23.00
TRAFFIC

23.01 Definition Of Fleeing Or Attempting To Elude A Police Officer

A person commits the offense of fleeing or attempting to elude a police officer when, as a driver or operator of a motor vehicle, having been given a visual or audible signal by a peace officer directing him to bring his vehicle to a stop, he wilfully fails or refuses to obey the signal, increases his speed, extinguishes his lights, or otherwise flees or attempts to elude the officer. The signal given by the peace officer may be by hand, voice, siren, or by red or blue light. However, the officer giving the signal must be in police uniform[, and, if driving a vehicle, that vehicle must display illuminated, oscillating, rotating, or flashing red or blue lights, which when used in conjunction with an audible horn or siren, would indicate the vehicle to be an official police vehicle].

Committee Note

625 ILCS 5/11-204(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-204(a) (1991)).

Give Instruction 23.02

Give Instruction 4.08, defining the term "peace officer."

720 ILCS 5/4-5(b) provides that conduct performed "knowingly" is performed "wilfully" unless the statute using the word "wilfully" clearly requires another meaning.

See People v. Marquis, 54 Ill.App.3d 209, 369 N.E.2d 372, 11 Ill.Dec. 918 (4th Dist.1977), and People v. Pena, 170 Ill.App.3d 347, 524 N.E.2d 671, 120 Ill.Dec. 641 (2d Dist.1988), concerning the required mental state of wilfulness.

Use bracketed material when applicable.

23.02 Issues In Fleeing Or Attempting To Elude A Police Officer

To sustain the charge of fleeing or attempting to elude a police officer, the State must prove the following propositions:

First Proposition: That the defendant was the driver or operator of a motor vehicle; and

Second Proposition: That the defendant was given a visual or audible signal by a police officer directing him to bring his vehicle to a stop; and

Third Proposition: That the peace officer was in police uniform[, and, if the officer was driving a vehicle, that the vehicle displayed illuminated, oscillating, rotating, or flashing red or blue lights, which when used in conjunction with an audible horn or siren, would indicate the vehicle to be an official police vehicle]; and

Fourth Proposition: That the defendant wilfully [(failed or refused to obey such signal) (increased his speed) (extinguished his lights) (____)] in order to flee or attempt to elude the officer.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-204(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-204(a) (1991)).

Give Instruction 23.01.

Insert in the blank in the Fourth Proposition, when applicable, a description of the conduct not included in the statute by which it is charged that the defendant intended to flee or to elude the officer.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.03 Definition Of Aggravated Fleeing Or Attempting To Elude A Police Officer--Damage To Property

A person commits the offense of aggravated fleeing or attempting to elude a police officer [causing damage to property in excess of $300] when, in committing the offense of fleeing or attempting to elude a police officer, he willfully flees or attempts to elude the officer at a rate of speed at least 21 miles per hour over the legal speed limit and causes damage in excess of $300 to property.

Committee Note

625 ILCS 5/11-204.1 (West 2008) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-204.1 (1991)), amended by P.A. 88-679, effective July 1, 1995.

Give Instruction 23.04.

Give Instruction 23.01, defining the term "fleeing or attempting to elude a police officer."

If the definition of "police officer" is an issue, give the definition in the Vehicle Code (625 ILCS 5/1-162 (West 2007)).

See Instruction 5.01B, defining the word "willfully".

P.A. 88-679, effective July 1, 1995, increased the penalty for this offense from a Class A misdemeanor to a Class 4 felony when the violation results in bodily injury. Thus, the element of causing bodily injury must be proved beyond a reasonable doubt independently from damage to property. As a result, this instruction should only be given when aggravated fleeing or attempting to elude police officer resulting in property damage over $300 is at issue. See Instruction 23.03X.

P.A. 90-134, effective July 22, 1997, deleted "private" preceding "property."

Include the bracketed material "[causing damage to property in excess of $300]" when the jury is also to be instructed upon this offense involving bodily injury. See Instruction 23.03X.

The brackets are provided solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.03x Definition Of Aggravated Fleeing Or Attempting To Elude A Police Officer--Bodily Injury

With the changes to IPI 23.03 and 23.04 the Committee has now eliminated this instruction.

23.04 Issues In Aggravated Fleeing Or Attempting To Elude A Police Officer

To sustain the charge of aggravated fleeing or attempting to elude a police officer [causing damage to property in excess of $300], the State must prove the following propositions:

First Proposition: That the defendant was the driver or operator of a motor vehicle; and

Second Proposition: That the defendant was given a visual or audible signal by a police officer directing the defendant to bring his vehicle to a stop; and

Third Proposition: That the police officer was in police uniform [and, if the officer was driving a vehicle, that vehicle displayed illuminated, oscillating, rotating, or flashing red or blue lights, which when used in conjunction with an audible horn or siren, would indicate the vehicle to be an official police vehicle]; and

Fourth Proposition: That the defendant willfully fled or attempted to elude the police officer; and

Fifth Proposition: That, when willfully fleeing or attempting to elude the police officer, the defendant traveled at a rate of speed at least 21 miles per hour over the legal speed limit; and

Sixth Proposition: That, when willfully fleeing or attempting to elude the police officer, the defendant caused damage in excess of $300 to property.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-204.1 (West 2008) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-204.1 (1991)), amended by P.A. 88-679, effective July 1, 1995.

Give Instruction 23.03.

P.A. 88-679, effective July 1, 1995, increased the penalty for this offense from a Class A misdemeanor to a Class 4 felony when the violation results in bodily injury. Thus, the element of causing bodily injury must be proved beyond a reasonable doubt independently from damage to property. As a result, this instruction should only be given when aggravated fleeing or attempting to elude police officer resulting in property damage over $300 is at issue. See Instruction 23.04X.

P.A. 90-134, effective July 22, 1997 deleted "private" preceding "property."

Include the bracketed material "[causing damage to property in excess of $300]" when the jury is also to be instructed upon this offense involving bodily injury. See Instruction 23.04X.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are provided solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

23.04X Issues In Aggravated Fleeing Or Attempting To Elude A Police Officer--Bodily Injury

With the changes to IPI 23.03 and 23.04 the Committee has now eliminated this instruction.

23.05 Definition Of Leaving The Scene Of An Accident Involving Death Or Personal Injury

A person commits the offense of leaving the scene of an accident involving death or personal injury when he is the driver of a vehicle involved in a motor vehicle accident resulting in death or personal injury to any person and, with knowledge that an accident has occurred, he [(fails to immediately stop his vehicle at the scene of the accident) (fails to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain there until he has performed the duty to give information and render aid.

Committee Note

625 ILCS 5/11-401(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-401(a) (1991)).

Give Instruction 23.06.

When the issue is raised by the evidence, give Instruction 23.11, defining the phrase "duty to give information and render aid," and Instruction 23.12, defining the term "personal injury" in the context of this offense. The meaning of the phrase "involved in a motor vehicle accident" is discussed in People v. Kerger, 191 Ill.App.3d 405, 548 N.E.2d 36, 138 Ill.Dec. 806 (2d Dist.1989).

See People v. Nunn, 77 Ill.2d 243, 396 N.E.2d 27, 32 Ill.Dec. 914 (1979), and People v. Janik, 127 Ill.2d 390, 537 N.E.2d 756, 130 Ill.Dec. 427 (1989), concerning the required mental state.

Use applicable bracketed material.

23.06 Issues In Leaving The Scene Of An Accident Involving Death Or Personal Injury

To sustain the charge of leaving the scene of an accident involving death or personal injury, the State must prove the following propositions:

First Proposition: That the defendant was the driver of a vehicle involved in a motor vehicle accident; and

Second Proposition: That the motor vehicle accident resulted in a death or personal injury; and

Third Proposition: That the defendant knew an accident had occurred; and

Fourth Proposition: That the defendant [(failed to immediately stop his vehicle at the scene of the accident) (failed to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain at the scene of the accident until he had performed the duty to give information and render aid.

If you find from your consideration of all of the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-401(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-401(a) (1991)).

Give Instruction 23.05.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.07 Definition Of Aggravated Leaving The Scene Of An Accident Involving Death Or Personal Injury

A person commits the offense of aggravated leaving the scene of an accident involving death or personal injury when he is the driver of a vehicle involved in a motor vehicle accident resulting in death or personal injury to another and with knowledge that an accident has occurred, and with knowledge that the accident involved another person, he [(fails to immediately stop his vehicle at the scene of the accident) (fails to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain at the scene of the accident until he has performed the duty to give information and render aid and [(fails to report the accident within one-half hour after the motor vehicle accident) (if hospitalized and incapacitated from reporting at any time within one-half hour of the motor vehicle accident fails to report the accident within one-half hour after being discharged from the hospital)] at a nearby police station or sheriff's office, giving the place of the accident, the date, the approximate time, the driver's name and address, the registration number of the vehicle driven, and the names of all other occupants of that vehicle.

Committee Note

625 ILCS 5/11-401(b) (West 2007) (formerly Ill.Rev.Stat. ch 95 1/2, §11-401(b) (1991)).

Give Instruction 23.08.

When the issue is raised by the evidence, give Instruction 23.11, defining the phrase "duty to give information and render aid," and Instruction 23.12, defining the term "personal injury" in the context of this offense. The meaning of the phrase "involved in a motor vehicle accident" is discussed in People v. Kerger, 191 Ill.App.3d 405, 548 N.E.2d 36, 138 Ill.Dec. 806 (2d Dist. 1989).

See People v. Nunn, 77 Ill.2d 243, 396 N.E.2d 27, 32 Ill.Dec. 914 (1979), and People v. Janik, 127 Ill.2d 390, 537 N.E.2d 756, 130 Ill.Dec. 427 (1989), concerning the required mental state.

Knowledge that the accident involved another person is an element of this offense. People v. Digirolamo, 179 Ill.2d 24, 688 N.E.2d 116, 227 Ill.Dec. 779 (1997).

Public Act 93-684, effective January 1, 2005, reduced the reporting period from one hour to one-half hour.

Use applicable bracketed material.

The brackets are provided solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

23.08 Issues In Aggravated Leaving The Scene Of An Accident Involving Death Or Personal Injury

To sustain the charge of aggravated leaving the scene of an accident involving death or personal injury, the State must prove the following propositions:

First Proposition: That the defendant was the driver of a vehicle involved in a motor vehicle accident; and

Second Proposition: That the motor vehicle accident resulted in a death or personal injury; and

Third Proposition: That the defendant knew an accident had occurred; and

Fourth Proposition: That the defendant knew that the accident involved another person; and

Fifth Proposition: That the defendant [(failed to immediately stop his vehicle at the scene of the accident) (failed to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain at the scene of the accident until the defendant had performed the duty to give information and render aid; and

Sixth Proposition: That the defendant [(failed to report the accident within one-half hour after the motor vehicle accident)(if hospitalized and incapacitated from reporting at any time within one-half hour of the motor vehicle accident failed to report the accident within one-half hour after being discharged from the hospital)] at a nearby police station or sheriff's office, giving the place of the accident, the date, the approximate time, the defendant's name and address, the registration number of the vehicle driven, and the names of all other occupants of that vehicle.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-401(b) (West 2007) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-401(b) (1991).

Give Instruction 23.07.

Knowledge that the accident involved another person is an element of this offense. People v. Digirolamo, 179 Ill.2d 24, 688 N.E.2d 116, 227 Ill.Dec. 779 (1997).

Public Act 93-684, effective January 1, 2005, reduced the reporting period from one hour to one-half hour.

Use applicable bracketed material.

The brackets are provided solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.09 Definition Of Leaving The Scene Of An Accident Involving Damage To A Vehicle

A person commits the offense of leaving the scene of an accident involving damage to a vehicle when he is the driver of a vehicle involved in a motor vehicle accident resulting in damage to a vehicle driven or attended by another and, with knowledge that an accident has occurred, he [(fails to immediately stop his vehicle at the scene of the accident) (fails to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain at the scene of the accident until he has performed the duty to give information and render aid.

Committee Note

625 ILCS 5/11-402 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-402 (1991)).

Give Instruction 23.10.

When the issue is raised by the evidence, give Instruction 23.11, defining the phrase "duty to give information and render aid." The meaning of the phrase "involved in a motor vehicle accident" is discussed in People v. Kerger, 191 Ill.App.3d 405, 548 N.E.2d 36, 138 Ill.Dec. 806 (2d Dist.1989).

See People v. Hileman, 185 Ill.App.3d 510, 541 N.E.2d 700, 133 Ill.Dec. 489 (5th Dist.1989), concerning the required mental state.

Use applicable bracketed material.

23.10 Issues In Leaving The Scene Of An Accident Involving Damage To A Vehicle

To sustain the charge of leaving the scene of an accident involving damage to a vehicle, the State must prove the following propositions:

First Proposition: That the defendant was the driver of a vehicle involved in a motor vehicle accident; and

Second Proposition: That damage to a vehicle driven or attended by another person resulted from the accident; and

Third Proposition: That the defendant knew an accident had occurred; and

Fourth Proposition: That the defendant [(failed to immediately stop the vehicle at the scene of the accident) (failed to stop as close to the scene of the accident as possible without obstructing traffic more than necessary and forthwith return to the scene of the accident)] and remain at the scene of the accident until the defendant had performed the duty to give information and render aid.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-402 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-402 (1991)).

Give Instruction 23.09.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.11 Definition Of Duty To Give Information Or Render Aid

The phrase "the duty to give information and render aid" means that the driver of any vehicle involved in a motor vehicle accident resulting in [(death) (personal injury) (damage to a vehicle)] shall (1) supply the driver's name and address, (2) supply the registration number and the name of the owner of the vehicle the driver is operating, and (3) exhibit his driver's license upon request if the license is available. Such information is to be supplied to any person struck by a vehicle and to any person driving, occupying, or attending a vehicle involved in a collision. [If none of the persons entitled to this information is in a position to receive and understand such information, and no police officer is present, the driver shall forthwith report such accident at the nearest office of a duly authorized police authority, disclosing all this information.]

[In addition, the driver of any vehicle involved in a motor vehicle accident shall render to any person injured in such accident reasonable assistance[, including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such carrying is requested by the injured person].]

Committee Note

625 ILCS 5/11-403 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-403 (1991)).

Give this instruction when a defendant is charged with leaving the scene of an accident and the duty to give information or render aid is at issue.

Use applicable bracketed material.

The numbers appearing in parentheses were added to provide clarity for the jury as well as for court and counsel and should be in the instruction submitted to the jury.

23.12 Definition Of Personal Injury--Offense Of Leaving The Scene Of An Accident

The term "personal injury" means any injury requiring immediate professional treatment in a medical facility or doctor's office.

Committee Note

625 ILCS 5/11-401 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-401 (1991)).

Give this instruction when a defendant is charged with leaving the scene of an accident involving death or personal injury, or with aggravated leaving the scene of an accident involving death or personal injury, and there is an issue of fact as to whether the accident involved personal injury within the meaning of Section 11-401. This instruction is not intended to define the term "personal injury" for any other purpose.

23.13 Definition Of Driving Under The Influence Of Alcohol

A person commits the offense of driving under the influence of alcohol when he [(drives) (is in actual physical control of)] a vehicle while under the influence of alcohol.

Committee Note

625 ILCS 5/11-501(a)(2) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(2) (1991)).

Give Instruction 23.14.

Give Instruction 23.29, defining the term "under the influence of alcohol".

When actual physical control is an issue, give Instruction 23.43.

