

DUI- SWORN REPORT

Notice of Sworn Report

625 ILCS 11–501.1 of the Vehicle Code (Code) provides in pertinent part:

“(a) Any person who drives or is in actual physical control of a motor vehicle * * * shall be deemed to have given consent * * * to a chemical test or tests of blood, breath, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof in the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket, for [DUI]. * * *

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act, the law enforcement officer shall immediately submit a sworn report to the circuit court of venue and the Secretary of State, certifying that the test or tests was or were requested under paragraph (a) and the person refused to submit to a test or tests, or submitted to testing that disclosed an alcohol concentration of 0.08 or more.

(f) The law enforcement officer submitting the sworn report under paragraph (d) shall serve immediate notice of the statutory summary suspension on the person and the suspension shall be effective as provided in paragraph (g). In cases where the blood alcohol concentration of 0.08 or greater or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis * * *, a controlled substance * * *, or an intoxicating compound * * * is established by a subsequent analysis of blood or urine collected at the time of arrest, the arresting officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of the notice in an envelope with postage prepaid and addressed to the person at his address as shown on the Uniform Traffic Ticket and the statutory summary suspension shall begin as provided in paragraph (g). * * *

(g) The statutory summary suspension referred to in this Section shall take effect on the 46th day following the date the notice of the statutory summary suspension was given to the person.” 625 ILCS 5/11–501.1 (West 2000).

People v. Jordan, 336 Ill. App. 3d 288, 783 N.E.2d 208 (2003)

CANNABIS

625 ILCS 5/11-501.9. If the person refuses validated roadside chemical tests or field sobriety tests or submits to validated roadside chemical tests or field sobriety tests that disclose the person is impaired by the use of **cannabis**, the law enforcement officer shall immediately submit a sworn report to the circuit court of venue and the Secretary of State certifying that testing was requested under this Section and that the person refused to submit to validated roadside chemical tests or field sobriety tests or submitted to validated roadside chemical tests or field sobriety tests that disclosed the person was impaired by the use of cannabis. The sworn report must include the law enforcement officer's factual basis for reasonable suspicion that the person was impaired by the use of cannabis.

Amending the Report

An officer's sworn report may be amended at the hearing on the petition to rescind the statutory summary suspension

In order to determine whether the trial court has abused its discretion in denying an amended complaint, courts generally look to four factors: (1) whether the proposed amendment would cure the defective pleading; (2) whether the other parties would sustain prejudice or surprise by virtue of the proposed amendment; (3) whether the proposed amendment is timely; and (4) whether previous opportunities to amend the complaint could be identified.

People v. Farris, 2012 IL App (3d) 100199, ¶ 27, 968 N.E.2d 191, 199

Immediate Notice

The State argues, inter alia, that this provision does not require immediate notice of a statutory summary suspension based on a blood-alcohol concentration established by laboratory testing of blood or urine (as opposed to a breathalyser test that displays results at the time the test is administered). Based on the plain language of the statute we agree.

The first sentence of section 11–501.1(f) of the Code explicitly requires a law enforcement officer to give “immediate notice” of a statutory summary suspension. However, the next sentence creates an exception where the blood-alcohol concentration “is established by a subsequent analysis of blood or urine collected at the time of arrest.” 625 ILCS 5/11–501.1(f). In that situation, the statute authorizes alternative methods of notification: “the arresting officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail.” (Emphasis added.) 625 ILCS 5/11–501.1(f) (West 2000). “As used in its ordinary sense, the word ‘or’ marks an alternative indicating the various members of the sentence which it connects are to be taken separately.”

Here the disjunctive word “or” separates notice “by deposit in the United States mail” from notice “as provided in this Section”; thus the two methods of notice plainly stand in contradistinction to one another. Notice by United States mail is distinct from notice as otherwise provided in section 11–501.1(f). Therefore, when a law enforcement officer is authorized to give notice by mail, the general requirements of section 11–501.1(f), including the requirement of “immediate notice,” do not apply. It is significant that a statutory summary suspension only takes effect on the 46th day after notice is given. 625 ILCS 5/11–501.1(g) (West 2000). Delay in giving notice of a statutory summary suspension defers the effective date of the suspension by an equal interval. We fail to see how such delay visits any hardship on affected motorists: they are simply allowed to stay on the roads longer before the suspension takes effect.

People v. Jordan, 336 Ill. App. 3d 288, 289–91, 783 N.E.2d 208, 208–10 (2003)