections~~
148 ~~(c) or (d) to be served under a home detention program.~~
- 149 ~~(i) A person convicted of violating either subsections (a) or (b) may be ordered by the court~~
150 ~~to perform community service, to pay restitution to any victims, and to pay the costs~~
151 ~~associated with an incarceration, a home detention program, an alcohol drug abuse~~
152 ~~evaluation or a treatment program.~~

⁸²—~~This is an exception from the general UVC practice authorizing revocation of the license for one year.~~
~~States concerned about the hardship that might result from a two-year license revocation could enact~~
~~the hardship provision enumerated in footnote 10.~~

155 **§ 11-903—Chemical and other tests**

156 (a) ~~Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to~~
157 ~~have been committed by any person driving under the influence of alcohol or drugs,~~
158 ~~evidence of the concentration of alcohol or drugs in a person at the time alleged, as~~
159 ~~determined by analysis of the person's blood, urine, breath or other bodily substance,~~
160 ~~shall be admissible by any party to such action or proceeding. Where such a test is made~~
161 ~~the following provisions shall apply:~~

162 1. ~~Chemical analyses of the person's blood, urine, breath, or other bodily substance to~~
163 ~~be considered valid under the provisions of this section shall have been performed~~
164 ~~according to methods approved by the (state department of health) and by an~~
165 ~~individual possessing a valid permit issued by the (state department of health) for~~
166 ~~this purpose. The (state department of health) is authorized to approve satisfactory~~
167 ~~techniques or methods, to ascertain the qualifications and competence of individuals~~
168 ~~to conduct such analyses, and to issue permits that shall be subject to termination or~~
169 ~~revocation at the discretion of the (state department of health).~~

170 2. ~~When a person submits to a blood test at the request of a law enforcement officer,~~
171 ~~only a qualified person⁸³ may withdraw blood for the purpose of determining the~~
172 ~~alcoholic or drug content therein. This limitation shall not apply to the taking of~~
173 ~~breath specimens.~~

174 3. ~~Upon the request of the person who submitted to a chemical test or tests at the~~
175 ~~request of a law enforcement officer, the results of such test or tests shall be made~~
176 ~~available to the person or such person's attorney.~~

177 (b) ~~Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to~~
178 ~~have been committed by a person driving under the influence of alcohol, if the~~
179 ~~concentration of alcohol in the person's blood or breath at the time alleged as shown by~~
180 ~~analysis of the person's blood or breath was less than 0.08, such fact shall not give rise~~
181 ~~to any presumption that the person was not under the influence of alcohol, but may be~~
182 ~~considered with other competent evidence in determining that issue. This provision shall~~
183 ~~not be construed as limiting the introduction of any other competent evidence bearing~~
184 ~~upon the question whether the person was under the influence of drugs.~~

185 (c) ~~If a person under arrest refuses to submit to a chemical test under the provisions of this~~
186 ~~section, evidence of such refusal shall be admissible by any party in any civil or criminal~~
187 ~~action or proceeding arising out of acts alleged to have been committed while the person~~
188 ~~was driving under the influence of alcohol or drugs.~~

190 **§ 11-904—Implied Consent and Administrative License Suspension, including duties of**
191 **the officer and opportunity for a hearing**

192 (a) ~~Any person who operates a vehicle upon the highways of this State shall be deemed to~~
193 ~~have given consent to a test or tests of such operator's blood or breath, for the purpose of~~
194 ~~determining the operator's alcohol concentration, and to a test or tests of such operator's~~
195 ~~blood, urine, or other bodily substances for purpose of detecting the presence of drugs.~~
196 ~~The test or tests shall be administered at the direction of a law enforcement officer who~~
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⁸³ ~~The state shall determine the definition of qualified person.~~

