

ILLINOIS STATE POLICE DIRECTIVE

ENF-018, DRIVING UNDER THE INFLUENCE ENFORCEMENT AND PROCESSING

RESCINDS: ENF-018, 2018-011, 09-17-2018	REVISED: 10-16-2018 2018-011A
RELATED DOCUMENTS: ENF-008, ENF-011, ENF-013, ENF-017, ENF-021, OPS-038, OPS-201, SRV-005	RELATED CALEA STANDARDS: 61.1.2, 61.1.5, 61.1.11, 61.2.2, 83.2.1, 83.3.2

I. POLICY

The Illinois State Police (ISP) will:

- I.A. Promote the safety of persons using highways in Illinois.
- I.B. Provide a deterrent to persons who may choose to operate a motor vehicle while their abilities are impaired by alcohol or other drugs.
- I.C. Vigorously enforce the Driving Under the Influence (DUI), Implied Consent, and Zero Tolerance laws.
- I.D. Provide toxicological assistance to officers in the enforcement and prosecution of DUI statutes.

II. AUTHORITY

- II.A. 625 ILCS 5/Ch. 11 Art. V - Driving While Intoxicated, Transporting Alcoholic Liquor, and Reckless Driving.
- II.B. ILL. ADMIN. CODE tit. 20 §1286 - Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds.
- II.C. National Highway Traffic Safety Administration and International Chiefs of Police – DWI Detection and Standardized Field Sobriety Testing – March 2013.
- II.D. *People v. Jones*, 214 Ill.2d 187 (2005) – Where an officer has probable cause to believe a defendant is under the influence of alcohol, the defendant has no statutory right to refuse chemical testing under 625 ILCS 5/11-501.2(c)(2).
- II.E. *People v. Farris*, 2012 Ill. App. 3d 100199 (3rd Dist. 2012) – An officer may not use force to obtain a blood draw requested under 624 ILCS 5/11-501.2(c)(2).
- II.F. 20 ILCS 2605/2605-54 – The Department of State Police Law of the Civil Administrative Code of Illinois, “Conor’s Law”

III. PROCEDURES

III.A. Observation and Screening

- III.A.1. Vehicle in motion – Observation of the vehicle to include Illinois Vehicle Code violations or other relevant actions observed by the officer.
- III.A.2. Personal contact – Observations of the driver to include sensory observations such as odors, statements and others deemed relevant by the officer.
- III.A.3. Pre-arrest screening – Testing of the driver in accordance with NHTSA’s Standardized Field Sobriety Tests or other tests as deemed necessary by the officer and particular circumstances.
 - III.A.3.a. Standardized Field Sobriety Tests shall only be conducted by officers trained in their administration and consist of the following:
 - III.A.3.a.1) Horizontal Gaze Nystagmus
 - III.A.3.a.2) Walk and Turn
 - III.A.3.a.3) One Leg Stand

III.A.3.b. Only those tests which the officer has been trained to administer shall be conducted.

III.B. Preliminary Breath Tests (PBT)

III.B.1. A PBT may be requested after reasonable suspicion has been established and, when practical, the standardized field sobriety tests have been administered.

III.B.2. All tests must be conducted by a trained PBT operator.

III.B.3. The PBT devices should be certified by a technician or an individual specially trained to perform PBT accuracy checks at least once every 93 days.

III.B.4. The PBT results should be included in the arrest report.

III.C. Arrest

III.C.1. After probable cause has been established, place the driver under arrest for driving under the influence of alcohol, other drug or combination of both, in violation of 625 ILCS 5/11-501.

III.C.2. Upon securement of the arrestee, the officer must notify Communications of the incident upgrade to reflect the appropriate incident type(s).

III.C.3. Complete the Illinois Citation and Complaint, form ISP 5-052 (this form is available from the Records Bureau, Division of Administration).

III.C.3.a. The citation will be issued before reading the Warning to Motorist to the driver.

III.D. Submission to Test(s)

III.D.1. The officer will complete the Warning to Motorist form, provide a copy to the driver, and read the Warning to Motorist to the driver.

III.D.2. Following the warning, the driver will be requested to submit to a chemical test(s).

III.D.2.a. Breath test

III.D.2.a.1) Submission to a breath test will be requested unless:

III.D.2.a.1)a) The driver is physically unable to complete a breath test.

