



ServSafe® Alcohol: Fundamentals of Alcohol Service Illinois Training Supplement

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The following information supplements the *ServSafe Alcohol: Fundamentals of Alcohol Service* publication with this *Illinois Training Supplement*. The content and legal references to Illinois law are used with permission from the Office of the Secretary of State of Illinois and taken from the *DUI Fact Book* found here: http://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a118.pdf. All questions regarding Illinois law and its implementation should be submitted to the Office of the Illinois Secretary of State.

Driving Under the Influence

“Driving Under the Influence” (DUI) is defined as operating a motor vehicle while impaired by alcohol, other drugs including cannabis (marijuana) prescribed for medical purposes, or intoxicating compounds and methamphetamine. In Illinois, a driver is legally considered to be under the influence if he/she has a blood-alcohol content (BAC) of .08 or more, has used any illegal substance or is impaired by medication. Illinois’ .08 limit has been in effect since July 2, 1997.

Blood-Alcohol Content (BAC)

A driver’s BAC is based on the ratio of alcohol to blood or breath. However, an individual with a BAC between .05 and .08 may be convicted of DUI if additional evidence shows the driver was impaired.

The effect of alcohol on an individual is determined primarily by two factors: the amount of alcohol consumed and the rate at which it is absorbed by the body. Other contributing factors include gender, body weight, alcohol tolerance, mood, environment and the amount of food consumed.

From the first drink, alcohol affects coordination and judgment. Even with a BAC well below .08, a person’s reaction time slows. The risk of being in a crash begins to climb with a BAC between .04 and .05 and increases rapidly thereafter. By the time a driver reaches a BAC of .06, he/she is twice as likely to be involved in a fatal crash as a non-drinking driver. By the time a driver reaches a BAC of .08, he/she is 11 times more likely to be killed in a single-vehicle crash than a non-drinking driver.

The only way to rid the body of alcohol is time. Fresh air, coffee, a shower and food cannot help a person become sober. It takes about one hour for the body to metabolize one drink. Each of the following has a comparable amount of alcohol and counts as one drink: one 12-ounce mug of beer, one 5-ounce glass of wine or one 1.5-ounce shot of hard liquor. (The amount of alcohol in a poured/mixed drink is dependent on the type of drink and the person who pours it.)

Medical Cannabis (Marijuana)

Illinois allows for the use of cannabis for medicinal purposes.

Individuals authorized to use cannabis must be 18 years of age or older, registered with the Illinois Department of Public Health (IDPH), and secure a written certification from a physician licensed in Illinois. The IDPH will issue a registry ID card and a notation will be made on the registrant’s Illinois driving record, which will be available to law enforcement.

A driver may not operate a motor vehicle while under the influence of cannabis prescribed for medicinal purposes and may not transport medicinal cannabis in a vehicle unless it is contained in a tamper-evident container and kept in an area that is inaccessible while the vehicle is in motion. If a police officer stops a vehicle

driven by a person who holds a medical cannabis registry card and the officer has reasonable suspicion to believe the person is impaired by the use of cannabis, the driver must submit to field sobriety testing. Refusal to submit to testing or failure of the field sobriety tests will result in the suspension of the person's driver's license.

Driving while impaired by the use of medical cannabis or driving with an open container may result in the loss of driving privileges as well as revocation of the driver's medical cannabis card.

New Laws Concerning DUI in Illinois

Effective Jan. 1, 2015

- It is unlawful for a parent or guardian (instead of any person) to knowingly permit any vehicle, watercraft, or conveyance to be used in a manner that violates the underage drinking statute.
- Restores the statute allowing criminal penalties for any person to knowingly authorize or permit a residence that he or she occupies to be used by someone under the age 21 if the person knows that the underage person possesses or is consuming alcohol.

For a complete history of DUI laws in Illinois, visit the Secretary of State's website at www.cyberdriveillinois.com.

Penalties for a DUI Conviction

Penalties for DUI in Illinois vary depending on the circumstances of the arrest and conviction. These circumstances may include the driver's age, the driver's BAC level, whether the driver was transporting a child under age 16 and whether the driver has previous DUI convictions. Any DUI offense resulting in felony charges is classified as Aggravated DUI.

First Conviction

Class A misdemeanor; minimum revocation of driving privileges for 1 year (2 years if driver is under age 21); suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any penalties or fines, mandatory minimum fine of \$500 and mandatory minimum 100 hours of community service.
- If committed while transporting a child under age 16 — In addition to any penalties or fines, possible imprisonment of up to 6 months, mandatory minimum fine of \$1,000 and 25 days of community service in a program benefiting children.
- If committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Aggravated DUI); Class 4 felony — In addition to any other criminal or administrative sanctions, mandatory fine of \$2,500 and 25 days of community service in a program benefiting children.