198 ~~has arrested that person for, or has probable cause to believe, that the person has~~
199 ~~operated a vehicle under the influence of alcohol and/or drugs or other controlled~~
200 ~~substances, or in the case of a person under the age of 21 years, that such person has~~
201 ~~operated a vehicle while having any measurable amount of alcohol in his or her system.~~
202 ~~(b) Any person who is dead, unconscious or who is otherwise in a condition rendering one~~
203 ~~incapable of refusal, shall be deemed not to have withdrawn the consent provided by~~
204 ~~paragraph (a) of this section and the test or tests may be administered, subject to the~~
205 ~~provisions of section 11-903.~~
206 ~~(c) A person requested to submit to a test as provided above shall be warned by the law~~
207 ~~enforcement officer requesting the test that a refusal to submit to or the failure to~~
208 ~~complete the test will result in the immediate suspension of such person's license to~~
209 ~~operate a motor vehicle for (one year).~~
210 ~~(d) If the person refuses testing or fails to complete it, or submits to a test required under~~
211 ~~subsection (a) which discloses an alcohol concentration of 0.08 or more, or if the officer~~
212 ~~otherwise makes the determination based on probable cause that the person operated a~~
213 ~~vehicle under the influence of alcohol and/or drugs or other controlled substances, on~~
214 ~~behalf of the Department of Motor vehicles the officer directing administration of the~~
215 ~~test or making such determination shall serve on the person immediate notice of the~~
216 ~~Department's intention to suspend the person's license to operate a motor vehicle. Such~~
217 ~~officer also shall submit a sworn report to the Department certifying one of the~~
218 ~~following:~~
219 ~~1. the test was requested pursuant to subsection (a) and the person refused to submit to~~
220 ~~testing or failed to complete it;~~
221 ~~2. the person submitted to a test that disclosed an alcohol concentration of 0.08 or~~
222 ~~more;~~
223 ~~3. the officer made an arrest based on probable cause that the person operated a~~
224 ~~vehicle under the influence of alcohol or drugs or other controlled substances.~~
225 ~~(e) Upon receipt of the sworn report of a law enforcement officer submitted under~~
226 ~~subsection (d), the department shall suspend the driver's license of the person for a~~
227 ~~period of:~~
228 ~~1. (one year) for refusal to take the requested test or the failure to complete it;~~
229 ~~2. (180 days) if the person submitted to testing required under subsection (a) which~~
230 ~~disclosed an alcohol concentration of 0.08 or more;~~
231 ~~3. (180 days) if the officer made the arrest based on probable cause that the person~~
232 ~~operated a vehicle under the influence of alcohol and/or drugs or other controlled~~
233 ~~substances.~~
234 ~~(f) On behalf of the department, the law enforcement officer submitting the sworn report~~
235 ~~under subsection (d) shall serve immediate notice of the suspension on the person, and~~
236 ~~the suspension shall be effective (30) days after the date of service. If the person has a~~
237 ~~valid license, the officer shall take the driver's license of the person and issue a~~
238 ~~temporary license valid for the notice period. The officer shall send the license to the~~
239 ~~department along with the sworn report under subsection (d). If approved by the~~
240 ~~Department of Motor Vehicles, a citation or notice of suspension issued by the officer~~
241 ~~also may serve as the temporary license certificate.~~
242 ~~In cases where the law enforcement officer has not served notice, the department~~
243 ~~shall give reasonable notice as provided in section (insert reference to appropriate state~~

244 ~~notice provision) and the suspension shall be effective (30) days after the date of service.~~
245 ~~If the address shown in the law enforcement officer's report differs from that shown on~~
246 ~~the department records, the notice shall be mailed to both addresses.~~

- 247 ~~(g) A license suspension under this section shall become effective (30) days after the date of~~
248 ~~service of the notice of suspension. Any person whose license is suspended under this~~
249 ~~section may make a written request for a hearing. The request shall state the grounds~~
250 ~~upon which the person seeks to have the suspension rescinded. The filing of the request~~
251 ~~shall not stay the suspension. The hearing shall be held within (20) days after filing of~~
252 ~~the request in the county in which the alleged offense occurred, unless the person and~~
253 ~~the department agree to a different location. The hearing shall be recorded and be~~
254 ~~conducted by the department's designated agent.⁸⁴ The hearing may be conducted upon~~
255 ~~a review of the law enforcement officer's own reports, provided however that the person~~
256 ~~may subpoena the officer. The department may issue subpoenas to compel the~~
257 ~~attendance of witnesses. The scope of the hearing shall be limited to the issues of:~~
258 ~~1. whether the law enforcement officer requested the test;~~
259 ~~2. whether the person was warned as required by subsection (c);~~
260 ~~3. whether the person was driving a vehicle;~~
261 ~~4. whether the person refused to submit to the testing or failed to complete it; and~~
262 ~~5. whether a properly administered test or tests disclosed an alcohol concentration of~~
263 ~~0.08 or more.~~

265 ~~§ 11-905 — Zero tolerance — Applicable to persons under age 21: implied consent to~~
266 ~~testing; administrative license revocation for refusal to submit to chemical test~~
267 ~~or having BAC of .02 or more; notice to persons under the age of 21 years~~
268 ~~prior to licensure; duties of officer if test refused or failed.~~