III.D.2.a.1)b) At the time of arrest, there is reason to believe that the driver is under the influence of drugs or a combination of alcohol and other drugs, including intoxicating compounds.

III.D.2.a.2) Evidential breath tests must be conducted by a licensed Breath Analysis Operator in accordance with standards promulgated by the ISP.

III.D.2.a.3) The appropriate information required to complete the Breath Analysis Instrument Log, form ISP 5-022, (this form is available from the ISP Document Library at <http://maphome/documentlibrary/>) will be entered in the log book by the Breath Analysis Operator.

III.D.2.b. Blood/Urine test

- III.D.2.b.1) If the subject has been in a vehicle crash and must be treated or is currently being treated by a licensed physician for injuries sustained in the crash, the arresting officer will consult with the treating physician to determine how best to test the subject without unreasonably jeopardizing the subject's treatment.
- III.D.2.b.2) Submission to a blood test will be requested when a breath test is not possible or appropriate and/or when the use of drugs, narcotics, or other intoxicating compounds is suspected. Submission to a blood test:
- III.D.2.b.2)a) May be requested when submission to a breath test is not requested for reasons as stated in subparagraph II.C.2.a.1), or is inappropriate.
- III.D.2.b.2)b) May be requested in addition to the completion of a breath test when the breath test results lead to the presumption the driver is under the influence of other drugs, a combination of alcohol and other drugs, or an intoxicating compound.
- III.D.2.b.3) Submission to a urine test will be requested when a breath test or blood test is not possible or appropriate or when drugs/intoxicating compounds are suspected.
- III.D.2.b.4) Blood samples will be collected only by authorized persons in accordance with standards promulgated by the ISP to include only a physician authorized to practice medicine, a licensed physician assistant, a licensed advanced practice nurse, a registered nurse, trained phlebotomist, or certified paramedic, or other qualified person approved by the Department of State Police. These limitations do not apply to the collection of urine samples.
- III.D.2.b.5) Blood/urine samples will be collected in the presence of the arresting officer, medical personnel, another law enforcement officer, or an agency employee who can authenticate the sample.
- III.D.2.b.6) In cases involving the arrest of the opposite sex, the urine sample will be collected by an officer of the same sex as the arrestee or medical personnel.
- III.D.2.b.7) Sample containers
- III.D.2.b.7)a) The individual tubes of drawn blood will be labeled with the name of the subject and the date of the withdrawal and treated as biohazard evidence.
- III.D.2.b.7)b) The container holding the urine sample will be labeled with the name of the subject and the date of the collection.
- III.D.2.b.8) Package samples according to instructions contained in the ISP specimen collection kit. If an ISP specimen collection kit is not available, officers may submit a blood sample in two standard gray top vacuum tubes containing an anticoagulant and preservative. Urine samples (at least 60 milliliters) may be collected in a clear, dry container containing **no** preservative. Mail or deliver the kit to a Division of Forensic Services laboratory.
- III.D.2.b.9) An Evidence Inventory and Receipt, form ISP 1-010, (this form is available from the ISP Document Library at <http://maphome/documentlibrary/>) will be completed and distributed in connection with the blood/urine sample.
- III.D.2.b.10) Blood/urine samples will be handled in accordance with established evidence procedures outlined in ISP Directive OPS-201, Evidence – Collecting and Packaging.

III.E. Law Enforcement Sworn Report

III.E.1. Once a refusal to submit has been communicated to the arresting officer, the officer will immediately complete the appropriate portion of the report.

III.E.2. Once the driver agrees to submit to and completes the chemical test(s) requested, the arresting officer will complete the appropriate portion if the test(s) disclose:

III.E.2.a. An alcohol concentration of .08 or more.

NOTE: A citation for 625 ILCS 5/11-501a.1 should be issued if tests indicate the alcohol concentration is .08 or more unless otherwise instructed by the appropriate State's Attorney.

III.E.2.b. Any amount of a drug, substance, or compound in the blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act (720 ILCS 550/1) or the use of medical marijuana causing impairment in accordance with 625 ILCS 5/11-501(a)(6) or a controlled substance listed in the Illinois Controlled Substances Act (720 ILCS 570/100) or Methamphetamine Control and Community Protection Act (720 ILCS 646) or an intoxicating compound listed in the Use of Intoxicating Compounds Act (720 ILCS 690/0.01).