Section 11-501(a) on its face appears to establish a single offense of driving under the influence, which could be proven by evidence showing consumption of alcohol, drugs, or both. The appellate court, however, has stated that subsections (a)(1) through (a)(4) create the four separate offenses of driving under the influence of alcohol, driving under the influence of drugs, driving under the combined influence of alcohol and drugs, and driving with an alcohol concentration of 0.10 percent or more. People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582, 97 Ill.Dec. 146 (1st Dist.1986). See also People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983); People v. Jacquith, 129 Ill.App.3d 107, 472 N.E.2d 107, 84 Ill.Dec. 357 (1st Dist.1984); People v. Utt, 122 Ill.App.3d 272, 461 N.E.2d 463, 77 Ill.Dec. 840 (3d Dist.1983). Subsection (a)(5), added by P.A. 89-1019, effective July 1, 1990, creates a fifth offense of driving with any amount of a drug, substance, or compound in blood or urine which resulted from the unlawful use or consumption of cannabis or a controlled substance. Accordingly, these instructions define five separate offenses based on Section 11-501(a).

In Ziltz, the supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42. The Committee believes that this holding extends to the offense of driving under the influence of alcohol under Section 11-501(a)(2) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the influence of alcohol is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use instruction 23.25 (school bus) or Instruction 23.27 (accident) if the offense was

committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.49 (school bus) or Instruction 23.51 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

23.14 Issues In Driving Under The Influence Of Alcohol

To sustain the charge of driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of alcohol.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(2) (1991)).

Give Instruction 23.13.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of driving under the influence of alcohol under Section 11-501(a)(2) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the influence of alcohol is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.26 (school bus) or Instruction 23.28 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.50 (school bus) or Instruction 23.52 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the

instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.15 Definition Of Driving Under The Influence Of Drugs

A person commits the offense of driving under the influence of drugs when he [(drives) (is in actual physical control of)] a vehicle while under the influence of any drug or combinations of drugs to a degree which renders such person incapable of safely driving.

Committee Note

625 ILCS 5/11-501(a)(3) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(3) (1991)).

Give Instruction 23.16.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of driving under the influence of drugs under Section 11-501(a)(3) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

Section 11-501(d) provides that the offense of driving under the influence of drugs is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.25 (school bus) or Instruction 23.27 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.53 (school bus) or Instruction 23.55 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section

11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of drugs.

Use applicable bracketed material.

23.16 Issues In Driving Under The Influence Of Drugs

To sustain the charge of driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(3) (1991)).

Give Instruction 23.15.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of driving under the influence of drugs under Section 11-501(a)(3) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

Section 11-501(d) provides that the offense of driving under the influence of drugs is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.26 (school bus) or Instruction 23.28 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.54 (school bus) or Instruction 23.56 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely

for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.17 Definition Of Driving Under The Combined Influence Of Alcohol And Drugs

A person commits the offense of driving under the combined influence of alcohol and drugs when he [(drives) (is in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving.

Committee Note

625 ILCS 5/11-501(a)(4) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(4) (1991)).

Give Instruction 23.18.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of driving under the combined influence of alcohol and drugs under Section 11-501(a)(4) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the combined influence of alcohol and drugs is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.25 (school bus) or Instruction 23.27 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.57 (school bus) or Instruction 23.59 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the

instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582, 97 Ill.Dec. 146 (1st Dist.1986), on what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of a combination of alcohol and drugs.

Use applicable bracketed material.

23.18 Issues In Driving Under The Combined Influence Of Alcohol And Drugs

To sustain the charge of driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the combined influence of alcohol and any drug or drugs to a degree which rendered the defendant incapable of safely driving.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(4) (1991)).

Give Instruction 23.17.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of driving under the combined influence of alcohol and drugs under Section 11-501(a)(4) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the combined influence of alcohol and drugs is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.26 (school bus) or Instruction 23.28 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.58 (school bus) or Instruction 23.60 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992)

(formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.19 Definition Of Driving With An Alcohol Concentration Of 0.08 Or More

A person commits the offense of driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] a vehicle while the alcohol concentration in such person's blood or breath is 0.08 or more.

Committee Note

625 ILCS 5/11-501(a)(1) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(1) (1991)).

Give Instruction 23.20.

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983). The supreme court also held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the influence of alcohol is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.25 (school bus) or Instruction 23.27 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.45 (school bus) or Instruction 23.47 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See Instruction 23.30A, defining the term "alcohol concentration".

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the alcohol concentration in the defendant's blood or breath was 0.10 or more.

Use applicable bracketed material.

23.20 Issues In Driving With An Alcohol Concentration Of 0.08 Or More

To sustain the charge of driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the alcohol concentration in the defendant's blood or breath was 0.08 or more.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(1) (1991)).

Give Instruction 23.19.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983). The supreme court also held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Section 11-501(d) provides that the offense of driving under the influence of alcohol is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.26 (school bus) or Instruction 23.28 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.46 (school bus) or Instruction 23.48 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely

for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See Instruction 23.30A, defining the term "alcohol concentration".

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.21 Definition Of Driving With A Drug, Substance, Or Compound In Blood Or Urine

A person commits the offense of driving with a drug, substance, or compound in blood or urine when he [(drives) (is in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance)].

Committee Note

625 ILCS 5/11-501(a)(5) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(5) (1991)), added by P.A. 86-1019, effective July 1, 1990.

Give Instruction 23.22.

When actual physical control is an issue, give Instruction 23.43.

Section 11-501(a)(5) does not include actual impairment of the ability to drive as an element of the offense.

In People v. Gassman, 251 Ill.App.3d 681, 692-93, 622 N.E.2d 845, 853-54, 190 Ill.Dec. 815, 823-24 (2d Dist.1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89, 622 N.E.2d at 851, 190 Ill.Dec. at 821.

Section 11-501(d) provides that the offense of driving with a drug, substance, or compound in blood or urine is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.25 (school bus) or Instruction 23.27 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.61 (school bus) or Instruction 23.63 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116,

164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

23.22 Issues In Driving With A Drug, Substance, Or Compound In Blood Or Urine

To sustain the charge of driving with a drug, substance, or compound in blood or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, there was any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(a)(5) (1991)), added by P.A. 86-1019, effective July 1, 1990.

Give Instruction 23.21.

In People v. Gassman, 251 Ill.App.3d 681, 692-93, 622 N.E.2d 845, 853-54, 190 Ill.Dec. 815, 823-24 (2d Dist.1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89, 622 N.E.2d at 851, 190 Ill.Dec. at 821.

Section 11-501(d) provides that the offense of driving with a drug, substance, or compound in blood or urine is increased from a Class A misdemeanor to a Class 4 felony (recodified as "aggravated driving under the influence" effective January 1, 1992; see P.A. 87-274) when it: (1) constitutes the third or subsequent violation of Section 11-501(a); (2) is committed by a person while driving an occupied school bus; (3) results in an accident causing great bodily harm, permanent disability, or disfigurement to another; or (4) constitutes the defendant's second violation of Section 11-501(a) and the defendant has also been convicted of reckless homicide under 720 ILCS 5/9-3 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-3 (1991)) based upon being under the influence of alcohol or drugs (Section 11-501(d)(4), added by P.A. 87-1198, effective September 25, 1992).

When enhancing factors found in Sections 11-501(d)(2) and (d)(3) as set forth above are at issue, use Instruction 23.26 (school bus) or Instruction 23.28 (accident) if the offense was committed before January 1, 1992. Use the instructions for "aggravated driving under the influence", Instruction 23.62 (school bus) or Instruction 23.64 (accident), if the offense was committed on or after January 1, 1992.

Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction used to enhance a sentence is not an element of an offense and may not be disclosed to the jury unless otherwise permitted by the issues. Thus, the

enhancing factors found in Sections 11-501(d)(1) and (d)(4) as set forth above are matters solely for the trial court to consider when imposing sentence and consequently not included in the instructions to the jury. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). For an instruction based upon the enhancing factor in Section 11-501(d)(1) prior to July 1, 1990, see Instruction 23.23.

Insert in the blank the name of the controlled substance.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.23-23.24 Reserved

These sections have been reserved. Please refer to the Table of Contents for your subject.

23.25 Definition Of Driving Under The Influence--Felony--Driving An Occupied School Bus As Enhancing Factor

A person commits the offense of [(driving under the influence of alcohol) (driving under the influence of drugs) (driving under the combined influence of alcohol and drugs) (driving with an alcohol concentration of 0.08 or more) (driving with a drug, substance, or compound in blood or urine)] while driving an occupied school bus when he [(drives) (is in actual physical control of)] a school bus with children on board while [(under the influence of alcohol) (under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving) (under the combined influence of alcohol and any drug or drugs to a degree which renders him incapable of safely driving) (the alcohol concentration in his blood or breath is 0.08 or more) (there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance)])].

Committee Note

625 ILCS 5/11-501(d)(2) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(d)(2) (1991)), amended by P.A. 85-303, effective January 1, 1988.

Give Instruction 23.26.

When appropriate, give the following instructions: Instruction 23.29, defining the phrase "under the influence of alcohol"; Instruction 23.43, defining the phrase "actual physical control"; and Instruction 23.30A, defining the term "alcohol concentration."

Section 11-501(d)(2), effective January 1, 1988, provides that a violation of Section 11-501(a) is increased from a Class A misdemeanor to a Class 4 felony when committed while driving a school bus with children on board.

Use applicable bracketed material.

23.26 Issues In Driving Under The Influence--Felony--Driving An Occupied School Bus As Enhancing Factor

To sustain the charge of [(driving under the influence of alcohol) (driving under the influence of drugs) (driving under the combined influence of alcohol and drugs) (driving with an alcohol concentration of 0.08 or more) (driving with a drug, substance, or compound in blood or urine)] while driving an occupied school bus, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a school bus; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a school bus, the school bus had children on board; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] the school bus, the defendant [(was under the influence of alcohol) (was under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving) (was under the combined influence of alcohol and any drug or drugs to a degree which rendered him incapable of safely driving) (had an alcohol concentration in his blood or breath of 0.08 or more) (had any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance)])].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(d)(2) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(d)(2) (1991)), amended by P.A. 85-303, effective January 1, 1988.

For the definition of alcohol concentration see Instruction 23.30A.

Give Instruction 23.25.

Insert in the blank the name of the controlled substance.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.27 Definition Of Driving Under The Influence--Felony--Accident As Enhancing Factor

A person commits the offense of [(driving under the influence of alcohol) (driving under the influence of drugs) (driving under the combined influence of alcohol and drugs) (driving with an alcohol concentration of 0.08 or more) (driving with a drug, substance, or compound in blood or urine)] involving a motor vehicle accident when he [(drives) (is in actual physical control of)] a vehicle while [(under the influence of alcohol) (under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving) (under the combined influence of alcohol and any drug or drugs to a degree which renders him incapable of safely driving) (the alcohol concentration in his blood or breath is 0.08 or more) (there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance)])] and is involved in a motor vehicle accident resulting in [(great bodily harm) (permanent disability) (permanent disfigurement)] to another and his act of [(driving) (being in actual physical control of)] a vehicle while [(under the influence of alcohol) (under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving) (under the combined influence of alcohol and any drug or drugs to a degree which renders him incapable of safely driving) (the alcohol concentration in his blood or breath is 0.08 or more) (there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance)])] is the proximate cause of the [(great bodily harm) (permanent disability) (permanent disfigurement)].

Committee Note

625 ILCS 5/11-501(d)(3) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(d)(3) (1991)), amended by P.A. 85-303, effective January 1, 1988.

Give Instruction 24.28.

When appropriate, give the following instructions: Instruction 23.29, defining the phrase “under the influence of alcohol”; Instruction 23.43, defining the phrase “actual physical control”; and Instruction 23.30A, defining the term “alcohol concentration.”

This instruction is a slightly modified version of the instruction approved in People v. Haas, 203 Ill.App.3d 779, 560 N.E.2d 1365, 148 Ill.Dec. 667 (5th Dist.1990).

Section 11-501(d)(3), effective January 1, 1988, provides that a violation of Section 11-501(a) is increased from a Class A misdemeanor to a Class 4 felony when the defendant's conduct causes an accident resulting in great bodily harm or permanent disability or disfigurement to another.

Use applicable bracketed material.

23.28 Issues In Driving Under The Influence--Felony--Accident As Enhancing Factor

To sustain the charge of [(driving under the influence of alcohol) (driving under the influence of drugs) (driving under the combined influence of alcohol and drugs) (driving with an alcohol concentration of 0.08 or more) (driving with a drug, substance, or compound in blood or urine)] involving a motor vehicle accident, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] the vehicle, the defendant [(was under the influence of alcohol) (was under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving) (was under the combined influence of alcohol and any drug or drugs to a degree which rendered him incapable of safely driving) (had an alcohol concentration in his blood or breath of 0.08 or more) (had any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance)])]; and

Third Proposition: That the defendant was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident resulted in [(great bodily harm) (permanent disability) (permanent disfigurement)] to another; and

Fifth Proposition: That the defendant's act of [(driving) (being in actual physical control of)] a vehicle while [(under the influence of alcohol) (under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving) (under the combined influence of alcohol and any drug or drugs to a degree which rendered him incapable of safely driving) (the alcohol concentration in his blood or breath was 0.08 or more) (there was any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance)])] was the proximate cause of the [(great bodily harm) (permanent disability) (permanent disfigurement)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(d)(3) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(d)(3) (1991)), amended by P.A. 85-303, effective January 1, 1988.

For the definition of alcohol concentration see Instruction 23.30A.

Give Instruction 23.27.

See Committee Note to Instruction 23.28A on the question of whether a definition of the term “proximate cause” should be submitted to the jury.

Insert in the blanks the name of the controlled substance.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he

is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.28a Definition Of Proximate Cause In Aggravated Driving Under The Influence-Accident And Injury As Enhancing Factor

The term "proximate cause" means any cause which, in the natural or probable sequence, produced the [(bodily harm) (great bodily harm) (permanent disability) (permanent disfigurement) (death of another person)]. [It need not be the only cause, nor the last or nearest cause. It is sufficient if it concurs with some other cause which in combination with it, causes the [(bodily harm) (great bodily harm) (permanent disability) (permanent disfigurement) (death of another person)]].

Committee Note

Section 11-501(d)(1)(3) (625 ILCS 5/11-501(d)(3) (West 1992)), effective January 1, 1988, enhances a violation of section 11-501(a) from a Class A misdemeanor to a Class 4 felony when the violation is the proximate cause of great bodily harm, permanent disability, or disfigurement to another. By Public Act 88-680, effective January 1, 1995, section 11-501(d)(3) was renumbered as section 11-501(d)(1)(C) (625 ILCS 5/11-501(d)(1)(C)).

In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638 (4th Dist. 1994), the court held that an instruction very similar to this instruction was properly given when a DUI is subject to enhancement pursuant to section 11-501(d)(3). The Committee based this instruction upon IPI Civil Instruction 15.01 (definition of proximate cause), but modified it for use in this context.

The first part of this instruction should be given where the evidence shows that the sole cause of the injury or death was the conduct of the defendant. The instruction in its entirety, however, should be given when there is evidence of a concurring or contributing cause of the injury or death.

Section 11-501(d)(1)(C)(E) and (F) (635 ILCS 5/11-501(d)(1)(C)(E) and (F)) use the wording "a proximate cause." Section 11-501(d)(1)(J) (635 ILCS 5/11-501(d)(1)(J)) uses the wording "the proximate cause." The Committee believes that there is no significance to the variation in the phraseology that affects the applicability of this definition with one possible exception. When using 635 ILCS 5/11-501(d)(1)(J)) (the proximate cause) the Committee directs the user to Sibenaller v. Milschewski, 379 Ill. App. 3d 717, 721-22 (2nd Dist. 2008), where the appellate court discusses a principle of statutory construction when "the" is used instead of "a." The Committee takes no position as to whether the bracketed second sentence should be given when defining "the proximate cause."

The aggravating factor of an accident resulting in great bodily harm, permanent disability, or disfigurement has been part of section 11-501 since 1986. However, the legislature redefined the offense as "aggravated" effective January 1, 1992. Thus, this instruction applies to aggravated DUI prosecutions based upon acts occurring on or after January 1, 1992, and felony DUI prosecutions based upon acts occurring before January 1, 1992.

This instruction should not be given when causation is an issue in intentional, knowing, or reckless homicide cases. Instruction 7.15 should be given under those circumstances.