Second Conviction

Class A misdemeanor; mandatory minimum imprisonment of 5 days or 240 hours of community service; revocation of driving privileges for a minimum of 5 years for a second conviction within 20 years; suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any penalties or fines, mandatory imprisonment of 2 days and mandatory minimum fine of \$1,250.
- If committed while transporting a child under age 16 (Aggravated DUI); Class 4 felony.

- If committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Aggravated DUI); Class 2 felony — In addition to any other criminal or administrative sanctions, mandatory fine of \$5,000 and 25 days of community service in a program benefiting children.

Third Conviction (Aggravated DUI)

Class 2 felony; revocation of driving privileges for a minimum of 10 years; suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any other criminal or administrative sanctions, mandatory imprisonment of 90 days and mandatory minimum fine of \$2,500.
- If committed while transporting a child under age 16 — In addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

Fourth Conviction (Aggravated DUI)

Class 2 felony; revocation of driving privileges for life with no relief available; suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — In addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

Fifth Conviction (Aggravated DUI)

Class 1 felony; revocation of driving privileges for life with no relief available; suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — In addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

Sixth or Subsequent Conviction (Aggravated DUI)

Class X felony; revocation of driving privileges for life with no relief available; suspension of vehicle registration.

- If committed with a BAC of .16 or more — In addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — In addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

Aggravated DUI

Any DUI offense resulting in felony charges is classified as Aggravated DUI. Any mandatory term of imprisonment or community service is not subject to suspension or reduction. Any person sentenced to probation or conditional discharge also must serve a minimum 480 hours of community service or 10 days imprisonment.

Aggravated DUI includes the following offenses:

- Third or subsequent DUI (Class 2 felony; penalties vary according to offense).
- DUI committed while driving a school bus carrying one or more persons age 18 or younger (Class 4 felony).
- DUI committed while driving a vehicle for-hire carrying one or more passengers (Class 4 felony).
- DUI resulting in great bodily harm, permanent disability or disfigurement (Class 4 felony). Revocation of driving privileges for a minimum of 2 years.
- Second or subsequent DUI committed while transporting a child under age 16 (Class 2 felony; penalties vary according to offense).
- DUI committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Class 2 felony; penalties vary according to offense).
- DUI committed without a valid driver's license or permit (Class 4 felony).
- DUI committed without vehicle liability insurance (Class 4 felony).
- DUI committed after a previous conviction for reckless homicide while DUI or Aggravated DUI involving a death (Class C felony).

Aggravated DUI involving a death (Class 3 felony).

- DUI committed in a school zone while the restricted speed limit is in effect and involved in a crash that resulted in bodily harm (Class 4 felony).
- DUI committed while revoked or suspended for DUI, reckless homicide or leaving the scene of a personal injury or death (Class 4 felony). Any penalty imposed is in addition to the penalty for any subsequent DUI violation. Revocation period determined by offense.
- DUI resulting in a death (Class 2 felony). Revocation of driving privileges for a minimum of 2 years from the effective date of the revocation or from the date of release from incarceration for the offense.

Additional Consequences of DUI

- A DUI conviction is a permanent part of an offender's driving record.
- The offender may lose work time.
- The offender is required to complete an alcohol/drug evaluation and an alcohol/drug remedial education course or substance abuse treatment program before driving privileges are reinstated.
- The offender must meet the requirements of the Secretary of State's Department of Administrative Hearings prior to obtaining an RDP.
- A BAIID may be installed on the offender's vehicle as a condition of driving relief.

The majority of states, including Illinois, require first-time DUI offenders to have a Breath Alcohol Ignition Interlock Device (BAIID) installed on their vehicles. Illinois also requires a camera unit on the BAIID to capture the image of the driver as they perform their breath test. In 2013, 4,818 BAIID devices were installed on Illinois vehicles following an alcohol-related offense. On average, approximately 12,000 individuals are driving with a BAIID device installed on their car or truck.

Any first-time DUI offender who wishes to obtain and is eligible for driving relief during the period of statutory summary suspension is required to have a BAIID installed on his/her vehicle. To be eligible for driving relief, the offender must obtain a Monitoring Device Driving Permit (MDDP), and a BAIID will be installed on his/her vehicle through the Secretary of State's office. An MDDP and installation of a BAIID allow an offender to drive anywhere at any time as long as he/she is driving a vehicle installed with a BAIID. The Secretary of State's office monitors and reads the BAIID throughout the duration of the permit. The BAIID will alert the

Secretary of State's office if the driver attempts any incidents of driving under the influence or tampers with the BAIID device.

A DUI offender may decline to have an MDDP and BAIID and instead choose to restrain from driving during the suspension period. However, an offender who chooses not to participate in the program and is subsequently caught driving a vehicle during the suspension period is guilty of a Class 4 felony. Additionally, an offender who participates in the BAIID program and is subsequently caught driving a vehicle without a BAIID device installed is guilty of a Class 4 felony.