III.E.3. If the driver refuses or fails to complete the chemical test(s) requested, or the results indicate an alcohol concentration of 0.08 or more or any amount of a drug, substance, or intoxicating compound, the arresting officer will confiscate all Illinois Driver's License(s) or Permit(s) on the arrestee's person and immediately forward them to the circuit court of venue along with the sworn report.

III.E.3.a. If the subject's driving privileges are valid at the time of arrest, a receipt to drive will be issued.

III.E.3.b. If the subject's driving privileges are not valid, the receipt to drive will be voided.

III.E.3.c. If the driver has a non-Illinois driver's license, refer to ISP Directive ENF-013, "Bonding Procedures."

III.F. Non-Consensual blood draw procedures (625 ILCS 5/11-501.2)

III.F.1. If a subject refuses to consent to a blood draw, the officer shall contact the local prosecuting attorney to obtain a search warrant prior to obtaining a non-consensual blood, breath, or urine test, even in a case involving death or personal injury.

III.F.1.a. The following criteria must be met:

III.F.1.a.1) The officer has probable cause to believe the driver has caused the death or personal injury of another.

NOTE: Personal injury shall include any type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or a medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene. See 625 ILCS 5/11-501.2(c)(3); 625 ILCS 5/11-501.6(g).

III.F.1.a.2) The officer has probable cause to believe the driver has committed a DUI violation, arrested the driver, and completed a DUI citation.

III.F.1.a.3) The officer has read the Warning to Motorist and requested test(s).

- III.F.1.a.4) The driver has refused to submit to or failed to complete chemical testing.
 - III.F.1.b. If the officer is unable to establish contact with a local prosecuting attorney and the jurisdiction permits law enforcement officers to seek search warrants directly from a judge without the involvement of a prosecuting attorney, the officer may attempt to contact a judge for a search warrant.
 - III.F.1.c. If the officer is unable to reach a prosecuting attorney or judge to obtain a search warrant, the officer shall wait until a prosecuting attorney or judge responds.
 - III.F.1.d. If a search warrant is signed by a judge, the officer shall transport the driver (if applicable) to a medical facility for testing.
 - III.F.1.e. Private Phlebotomist - As an alternative for taking a subject to a medical facility for a blood draw, the officer has the option of contacting a private phlebotomist company contracted with the ISP. That company will provide a licensed and trained phlebotomist to draw a defendant's blood at the time and location of processing. The subject is responsible for arranging payment with the private phlebotomist company.
 - III.F.1.e.1) If the subject has been in a vehicle crash and must be treated or is currently being treated by a licensed physician for injuries sustained in the crash, the arresting officer will consult with the treating physician to determine how best to test the subject without unreasonably jeopardizing the subject's treatment.
 - III.F.1.e.2) Deliver the search warrant to the medical personnel and request blood and/or urine samples be obtained in accordance with ISP standards.
 - III.F.1.e.3) If medical personnel refuse to perform testing or the subject physically resists the testing, the officer should contact their supervisor and consult with the respective state's attorney's office for how to proceed.
 - III.F.1.e.4) Blood draw and/or urine collection will be completed as outlined in III.D.2.b.
 - III.F.1.e.5) Package samples according to instructions contained in the ISP specimen collection kit. Blood/urine samples will be handled in accordance with established evidence procedures outlined in ISP Directive OPS-201, Evidence – Collecting and Packaging.
 - III.F.1.e.6) Complete the Evidence Inventory and Receipt and distribute copies appropriately.
 - III.F.1.e.7) Transport driver to jail facility, if applicable.
 - III.F.1.e.8) Complete the Law Enforcement Sworn Report for refusing the original test(s) requested.
 - III.F.1.e.9) Complete ISP reporting and bonding procedures.
 - III.F.1.e.10) Include the search warrant with the report.
- NOTE:** In the event there is no probable cause of a 625 ILCS 5/11-501 violation, but a driver was involved in a Type A injury or fatal motor vehicle accident, the officer should follow the statutory guidelines outlined in 625 ILCS 5/11-501.6.
- III.F.1.f. In a death or personal injury DUI case, blood, breath, or urine samples can be obtained from samples collected by the hospital in the regular course of providing emergency medical treatment, without a request from law enforcement.
 - III.F.2. If a subject refuses to consent to a blood draw and is physically resisting taking of a sample, the officer shall not proceed with the blood draw.