This instruction should not be given when causation is an issue in felony murder cases.

Instruction 7.15A should be given under those circumstances.

For the definition of "proximate cause" in all other cases see Instruction 4.24.

Use applicable bracketed material.

The brackets are provided solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

23.29 Definition Of Under The Influence Of Alcohol

A person is under the influence of alcohol when, as a result of drinking any amount of alcohol, his mental or physical faculties are so impaired as to reduce his ability to think and act with ordinary care.

Committee Note

See People v. Schneider, 362 Ill. 478, 200 N.E. 321 (1936); Mills v. Edgar, 178 Ill.App.3d 1054, 534 N.E.2d 187, 128 Ill.Dec. 167 (4th Dist.1989); People v. Frazier, 123 Ill.App.3d 563, 463 N.E.2d 165, 79 Ill.Dec. 27 (4th Dist.1984); Shore v. Turman, 63 Ill.App.2d 315, 210 N.E.2d 232 (4th Dist.1965).

23.30 Presumptions On Being Under The Influence Of Alcohol

If you find that at the time the defendant [(drove) (was in actual physical control of)] a vehicle that the alcohol concentration in the defendant's blood or breath was 0.05 or less, you shall presume that the defendant was not under the influence of alcohol.

If you find that at the time the defendant [(drove) (was in actual physical control of)] a vehicle that the alcohol concentration in the defendant's blood or breath was more than 0.05 but less than 0.08, this does not give rise to any presumption that the defendant was or was not under the influence of alcohol. You should consider all of the evidence in determining whether the defendant was under the influence of alcohol.

If you find [beyond a reasonable doubt] that at the time the defendant [(drove) (was in actual physical control of)] a vehicle that the amount of alcohol concentration in the defendant's blood or breath was 0.08 or more, you may presume that the defendant was under the influence of alcohol. You never are required to make this presumption. It is for the jury to determine whether the presumption should be drawn. You should consider all of the evidence in determining whether the defendant was under the influence of alcohol. [This presumption, however, has no application to the offense of driving with an alcohol concentration of 0.08 or more. Therefore, you should not consider this presumption in your deliberations on the offense of driving with an alcohol concentration of 0.08 or more.]

Committee Note

625 ILCS 5/11-501.2(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501.2(b) (1991)).

When actual physical control is an issue, give Instruction 23.43.

See People v. Hester, 131 Ill.2d 91, 544 N.E.2d 797, 136 Ill.Dec. 111 (1989).

The term “alcohol concentration” is defined in Instruction 23.30A. See Committee Note to Instruction 23.30A.

These presumptions do not apply to prosecutions for driving with an alcohol concentration of 0.08 or more. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983); 625 ILCS 5/11-501(a)(1). Therefore, the bracketed portion at the end of the third paragraph of this instruction should be given only when that offense is charged along with an offense to which the instruction is applicable.

With the exception of the second bracketed portion of the third paragraph, the entire instruction should be given when any part of it is given. For constitutional reasons, a presumption in a criminal case may not be mandatory when it operates against a defendant, and it may not shift the burden of proof. The Committee considered and rejected a proposal to add at the end of the first paragraph the sentence: “You should consider all of the evidence in determining whether the defendant was under the influence of alcohol.”

The Committee has extensively discussed the presumption which is explained to the jury in this instruction. The discussions have focused on People v. Hester, 178 Ill.App.3d 360, 532 N.E.2d 1344, 127 Ill.Dec. 335 (1st Dist.1988), rev'd 131 Ill.2d 91, 544 N.E.2d 797, 136 Ill.Dec. 111 (1989). The appellate court held that the jury instruction denied defendant due process of

law because (1) the instruction given to the jury in that case, a modified IPI instruction, contained a mandatory presumption and the jury was not instructed to find beyond a reasonable doubt that defendant's blood alcohol level was 0.08 or more before it could rely on the presumption, and (2) the trial court's substitution of the word "may" for "shall" was tantamount to judicial legislation. See Hester, 131 Ill.2d at 97-98, 544 N.E.2d at 800-01, 136 Ill.Dec. at 114-15. The Illinois Supreme Court reversed, finding (1) the instruction was in fact permissive, and (2) the instructions given to the jury, taken as a whole, correctly instructed the jury as to the State's burden of proof. Hester, 131 Ill.2d at 101-02, 544 N.E.2d at 802, 136 Ill.Dec. at 116.

Despite extensive discussion, the Committee was unable to reach a final consensus before publication of the Third Edition on whether the predicate fact had to be proved beyond a reasonable doubt. While the appellate court opinion found error when the jury was not so instructed, the Supreme Court did not reach this issue. Therefore, it was decided to place the phrase "beyond a reasonable doubt" in brackets in the third paragraph of this instruction and to inform users of the problems in this area.

Use applicable bracketed material.

23.30A Definition Of Alcohol Concentration

The term "alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. [Alcohol concentration may be determined by analysis of a person's breath, blood, urine, or other bodily substance.]

Committee Note

625 ILCS 5/11-501.2 (West 1998).

This instruction should be given when scientific testimony or other evidence raises an issue concerning the grams of alcohol per milliliters of the defendant's blood or the grams of alcohol per liter of the defendant's breath and the instruction would be of aid to the jury.

Note that the Illinois Vehicle Code defines "alcohol concentration" in terms of whole blood, not blood serum. People v. Green, 294 Ill.App.3d 139, 689 N.E.2d 385, 228 Ill.Dec. 513 (1997), 294 Ill.App.3d 139, 689 N.E.2d 385, 228 Ill.Dec. 513 (1997).

Use bracketed material when applicable.

23.30b Prescription Not A Defense

The fact that a person was legally entitled to use [(drugs) (alcohol) (any combination of drugs and alcohol)] is not a defense to a charge of [(driving under the influence of drugs) (driving under the influence of alcohol) (driving under the combined influence of alcohol and drugs) (driving with an alcohol concentration of 0.08 or more)].

Committee Note

625 ILCS 5/11-501(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-501(b) (1991)).

For the definition of alcohol concentration see Instruction 23.30A.

The Committee believes that this instruction cannot be used when the charge is based upon Section 11-501(a)(5) which provides that a person cannot drive while there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use of cannabis or a controlled substance.

Use applicable bracketed material.

23.31 Definition Of Reckless Driving

A person commits the offense of reckless driving when he drives a vehicle with a wilful or wanton disregard for the safety of persons or property.

[or]

A person commits the offense of reckless driving when he drives a vehicle and knowingly uses an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne.

Committee Note

625 ILCS 5/11-503(a) (West 1999), amended by P.A. 93-682, effective January 1, 2005.

Give Instruction 23.32.

See Instruction 5.01, defining the word "wanton."

See Instruction 5.01B, defining the word "wilful."

The Committee has placed the word "knowingly" in this instruction before the phrase "uses an incline" rather than before the phrase "drives a vehicle" as set forth in 625 ILCS 5/11-503(a)(2). This change from the statutory language conforms with the legislature's intent as reflected in the legislative history reported at the time the statute was amended.

Use applicable paragraph.

23.31X Definition Of Aggravated Reckless Driving

A person commits the offense of aggravated reckless driving when he drives a vehicle with a willful or wanton disregard for the safety of persons or property and causes [(great bodily harm) (permanent disability or disfigurement)] to another.

Committee Note

625 ILCS 5/11-503 (West 1994), amended by P.A. 88-679, effective July 1, 1995.

Give Instruction 23.32X.

See Instruction 5.01, defining the word "wanton."

See Instruction 5.01B, defining the word "willful."

Use applicable bracketed material.

23.32 Issue In Reckless Driving

To sustain the charge of reckless driving, the State must prove the following proposition:

That the defendant drove a vehicle with a wilful or wanton disregard for the safety of persons or property.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

[or]

To sustain the charge of reckless driving, the State must prove the following proposition:

That the defendant drove a vehicle and knowingly used an incline in a roadway to cause the vehicle to become airborne.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-503(a) (West 1999) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-503(a) (1991)), amended by P.A. 93-682, effective January 1, 2005.

Give Instruction 23.31.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in the proposition. See Instruction 5.03.

See Instruction 5.01, defining the word "wanton."

See Instruction 5.01B, defining the word "wilful."

The Committee has placed the word "knowingly" in this instruction before the phrase "uses an incline" rather than before the phrase "drives a vehicle" as set forth in 625 ILCS 5/11-503(a)(2). This change from the statutory language conforms with the legislature's intent as reflected in the legislative history reported at the time the statute was amended.

Use applicable paragraphs.

23.32x Issues In Aggravated Reckless Driving

To sustain the charge of aggravated reckless driving, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle with a willful or wanton disregard for the safety of persons or property, and

Second Proposition: That in doing so, the defendant caused [(great bodily harm) (permanent disability or disfigurement)] to another.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-503 (West 1994), amended by P.A. 88-679, effective July 1, 1995.

Give Instruction 23.31X.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.33 Definition Of Drag Racing

A person commits the offense of drag racing when, while operating a motor vehicle on a street or highway, he is

[1] one of two or more individuals competing or racing in a situation in which one of the motor vehicles is beside or to the rear of a motor vehicle operated by a competing driver, and one driver attempts to prevent the competing driver from passing or overtaking him either by acceleration or maneuver.

[or]

[2] competing in a race against time.

Committee Note

625 ILCS 5/11-504 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-504 (1991)).

Give Instruction 23.34.

See 625 ILCS 5/1-125, defining the word "highway." See 625 ILCS 5/1-201, defining the word "street."

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.34 Issues In Drag Racing

To sustain the charge of drag racing, the State must prove the following propositions:

First Proposition: That the defendant operated a motor vehicle upon a street or highway; and

Second Proposition: That the defendant was one of two or more competing or racing drivers in a situation in which one of the motor vehicles was beside or to the rear of a motor vehicle operated by a competing driver and one driver attempted to prevent the competing driver from passing or overtaking him either by acceleration or maneuver.

[or]

Second Proposition: That the defendant competed in a race against time.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-504 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §11-504 (1991)).

Give Instruction 23.33.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.35 Definition Of Possession Of Stolen Or Converted Vehicle

A person commits the offense of possession of a stolen or converted vehicle when that person [(receives) (possesses) (conceals) (sells) (disposes of) (transfers)] [(a vehicle) (an essential part of a vehicle)] when not entitled to possession of the [(vehicle) (essential part of a vehicle)] and when knowing it to have been stolen or converted.

Committee Note

625 ILCS 5/4-103(a)(1) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §4-103(a)(1) (1991)).

Give Instructions 23.36 and 23.36A.

When the defendant is charged with possessing stolen vehicles or essential parts of vehicles, give Instructions 13.33G (Definition of Stolen Property) and 13.01 (Definition of Theft). Because stolen property is defined as "property over which control has been obtained by *theft,*" the definition of theft must accompany the definition of stolen property. (Emphasis added.) See People v. Cozart, 235 Ill.App.3d 1076, 601 N.E.2d 1325, 176 Ill.Dec. 627 (2d Dist.1992). Although the court in People v. Bradley, 192 Ill.App.3d 387, 548 N.E.2d 743, 139 Ill.Dec. 358 (1st Dist.1989), held that the word "stolen" implies the definition of theft and the intent to permanently deprive--and that the jury therefore *need not* be instructed on those terms--Bradley did not hold it impermissible or error to do so. Therefore, in part to comply with Cozart, the Committee decided that the instructions should include the definitions of stolen property and theft.

When the defendant is charged with possession of converted vehicles or converted essential parts of vehicles, give Instruction 23.35A, defining the term "converted" property.

When the defendant is charged with possession of the essential parts of a vehicle, give Instruction 23.35B, defining the term "essential parts".

See Instructions 23.71 and 23.72 regarding the aggravated versions of this offense.

Use applicable bracketed material.

23.35a Definition Of Converted

Property has been "converted" if a person lawfully entitled to possession of that property has been wrongfully deprived of it.

Committee Note

In People v. Washington, 184 Ill.App.3d 703, 540 N.E.2d 1014, 133 Ill.Dec. 148 (2d Dist.1989), the court approved the use of a non-IPI instruction defining the term "converted property" on the basis that it was not substantially different than the definition set forth in this instruction. See also Yardley v. Yardley, 137 Ill.App.3d 747, 484 N.E.2d 873, 92 Ill.Dec. 142 (2d Dist.1985); Bender v. Consolidated Mink Ranch, Inc., 110 Ill.App.3d 207, 441 N.E.2d 1315, 65 Ill.Dec. 801 (2d Dist.1982).

23.35b Definition Of Essential Parts

The term "essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

"Essential parts" include the following: [(vehicle hulks) (vehicle shells) (vehicle chassis) (vehicle frames) (front end assemblies[, which may consist of the headlight, grill, fenders, and hood]) (front clip[, the front end assembly with cowl attached]) (rear clip[, which may consist of quarter panels, fenders, floor, and top]) (doors) (hatchbacks) (fenders) (cabs) (cab clips) (cowls) (hoods) (trunk lids) (deck lids) (T-tops) (sunroofs) (moon roofs) (astro roofs) (transmissions of vehicles of the second division) (seats) (aluminum wheels) (engines) (stereo radios) (cassette radios) (compact disc radios) (cassette/compact disc radios) (compact disc players and compact disc changers that are either installed in dash or trunk-mounted)] [and other similar parts].

Committee Notes

625 ILCS 5/1-118 (1992) (formerly Ill.Rev.Stat. ch. 951/2, §1-118 (1991)), amended by P.A. 86-1209, effective January 1, 1991.

The statute defining the term "component part," former Ill.Rev.Stat. Chapter 951/2, §1-111.3, has been repealed by P.A. 83-1473, effective January 1, 1985.

Use applicable bracketed material.

23.36 Issues In Possession Of Stolen Or Converted Vehicle

To sustain the charge of possession of a stolen or converted vehicle, the State must prove the following propositions:

First Proposition: That the defendant [(received) (possessed) (concealed) (sold) (disposed of) (transferred)] [(a vehicle) (an essential part of a vehicle)]; and

Second Proposition: That the defendant was not entitled to possession of the [(vehicle) (essential part of a vehicle)]; and

Third Proposition: That the defendant knew that the [(vehicle) (essential part of a vehicle)] was stolen or converted.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/4-103(a)(1) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §4-103(a)(1) (1991)).

Give Instruction 23.35.

When appropriate, give Instruction 23.35A, defining the word "converted."

When a defendant is charged with possession of a stolen or converted vehicle and it is alleged, or the evidence shows, that he participated in the actual taking of the vehicle, it may be necessary to include the phrase "intent to permanently deprive" in the definition and issues instructions. See People v. Cramer, 85 Ill.2d 92, 421 N.E.2d 189, 51 Ill.Dec. 681 (1981); People v. Washington, 184 Ill.App.3d 703, 540 N.E.2d 1014, 133 Ill.Dec. 148 (2d Dist.1989). But see People v. Bradley, 192 Ill.App.3d 387, 548 N.E.2d 743, 139 Ill.Dec. 358 (1st Dist.1989), wherein it was held that the word "stolen" implies an intent to permanently deprive.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.36a Inference From Possession Of Stolen Or Converted Vehicle

Under the law, you may infer that a person exercising exclusive unexplained possession over [(a stolen or converted vehicle) (an essential part of a stolen or converted vehicle)] has knowledge that such [(vehicle) (essential part)] is stolen or converted.

You never are required to make this inference. It is for the jury to determine whether the inference should be drawn. During your deliberations on your verdict you should consider all the evidence in the case.

[Exclusive possession of [(a stolen or converted vehicle) (an essential part of a stolen or converted vehicle)] may be reasonably explained by facts and circumstances in evidence. In considering whether such exclusive possession has been reasonably explained, you are reminded that, in the exercise of constitutional rights, the accused need not take the stand or produce evidence.]