- The offender is required to carry high-risk auto insurance for 3 years.
- The offender's vehicle registration will be suspended.

Vehicle Impoundment

The vehicle of any driver may be seized or impounded by local authorities for:

- Committing a DUI while driving privileges are suspended/revoked for a previous DUI or reckless homicide.
- Committing a DUI with a previous conviction of reckless homicide, aggravated DUI with death or great bodily harm.
- Committing a third or subsequent DUI.
- Committing a DUI without a valid driver's license or permit.
- Committing a DUI while uninsured.

Purchasing or Providing Alcohol to a Person under Age 21

Any person under age 21 convicted of violating the Illinois Liquor Control Act for illegal purchase or consumption of alcohol will have his or her driving privileges suspended for a specified number of months and/or revoked depending if a first or subsequent conviction. Anyone providing alcohol to a person under 21 is a Class A misdemeanor under Illinois law.

Dram Shop

"Dram shop" laws make bars and other alcohol-selling establishments liable for injuries caused by intoxicated persons to whom the establishment has served alcoholic beverages. Under a dram shop law, the bar or establishment may be held liable for damages and injuries to third persons that resulted from the bar or establishment's patron's intoxication.

Illinois dram shop law, entitled, the Liquor Control Act (referenced above), provides that commercial establishments are held liable for damages or injuries caused by the intoxicated patron, provided that:

- The bar or establishment sold alcohol to the patron;
- The injuries or damages were in fact caused by the patron;
- The bar or establishment was the proximate cause or intoxication; and
- The intoxication was at least one major cause in the third person's injury.

Under Illinois law, there is **no requirement** that the business have knowledge or reason to know that the patron was visibly intoxicated. Thus under the Illinois dram shop law, the injured person may be able to recover from several establishments if the patron had drinks at more than one bar or establishment and then struck the victim with the patron's automobile.

The following additional information has been taken from the Illinois Liquor Control Commission and can be found here: <https://www.illinois.gov/ilcc/News/Pages/2015-Dram-Shop-Liability-Limits,-Maximum-Signage-Allowances,-and-Minimum-Purchase-Requirements.aspx>.

2015 Maximum Signage Allowances, Dram Shop Liability Limits, and Minimum Purchase Requirements

Cost adjustment for signs and other advertising materials

The Liquor Control Act permits Distributors/Manufacturers to give Retailers indoor and outdoor, permanent and temporary signs that promote the brands sold by the Distributor/Manufacturer (235 ILCS 5/6-6). Giving signage to a Retailer is not a violation of the Liquor Control Act's tied-house provisions if the value of all signs per manufacturer and in use at any given time does not exceed the amounts listed below. Signage maximums reflect the adjusted amounts for 2014:

\$2,256.45 for permanent outside signs; \$5,055.42 for permanent inside signs; and

\$825.91 for temporary inside signs and other advertising materials.

Amount of minimum liability coverage allowed for 2015 increased to \$211,094.19

The Illinois Liquor Control Act of 1934 [235 ILCS 5/6-21(a)] requires the Illinois Comptroller to determine each year the liability limits for causes of action brought under the Act in accordance with the consumer price index-u (CPI-U) during the preceding 12-month calendar year.

According to the Bureau of Labor Statistics of the United States Department of Labor, the CPI-U increased 0.76 percent during the preceding calendar year. Based upon the previous determinations, the 2015 Dram Shop Liability Limits have been adjusted as follows:

For causes of action involving persons injured or killed on or after January 20, 2015, the judgment or recovery under the Liquor Control Act of 1934 for injury to the person shall not exceed \$65,511.99 for each person incurring damages;

For causes of action involving persons incurring property damage on or after January 20, 2015, the judgment or recovery under the Liquor Control Act of 1934 for property of any person shall not exceed \$65,511.99 for each person incurring damages; and

For causes of action under the Liquor Control Act of 1934 for either loss of means of support or loss of society resulting from the death or injury of any person on or after January 20, 2015, the judgment or recovery shall not exceed \$80,070.21.

Minimum purchase requirements for wine and spirits

Distributors who sell wine and spirits are required to deliver to Retailers within the Distributors' territory once every two weeks if the Retailer places a minimum order. (235 ILCS 5/6-9.1). Minimum order dollar figures are adjusted every two years, with the next adjustment scheduled for 2016. Below are the current figures:

\$276.86 for Chicago and adjacent counties; \$69.21 for all other counties.

For more information, contact the Illinois Liquor Control Commission at:

- Illinois.gov/ilcc
- ILCC@illinois.gov
- Chicago: 312.814.2206; Springfield: 217.782.2136