III.G. Traffic Crash Warning to Motorist Procedures (625 ILCS 5/11-501.6)

III.G.1. If the following criteria are met:

III.G.1.a. The driver of a motor vehicle is involved in a personal injury or fatal motor vehicle accident on a public highway

NOTE: Personal injury shall include any type A injury as indicated on the traffic accident report complete by a law enforcement officer that requires immediate professional attention in either a doctor's office or a medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene. See 625 ILCS 5/11-501.2(c)(3); 625 ILCS 5/11-501.6(g).

III.G.1.b. The officer finds no indicators on scene that the driver is under the influence of alcohol, drugs or intoxicating compounds.

III.G.1.c. The driver committed a violation of the Illinois Vehicle Code (IVC) or similar provision of a local ordinance, other than equipment violations contained in Chapter 12 of the IVC or similar provisions of local ordinances, as evidenced by the issuance of a traffic citation.

III.G.2. The officer will:

III.G.2.a. Complete and issue at least one citation for an Illinois Vehicle Code (IVC) violation committed by the driver, other than equipment violations contained in Chapter 12 of the Illinois Vehicle Code or similar provisions of a local ordinance.

III.G.2.b. Transport driver to facility for chemical testing, if applicable.

III.G.2.c. Complete and read the Traffic Crash Warning to Motorist.

III.G.2.d. Request portable breath test and/or other chemical tests of breath, blood, and/or urine.

III.G.2.e. After the driver either submits to or refuses the requested tests, the Traffic Crash Sworn Report is then completed and issued. There is no receipt to drive.

III.G.2.f. If the results indicate an alcohol concentration of 0.08 or more or any amount of a drug, substance, or intoxicating compound, the Traffic Crash Sworn Report should be mailed to the SOS. The Sworn Report should also be mailed and/or provided to the driver along with the appropriate Uniform Traffic Citation.

III.G.2.g. Complete appropriate bonding procedures.

IMPORTANT: The Traffic Crash Sworn Report should not be used in a non-consensual blood draw situation. If indicators of DUI are present, follow standard DUI arrest procedures.

III.G.3. Zero Tolerance Procedures, (625 ILCS 5/11-501.8)

III.G.3.a. If the following criteria are met:

III.G.3.a.1) The driver of a motor vehicle must be stopped for a violation of the Illinois Vehicle Code on a highway.

III.G.3.a.2) The driver is under 21 and the officer has probable cause to believe, or personal knowledge, that the driver has consumed an alcoholic beverage.

III.G.3.a.3) The officer believes that the driver has a blood alcohol content (BAC) of .01 or more and less than .08 (after conducting standardized field sobriety tests, when practical, and having the driver submit to a PBT, when available).

III.G.3.b. The officer will:

III.G.3.b.1) Complete and issue at least one citation for an Illinois Vehicle Code (IVC) violation committed by the driver.

III.G.3.b.2) Transport driver to a facility for testing.

III.G.3.b.3) Complete and read the Zero Tolerance Warning to Motorist.

III.G.3.b.4) Request chemical tests of breath, blood, and/or urine.

III.G.3.b.5) Complete the Zero Tolerance Sworn Report.

III.G.3.b.6) Complete a report using the appropriate reporting system and specify Zero Tolerance as the report type.

III.G.3.b.6)a) Complete an Alcohol/Drug Influence form and record the breath test results in the Chemical Tests Given section.

III.G.3.b.6)b) All copies of the zero tolerance report will be forwarded with the report.

III.G.3.b.6)c) This report is for record keeping only and no portion will be given to the violator.

III.G.3.b.7) Complete bonding procedures and distribute the Zero Tolerance Sworn Report:

III.G.3.b.7)a) Copy to the motorist

III.G.3.b.7)b) Copy to the Secretary of State

III.G.3.b.7)c) Attach a copy with the report

III.G.4. Juvenile Procedures

III.G.4.a. If the driver is under 18, the officer must follow the proper juvenile procedures (see the "Juvenile Manual" for the procedures). If the officer believes the driver has a BAC:

III.G.4.a.1) Less than .08 the officer should follow zero tolerance procedures.