Committee Note

625 ILCS 5/4-103(a)(1) (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §4-103(a)(1) (1991)).

This instruction may be given when the defendant is charged with possession of a stolen or converted vehicle and there is evidence that the defendant had exclusive unexplained possession over a vehicle or essential part of a vehicle.

However, under some circumstances, use of an inference in a criminal case may raise constitutional problems. The final paragraph of this instruction should be given only when requested by the defendant. The second sentence of the final paragraph may be omitted if the defendant has testified, and should be omitted if the defendant requests that it be omitted.

See Instruction 23.35A, defining the word "converted," and Instruction 23.35B, defining the term "essential parts."

Use applicable bracketed material.

23.37 Definition Of Possession Of A Vehicle With An Altered Identification Number

A person commits the offense of possession of a vehicle with an altered identification number when he [(buys) (receives) (possesses) (sells) (disposes of)] [(the vehicle) (an essential part of a vehicle)] with the intent to defraud or commit a crime and with knowledge that the identification number on [(the vehicle) (an essential part of the vehicle)] has been removed or falsified.

Committee Note

625 ILCS 5/4-103(a)(4) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §4-103(a)(4) (1991)).

Give Instructions 23.38.

The phrase "with the intent to defraud or commit a crime and" has been added to this instruction to comply with People v. DePalma, 256 Ill.App.3d 206, 211, 627 N.E.2d 1236, 1240, 194 Ill.Dec. 594, 598 (2d Dist.1994). In DePalma, the court held that the knowledge element for this felony offense means "criminal knowledge", which the court defined as "knowledge with an intent to defraud or commit a crime." Accordingly, the Committee added the above phrase to this instruction in order to convey this holding to the jury.

The instructions for this offense contained in the bound volume of IPI-Criminal Third Edition also applied to the misdemeanor offense under Section 4-102(a)(3) of the Vehicle Code (Ill.Rev.Stat. ch. 951/2, §4-102(a)(3) (1989)). However, P.A. 86-1209, effective January 1, 1991, deleted this misdemeanor offense.

See Instruction 23.35B, defining the term "essential parts".

Use applicable bracketed material.

23.37a Definition Of Identification Number

The term "identification number" means the numbers and letters on a vehicle or essential part, affixed by the manufacturer, the Illinois Secretary of State, or the Illinois Department of State Police, for the purpose of identifying the vehicle or essential part, or which is required to be affixed to the vehicle or part by federal or state law.

Committee Note

625 ILCS 5/1-129 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §1-129 (1991)), amended by P.A. 84-1302 and P.A. 84-1304, effective January 1, 1987.

23.38 Issues In Possession Of A Vehicle With An Altered Identification Number

To sustain the charge of possession of a vehicle with an altered identification number, the State must prove the following propositions:

First Proposition: That the defendant [(bought) (received) (possessed) (sold) (disposed of)] [(a vehicle) (an essential part of a vehicle)]; and

Second Proposition: That the manufacturer's identification number on [(the vehicle) (an essential part of the vehicle)] had been removed or falsified; and

Third Proposition: That the defendant, with the intent to defraud or commit a crime, had knowledge that the manufacturer's identification number had been removed or falsified.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/4-103(a)(4) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §4-103(a)(4) (1991)).

Give Instruction 23.37.

The Third Proposition has been revised to comply with People v. DePalma, 256 Ill.App.3d 206, 211, 627 N.E.2d 1236, 1240, 194 Ill.Dec. 594, 598 (2d Dist.1994). See the Committee Note to Instruction 23.37.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.39 Definition Of Driving While Driver's License Is Suspended Or Revoked

A person commits the offense of driving while driver's license is [(suspended) (revoked)] when he [(drives) (is in actual physical control of)] a motor vehicle on a highway [of this State] at a time when his [(driver's license) (driver's permit) (privilege to drive) (privilege to obtain a driver's license) (privilege to obtain a driver's permit)] is [(suspended) (revoked)] as provided by the Illinois Vehicle Code or the law of another state.

Committee Note

625 ILCS 5/6-303(a) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §6-303 (1991)).

Give Instruction 23.40.

When actual physical control is an issue, give Instruction 23.43.

The word “highway” is defined in 625 ILCS 5/1-126 (West 1994).

Use applicable bracketed material.

23.40 Issues In Driving While Driver's License Is Suspended Or Revoked

To sustain the charge of driving while driver's license is [(suspended) (revoked)], the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a motor vehicle on a highway [of this State]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a motor vehicle, his [(driver's license) (driver's permit) (privilege to drive) (privilege to obtain a driver's license) (privilege to obtain a driver's permit)] was [(suspended) (revoked)] as provided by the Illinois Vehicle Code or the law of another state.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/6-303(a) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §6-303 (1991)), amended by P.A. 89156, effective January 1, 1995.

Give Instruction 23.39.

When actual physical control is an issue, give Instruction 23.43.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.41 Definition Of Subsequent Offense Of Driving While Driver's License Is Suspended Or Revoked

See section 23.42.

23.42 Issues In Subsequent Offense Of Driving While Driver's License Is Suspended Or Revoked

[These instructions have been deleted; see the Committee Note below.]

Committee Note

625 ILCS 5/6-303(a) and (d) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §6-303(a) and (d) (1991)).

The Committee no longer believes that instructions on this offense are appropriate because of its reliance on a defendant's prior convictions. Section 111-3(c) of the Criminal Code of Procedure (725 ILCS 5/111-3(c) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §111-3(c) (1991))) provides that a prior conviction used to enhance a sentence is not an element of the offense, should only be considered by the trial court imposing sentence, and should not be disclosed to the jury unless otherwise permitted by the issues. See People v. Bowman, 221 Ill.App.3d 663, 666, 583 N.E.2d 114, 116, 164 Ill.Dec. 560, 562 (4th Dist.1991). Accordingly, the Committee has deleted this set of instructions.

23.43 Definition Of Actual Physical Control

The phrase "actual physical control" means that the defendant was in the vehicle and in a position to exercise control over the vehicle by starting the engine and causing the vehicle to move.

Committee Note

See People v. Barlow, 163 Ill.App.3d 281, 516 N.E.2d 982, 114 Ill.Dec. 827 (5th Dist.1987); People v. Heimann, 142 Ill.App.3d 197, 491 N.E.2d 872, 96 Ill.Dec. 593 (3d Dist.1986).

23.43a Definition Of Vehicle

The word "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway. [However, [(bicycles) (devices moved by human power) (devices used exclusively upon stationary rails or tracks) (snowmobiles)] are not included within the definition of the word "vehicle."] [An animal or a conveyance drawn by an animal may be included within the definition of the word "vehicle."]

Committee Note

625 ILCS 5/1-217 and 11-206 (West, 1999) (formerly Ill.Rev.Stat. ch. 951/2, §1-217 and 11-206 (1991)).

Under 625 ILCS 5/11-1502, bicycle riders are under a duty to obey all applicable traffic laws. Nothing in this instruction is meant to imply that bicycle riders are exempt from such laws. When a person is charged with violating a traffic law while riding a bicycle, the word "bicycle" may be substituted for the word "vehicle" in the appropriate instructions.

The definition of the word "vehicle" is discussed in People v. Borst, 162 Ill.App.3d 830, 516 N.E.2d 854, 114 Ill.Dec. 699 (2d Dist.1987), which suggests that an automobile remains a vehicle until a junking certificate is issued for it.

Use applicable bracketed material.

23.43B Definition Of Motor Vehicle

The term "motor vehicle" means every vehicle which is [(self-propelled) (propelled by electric power obtained from overhead trolley wires, but not operated upon rails)] [except for [(vehicles moved solely by human power) (motorized wheelchairs) (low-speed electric bicycles) (low-speed gas bicycles)]].

Committee Note

Instruction and Committee Note Approved April 4, 2014.

625 ILCS 5/1-146 (West 2013), amended by P.A. 96-125, § 5, effective January 1, 2010.

Use applicable bracketed material.

The last clause of this definition is bracketed because in most cases the exception contained within that clause will not be an issue.

23.45 Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving A School Bus

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he drives a school bus with children on board while the alcohol concentration in his blood or breath is 0.08 or more.

Committee Note

625 ILCS 5/11-501(a)(1) and (d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.46.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42; People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist.1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See Instruction 23.30A, defining the term "alcohol concentration".

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.46 Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving A School Bus

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time defendant drove the school bus, children were on board; and

Third Proposition: That at the time the defendant drove the school bus, the alcohol concentration in the defendant's blood or breath was 0.08 or more.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and (d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

For the definition of alcohol concentration see Instruction 23.30A.

Give Instruction 23.45.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. See also People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist.1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.47 Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Injuries

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] a vehicle while the alcohol concentration in his blood or breath is 0.08 or more, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident which resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another, and his [(driving) (being in actual physical control of)] a vehicle while having an alcohol concentration in his blood or breath of 0.08 or more is the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

Committee Note

625 ILCS 5/11-501(a)(1) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(1) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.48.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42; People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist.1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.10 or more under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See Instruction 23.30A, defining the term "alcohol concentration".

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

23.47a Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Death

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], and in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while the alcohol concentration in his blood or breath is 0.08 or more, he is involved in an accident which resulted in death to another, and his [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while the alcohol concentration in his blood or breath is 0.08 or more is a proximate cause of the death to the other person.

Committee Note

625 ILCS 5/11-501(a)(1) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(1) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.48A.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of the great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70, 74 Ill.Dec. 40 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43, 455 N.E.2d at 72, 74 Ill.Dec. at 42; People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist. 1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

Give Instruction 23.30A, defining the term "alcohol concentration."

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill. App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.48 Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Injuries

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That the defendant, in [(so driving) (being in the actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident in which defendant was involved resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while having an alcohol concentration in his blood or breath of 0.08 or more was the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(1) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

For the definition of alcohol concentration see Instruction 23.30A.

Give Instruction 23.47.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. See also People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist.1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.48A Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Death

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That the defendant, in [(so driving) (being in the actual physical control of)] [(a)(an)] [(motor vehicle)(snowmobile) (all terrain vehicle) (watercraft)], was involved in an accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in death to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while the alcohol concentration in his blood or breath is 0.08 or more was a proximate cause of the death to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(1) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

For the definition of "alcohol concentration" give Instruction 23.30A.

Give Instruction 23.47A.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. See also People v. Avery, 277 Ill. App.3d 824, 661 N.E.2d 361, 214 Ill.Dec. 507 (1st Dist. 1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill. App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.49 Definition Of Aggravated Driving Under The Influence Of Alcohol--Driving A School Bus

A person commits the offense of aggravated driving under the influence of alcohol when he drives a school bus with children on board while he is under the influence of alcohol.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(2) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.50.

Give Instruction 23.29, defining the term "under the influence of alcohol."

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.50 Issues In Aggravated Driving Under The Influence Of Alcohol--Driving A School Bus

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove the school bus, children were on board; and

Third Proposition: That at the time the defendant drove the school bus, the defendant was under the influence of alcohol.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(2) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.49.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.51 Definition Of Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Injuries

A person commits the offense of aggravated driving under the influence of alcohol when he [(drives) (is in actual physical control of)] a vehicle while under the influence of alcohol, and in [(so driving) (being in the actual physical control of)] a vehicle, he is involved in a motor vehicle accident which resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another, and his [(driving) (being in actual physical control of)] a vehicle while being under the influence of alcohol is the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(2) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.52.

Give Instruction 23.29, defining the term "under the influence of alcohol."

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

23.51A Definition Of Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Death

A person commits the offense of aggravated driving under the influence of alcohol when he [(drives) (is in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the influence of alcohol, and in [(so driving) (being in the actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], he is involved in an accident which resulted in death to another, and his [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while being under the influence of alcohol is a proximate cause of the death to the other person.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(2) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 93-213, effective July 18, 2003.

Give Instruction 23.52A.

Give Instruction 23.29, defining the term "under the influence of alcohol."

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill. App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill. App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.52 Issues In Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Injuries

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of alcohol; and

Third Proposition: That the defendant, in [(so driving) (being in the actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident in which defendant was involved resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the influence of alcohol was the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(2) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.51.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.52A Issues In Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Death

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], the defendant was under the influence of alcohol; and

Third Proposition: That the defendant, in [(so driving) (being in the actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], was involved in an accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in death to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the influence of alcohol was a proximate cause of the death to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(2) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.51A.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill. App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.53 Definition Of Aggravated Driving Under The Influence Of Drugs--Driving A School Bus

A person commits the offense of aggravated driving under the influence of drugs when he drives a school bus with children on board while he is under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving.

Committee Note

625 ILCS 5/11-501(a)(3) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(3) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.54.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of drugs.

23.54 Issues In Aggravated Driving Under The Influence Of Drugs--Driving A School Bus

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove the school bus, children were on board; and

Third Proposition: That at the time the defendant drove the school bus, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(3) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.53.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.55 Definition Of Aggravated Driving Under The Influence Of Drugs--Accident Resulting In Injuries

A person commits the offense of aggravated driving under the influence of drugs when he [(drives) (is in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident which resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another, and his [(driving) (being in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving is the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

Committee Note

625 ILCS 5/11-501(a)(3) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(3) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in injuries has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.56.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of drugs.

23.55a Definition Of Aggravated Driving Under The Influence Of Drugs-- Accident Resulting In Death

A person commits the offense of aggravated driving under the influence of drugs when he [(drives) (is in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile)(all terrain vehicle) (watercraft)] while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], he is involved in an accident which resulted in death to another, and his [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving is a proximate cause of the death to the other person.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(4) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.56A.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill. App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of drugs.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.56 Issues In Aggravated Driving Under The Influence Of Drugs--Accident Resulting In Injuries

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident in which defendant was involved resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving was the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(3) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.55.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he

is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.56a Issues In Aggravated Driving Under The Influence Of Drugs--Accident Resulting In Death

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], was involved in an accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in death to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving was a proximate cause of the death to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(4) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.55A.

Give Instruction 23.28A defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he

is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.57 Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving A School Bus

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he drives a school bus with children on board while such person is under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(4) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.58.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582, 97 Ill.Dec. 146 (1st Dist.1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of a combination of alcohol and drugs.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

23.58 Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving A School Bus

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove the school bus, children were on board; and

Third Proposition: That at the time the defendant drove the school bus, the defendant was under the combined influence of alcohol and any drug or drugs to a degree which rendered the defendant incapable of safely driving.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(4) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.57.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.59 Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Accident Resulting In Injuries

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he [(drives) (is in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs to a degree which renders him incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident which resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another, and his [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving is the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(4) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.60.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582, 97 Ill.Dec. 146 (1st Dist.1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist.1971), regarding the time frame when it must be shown that the defendant was under the influence of a combination of alcohol and drugs.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

23.59a Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs Or Intoxicating Compound Or Compounds--Accident Resulting In Death

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs or intoxicating compound or compounds when he [(drives) (is in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders him incapable of safely driving, and in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile)(all terrain vehicle) (watercraft)], he is involved in an accident which resulted in death to another, and his [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving is a proximate cause of the death to the other person.

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(5) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.60A.

Give Instruction 23.28A defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill. App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

See People v. Bitterman, 142 Ill. App.3d 1062, 492 N.E.2d 582, 97 Ill.Dec. 146 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill. App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of a combination of alcohol and drugs.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.60 Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Accident Resulting In Injuries

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the combined influence of alcohol and any drug or drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident in which defendant was involved resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any drug or drugs to a degree which rendered the defendant incapable of safely driving was the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(1) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.59.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist.1979).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.60A Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs Or Intoxicating Compound Or Compounds--Accident Resulting In Death

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, or intoxicating compound or compounds the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] the defendant was under the combined influence of alcohol and any drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in death to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while under the combined influence of alcohol and any drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving was a proximate cause of the death to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(1) and 11-501(d)(3) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since1986, the offense was not defined as “aggravated” until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.59A.