- 269 ~~(a) Notwithstanding any other provision of law, it is unlawful for a person under the age of~~
270 ~~21 years who has an alcohol concentration of 0.02 or more, as measured by a~~
271 ~~preliminary alcohol screening test or a test authorized by section 11-903, to drive a~~
272 ~~vehicle. The penalty for a person under the age of 21 years driving with an alcohol~~
273 ~~concentration of 0.02 or more is suspension of the driving privilege for (180) days.~~
274 ~~(b) If a law enforcement officer detains a person under 21 years of age who is driving a~~
275 ~~vehicle, and the officer has reasonable cause to believe that the person has any~~
276 ~~measurable amount of alcohol in his or her system and a preliminary alcohol screening~~
277 ~~device is immediately available, the officer shall request that the person take a~~
278 ~~preliminary alcohol screening test to determine the possible presence and amount of~~
279 ~~alcohol in the person. If a preliminary alcohol screening is not immediately available,~~
280 ~~the officer may request that the person submit to chemical testing of his or her blood or~~
281 ~~breath pursuant to the requirements of sections 11-903.~~
282 ~~(c) Any person under the age of 21 years who drives a vehicle, or his or her parent or~~
283 ~~guardian on behalf of such person under age 21, is deemed to have given consent to a~~
284 ~~preliminary alcohol screening test or any test authorized by section 11-903 or 11-904 for~~
285 ~~the purpose of determining the presence of alcohol in the person, if such person was~~
286 ~~lawfully detained for an alleged violation of subsection (a). Any person under age 21~~

⁸⁴ ~~Alternatively, states may wish to have the hearing conducted by a judge using an administrative~~
~~standard, at the defendants initial hearing on the criminal charge.~~

287 ~~who is dead, unconscious or who is otherwise in a condition rendering such person~~
288 ~~incapable of refusal, shall be deemed to have provided the consent authorized by this~~
289 ~~subsection and the test or tests may be administered.~~
290 ~~(d) A person under the age of 21 years requested to submit to a test as provided by this~~
291 ~~section shall be told by the law enforcement officer requesting the test that a refusal to~~
292 ~~submit to or the failure to complete a preliminary alcohol screening test or a test~~
293 ~~authorized by section 11-903 or 11-904, as requested by the officer, will result in the~~
294 ~~suspension of such person's license to operate a motor vehicle for (one year).~~
295 ~~(e) If the person refuses to take or fails to complete the preliminary alcohol screening test,~~
296 ~~or refuses to take or fails to complete a chemical test if a preliminary alcohol screening~~
297 ~~device is not immediately available, or if the person takes the preliminary alcohol~~
298 ~~screening test and that test reveals a blood alcohol concentration of 0.02 percent or~~
299 ~~more, or if the person takes a chemical test pursuant to the provisions of section 11-903~~
300 ~~revealing a blood alcohol concentration of 0.02 or more, the officer shall proceed as~~
301 ~~follows:⁸⁵~~
302 ~~1. Acting on behalf of the Department, the officer shall serve the person with a notice~~
303 ~~of an order of suspension of the person's driving privilege.~~
304 ~~2. The officer shall take possession of any driver's license issued by this State which~~
305 ~~is held by the person. On behalf of the Department, when the officer takes~~
306 ~~possession of a valid driver's license, the officer shall issue a temporary driver's~~
307 ~~license. The temporary driver's license may be an endorsement on the notice of the~~
308 ~~order of suspension and shall be valid for 30 days from the date of issuance.~~
309 ~~3. Within 5 business days after the day the notice of suspension is served, the officer~~
310 ~~shall forward to the Department a copy of the completed notice of order of~~
311 ~~suspension, the driver's license if taken into possession pursuant to paragraph (2),~~
312 ~~and any other reports which may be required by law or regulation.~~
313 ~~(f) Before issuing a driver's license or permit to any person under 21 years of age, the~~
314 ~~Department of Motor Vehicles shall inform the applicant of, and the applicant shall sign~~
315 ~~a statement acknowledging notification of, the following information:~~
316 ~~1. It is unlawful for anyone under the age of 21 to drive with an alcohol concentration~~
317 ~~of 0.02 or greater, as measured by a preliminary alcohol screening test or other~~
318 ~~chemical test;~~
319 ~~2. The penalty for driving with an alcohol concentration of 0.02 or greater is a~~
320 ~~suspension of the driving privilege for (180 days).~~
321

⁸⁵ ~~The intention of the drafters is to provide the law enforcement officer with an expedited procedure for suspending and seizing the license of persons under the age of 21 who have been drinking.~~

~~On behalf of the department of motor vehicles, section 11-905 authorizes the officer to serve a person under age 21 with a notice of suspension and to take possession of that person's license after such person either refuses to take or to complete the preliminary alcohol screening test, or takes the preliminary alcohol screening test and that test reveals a blood alcohol concentration of 0.02 or more. The drafters believe that whenever a person under the age of 21 takes a preliminary alcohol test and that test reveals a blood alcohol level of 0.02 or more, that section 11-905 (rather than section 11-904) should be utilized to immediately seize and suspend that person's license, even when that person's BAC registers 0.08 and above. The drafters believe that establishing this procedure as the typical approach to underage drinking will make zero tolerance enforcement easier and therefore more prevalent; and pursuing this administrative approach would not preclude pursuing additional criminal actions under the provisions of section 11-902.~~

322 3. — For a person under the age of 21, a refusal to take or a failure to complete a
323 preliminary alcohol screening test or other chemical test for the purpose of
324 determining the person's level of alcohol concentration shall result in a (one year)-
325 suspension of the driving privilege.