III.G.4.a.1)a) However, if a test is then given and the test result is greater than .08, the test result cannot be used to charge a DUI offense due to the zero tolerance warning that was read to the driver.

III.G.4.a.1)b) If other independent probable cause is developed, a DUI citation can be written and the statutory summary suspension process followed. Of .08 or greater, the officer will follow standard DUI procedures.

III.G.4.a.1)d) When appropriate, consider a charge of Illegal Consumption of an Alcoholic Beverage by a Minor (235 ILCS 5/6-20).

III.H. Reporting and Distribution of Forms

- III.H.1. An ISP report will be completed by the arresting officer subsequent to any arrest for a violation of 625 ILCS 5/11-501, et seq., and as soon as practical following completion or refusal of the chemical test(s) requested.
- III.H.2. The Alcohol and/or Drug Influence Report, form ISP 5-229 (this form is available in the ISP Document Library at <http://maphome/documentlibrary/>), will be attached to the applicable report as a supplement. If a report is to be completed electronically, the reporting officer will complete the relevant section in the appropriate report management system.
- III.H.3. Distribution and retention of forms will be as provided in ISP Directive ENF-008, Field Report.

III.I. Care and Release from Custody

- III.I.1. The Academy will provide training to all ISP officers concerning response and care for persons under the influence of alcohol or other intoxicating compounds.
- III.I.2. Officers will monitor persons arrested who are under the influence of alcohol or other intoxicating compounds while the subject is in their custody, and provide proper medical care as necessary. If the subject in custody requires medical attention, the officer will follow the procedures outlined in ISP Directive ENF-014, "Prisoner Transportation, Handling, Searching, and Jailing."
- III.I.3. Release of subjects under the age of 21 who are under the influence of alcohol or other intoxicating compounds:
 - III.I.3.a. If the subject is at least 18 years of age, but under the age of 21, a reasonable attempt to contact a responsible adult to take custody of the person under the influence of alcohol or other intoxicating compound will be made.
 - III.I.3.a.1) A responsible adult will be considered a person at least 21 years of age, not under the influence of alcohol or other intoxicating compound, who is willing to care for the person under the influence of alcohol or drugs.
 - III.I.3.a.2) Such attempts will be documented in the ISP report and will include the time(s) and name(s) of the individual(s) with whom contact was attempted.
 - III.I.3.b. If the subject is under the age of 18, bonding and release procedures will be in accordance with the Juvenile Court Act and ISP Directive OPS-037, "Juvenile Procedures."
 - III.I.3.b.1) Juveniles may not be released until a parent or legal guardian has been contacted and made arrangements to take custody of the juvenile.
 - III.I.3.b.2) If a parent or guardian cannot be contacted within a reasonable period of time, the appropriate child service authorities may be contacted to arrange for custody of the juvenile to a known responsible adult.
 - III.I.3.b.3) All attempts to contact a parent/guardian will be documented in the ISP report.

III.J. Collection of Statistical Data

III.J.1. Implied consent data will be recorded by the arresting officer on the Police Record Copy of the Illinois Citation and Complaint form completed for 625 ILCS 5/11-501a2, 5/11-501a3, 5/11-501a4, 11-501a5 or 5/11-501.8. The needed information is to be recorded by entry of a three digit number (see paragraphs III.I.1.a.1)) with values identified in paragraph III.I.1.a.2).

III.J.1.a. The "speeding" blank will be used to record information relating to each of the three types of chemical tests and the action that was taken in relation to each type of test.

III.J.1.a.1) Type of chemical test

III.J.1.a.1)a) Breath - First position in the "speeding" blank

III.J.1.a.1)b) Blood - Second position in the "speeding" blank

III.J.1.a.1)c) Urine - Third position in the "speeding" blank

III.J.1.a.2) Resulting action

III.J.1.a.2)a) Enter "0" - if the test was not requested or could not be completed for any reason other than a refusal.

III.J.1.a.2)b) Enter "1" if the test was completed.

III.J.1.a.2)c) Enter "2" if the test was refused.

III.J.1.b. The "speed zone" blank will be used to record the results of a breath test.

III.J.1.b.1) If a breath test was completed, enter the three digit number as printed on the test record.

III.J.1.b.2) If a breath test was requested, but not completed for any reason, enter "00".

| Indicates new or revised items.

-End of Directive-