Give Instruction 23.28A defining the term “proximate cause.” In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72, 74 Ill.Dec. 40, 42 (1983), the supreme court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the

combined influence of alcohol and drugs under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill. App.3d 124, 394 N.E.2d 893, 31 Ill.Dec. 691 (2d Dist. 1979).

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.61 Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Blood Or Urine--Driving A School Bus

A person commits the offense of aggravated driving with a drug, substance, or compound in blood or urine when he drives a school bus with children on board while there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance)].

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(5) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.62.

When actual physical control is an issue, give Instruction 23.43.

Section 11-501(a)(5) does not include actual impairment of the ability to drive as an element of the offense.

In People v. Gassman, 251 Ill.App.3d 681, 692-93, 622 N.E.2d 845, 853-54, 190 Ill.Dec. 815, 823-24 (2d Dist.1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89, 622 N.E.2d at 851, 190 Ill.Dec. at 821. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in blood or urine under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

23.62 Issues In Aggravated Driving With A Drug, Substance, Or Compound In Blood Or Urine--Driving A School Bus

To sustain the charge of aggravated driving with a drug, substance, or compound in blood or urine, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove the school bus, children were on board; and

Third Proposition: That at the time the defendant drove the school bus, there was any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use of [(cannabis) (____, a controlled substance)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(B) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(5) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.61.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in blood or urine under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction.

Insert in the blank the name of the controlled substance.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.63 Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Blood Or Urine--Accident Resulting In Injuries

A person commits the offense of aggravated driving with a drug, substance, or compound in blood or urine when he [(drives) (is in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use of [(cannabis) (a controlled substance)], and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident which resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another, and his [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving is the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(5) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.64.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

Section 11-501(a)(5) does not include actual impairment of the ability to drive as an element of the offense.

In People v. Gassman, 251 Ill.App.3d 681, 692-93, 622 N.E.2d 845, 853-54, 190 Ill.Dec. 815, 823-24 (2d Dist.1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89, 622 N.E.2d at 851, 190 Ill.Dec. at 821. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in blood or urine under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

23.63A Definition Of Aggravated Driving With A Drug, Substance, Or Intoxicating Compound In Breath, Blood Or Urine--Accident Resulting In Death

A person commits the offense of aggravated driving with a drug, substance, or intoxicating compound in breath, blood, or urine when he [(drives) (is in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while there is any amount of a drug, substance, or intoxicating compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound)], and in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], he is involved in an accident which resulted in death to another, and his [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while there is any amount of a drug, substance or intoxicating compound in his breath, blood or urine is a proximate cause of the death to the other person.

Committee Note

625 ILCS 5/11-501(a)(6) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(5) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 86-1475, effective January 1, 1992.

Give Instruction 23.64A.

Give Instruction 23.28A defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

When actual physical control is an issue, give Instruction 23.43.

It may be necessary to give other instructions defining terms used in this instruction. See 720 ILCS 570/102(f) defining the term "controlled substance"; 720 ILCS 690/1 defining the term "intoxicating compound."

In People v. Gassman, 251 Ill. App.3d 681, 692-93, 622 N.E.2d 845, 853-54, 190 Ill.Dec. 815, 823-24 (2d Dist. 1993), the court upheld the constitutionality of Section 11-501(a)(6). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(6) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89, 622 N.E.2d at 851, 190 Ill.Dec. at 821. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in blood or urine under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction.

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.64 Issues In Aggravated Driving With A Drug, Substance, Or Compound In Blood Or Urine--Accident Resulting In Injuries

To sustain the charge of aggravated driving with a drug, substance, or compound in blood or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, there was any amount of a drug, substance, or compound in his blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance)]; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the motor vehicle accident in which defendant was involved resulted in [(great bodily harm) (permanent disability) (disfigurement)] to another person; and

Fifth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any drug or drugs to a degree which rendered the defendant incapable of safely driving was the proximate cause of the [(great bodily harm) (permanent disability) (disfigurement)] to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 11-501(d)(1)(C) (West 1994) (formerly Ill.Rev.Stat. ch. 951/2, §§11-501(a)(5) and 11-501(d)(3) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.63.

Give Instruction 23.28A, defining the term "proximate cause." In People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were the proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist.1993), the court held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in blood or urine under Section 11-501(d)(1)(C) and accordingly has not included a mental state in this instruction.

Insert in the blank the name of the controlled substance.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.64A Issues In Aggravated Driving With A Drug, Substance, Or Intoxicating Compound In Breath, Blood Or Urine--Accident Resulting In Death

To sustain the charge of aggravated driving with a drug, substance, or intoxicating compound in breath, blood or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)]; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], there was any amount of a drug, substance, or intoxicating compound in his breath, blood or urine resulting from the unlawful use or consumption of [(cannabis)(____, a controlled substance) (an intoxicating compound)]; and

Third Proposition: That the defendant, in [(so driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)], was involved in an accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in death to another person; and

Fifth Proposition. That the defendant's [(driving) (being in actual physical control of)] [(a)(an)] [(motor vehicle) (snowmobile) (all terrain vehicle) (watercraft)] while there was any amount of a drug, substance, or intoxicating compound in his breath, blood, or urine was a proximate cause of the death to the other person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 11-501(d)(1)(F) (West 1994) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-501(a)(5) (1991)), amended by P.A. 93-1093, effective March 29, 2005. Although the aggravating factor of an accident resulting in great bodily harm, etc., has been part of Section 11-501 since 1986, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992.

Give Instruction 23.63A.

Give Instruction 23.28A defining the term "proximate cause." In People v. Martin, 266 Ill. App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist. 1994), the court held that the State must prove beyond a reasonable doubt that the defendant's acts were a proximate cause of great bodily harm, permanent disability, or disfigurement pursuant to section 11-501(d)(3).

It may be necessary to give other instructions defining terms used in this instruction. See 720 ILCS 570/102(f) defining the term "controlled substances" or 720 ILCS 690/1 defining the term "intoxicating compound."

In People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845, 851, 190 Ill.Dec. 815, 821 (2d Dist. 1993), the court held that the offense of driving with a drug, substance, or intoxicating compound in breath, blood or urine under Section 11-501(a)(5) is a strict liability

offense. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or intoxicating compound in breath, blood or urine under Section 11-501(d)(1)(F) and accordingly has not included a mental state in this instruction.

Insert in the blank the name of the controlled substance.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.65 Definition Of Speeding

A person commits the offense of speeding when he drives a vehicle upon a highway
[1] at a speed which is greater than the applicable maximum speed limit.

[or]

[2] at a speed that is 40 miles per hour or more in excess of the applicable maximum speed limit.

[or]

[3] at a speed that is 30 miles per hour or more but less than 40 miles per hour in excess of the applicable maximum speed limit.

[or]

[4] at a speed which is greater than is reasonable and proper with regard to traffic conditions and the use of the highway.

[or]

[5] at a speed which endangers the safety of any person or property.

[or]

[6] and fails to decrease his speed as may be necessary to avoid colliding with a [(person) (vehicle)] on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

Committee Note

625 ILCS 5/11-601(a) and (b) (West 2011) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-601 (a) and (b) (1991); 625 ILCS 5/11-601.5 (a) and (b) (West 2011), amended by P.A. 96-1002, effective January 1, 2011.

Give Instruction 23.66.

Select the paragraph that is consistent with the facts alleged in the charging instrument.

The offense defined in paragraph [4] is sometimes referred to as "driving too fast for conditions". See People v. Foster, 176 Ill.App.3d 406, 411, 531 N.E.2d 93 (5th Dist. 1988).

The offense defined in paragraph [6] is sometimes referred to as "failure to reduce

speed", In re Vitale, 71 Ill.2d 229, 238, 375 N.E.2d 87 (1978), vacated and remanded on other grounds sub nom., Illinois v. Vitale, 447 U.S. 410, 100 S.Ct. 2260, 65 L.Ed.2d 228 (1980), or "failure to reduce speed to avoid an accident", People v. Smith, 99 Ill.2d 467, 459 N.E.2d 1357 (1984).

For a definition of the terms "highway", "traffic", and "vehicle", see 625 ILCS 5/1-126, 5/1-207, 5/1-217 (West 2010) (formerly Ill.Rev.Stat. ch. 95 1/2, §§ 1-126, 1-207, and 1-217 (1991), respectively.

Use applicable paragraphs and bracketed material.

The brackets and numbers are provided solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.65A Definition Of Speeding While Passing School

A person commits the offense of speeding while passing schools when he drives a motor vehicle at a speed in excess of 20 miles per hour while [(passing through a school zone) (traveling on a roadway on public school property) (upon any public thoroughfare where children pass going to and from school)] on a school day between the hours of 7 a.m. and 4 p.m. when school children are present and so close thereto that a potential hazard exists because of the close proximity of the motorized traffic and where appropriate signs have been posted and maintained upon streets and highways which give proper due warning that a school zone is being approached and which indicate the school zone and the maximum speed limit in effect during school days when school children are present.

"School" means a [(public or private primary or secondary school) (primary or secondary school operated by a religious institution) (public, private, or religious nursery school)].

Committee Note

625 ILCS 5/11-605 (West 2009) (formerly Ill.Rev.Stat. ch. 95 1/2 §11-605 (1991)).

Give Instruction 23.66A.

Use applicable bracketed material.

The brackets are provided solely for the guidance of the court and counsel and should not be included in the instruction submitted to the jury.

23.65B Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] a vehicle while the alcohol concentration in his blood or breath is 0.08 or more, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while having an alcohol concentration in his blood or breath of 0.08 or more is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.66B.

Give Instruction 23.30A, defining “alcohol concentration”.

Give Instruction 23.28A, defining “proximate cause”.

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a) (1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.65C Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he drives a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect while the alcohol concentration in his blood or breath is 0.08 or more and he is involved in a motor vehicle accident that results in bodily harm to another person and his act of driving a vehicle while the alcohol concentration in his blood or breath is 0.08 or more is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.66C.

Give Instruction 23.30A, defining "alcohol concentration".

Give Instruction 4.23, defining "school speed zone".

Give Instruction 23.28A, defining "proximate cause".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. See People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The Illinois Supreme Court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz*, 98 Ill.2d at 42-43; People v. Avery, 277 Ill.App.3d 824, 830, 661 N.E.2d 361 (1st Dist. 1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E. 2d 893 (2d Dist. 1979).

Section 11-501(d)(1)(E), effective January 1, 2008, provides that a violation of Section 11-501(a) is increased from a Class A misdemeanor to a Class 4 felony when the defendant, while driving at any speed in a school speed zone at a time when the speed limit of 20 miles per hour was in effect is involved in a motor vehicle accident that resulted in bodily harm to another person and the violation of subsection (a) was a proximate cause of the bodily harm.

23.65D Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving Without Liability Insurance

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] a vehicle while the alcohol concentration in his blood or breath is 0.08 or more, and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.66D.

Give Instruction 23.30A, defining "alcohol concentration".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.65E Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he [(drives) (is in actual physical control of)] a vehicle while the alcohol concentration in his blood or breath is 0.08 or more, and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.66E.

Give Instruction 23.30A, defining "alcohol concentration".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.65F Definition Of Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving with an alcohol concentration of 0.08 or more when he drives a school bus while the alcohol concentration in his blood or breath is 0.08 or more, and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.66F.

Give Instruction 23.30A, defining "alcohol concentration".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

23.66 Issues In Speeding

To sustain the charge of speeding, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle upon a highway; and

Second Proposition: That when the defendant did so, he drove at a speed which was greater than the applicable maximum speed limit.

[or]

Second Proposition: That when the defendant did so, he drove at a speed that was 40 miles per hour or more in excess of the applicable maximum speed limit.

[or]

Second Proposition: That when the defendant did so, he drove at a speed that was 30 miles per hour or more but less than 40 miles per hour in excess of the applicable maximum speed limit.

[or]

Second Proposition: That when the defendant did so, he drove at a speed which was greater than is reasonable and proper with regard to traffic conditions and the use of the highway.

[or]

Second Proposition: That when the defendant did so, he drove at a speed which endangered the safety of any person or property.

[or]

Second Proposition: That when the defendant did so, he failed to decrease his speed as was necessary to avoid colliding with a [(person) (vehicle)] on or entering the highway in compliance with legal requirements and the duty of all persons to use due case.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-601(a) and (b) (West 2011) (formerly Ill.Rev.Stat. ch. 95 1/2, §11-601 (a) and (b) (1991); 625 ILCS 5/11-601.5 (a) and (b) (West 2011), amended by P.A. 96-1002, effective January 1, 2011.

Give Instruction 23.65.

Select the Second Proposition that is consistent with the definitional instruction and charging instrument.

Use applicable bracketed material.

The brackets and numbers are provided solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.66A Issues In Speeding While Passing School

To sustain the charge of speeding while passing a school, the State must prove the following propositions:

First Proposition: That the defendant drove a motor vehicle at a speed in excess of 20 miles per hour; and

Second Proposition: That at the time the defendant drove the motor vehicle he was [(passing through a school zone) (traveling on a roadway on public school property) (upon any public thoroughfare where children pass going to and from school)]; and

Third Proposition: That at the time the defendant drove the motor vehicle it was a school day between the hours of 7 a.m. and 4 p.m.; and

Fourth Proposition: That at the time the defendant drove the motor vehicle school children were present and so close thereto that a potential hazard existed because of the close proximity of the motorized traffic; and

Fifth Proposition: That at the time the defendant drove the motor vehicle appropriate signs had been posted and maintained upon the streets and highways which gave proper due warning that a school zone was being approached and which indicated the school zone and the maximum speed limit in effect during school days when school children are present.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-605 (West 2009) (formerly Ill.Rev.Stat. ch. 95 1/2 §11-605 (1991)).

Give Instruction 23.65A.

Use applicable bracketed material.

The brackets are provided solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.66B Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident Resulting In Bodily Harm To A Child Under He Age Of 16

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of 16; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of 16 being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while having an alcohol concentration in his blood or breath of 0.08 or more was the proximate cause of the bodily harm to the child under the age of 16 being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.65B.

Give Instruction 23.30A, defining “alcohol concentration”.

Give Instruction 23.28A, defining “proximate cause”.

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a) (1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.66C Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Accident While Driving In A School Speed Zone As Enhancing Factor

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more when there is a motor vehicle accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That at the time the defendant drove a vehicle the defendant was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's act of driving a vehicle while the alcohol concentration in his blood or breath is 0.08 or more was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.65C.

Give Instruction 23.30A, defining “alcohol concentration”.

Give Instruction 4.23, defining “school speed zone”.

Give Instruction 23.28A, defining “proximate cause”.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. See also People v. Avery, 277 Ill.App.3d 824, 661 N.E.2d 361 (1st Dist. 1995). The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

23.66D Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving Without Liability Insurance

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.65D.

Give Instruction 23.30A, defining “alcohol concentration”.

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.66E Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.65E.

Give Instruction 23.30A, defining “alcohol concentration”.

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.66F Issues In Aggravated Driving With An Alcohol Concentration Of 0.08 Or More--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving with an alcohol concentration of 0.08 or more, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, the alcohol concentration in the defendant's blood or breath was 0.08 or more; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.65F.

Give Instruction 23.30A, defining "alcohol concentration".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving with an alcohol concentration of 0.08 or more under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

23.67 Definition Of Transportation Of Alcoholic Liquor In A Motor Vehicle--Driver

A person commits the offense of transportation of alcoholic liquor in a motor vehicle when, as a driver of a motor vehicle upon a highway, he [(transports) (carries) (possesses) (has)] any alcoholic liquor not in its original container with its seal unbroken, within the passenger area of the motor vehicle.

Committee Note

625 ILCS 5/11-502(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-502(a) (1991)).

Give Instruction 23.68.

Use this instruction when a driver of a motor vehicle is charged. Use Instruction 23.69 when a passenger of a motor vehicle is charged.