326 (g) — A license suspension under this section shall become effective (30) days after the date of
327 service of the notice of suspension. Any person whose license is suspended under this
328 section may make a written request for a hearing. The request shall state the grounds
329 upon which the person seeks to have the suspension rescinded. The filing of the request
330 shall not stay the suspension. The hearing shall be held within 20 days after filing of the
331 request in the county in which the alleged offense occurred, unless the person and the
332 department agree to a different location. The hearing shall be recorded, and be
333 conducted by the department's designated agent. The hearing may be conducted upon a
334 review of the law enforcement officer's own reports; provided, however, that the person
335 may subpoena the officer. The department may issue subpoenas to compel the
336 attendance of witnesses. The scope of the hearing shall be limited to the issues of:
337 1. — whether the law enforcement officer requested the test;
338 2. — whether the person was warned as required by subsection (d);
339 3. — whether the person was driving a vehicle;
340 4. — whether the person refused to submit to the testing or failed to complete it;
341 5. — whether a properly administered test or tests disclosed an alcohol concentration of
342 0.02 or more.

343 (h) — Notwithstanding any other provision of law, the Department of Motor Vehicles of this
344 state may require anyone under the age of 21 years who has had his or her license
345 suspended pursuant to this section, as one requirement to have the license reissued, to
346 attend a course or participate in counseling designed to discourage those under the age
347 of 21 years from drinking alcohol.

348
349 **§ 11-906 — Preliminary Alcohol Screening Test**

350 When a law enforcement officer has articulable grounds to suspect that a person may have
351 been violating section 11-902, or that a person under age 21 may have been driving with a
352 measurable alcohol concentration, the officer may request that the suspect submit to a
353 preliminary alcohol screening test of the suspect's breath to determine such person's alcohol
354 concentration using a device approved for that purpose by the (State Department of Health).
355 Nothing in this section precludes the officer from further requesting or requiring additional
356 testing pursuant to any section of this Act or any other provision of law.

357
358 **§ 11-907 — Chemical test of drivers in serious personal injury or fatal crashes**

359 Notwithstanding the provisions of any other law, when the driver of a vehicle is involved in a
360 crash resulting in death or serious personal injury of another person, and there is reason to
361 believe that the driver was driving under the influence of alcohol or drugs, the driver may be
362 compelled by a police officer to submit to a test or tests of his or her blood, breath or urine to
363 determine the person's alcohol concentration or the presence of other drugs.

364
365 **§ 11-908 — Limits on Plea Bargaining**

366 When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation
367 other than §11-902(a), in satisfaction of or as a substitute for an original charge or a violation of 11-

368 ~~902(a), the prosecution shall state for the record a factual basis for the satisfaction or substitution,~~
369 ~~including whether or not there had been consumption of any alcoholic beverage or ingestion or~~
370 ~~administration of any other drug, or both, by the defendant in connection with the offense.~~
371

372 **~~§ 11-909 — Reckless driving~~**

373 ~~(a) Any person who drives any vehicle in willful or wanton disregard for the safety of~~
374 ~~persons or property is guilty of reckless driving.~~

375 ~~(b) Every person convicted of reckless driving shall be punished upon a first conviction by~~
376 ~~imprisonment for a period of not less than five days nor more than 90 days, or by a fine~~
377 ~~of not less than \$25 nor more than (\$500), or by both such fine and imprisonment, and~~
378 ~~on a second or subsequent conviction shall be punished by imprisonment for not less~~
379 ~~than 10 days nor more than six months, or by a fine of not less than \$50 nor more than~~
380 ~~(\$500), or by both such fine and imprisonment.~~

381

382 **~~§ 11-910 — Homicide by vehicle~~**

383 ~~(a) Whoever shall unlawfully and unintentionally cause the death of another person, while~~
384 ~~engaged in a violation of any state law or municipal ordinance applying to the operation~~
385 ~~or use of a vehicle or to the regulation of traffic, shall be guilty of homicide by vehicle~~
386 ~~when such violation is the proximate cause of that death.~~

387 ~~(b) Any person convicted of homicide by vehicle shall be fined not less than \$500 nor more~~
388 ~~than \$2,000, or shall be imprisoned in the county jail not less than three months nor~~
389 ~~more than one year, or may be so fined and so imprisoned, or shall be imprisoned in the~~
390 ~~penitentiary for a term not less than one year nor more than five years.~~

