

## DO TRAFFIC LAWS APPLY TO PRIVATE PROPERTY?

Nonetheless, application of section 11–1401 of the Vehicle Code to this case is uncertain because **625 ILCS 5/11-201** of the Vehicle Code appears to limit its provisions to highways.

That provision reads as follows:

“Provisions of the act refer to vehicles upon the highways—Exceptions. The provisions of this Chapter relating to the operation of vehicles **refer exclusively to the operation of vehicles upon highways except:**

- 1. Where a different place is specifically referred to in a given section.**
- 2. The provisions of Articles IV and V of this Chapter shall apply upon highways and elsewhere throughout the State.” 625 ILCS 5/11–201 (West 2010).** (*Article IV involves Crashes, and Article V is DUI*)

625 ILCS 5/1–126 (West 2010) (defining “highway” as “publicly maintained” roadways “open to the use of the public for purposes of vehicular travel”); 625 ILCS 5/1–163 (West 2010) (defining “private road or driveway” as “[e]very way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.”); see generally Ruyle v. Reynolds, 43 Ill.App.3d 905, 357 N.E.2d 804,(1976) (holding section 11–1401 was inapplicable because the vehicle was left unattended in a private parking lot and not on a public street).

People v. Cartmill, 2013 IL App (4th) 120820-U, ¶ 59

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Section 11–501.1 of the Code empowers a police officer to require, by means of the threat of a statutory summary suspension for noncompliance, a driver arrested for DUI on the public highways to submit to a breathalyzer test. However, because that statute applies only to a DUI committed on the public highways, a driver **arrested for DUI on private property need not submit to a breathalyzer test** or face statutory summary suspension. Nonetheless, a police officer may still request a driver arrested for DUI on private property to submit to a breathalyzer test. The big difference, of course, between this DUI arrest and the usual “implied consent” DUI arrest is that here the driver can refuse to submit to a breathalyzer test without fear of having his driving privileges statutorily summarily suspended.

People v. Garriott, 253 Ill. App. 3d 1048, 625 N.E.2d 780,(1993)

## STATUTORY SUMMARY RESCISSION

In its entirety, defendant's evidentiary showing simply recites the most basic background facts underlying his arrest: ...he was in his parked car in a "Walgreens parking lot" "located at 1801 Ingalls Avenue in Joliet." As we have explained, to make his prima facie case, defendant had to offer evidence that "tend[ed] to cast doubt on" whether that parking lot was "publicly maintained" or open to use by the motoring public. See 625 ILCS 5/1-126 (West 2016); see also Helt, 384 Ill. App. 3d at 288, 322 Ill.Dec. 957, 892 N.E.2d 594. Because defendant bears the initial burden of presenting sufficient evidence of his chosen ground for rescission, we cannot review that evidence in the light most favorable to him on appeal. Gocmen, 2018 IL 122388, ¶ 22, 425 Ill.Dec. 598, 115 N.E.3d 153. The sum total of the substantive evidence defendant offered on the relevant question in this case consisted of (1) the lot's association with a Walgreens store and (2) its street address. Defendant's testimony did not even specify the proximity or physical connection of the parking lot to the storefront or the location of his car within the parking lot.

People v. Relwani, 2019 IL 123385, ¶ 22, 129 N.E.3d 1222, 1227

## PRIVATE PROPERTY MIGHT BE REGULATED BY THE MUNICIPALITY OR COUNTY

The corporate authorities of any municipality or the county board of any county, and a **school board**, **hospital**, **church**, **condominium complex unit owners' association**, or owner of **any commercial and industrial facility**, **shopping center**, or **apartment complex** which controls a parking area located within the limits of the municipality, or outside the limits of the municipality and within the boundaries of the county, may, by contract, empower the municipality or county to regulate the parking of automobiles and the traffic at such parking area. Such contract shall empower the municipality or county to accomplish all or any part of the following:

625 ILCS 5/11-209