Section 11-502 does not contain a mental state and has been construed to impose strict liability upon the driver of a motor vehicle in People v. Angell, 184 Ill.App.3d 712, 540 N.E.2d 1106, 133 Ill.Dec. 240 (2d Dist.1989), and People v. Graven, 124 Ill.App.3d 990, 464 N.E.2d 1132, 80 Ill.Dec. 149 (4th Dist.1984). However, in People v. DeVoss, 150 Ill.App.3d 38, 501 N.E.2d 840, 103 Ill.Dec. 523 (3d Dist.1986), the court held that Section 11-502 does not impose strict liability and that knowledge of the open alcohol is required before the statute is violated. The Committee takes no position on the issue of whether a mental state is an element of the offense. If the trial court determines that a mental state is required when a driver is charged, this instruction should be modified by adding the word "knowingly" after the word "he."

For a definition of the terms "driver," "highway," and "motor vehicle," see 625 ILCS 5/1-116, 5/1-126, 5/1-146 (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §§1-116, 1-126, and 1-146 (1991)), respectively.

Use applicable bracketed material.

23.67B Definition Of Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving under the influence of alcohol when he [(drives) (is in actual physical control of)] a vehicle while under the influence of alcohol, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while being under the influence of alcohol is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.68B.

Give Instruction 23.29, defining "under the influence of alcohol".

Give Instruction 23.28A, defining "proximate cause".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.67C Definition Of Aggravated Driving Under The Influence Of Alcohol--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravated driving under the influence of alcohol when he drives a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect while under the influence of alcohol and he is involved in a motor vehicle accident that results in bodily harm to another person and his act of driving a vehicle under the influence of alcohol is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.68C.

Give Instruction 23.29, defining "under the influence of alcohol".

Give Instruction 4.23, defining "school speed zone".

Give Instruction 23.28A, defining "proximate cause".

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.67D Definition Of Aggravated Driving Under The Influence Of Alcohol--Driving Without Liability Insurance

A person commits the offense of aggravated driving under the influence of alcohol when he [(drives) (is in actual physical control of)] a vehicle while under the influence of alcohol, and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.68D.

Give Instruction 23.29, defining "under the influence of alcohol".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.67E Definition Of Aggravated Driving Under The Influence Of Alcohol--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving under the influence of alcohol when he [(drives) (is in actual physical control of)] a vehicle while under the influence of alcohol, and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.68E.

Give Instruction 23.29, defining "under the influence of alcohol".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.67F Definition Of Aggravated Driving Under The Influence Of Alcohol--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving under the influence of alcohol when he drives a school bus while under the influence of alcohol, and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.68F.

Give Instruction 23.29, defining "under the influence of alcohol".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.68 Issues In Transportation Of Alcoholic Liquor In A Motor Vehicle--Driver

To sustain the charge of transportation of alcoholic liquor in a motor vehicle, the State must prove the following propositions:

First Proposition: That the defendant was the driver of a motor vehicle upon a highway; and

Second Proposition: That at the time the defendant was the driver of the motor vehicle, he [(transported) (carried) (possessed) (had)] alcoholic liquor within the passenger area of the motor vehicle; and

Third Proposition: That the alcoholic liquor was not in its original container with its seal unbroken.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-502(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-502(a) (1991)).

Give Instruction 23.67.

Use this instruction when a driver of a vehicle is charged. Use Instruction 23.70 when a passenger of a motor vehicle is charged.

The Committee takes no position on the issue of whether a mental state is an element of the offense. If the trial court determines that a mental state is required, this instruction should be modified by adding the word "knowingly" after the word "he" in the Second Proposition. See Committee Note to Instruction 23.67 concerning the absence of a mental state in Section 11-502.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.68B Issues In Aggravated Driving Under The Influence Of Alcohol--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of alcohol; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of 16; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of 16 being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the influence of alcohol was the proximate cause of the bodily harm to the child under the age of 16 being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.67B.

Give Instruction 23.29, defining “under the influence of alcohol”.

Give Instruction 23.28A, defining “proximate cause”.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.68C Issues In Aggravated Driving Under The Influence Of Alcohol--Accident While Driving In A School Speed Zone As Enhancing Factor

To sustain the charge of aggravated driving under the influence of alcohol when there is a motor vehicle accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle the defendant was under the influence of alcohol; and

Third Proposition: That at the time the defendant drove a vehicle the defendant was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's act of driving a vehicle while under the influence of alcohol was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501 (a)(2) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.67C.

Give Instruction 23.29, defining “under the influence of alcohol”.

Give Instruction 4.23, defining “school speed zone”.

Give Instruction 23.28A, defining “proximate cause”.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.68D Issues In Aggravated Driving Under The Influence Of Alcohol--Driving Without Liability Insurance

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of alcohol: and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.67D.

Give Instruction 23.30A, defining "under the influence of alcohol".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.68E Issues In Aggravated Driving Under The Influence Of Alcohol--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of alcohol; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.67E.

Give Instruction 23.30A, defining "under the influence of alcohol".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.68F Issues In Aggravated Driving Under The Influence Of Alcohol--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving under the influence of alcohol, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, the defendant was under the influence of alcohol; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.67F.

Give Instruction 23.30A, defining "under the influence of alcohol".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

23.69 Definition Of Possession Of Alcoholic Liquor In A Motor Vehicle--Passenger

A person commits the offense of possession of alcoholic liquor in a motor vehicle when he, as a passenger of a motor vehicle upon a highway, knowingly [(carries) (possesses) (has)] any alcoholic liquor not in its original container with its seal unbroken, within the passenger area of the motor vehicle.

Committee Note

625 ILCS 5/11-502(b) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-502(b) (1991)).

Give Instruction 23.70.

Use this instruction when a passenger of a motor vehicle is charged. Use Instruction 23.67 when a driver of a motor vehicle is charged.

Although Section 11-502 does not include a mental state, it has been held that a passenger must knowingly carry, possess or have open alcohol in order to violate the statute. See People v. Angell, 184 Ill.App.3d 712, 540 N.E.2d 1106, 133 Ill.Dec. 240 (2d Dist.1989), People v. DeVoss, 150 Ill.App.3d 38, 501 N.E.2d 840, 103 Ill.Dec. 523 (3d Dist.1986), and People v. Rascher, 223 Ill.App.3d 847, 585 N.E.2d 1153, 166 Ill.Dec. 131 (4th Dist.1992). As a result, a knowledge element has been included in this instruction.

For a definition of the terms “highway” and “motor vehicle,” see 625 ILCS 5/1-126, 5/1-146 (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §§1-126 and 1-146 (1991)), respectively.

Use applicable bracketed material.

23.69B Definition Of Aggravated Driving Under The Influence Of Intoxicating Compound--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when he [(drives) (is in actual physical control of)] a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders him incapable of safely driving is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.70B.

Give Instruction 23.28A, defining "proximate cause".

Give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the influence of an intoxicating compound or combination of intoxicating compounds under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.69C Definition Of Aggravated Driving Under The Influence Of Intoxicating Compound--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravating driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when he drives a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders such person incapable of safely driving while driving a vehicle in a school speed zone at a time when a speed limit of 20 miles per hour was in effect and in so driving he is involved in a motor vehicle accident that results in bodily harm to another person and his act of driving a vehicle under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders him incapable of safely driving is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501 (a)(3) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.70C.

Give Instruction 4.23, defining "school speed zone".

Give Instruction 4.25, defining "intoxicating compound".

Give Instruction 23.28A, defining "proximate cause".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of an intoxicating compound or combination of intoxicating compounds under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.69D Definition Of Aggravated Driving Under The Influence Of Intoxicating Compound--Driving Without Liability Insurance

A person commits the offense of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when he [(drives) (is in actual physical control of)] a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.70D.

Give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of an intoxicating compound or combination of intoxicating compounds under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.69E Definition Of Aggravated Driving Under The Influence Of Intoxicating Compound--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when he [(drives) (is in actual physical control of)] a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.70E.

Give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of an intoxicating compound or combination of intoxicating compounds under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.69F Definition Of Aggravated Driving Under The Influence Of Intoxicating Compound--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when he drives a school bus while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which renders such person incapable of safely driving, and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.70F.

Give Instruction 4.25, defining "intoxicating compound".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of an intoxicating compound or combination of intoxicating compounds under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.70 Issues In Possession Of Alcoholic Liquor In A Motor Vehicle--Passenger

To sustain the charge of possession of alcoholic liquor in a motor vehicle, the State must prove the following propositions:

First Proposition: That the defendant was a passenger in a motor vehicle upon a highway; and

Second Proposition: That at the time the defendant was a passenger in the motor vehicle he knowingly [(carried) (possessed) (had)] alcoholic liquor within the passenger area of the motor vehicle; and

Third Proposition: That the alcoholic liquor was not in its original container with its seal unbroken.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-502(b) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §11-502(b) (1991)).

Give Instruction 23.69.

Use this instruction when a passenger of a motor vehicle is charged. Use Instruction 23.68 when a driver of a motor vehicle is charged.

See Committee Note to Instruction 23.69 for a discussion of the applicable mental state.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

23.70B Issues In Aggravated Driving Under The Influence Of Intoxicating Compound--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

To sustain the charge of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)], the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of 16; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of 16 being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered the defendant incapable of safely driving was the proximate cause of the bodily harm to the child under the age of 16 being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.69B.

Give Instruction 23.28A, defining “proximate cause”.

Give Instruction 4.25, defining “intoxicating compound”.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the influence of any intoxicating compound or a combination of intoxicating compounds under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.70C Issues In Aggravated Driving Under The Influence Of Intoxicating Compound--Accident While Driving In A School Speed Zone As Enhancing Factor

To sustain the charge of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] when there is a motor vehicle accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle the defendant was under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant drove a vehicle the defendant was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which the defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's act of driving a vehicle while under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered him incapable of safely driving was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501 (a)(3) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.69C.

Give Instruction 4.23, defining “school speed zone”.

Give Instruction 4.25, defining “intoxicating compound”.

Give Instruction 23.28A, defining “proximate cause”.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of alcohol under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.70D Issues In Aggravated Driving Under The Influence Of Intoxicating Compound--Driving Without Liability Insurance

To sustain the charge of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)], the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered him incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.69D.

Give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of any intoxicating compound or a combination of intoxicating compounds under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.70E Issues In Aggravated Driving Under The Influence Of Intoxicating Compound--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving under the influence of [(any intoxicating compound)(a combination of intoxicating compounds)], the State must prove the following propositions:

First Proposition: That the defendant [(drove)(was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.69E.

Give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of any intoxicating compound or a combination of intoxicating compounds under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.70F Issues In Aggravated Driving Under The Influence Of Intoxicating Compound--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)], the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, the defendant was under the influence of [(any intoxicating compound) (a combination of intoxicating compounds)] to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(3) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A. 88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.69F.

Give Instruction 4.25, defining "intoxicating compound".

The Illinois Supreme Court has upheld the constitutionality of Section 11-501(a)(1) and has ruled that actual impairment of the ability to drive a vehicle is not an element of the offense. People v. Ziltz, 98 Ill.2d 38, 455 N.E.2d 70 (1983). The supreme court also held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense. *Ziltz,* 98 Ill.2d at 42-43. The Committee believes that this holding extends to the offense of aggravated driving under the influence of any intoxicating compound or a combination of intoxicating compounds under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.71 Definition Of Aggravated Possession Of Stolen Or Converted Motor Vehicles

A person commits the offense of aggravated possession of stolen or converted motor vehicles when he

[1] [(receives) (possesses) (conceals) (sells) (disposes of) (transfers)] [(3 or more vehicles) (essential parts of 3 or more different vehicles) (a combination of 3 or more vehicles or essential parts of different vehicles)] [(at the same time) (within a one year period)], when he is not entitled to possession of [(those vehicles) (those essential parts of a vehicle)] and he knows that these [(vehicles) (essential parts)] were stolen or converted.

[or]

[2] [(buys) (receives) (possesses) (sells) (disposes of)] [(3 or more vehicles) (3 or more essential parts of different vehicles) (a combination of 3 or more vehicles or essential parts of different vehicles)] [(at the same time) (within a one year period)] knowing that the identification numbers of the [(vehicles) (essential parts with an identification number)] have been [(removed) (falsified)].

[or]

[3] [(receives) (possesses) (conceals) (sells) (disposes of) (transfers)] a vehicle valued at $25,000 or more, when he is not entitled to the possession of that vehicle and he knows that the vehicle has been [(stolen) (converted)].

[or]

[4] [(receives) (possesses) (conceals) (sells) (disposes of) (transfers)] any [[(engine) (transmission) (cab) (cab clip) (vehicle cowl)] of a] [(second division vehicle) (semitrailer) (farm tractor) (tow truck) (rescue squad vehicle) (medical transport vehicle) (fire engine) (special mobile equipment) (dump truck) (truck mounted transit mixer) (crane)], when he is not entitled to the possession of that [[(engine) (transmission) (cab) (cab clip) (vehicle cowl)] of a] [(second division vehicle) (semitrailer) (farm tractor) (tow truck) (rescue squad vehicle) (medical transport vehicle) (fire engine) (special mobile equipment) (dump truck) (truck mounted transit mixer) (crane)] and he knows that it is [(stolen) (converted)].

[or]

[5] [(receives) (possesses) (conceals) (sells) (disposes of) (transfers)] any vehicle which is owned or operated by a law enforcement agency, when he is not entitled to the possession of that vehicle, he knows that it is the property of a law enforcement agency, and knows that it is [(stolen) (converted)].

[or]

[6] wilfully [(fails or refuses to obey) (increases his speed after receiving) (extinguishes his lights after receiving)] a peace officer's signal to bring a vehicle to a stop [or otherwise flees or attempts to elude the officer] and
[a] he is the driver or operator of that vehicle, he is not entitled to the possession of that vehicle, and he knows that the vehicle is [(stolen) (converted)].

[or]

[b] he is the driver or operator of that vehicle, the vehicle is being used to transport or haul [(another vehicle) (an essential part of a vehicle)], he is not entitled to possession of that [(other vehicle) (essential part of a vehicle)] being transported or hauled, and he knows that the transported or hauled [(vehicle) (essential part)] is [(stolen) (converted)].
[The signal given by the peace officer may be by hand, voice, siren, or red or blue light, but an officer driving a vehicle must display the vehicle's illuminated, oscillating, rotating or flashing red or blue lights which, when used in conjunction with an audible horn or siren, would indicate that the vehicle is an official police vehicle.]

Committee Note

625 ILCS 5/4-103.2(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §4-103.2(a) (1991)).

Give Instruction 23.72.

When the defendant is charged with possessing stolen vehicles or essential parts of vehicles, give Instructions 13.33G (Definition of Stolen Property) and 13.01 (Definition of Theft). Because this instruction uses the term "stolen vehicle," the definition of "stolen property" should accompany this instruction. Because "stolen property" is defined as "property over which control has been obtained by *theft,*" the definition of theft should accompany the definition of stolen property. (Emphasis added.) See People v. Cozart, 235 Ill.App.3d 1076, 601 N.E.2d 1325, 176 Ill.Dec. 627 (2d Dist.1992). Although the court in People v. Bradley, 192 Ill.App.3d 387, 548 N.E.2d 743, 139 Ill.Dec. 358 (1st Dist.1989), held that the word "stolen" implies the definition of theft and the intent to permanently deprive--and that the jury therefore *need not* be instructed on those terms--Bradley did not hold it impermissible or error to do so. Therefore, in part to comply with Cozart, the Committee has decided that the instructions should include the definitions of stolen property and theft.

When the defendant is charged with possessing converted vehicles or essential parts of vehicles, give Instruction 23.35A, defining the term "converted" property.

When the defendant is charged with possessing the essential parts of three or more vehicles, give Instruction 23.25B.

Bracketed paragraphs [1] through [3] correspond to the respective subsection numbers in Section 4-103.2. However, when the defendant is charged with violating subsection (5), use bracketed paragraph [4]. When the defendant is charged with violating subsection (6), use

bracketed paragraph [5]. When the defendant is charged with violating subsection (7), use bracketed paragraph [6].