391

392 **~~§ 11-911 — Fleeing or attempting to elude a police officer~~**

393 ~~(a) Any driver of a motor vehicle who willfully fails or refuses to bring his or her vehicle to~~
394 ~~a stop, or who otherwise flees or attempts to elude a pursuing police vehicle when given~~
395 ~~a visual or audible signal to bring the, vehicle to a stop, shall be guilty of a~~
396 ~~misdemeanor. The signal given by the police officer may be by hand, voice, emergency~~
397 ~~light or siren. The officer giving such signal shall be in uniform, prominently displaying~~
398 ~~the officer's badge of office, and the officer's vehicle shall be appropriately marked,~~
399 ~~showing it to be an official police vehicle.~~

400 ~~(b) Every person convicted of fleeing or attempting to elude a police officer shall be~~
401 ~~punished by imprisonment for not less than 30 days nor more than six months, or by a~~
402 ~~fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment.~~
403

404 **ARTICLE XV—VICTIMS OF A TRAFFIC-RELATED OFFENSES⁸⁷**

405
406 **§ 11-1501—Definitions**

- 407 (a) ~~"Catastrophic injury" means an injury to any person which consists of a physical~~
408 ~~condition that creates a substantial risk of death, serious personal disfigurement, or~~
409 ~~protracted loss or impairment of the function of any bodily member or organ.~~
410 (b) ~~"Victim" means a person who has been catastrophically injured as a result of a traffic-~~
411 ~~related offense committed by another person, or the spouse, parent, child, sibling or~~
412 ~~representative of a person killed or catastrophically injured as a result of a traffic-related~~
413 ~~offense committed by another person.~~

414
415 **§ 11-1502—Rights of victims**

416 ~~Victims shall have the following rights:~~

- 417 (a) ~~To speedy prosecution of the offense. In any criminal justice proceeding, the police, the~~
418 ~~prosecutor, and the court shall take appropriate action to ensure speedy prosecution of~~
419 ~~the defendant. Victims shall be informed by the prosecuting attorney of any motions~~
420 ~~which would result in delay of the prosecution and be allowed to object in writing.~~
421 (b) ~~Upon request by the victim, to be informed by the police investigating the case of the~~
422 ~~status of the investigation, and by the prosecuting attorney prior to any critical decisions~~
423 ~~concerning the case including the charging decision, diversion, dismissal, or other~~
424 ~~disposition.~~
425 (c) ~~To be present at any time the defendant has the right to be present during all criminal~~
426 ~~justice proceedings related to an offense unless the court determines that exclusion is~~
427 ~~necessary to protect the confidentiality of juvenile or similar proceedings. If a victim is~~
428 ~~unable to attend the court proceedings, the court may designate a representative of the~~
429 ~~victim who has the same right to be present as the victim would have had.~~
430 (d) ~~To make victim impact statements to the court including information about the financial,~~
431 ~~emotional, psychological, and physical effects of the crime on the victim, the~~
432 ~~circumstances surrounding the crime, the manner in which it was perpetrated, and the~~
433 ~~victim's opinion of any recommended sentence of the convicted offender. A victim may~~
434 ~~present an impact statement to the court either orally or in writing.~~
435 (e) ~~To an order of restitution if the order is authorized by the laws of this state.~~

436
437 **§ 11-1503—Law Enforcement Agency**

- 438 (a) ~~At the time of the initial contact between any law enforcement agency and the victim,~~
439 ~~the law enforcement agency investigating the case shall provide the victim a written~~
440 ~~statement of rights which shall include the following information:~~
441 ~~1.—A statement and explanation of the victim's rights as enumerated by Section 11-~~
442 ~~1502 of this code;~~
443 ~~2.—The availability of victim assistance, medical and emergency services;~~
444

⁸⁷ ~~Drafter should cross-reference or harmonize these provisions pertaining to victims' rights with other similar statutory requirements.~~

- 445 3.—The availability of victim compensation benefits, including the name, office
446 address, and telephone number of the contact person(s) responsible for
447 administering the program; and
448 4.—The office addresses and telephone numbers of appropriate victim support and
449 services groups.
- 450 (b) As soon as available, the police shall provide to the victim the following:
- 451 1.—The office address and telephone number of the prosecutor's office;
- 452 2.—The case number and the names, office addresses, and telephone numbers of the law
453 enforcement officers assigned to investigate the case; and
- 454 3.—If known, whether the suspect has been taken into custody, and if taken into
455 custody, whether released and any conditions attached to the release.

456
457 **§ 11-1504—Prosecutor**

- 458 (a) Upon request by the victim for information concerning the criminal court proceedings, a
459 prosecuting attorney shall inform the victim of the following:
- 460 1.—A statement and explanation of the victim's rights as enumerated by Section 11-1502.
- 461 2.—The actual assignment of the case, including case number, and the court to which it is
462 assigned;
- 463 3.—The date, time, and location of any criminal proceedings relative to the offense;
- 464 4.—The availability of crime victim compensation benefits, including the name, office
465 address, and telephone numbers of contact persons responsible for administering the
466 program;
- 467 5.—The availability of any transportation services to court proceedings;
- 468 6.—Whether the defendant has a right to review the presentence reports and impact
469 statements;
- 470 7.—Whether the defendant has the right to attend and make a statement at the sentencing
471 hearing;
- 472 8.—The time and place of any hearing for the reconsideration of the sentence imposed;
473 and
- 474 9.—The right to receive information from corrections officials concerning imprisonment
475 and release.
- 476 10.—If the defendant appeals, the prosecutor shall inform the victim of the status of the
477 case on appeal and the decision of the appellate court upon disposition.
- 478 (b) The prosecutor shall notify the victim in writing of the date, time, and location of the
479 sentencing hearing and advise the victim of the opportunity to present a victim's impact
480 statement or to appear at the sentencing proceeding.

481
482 **§ 11-1505—Probation Department**

483 The Probation Department, in preparing any pre-sentence report on the defendant, must
484 attempt to consult with the victim and must include a written victim impact statement as part of
485 the pre-sentence report if the victim chooses to submit one. If the victim cannot be located or
486 declines to cooperate, the probation officer must include a notation to that effect in the report.

487
488 **§ 11-1506—Court**

489 The Court shall orally inform victims present at the sentencing hearing of their right to
490 present victim impact statements.

491

492 ~~Article XVI—"Safe Streets Act"—Vehicle Immobilization resulting from continuing to~~
493 ~~drive when the driver's license is suspended or revoked for DWI or DUI~~

494
495 ~~§ 11-1601—Vehicle Immobilization~~

- 496 ~~(a) For purposes of this Article, vehicle "immobilization" means rendering a motor vehicle~~
497 ~~inoperable. The Department is authorized to immobilize a motor vehicle utilizing, at its~~
498 ~~discretion, any of the following methods:~~
499 ~~1. taking possession of the vehicle as provided in state or local impoundment~~
500 ~~procedures;~~
501 ~~2. immobilizing the vehicle on private property designated by the vehicle owner by~~
502 ~~any method approved by the Department; or~~
503 ~~3. taking possession of the vehicle's registration & tags.~~
504 ~~(b) A motor vehicle is subject to immobilization for (30) days if it is driven on a highway in~~
505 ~~this state by a driver:~~
506 ~~1. whose driver's license is suspended or revoked pursuant to a conviction under~~
507 ~~section 6-207, section 11-902 or section 11-903;~~
508 ~~2. who is driving in violation of the terms of a limited license imposed as a condition~~
509 ~~of reinstatement of a license suspended or revoked under section 6-207, section 11-~~
510 ~~902 or section 11-903.~~
511 ~~(c) A motor vehicle is subject to immobilization for (60) days if it is driven on a highway in~~
512 ~~this state by a driver:~~
513 ~~1. whose driver's license is suspended or revoked pursuant to a second conviction~~
514 ~~within the previous [five] years under section 6-207, section 11-902 or section 11-~~
515 ~~903; or~~
516 ~~2. who is driving in violation of the terms of a limited license imposed as a condition~~
517 ~~of reinstatement of a license suspended or revoked for the second time within the~~
518 ~~previous [five] years under section 6-207, section 11-902 or section 11-903;~~
519 ~~(d) Notwithstanding subsections (b) and (c), with the written consent of the registered~~
520 ~~owner(s) a vehicle immobilized pursuant to subsection (b) or (c) may be released with~~
521 ~~an installed compulsory ignition interlock system meeting the requirements of section~~
522 ~~(2), for the period of time specified for vehicle immobilization, to any person who:~~
523 ~~(1) demonstrates that he or she:~~
524 ~~(i) currently resides in the household of the registered owner(s) of such vehicle~~
525 ~~and resided in that household at the time of immobilization; and~~
526 ~~(ii) that the vehicle is the only vehicle available to that person's household which~~
527 ~~may be operated with a private passenger vehicle license;~~
528 ~~(2) submits proof that he or she is properly licensed and that the immobilized vehicle is~~
529 ~~properly registered; and~~
530 ~~(3) submits proof of payment of the cost of installation and regulated monitoring of that~~
531 ~~vehicle interlock system for one year, and payment of any towing, storage or~~
532 ~~administrative charges resulting from the immobilization of that vehicle.~~