The bracketed paragraph at the end of this instruction pertains only to bracketed paragraph [6]. Use this paragraph only when the defendant is charged with refusing or failing to obey a police officer's signal to stop a stolen vehicle or a vehicle hauling or transporting a stolen vehicle, and the mode of signalling the defendant to stop is an issue.

Section 4-103(a)(1) (non-aggravated possession of a stolen motor vehicle) contains a provision that allows the jury to infer knowledge that the vehicle is stolen based on the mere fact that the defendant possessed the vehicle or essential parts in question. See Instruction 23.36A. However, Section 4-103.2(a)(1) (aggravated possession of stolen or converted motor vehicles) does not contain this language, but instead merely describes the offense. Therefore, the Committee has not provided an instruction on this inference for aggravated possession of stolen or converted motor vehicles.

See Instructions 23.35 and 23.36 regarding the non-aggravated version of this offense.

When using bracketed paragraph [6], see People v. Marquis, 54 Ill.App.3d 209, 369 N.E.2d 372, 11 Ill.Dec. 918 (4th Dist.1977), concerning the required mental state of wilfullness; see also 720 ILCS 5/4-5 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §4-5 (1991)).

Use applicable bracketed material.

23.71B Definition Of Aggravated Driving Under The Influence Of Drugs--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving under the influence of drugs when he [(drives) (is in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving, and in [(so driving) (being in the actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.72B.

Give Instruction 23.28A, defining "proximate cause".

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.71C Definition Of Aggravated Driving Under The Influence Of Drugs--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravated driving under the influence of drugs when he drives a vehicle while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving while driving in a school speed zone at a time when a speed limit of 20 miles per hour was in effect, and in so driving a vehicle, he is involved in a motor vehicle accident that results in bodily harm to another person and his act of driving a vehicle while under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(E) (West 2010) amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.72C.

Give Instruction 4.23, defining "school speed zone".

Give Instruction 23.28A, defining "proximate cause".

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70, 72 (1983).

23.71D Definition Of Aggravated Driving Under The Influence Of Drugs--Driving Without Liability Insurance

A person commits the offense of aggravated driving under the influence of drugs when he [(drives) (is in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree that renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.72D.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.71E Definition Of Aggravated Driving Under The Influence Of Drugs--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving under the influence of drugs when he [(drives) (is in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.72E.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.71F Definition Of Aggravated Driving Under The Influence Of Drugs--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving under the influence of drugs when he drives a school bus while under the influence of any drug or combination of drugs to a degree which renders such person incapable of safely driving, and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.72F.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist.1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

23.72 Issues In Aggravated Possession Of Stolen Or Converted Motor Vehicles

To sustain the charge of aggravated possession of stolen or converted motor vehicles, the State must prove the following propositions:

[1] *First Proposition:* That the defendant [(received) (possessed) (concealed) (sold) (disposed of) (transferred)] [(3 or more vehicles) (the essential parts of 3 or more different vehicles) (a combination of 3 or more vehicles or essential parts of different vehicles)]; and

Second Proposition: That the defendant did so [(at the same time) (within a one year period)]; and

Third Proposition: That the defendant was not entitled to possession of those [(vehicles) (essential parts)]; and

Fourth Proposition: That when the defendant did so, he knew that those [(vehicles) (essential parts)] were stolen or converted.

[or]

[2] *First Proposition:* That the defendant [(bought) (received) (possessed) (sold) (disposed of)] [(3 or more vehicles) (3 or more essential parts of different vehicles) (a combination of 3 or more vehicles or essential parts of different vehicles)]; and

Second Proposition: That the defendant did so [(at the same time) (within a one year period)]; and

Third Proposition: That when the defendant did so, he knew that the identification numbers of the [(vehicles) (essential parts with an identification number)] had been [(removed) (falsified)].

[or]

[3] *First Proposition:* That the defendant [(received) (possessed) (concealed) (sold) (disposed of) (transferred)] a vehicle; and

Second Proposition: That the defendant was not entitled to the possession of that vehicle; and

Third Proposition: That the vehicle was valued at $25,000 or more; and

Fourth Proposition: That when the defendant did so, he knew that the vehicle was [(stolen) (converted)].

[or]

[4] *First Proposition:* That the defendant [(received) (possessed) (concealed) (sold) (disposed of) (transferred)] any [[(engine) (transmission) (cab) (cab clip) (vehicle cowl)] of a] [(second division vehicle) (semitrailer) (farm tractor) (tow truck) (rescue squad vehicle) (medical transport vehicle) (fire engine) (special mobile equipment) (dump truck) (truck mounted transit mixer) (crane)]; and

Second Proposition: That the defendant was not entitled to the possession of that [[(engine) (transmission) (cab) (cab clip) (vehicle cowl)] of a] [(second division vehicle) (semitrailer) (farm tractor) (tow truck) (rescue squad vehicle) (medical transport vehicle) (fire engine) (special mobile equipment) (dump truck) (truck mounted transit mixer) (crane)]; and

Third Proposition: That when the defendant did so, he knew that the [[(engine) (transmission) (cab) (cab clip) (vehicle cowl)] of a] [(second division vehicle) (semitrailer) (farm tractor) (tow truck) (rescue squad vehicle) (medical transport vehicle) (fire engine) (special mobile equipment) (dump truck) (truck mounted transit mixer) (crane)] was [(stolen) (converted)].

[or]

[5] *First Proposition:* That the defendant [(received) (possessed) (concealed) (sold) (disposed of) (transferred)] a vehicle; and

Second Proposition: That the defendant was not entitled to the possession of that vehicle; and

Third Proposition: That a law enforcement agency owned or operated that vehicle; and

Fourth Proposition: That when the defendant did so, he knew that the vehicle was the property of a law enforcement agency; and

Fifth Proposition: That when the defendant did so, he also knew that the vehicle was [(stolen) (converted)].

[or]

[6] *First Proposition:* That the defendant drove or operated a vehicle; and

Second Proposition: That a peace officer signalled the defendant to stop that vehicle; and

Third Proposition: That the defendant wilfully [(failed or refused to obey a peace officer's signal to bring that vehicle to a stop) (increased his speed) (extinguished his lights)] [or otherwise fled or attempted to elude the officer]; and

[a] *Fourth Proposition:* That the defendant was not entitled to the possession of the vehicle he drove or operated; and

Fifth Proposition: That when the defendant did so, he knew that the vehicle was [(stolen) (converted)].

[or]

[b] *Fourth Proposition:* That the vehicle the defendant drove or operated was being used to transport or haul [(a vehicle) (an essential part of a vehicle)]; and

Fifth Proposition: That the defendant was not entitled to possession of that [(vehicle) (essential part of a vehicle)] being transported or hauled; and

Sixth Proposition: That when the defendant did so, he knew that the transported or hauled [(vehicle) (essential part)] was [(stolen) (converted)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/4-103.2(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §4-103.2(a)

(1991)).

Give Instructions 23.71 and see the Committee Note to that instruction.

The bracketed numbers in this instruction correspond to the bracketed numbers in Instruction 23.71. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.72B Issues In Aggravated Driving Under The Influence Of Drugs--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of) a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of sixteen; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of sixteen being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving was the proximate cause of the bodily harm to the child under the age of sixteen being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.71B.

Give Instruction 23.28A, defining “proximate cause”.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.72C Issues In Aggravated Driving Under The Influence Of Drugs--Accident While Driving In A School Speed Zone As An Enhancing Factor

To sustain the charge of aggravated driving under the influence of drugs when there is an accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant drove a vehicle the defendant was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's act of driving a vehicle while under the influence of any drug or combination of drugs to a degree which rendered him incapable of safely driving was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501 (a)(4) and 625 ILCS 5/11-501(d)(1)(E) (West 2010), amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.71C.

Give Instruction 4.23, defining “school speed zone”.

Give Instruction 23.28A, defining “proximate cause”.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

23.72D Issues In Aggravated Driving Under The Influence Of Drugs--Driving Without Liability Insurance

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.71D.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.72E Issues In Aggravated Driving Under The Influence Of Drugs--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.71E.

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.72F Issues In Aggravated Driving Under The Influence Of Drugs--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving under the influence of drugs, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, the defendant was under the influence of any drug or combination of drugs to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(4) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.71F.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving under the influence of drugs or combination of drugs to a degree which renders him incapable of safely driving under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

23.73 Definition Of Possession Or Use Of Radar Detection Devices

A person commits the offense of possession or use of a radar detection device when he [(operates) (is in actual physical control of)] a commercial motor vehicle while the motor vehicle is equipped with any instrument designed to detect the presence of police radar for the purpose of monitoring vehicular speed.

Committee Note

625 ILCS 5/12-712(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §12-712(a) (1992)), added by P.A. 87-1202, effective January 1, 1993.

Give Instruction 23.74.

Give Instruction 23.73A, defining the term "equipped".

Give the definition of the term "commercial motor vehicle" (see 625 ILCS 5/6-500(6) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §6-500(6) (1991))) when appropriate.

Section 12-712(b) excludes the possession of a radar detection device that is contained in a locked opaque box or similar container or that is not in the passenger compartment of the vehicle and is not in operation.

Use applicable bracketed material.

23.73A Definition Of Equipped--Possession Or Use Of Radar Detection Devices Or Radar Jamming Devices

The term "equipped" means possession or use within a commercial motor vehicle.

Committee Note

625 ILCS 5/12-712(a) and 12-713(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §§12-712(a) and 12-713(a) (1992)), added by P.A. 87-1202, effective January 1, 1993.

For a definition of the term "commercial motor vehicle", see 625 ILCS 5/6-500(6) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §6-500(6) (1991)).

23.73 B Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he [(drives) (is in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders him incapable of safely driving is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.74B.

Give Instruction 23.28A, defining "proximate cause".

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.73C Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs Or Intoxicating Compound Or Compounds--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs or intoxicating compound or compounds when he drives a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders him incapable of safely driving while driving a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect, and in so driving a vehicle he is involved in a motor vehicle accident that results in bodily harm to another person, and his act of driving a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501 (a)(5) and 625 ILCS 5/11-501(d)(1)(E) (West 2010), amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.74C.

Give Instruction 4.23, defining "school speed zone".

When applicable, give Instruction 4.25, defining "intoxicating compound".

Give Instruction 23.28A, defining "proximate cause".

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill. App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124**,** 394 N.E.2d 893 (2d Dist. 1979).

See People v. Bitterman, 142 Ill.App.3d 1062**,** 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548**,** 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of a combination of alcohol and drugs.

23.73D Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving Without Liability Insurance

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he [(drives) (is in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.74D.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.73E Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he [(drives) (is in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving, and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.74E.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.73F Definition Of Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving under the combined influence of alcohol and drugs when he drives a school bus while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which renders such person incapable of safely driving, and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.74F.

When applicable, give Instruction 4.25, defining "intoxicating compound".

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.74 Issues In Possession Or Use Of Radar Detection Devices

To sustain the charge of possession or use of a radar detection device, the State must prove the following propositions:

First Proposition: That the defendant [(operated) (was in actual physical control of)] a commercial motor vehicle; and

Second Proposition: That the commercial motor vehicle was equipped with any instrument designed to detect the presence of police radar for the purpose of monitoring vehicular speed.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/12-712(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §12-712(a) (1992)), added by P.A. 87-1202, effective January 1, 1993.

Give Instruction 23.73.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.74B Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of 16; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of 16 being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving was the proximate cause of the bodily harm to the child under the age of 16 being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008.

Give Instruction 23.73B.

Give Instruction 23.28A, defining “proximate cause”.

When applicable, give Instruction 4.25, defining “intoxicating compound”.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2nd Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.74C Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs Or Intoxicating Compound Or Compounds--Accident While Driving In A School Speed Zone As Enhancing Factor

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, or intoxicating compound or compounds when there is an accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle the defendant was under the combined influence of alcohol and any drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That the defendant, in so driving a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's driving a vehicle while under the combined influence of alcohol and any drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(E) (West 2010), amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002.

Give Instruction 23.73C.

Give Instruction 4.23, defining “school speed zone”.

When applicable, give Instruction 4.24, defining “intoxicating compound”.

Give Instruction 23.28A, defining “proximate cause”.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the Illinois Supreme Court held that the offense of driving under the influence of alcohol under Section 11-501(a)(1) is a strict liability offense, and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

23.74D Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving Without Liability Insurance

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006.

Give Instruction 23.73D.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.74E Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006.

Give Instruction 23.73E.

When applicable, give Instruction 4.25 defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.74F Issues In Aggravated Driving Under The Combined Influence Of Alcohol And Drugs--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving under the combined influence of alcohol and drugs, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, the defendant was under the combined influence of alcohol and any other drug or drugs or intoxicating compound or compounds to a degree which rendered the defendant incapable of safely driving; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(5) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger".

Give Instruction 23.73F.

When applicable, give Instruction 4.25, defining "intoxicating compound".

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving under the combined influence of alcohol and drugs under Section 11501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

See People v. Bitterman, 142 Ill.App.3d 1062, 492 N.E.2d 582 (1st Dist. 1986), concerning what must be proven in a combined alcohol and drug case; see also People v. Brower, 131 Ill.App.2d 548, 268 N.E.2d 196 (1st Dist. 1971), regarding the time frame when it must be shown that the defendant was under the influence of alcohol.

23.75 Definition Of Possession Or Use Of Radar Jamming Devices

A person commits the offense of possession or use of a radar jamming device when he [(operates) (is in actual physical control of)] a commercial motor vehicle while the motor vehicle is equipped with any instrument designed to interfere with microwaves at frequencies used by police radar for the purpose of monitoring vehicular speed.

Committee Note

625 ILCS 5/12-713(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §12-713(a) (1992)), added by P.A. 87-1202, effective January 1, 1993.

Give Instruction 23.76.

Give Instruction 23.73A, defining the term "equipped".

Give the definition of the term "commercial motor vehicle" (see 625 ILCS 5/6-500(6) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §6-500(6) (1991))) when appropriate.

Section 12-713(b) excludes the possession of a radar jamming device that is contained in a locked opaque box or similar container or that is not in the passenger compartment of the vehicle and is not in operation.

Use applicable bracketed material.

23.75B Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

A person commits the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine when he [(drives) (is in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] and in [(so driving) (being in the actual physical control of)] a vehicle, he is involved in a motor vehicle accident that results in bodily harm to a child under the age of 16 being transported by him, and his [(driving) (being in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] is the proximate cause of the bodily harm to the child under the age of 16.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine") and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.76B.

Give Instruction 23.28A, defining "proximate cause".

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2nd Dist. 1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in breath, blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2nd Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.75C Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Accident While Driving In A School Speed Zone As Enhancing Factor

A person commits the offense of aggravated driving with a drug, substance, or compound in the persons' breath, blood, or urine when he drives a vehicle while there is any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] while driving a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect, and in so driving a vehicle he is involved in a motor vehicle accident that results in bodily harm to another person, and his driving a vehicle while there is any amount of a drug, substance, or compound in his breath, blood, or urine resulting from his unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] is a proximate cause of the bodily harm.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(E) (West 2010), amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine") and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.76C.

Give Instruction 4.23, defining "school speed zone".

When applicable, give Instruction 4.25, defining "intoxicating compound".

Give Instruction 23.28A, defining "proximate cause".

In People v. Gassman, 251 Ill.App.3d 681, 692-93, 622 N.E.2d 845 (2d Dist. 1993), the court upheld the constitutionality of Section 11-501(a)(6). The court also held that the offense of driving with a drug, substance, or compound in blood or urine under Section 11-501(a)(6) is a strict liability offense. *Gassman*, 251 Ill.App.3d at 688-89. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.75D Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Driving Without Liability Insurance

A person commits the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine when he [(drives) (is in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] and in [(so driving) (being in actual physical control of)] a vehicle, he [(knew) (should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.76D.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.75E Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Defendant Does Not Possess Drivers License

A person commits the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine when he [(drives) (is in actual physical control of)] a vehicle while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] and in [(so driving) (being in actual physical control of)] a vehicle, he does not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.76E.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.75F Definition Of Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

A person commits the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine when he drives a school bus while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (a controlled substance) (an intoxicating compound) (methamphetamine)] and in so driving a school bus, there are persons 18 years of age or younger on board.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger". Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.76F.