535 **§ 11-1602—Certification of ignition interlock systems**

- 536 (a) ~~The [Department of Motor Vehicles]⁸⁸ shall certify or cause to be certified vehicle~~
537 ~~ignition interlock devices required by this Article, publish a list of approved devices, and~~
538 ~~conduct or regulate the operation of a vehicle ignition interlock program, including~~
539 ~~imposing charges on the motorist for compulsory system installation and monitoring.~~
540 (b) ~~No model of vehicle ignition interlock device shall be certified unless it meets the~~
541 ~~accuracy requirements and specifications provided in the guidelines adopted by the~~
542 ~~National Highway Traffic Safety Administration.~~
543 (c) ~~The [Department of Motor Vehicles] shall utilize information from an independent~~
544 ~~laboratory to certify ignition interlock devices on or off the premises of the manufacturer~~
545 ~~or manufacturer's agent, in accordance with the guidelines. The cost of certification shall~~
546 ~~be borne by the manufacturers of interlock ignition devices. If the certification of a~~
547 ~~device is suspended or revoked, the manufacturer of the device shall be responsible for,~~
548 ~~and shall bear the cost of, the removal of the device and the replacement of a certified~~
549 ~~device of the manufacturer or another manufacturer.~~
550 (d) ~~All manufacturers of vehicle ignition interlock devices that meet the requirements of the~~
551 ~~National Highway Traffic Safety Administration and are certified in a manner approved~~
552 ~~by the [Department of Motor Vehicles], who intend to market the devices in this state,~~
553 ~~first shall apply to the [Department of Motor Vehicles] on forms provided by that~~
554 ~~department. The application shall be accompanied by a fee in an amount not to exceed~~
555 ~~the amount necessary to cover the costs incurred by the [Department of Motor Vehicles]~~
556 ~~in carrying out this section.~~
557 (e) ~~The [Department of Motor Vehicles] shall ensure that standard forms and procedures are~~
558 ~~developed for documenting decisions and compliance, and communicating results to~~
559 ~~relevant agencies and parties.~~
560 (f) ~~The [Department of Motor Vehicles] may delegate a private contractor to act as the~~
561 ~~agent of the state in carrying out any of the requirements of this section.~~

562
563 **§ 11-1603—Use of a Vehicle by an Unlicensed Driver: Owner's Duty**

564 ~~No owner of a motor vehicle may knowingly allow another person to drive the vehicle upon~~
565 ~~a highway unless the owner determines that the person possesses a valid driver's license that~~
566 ~~authorizes the person to operate the vehicle. For purposes of this section, an owner is required~~
567 ~~only to make a reasonable effort or inquiry to determine whether the prospective driver possesses~~
568 ~~a valid driver's license before allowing him or her to operate the owner's vehicle. An owner is not~~
569 ~~required to inquire of the department whether the prospective driver possesses a valid driver's~~
570 ~~license.~~

571
572 **§ 11-1604—Immobilization Exceptions and Safeguards**

- 573 (a) ~~If a driver is unable to produce a valid driver's license on the demand of a police officer~~
574 ~~enforcing the provisions of the Motor Vehicle Code, the vehicle may be immobilized for~~
575 ~~up to thirty days, regardless of ownership, unless the police officer is reasonably able, by~~
576 ~~other means, to verify that the driver is properly licensed. Prior to immobilizing a~~
577 ~~vehicle, a police officer shall attempt to verify the license status of a driver who claims~~

⁸⁸ ~~States should substitute the appropriate agency throughout Section 11-1602 should the responsible~~
~~agency in their state differ from the above.~~

- 578 ~~to be properly licensed but is unable to produce the license on demand of the police~~
579 ~~officer.~~
- 580 ~~(b) A police officer shall not immobilize a vehicle pursuant to this section if the license of~~
581 ~~the driver expired within the preceding 30 days and the driver otherwise would have~~
582 ~~been properly licensed.~~
- 583 ~~(c) A police officer may exercise discretion in a situation where the driver without a valid~~
584 ~~license is an employee in the course of employment driving a vehicle registered to the~~
585 ~~employer. A police officer also may exercise discretion in a situation where the driver~~
586 ~~without a valid license is the employee of a bona fide business establishment or is a~~
587 ~~person otherwise controlled by such an establishment and it reasonably appears that an~~
588 ~~owner of the vehicle, or an agent of the owner, relinquished possession of the vehicle to~~
589 ~~the business establishment solely for servicing or parking of the vehicle or other~~
590 ~~reasonably similar situations, and where the vehicle was not to be driven except as~~
591 ~~directly necessary to accomplish that business purpose. In that event, if the vehicle can~~
592 ~~be returned to or be retrieved by the business establishment or registered owner, the~~
593 ~~police officer may release and not immobilize the vehicle.~~
- 594 ~~(d) If the driver of a vehicle immobilized pursuant to subsection (a) was a registered owner~~
595 ~~of the vehicle at the time of impoundment, the impounding agency shall authorize~~
596 ~~release of the vehicle if, within three days of such immobilization, the driver of the~~
597 ~~vehicle at the time of immobilization presents his or her valid driver's license, including~~
598 ~~a valid temporary driver's license or permit, to the responsible agency. The vehicle shall~~
599 ~~then be released to a registered owner of record at the time of immobilization, or an~~
600 ~~agent of that owner authorized in writing, upon payment of towing and storage charges~~
601 ~~related to the immobilization, and any reasonable administrative charges, providing that~~
602 ~~the person claiming the vehicle is properly licensed and the vehicle is properly~~
603 ~~registered.~~

604
605 **§ 11-1605—Consumer Protection**

- 606 ~~(a) A vehicle immobilized pursuant to the circumstances described in subsection 11-604(c)~~
607 ~~shall be released to a registered owner whether or not the driver of the vehicle at the time~~
608 ~~of such immobilization presented a valid driver's license. No processing charges shall be~~
609 ~~imposed on such registered owner if he or she properly redeems the vehicle within 15~~
610 ~~days of its immobilization.~~
- 611 ~~(b) Any owner of a vehicle who suffers any loss due to vehicle immobilization may recover~~
612 ~~the amount of the loss from the culpable driver whose actions caused the~~
613 ~~immobilization. If possession of a vehicle has been tendered to a business establishment~~
614 ~~in good faith, and an unlicensed, suspended or revoked driver employed or otherwise~~
615 ~~directed by that business establishment committed the violation which caused the~~
616 ~~vehicle to be immobilized, a registered owner of the vehicle may recover damages for~~
617 ~~the loss of use of the vehicle from the business establishment.~~
- 618 ~~(c) Within 10 days of a vehicle immobilization, a registered or legal owner of record at the~~
619 ~~time the vehicle was immobilized may request a hearing to determine the validity of that~~
620 ~~vehicle immobilization.~~
- 621 ~~(1) The responsible agency, if requested to do so not later than 10 days after the date~~
622 ~~the vehicle was immobilized, shall provide the opportunity for a hearing to~~
623 ~~determine the validity of the vehicle immobilization to the persons who were the~~

- 624 registered or legal owners of the vehicle at the time of its immobilization.
625 (2) The post immobilization hearing shall be conducted not later than two days after the
626 date it was requested. The responsible agency may authorize its own officer or
627 employee to conduct the hearing if the hearing officer is not the same person who
628 directed the storage of the vehicle. Failure of either the registered or legal owner to
629 request a hearing as provided in paragraph (1) or to attend a scheduled hearing shall
630 satisfy the post immobilization hearing requirement.
631 (3) The responsible agency employing the person who directed the vehicle
632 immobilization is responsible for all costs incurred for any towing, storage or
633 administrative charges if it is determined that the vehicle was improperly
634 immobilized.
635 (4) Towing and storage charges for any vehicle immobilized pursuant to this Act shall
636 not exceed the normal towing and storage rates for other vehicle towing and storage
637 conducted by the towing company or agency in the normal course of business.
638 (5) The burden of proof in the hearing shall be on the immobilizing agency, by a
639 preponderance of the evidence. All questions that may arise shall be decided and all
640 other proceedings shall be conducted as in an ordinary civil action. A judgment
641 upholding vehicle immobilization does not require as a condition precedent the
642 conviction of a defendant for the offense which made the vehicle subject to
643 immobilization.
644

645 **§ 11-1606 — Disposition of Abandoned Vehicles**

646 Any immobilized vehicle unclaimed under this act which is determined to be abandoned
647 under the laws of this state may be disposed of at the discretion of the [Department of Motor
648 Vehicles].
649

650 **§ 11-1607 — Administration**

- 651 (a) The [Department of Motor Vehicles] may prescribe standard forms and procedures for
652 implementation of this Article to be used by jurisdictions throughout the state.
653 (b) In computing any period of time prescribed or allowed by this Article, if the time period
654 to be computed is 15 days or less, Saturdays, Sundays and holidays shall not be counted.
655 If the time period to be computed is greater than 15 days, Saturdays, Sundays and
656 holidays shall be counted.
657

658 **§ 11-608 — Notice of License suspension or revocation — OPTIONAL**

- 659 (a) *It shall be conclusively presumed that a person has knowledge of the suspension or*
660 *revocation if notice has been sent by certified mail by the department to the most recent*
661 *address officially reported by the person pursuant to procedures established by the*
662 *department, and the return receipt has been signed and returned to the department. It is*
663 *the responsibility of every license holder to report changes of address to the department*
664 *within [10 days] of the change of address.*
665 (b) —
666 1. *In the event the certified mail is not delivered, the department shall attempt to*
667 *provide personal service by using a process server for service of any person whose*
668 *driving privilege was suspended or revoked.*
669 2. *At the time of license reinstatement, the department shall recover an amount equal*

670
671

~~to its total cost of providing notices pursuant to this subsection, in addition to any fines or fees otherwise authorized by law.~~