When applicable, give Instruction 4.25, defining "intoxicating compound".

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.76 Issues In Possession Or Use Of Radar Jamming Devices

To sustain the charge of possession or use of a radar jamming device, the State must prove the following propositions:

First Proposition: That the defendant [(operated) (was in actual physical control of)] a commercial motor vehicle; and

Second Proposition: That the commercial motor vehicle was equipped with any instrument designed to interfere with microwaves at frequencies used by police radar for the purpose of monitoring vehicular speed.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/12-713(a) (West 1992) (formerly Ill.Rev.Stat. ch. 951/2, §12-713(a) (1992)), added by P.A. 87-1202, effective January 1, 1993.

Give Instruction 23.75.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.76B Issues In Aggravated Driving With A Drug, Substance Or Compound In Breath, Blood, Or Urine--Accident Resulting In Bodily Harm To A Child Under The Age Of 16

To sustain the charge of aggravated driving with a drug, substance, or compound in breath, blood, or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, there was any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)]; and

Third Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, the defendant was transporting a child under the age of 16; and

Fourth Proposition: That the defendant, in [(so driving) (being in actual physical control of)] a vehicle, was involved in a motor vehicle accident; and

Fifth Proposition: That the motor vehicle accident in which defendant was involved resulted in bodily harm to the child under the age of 16 being transported by the defendant; and

Sixth Proposition: That the defendant's [(driving) (being in actual physical control of)] a vehicle while there was any amount of a drug, substance, or compound in his breath, blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)] was the proximate cause of the bodily harm to the child under the age of 16 being transported by the defendant.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(J) (West 2010). Section 11-501 was amended by P.A. 95-578 which added Section 11-501(d)(1)(J), effective June 1, 2008. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), 11-501(a)(1) amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

When applicable, insert in the blank the name of the controlled substance.

Give Instruction 23.75B.

Give Instruction 23.28A, defining "proximate cause".

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court upheld the constitutionality of Section 11-501(a)(5). The court also held that the offense of driving with a drug, substance, or compound in breath, blood or urine under Section 11-501(a)(5) is a strict liability offense. *Gassman,* 251 Ill.App.3d at 688-89. The Committee believes that

these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(J) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

See Committee Note to Instruction 23.13 for a comment on the interpretation of Section 11-501(a).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.76C Issues In Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Accident While Driving In A School Speed Zone As Enhancing Factor

To sustain the charge of aggravated driving with a drug, substance, or compound in breath, blood or urine when there is an accident while driving in a school speed zone, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect; and

Second Proposition: That at the time the defendant drove a vehicle there was any amount of a drug, substance, or compound in his breath, blood or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)]; and

Third Proposition: That the defendant, in so driving a vehicle, was involved in a motor vehicle accident; and

Fourth Proposition: That the accident in which defendant was involved resulted in bodily harm to another person; and

Fifth Proposition: That the defendant's driving a vehicle while there was any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)] was a proximate cause of the bodily harm.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(E) (West 2010), amended by P.A. 95-578, effective January 1, 2008. Section 11-501 was amended by P.A. 92-429 which added Section 11-501(d)(1)(E), effective January 1, 2002. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine") and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.75C.

Give Instruction 4.23, defining "school speed zone".

When applicable, give Instruction 4.25, defining "intoxicating compound".

Give Instruction 23.28A, defining "proximate cause".

When applicable, insert in the blank the name of the controlled substance.

In People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving with a drug, substance, or intoxicating compound in blood or urine under Section 11-501(a)(5) is a strict liability offense. The Committee believes that this holding extends to the offense of aggravated driving with a drug, substance, or intoxicating compound in breath, blood, or urine under Section 11-501(d)(1)(E) and accordingly has not included a mental state in this instruction.

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.76D Issues In Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Driving Without Liability Insurance

To sustain the charge of aggravated driving with a drug, substance, or compound in breath, blood, or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, there was any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful consumption of [(cannabis) (____, a controlled substance) (any intoxicating compound) (methamphetamine); and

Third Proposition: That at the time the defendant [(drove)(was in actual physical control of)] a vehicle, the defendant [(knew)(should have known)] that the vehicle he was [(driving) (in actual physical control of)] was not covered by a liability insurance policy.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(I) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(I), effective January 1, 2006. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.75D.

When applicable, insert in the blank the name of the controlled substance.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(I) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.76E Issues In Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Defendant Does Not Possess Drivers License

To sustain the charge of aggravated driving with a drug, substance, or compound in breath, blood, or urine, the State must prove the following propositions:

First Proposition: That the defendant [(drove) (was in actual physical control of)] a vehicle; and

Second Proposition: That at the time the defendant [(drove) (was in actual physical control of)] a vehicle, there was any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)]; and

Third Proposition: That at the time the defendant [(drove)(was in actual physical control of)] a vehicle, the defendant did not possess a drivers license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(H) (West 2010). Section 11-501 was amended by P.A. 94-329 which added Section 11-501(d)(1)(H), effective January 1, 2006. Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), and Section 11-501(a)(1) was amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.75E.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When applicable, insert in the blank the name of the controlled substance.

When actual physical control is an issue, give Instruction 23.43.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(H) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.76F Issues In Aggravated Driving With A Drug, Substance, Or Compound In Breath, Blood, Or Urine--Driving A School Bus With Persons 18 Years Of Age Or Younger On Board

To sustain the charge of aggravated driving with a drug, substance, or compound in breath, blood, or urine, the State must prove the following propositions:

First Proposition: That the defendant drove a school bus; and

Second Proposition: That at the time the defendant drove a school bus, there was any amount of a drug, substance, or compound in his breath, blood, or urine resulting from the unlawful use or consumption of [(cannabis) (____, a controlled substance) (an intoxicating compound) (methamphetamine)]; and

Third Proposition: That at the time the defendant drove a school bus, there were persons 18 years of age or younger on board.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-501(a)(6) and 625 ILCS 5/11-501(d)(1)(B) (West 2010) (formerly Ill. Rev. Stat. ch. 95 1/2 §§11-501(a)(1) and 11-501(d)(2) (1991)), amended by P.A.88-680, effective January 1, 1995. Although the aggravating factor of driving a school bus has been part of Section 11-501 since 1983, the offense was not defined as "aggravated" until P.A. 87-274, effective January 1, 1992. P.A. 93-800, effective January 1, 2005, changed "children" to "persons 18 years of age or younger". Section 11-501 was also amended by P.A. 95-355, effective January 1, 2008 (adding "methamphetamine"), 11-501(a)(1) amended by P.A. 90-779, effective January 1, 1999 (adding "breath").

Give Instruction 23.75F.

When applicable, give Instruction 4.25, defining "intoxicating compound".

When applicable, insert in the blank the name of the controlled substance.

In People v. Ziltz, 98 Ill.2d 38, 42-43, 455 N.E.2d 70 (1983), the supreme court held that the offense of driving under the influence under Section 11-501(a)(1) is a strict liability offense and in People v. Gassman, 251 Ill.App.3d 681, 688-89, 622 N.E.2d 845 (2d Dist. 1993), the court held that the offense of driving under the influence of drugs under Section 11-501(a)(5) is a strict liability offense. The Committee believes that these holdings extend to the offense of aggravated driving with a drug, substance, or compound in breath, blood, or urine under Section 11-501(d)(1)(B) and accordingly has not included a mental state in this instruction. See also People v. Teschner, 76 Ill.App.3d 124, 394 N.E.2d 893 (2d Dist. 1979).

Use applicable bracketed material.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

23.77 Definition Of Improper Lane Usage

A person commits the offense of improper lane usage when he drives a vehicle on a roadway which has been divided into two or more clearly marked lanes for traffic and he [(does not drive as nearly as practicable entirely within a single lane) (moves from his lane of traffic without first ascertaining that such movement can be made with safety)].

Committee Note

625 ILCS 5/11-709(a) (West 1995) (formerly Ill.Rev.Stat. ch. 951/2, §11-709(a)).

Give Instruction 23.78.

In People v. Smith, 172 Ill.2d 289, 665 N.E.2d 1215, 216 Ill.Dec. 658 (1996), the Court held that section 11-709(a) establishes two separate requirements for proper lane usage.

Section 11-709 of the Vehicle Code is titled "Driving on Roadways Laned for Traffic," but is commonly referred to as "improper lane usage." See People v. Smith, 269 Ill.App.3d 962, 647 N.E.2d 310, 207 Ill.Dec. 348 (4th Dist. 1995).

For a definition of the terms "roadway" and "vehicle," see 625 ILCS 5/1-179 and 1-217 (West 1995) (formerly Ill.Rev.Stat. ch. 951/2, §§1-179 and 1-217).

Use applicable bracketed material.

23.78 Issues In Improper Lane Usage

To sustain the charge of improper lane usage, the State must prove the following propositions:

First Proposition: That the defendant drove a vehicle on a roadway which was divided into two or more clearly marked lanes for traffic; and

Second Proposition: That when the defendant did so, he [(did not drive as nearly as practicable entirely within a single lane) (moved from his lane of traffic without first ascertaining that such movement could be made with safety)].

If you find from your consideration of all the evidence that each one of these propositions has been proven beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proven beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-709(a) (West 1995) (formerly Ill.Rev.Stat. ch. 951/2, §11-709(a)).

Give Instruction 23.77.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase "or one for whose conduct he is legally responsible" after the word "defendant" in each proposition. See Instruction 5.03.

23.79 Definition Of Driving On Approach To An Emergency Vehicle

A person commits the offense of driving on approach to an emergency vehicle when:

[1] he causes damage to another vehicle as a result of driving a vehicle when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights, while on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle, and then failing to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle if possible with due regard for safety and traffic conditions.

[or]

[2] he causes damage to another vehicle as a result of driving a vehicle when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights, while on a roadway where changing lanes would be impossible or unsafe, and then failing to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle.

[or]

[3] he causes the injury or death of another person as a result of driving a vehicle when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights while on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle, and then failing to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle if possible with due regard for safety and traffic conditions.

[or]

[4] he causes the injury or death of another person as a result of driving a vehicle when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red

and white) (blue) (red and blue) (amber) (yellow)] warning lights, while on a roadway where changing lanes would be impossible or unsafe, and then failing to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle.

Committee Note

625 ILCS 5/11-907(c) (West 2021), last amended by P.A. 102-0336, eff. Jan. 1, 2022.

Section 11-907 of the Illinois Vehicle Code is commonly referred to as Scott's Law. The most recent amendment to Scott's Law, P.A. 101-173, created a misdemeanor criminal offense for violations that result in damage to another vehicle and a felony criminal offense for violations that result in the injury or death of another person. The definition in paragraph [1] and [3] reflects the language of section 11-907(c)(1) and section 11-907(d); the definition in paragraph [2] and [4] reflects the language of section 11-907(c)(2) and section 11-907(d).

Give Instruction 23.79X, defining the term "authorized emergency vehicle".

The terms "due caution" and "due regard for safety and traffic conditions" in paragraphs [1] and [2] are undefined in the Illinois Vehicle Code, and the Committee takes no position on their meaning.

Use applicable paragraph and bracketed material.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.79X Definition Of Authorized Emergency Vehicle

The term "authorized emergency vehicle" means:

[1] an emergency vehicle of a municipal department or public service corporation as designated or authorized by proper local authorities.

[or]

[2] a police vehicle.

[or]

[3] a vehicle of the fire department.

[or]

[4] a vehicle of an authorized HazMat or technical rescue team.

[or]

[5] an ambulance.

[or]

[6] a vehicle of the Illinois Department of Corrections.

[or]

[7] a vehicle of the Illinois Department of Juvenile Justice.

[or]

[8] a vehicle of the Illinois Emergency Management Agency.

[or]

[9] a vehicle of the Office of the Illinois State Fire Marshal.

[or]

[10] a mine rescue and explosives emergency response vehicle of the Department of Natural Resources.

[or]

[11] a vehicle of the Illinois Department of Public Health.

[or]

[12] a vehicle of the Illinois State Toll Highway Authority [(with a gross weight rating of 9,000 pounds or more) (identified as Highway Emergency Patrol)].

[or]

[13] an Emergency Traffic Patrol vehicle of the Illinois Department of Transportation.

[or]

[14] a vehicle of a municipal or county emergency services and disaster agency.

[or]

[15] a vehicle authorized by law to be equipped with oscillating, rotating, or flashing lights while the owner or operator of the vehicle is engaged in his official duties.

Committee Note

625 ILCS 5/1-105 (West 2020), last amended by P.A. 100-62 § 5, eff. Aug. 11, 2017; 625 ILCS 5/11-907(c) (West 2020), last amended by P.A. 101-173, § 10, eff. Jan. 1, 2020; 625 ILCS 5/12-215 (West 2020), last amended by P.A. 101-56, § 5, eff. Jan. 1, 2020.

The term "authorized emergency vehicle" was initially codified in section 1-505 of the Illinois Vehicle Code with the enactment of P.A. 76-1586, § 1-105, eff. July 1, 1970. Accordingly, the definitions in paragraphs [1] through [14] reflect the language currently used in section 1-105.

In the context of criminal charges for violation of section 11-907(c) of the Illinois Vehicle Code (commonly referred to as Scott's Law), the term "authorized emergency vehicle" also includes vehicles authorized pursuant to section 12-215 of the Vehicle Code to be equipped with oscillating, rotating, or flashing lights. The definition in paragraph [15] reflects the expanded language enacted by P.A. 92-283, § 5, eff. Jan. 1, 2002. This particular definition is only applicable to Scott's Law violations.

Use applicable bracketed material.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

23.80 Issues In Driving On Approach To An Emergency Vehicle

To sustain the charge of driving on approach to an emergency vehicle, the State must prove the following propositions:

[1] *First Proposition:* That the defendant drove a vehicle on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle; and

Second Proposition: That while driving, the defendant approached a signaling, stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Third Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible, with due regard for safety and traffic conditions; and

Fourth Proposition: That in doing so, the defendant caused damage to another vehicle.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

[or]

[2] *First Proposition:* That the defendant drove a vehicle on a roadway where changing lanes would be impossible or unsafe, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Second Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle; and

Third Proposition: That in doing so, the defendant caused damage to another vehicle.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

[or]

[3] *First Proposition:* That the defendant drove a vehicle on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle; and

Second Proposition: That while driving, the defendant approached a signaling, stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Third Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible, with due regard for safety and traffic conditions; and

Fourth Proposition: That in doing so, the defendant caused the injury or death of another person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

[or]

[4] *First Proposition:* That the defendant drove a vehicle on a roadway where changing lanes would be impossible or unsafe, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Second Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle; and

Third Proposition: That in doing so, the defendant caused the injury or death of another person.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

625 ILCS 5/11-907(c) (West 2021), last amended by P.A. 102-0336, eff. Jan. 1, 2022.

Section 11-907 of the Illinois Vehicle Code is commonly referred to as Scott's Law. The most recent amendment to Scott's Law, P.A. 101-173, created a misdemeanor criminal offense for violations that result in damage to another vehicle and a felony criminal offense for violations that result in the injury or death of another person. The definition in paragraph [1] and [3] reflects the language of section 11-907(c)(1) and section 11-907(d); the definition in paragraph [2] and [4] reflects the language of section 11-907(c)(2) and section 11-907(d).

Give Instruction 23.79.

Give Instruction 23.79X, defining the term "authorized emergency vehicle".

The terms "due caution" and "due regard for safety and traffic conditions" in paragraphs [1] and [2] are undefined in the Illinois Vehicle Code, and the Committee takes no position on their meaning.

Use applicable paragraph and bracketed material.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.