



# TRAFFIC ALERT



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## Aggravated DUI Class 4 FELONIES and DUI Felony Upgrades

The law provides that a person who drives while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof is guilty of *aggravated DUI* if he or she had no valid driver's license *or* was not covered by liability insurance.

The law addresses two arrest scenarios for aggravated DUI charges:

1. The arrestee committed the violation (625 ILCS 5/11-501 (a)) while he or she did not possess a valid driver's license or permit, a restricted driving permit, or a judicial driving permit.

**[Felony complaints charges 625 ILCS 5/11-501 (d) (1) (G)].**

***Note: An admission or acknowledgement by the arrestee of never having a driver's license is essential for the prosecution of the case and should be documented in the arrest report.***

2. The arrestee committed the violation (625 ILCS 5/11-501 (a)) while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy. **Felony complaints charge 625 ILCS 5/11-501 (d) (1) (H)].**

***Note: An admission or acknowledgement by the arrestee that the vehicle he or she was driving was not covered by a liability insurance policy is essential for the prosecution of the case and should be documented in the arrest report.***

A misdemeanor DUI arrest qualifies for a felony upgrade at the time of arrest, *if the Leads response from the Secretary of State indicates that the arrestee's driver's license is Revoked or Suspended and the basis for the revocation or suspension is for one of the following:*

1. Conviction for driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

***625 ILCS 5/6-205(a) 2***

2. Conviction for section 9-3 of the Criminal Code of 1961 (Reckless Homicide).

***625 ILCS 5/6-205 (a) 1***

3. Conviction for leaving the scene of a traffic accident involving death or personal injury.

***625 ILCS 5/6-205 (a) 4***

4. Suspension of drivers license; statutory summary alcohol, other drug or drugs, or intoxicating compound or compounds related suspension; implied consent.

***625 ILCS 5/11-501.1***

If the misdemeanor DUI charge has been upgraded to a felony, complete a felony complaint form for the felony DUI upgrade charge, citing **625 ILCS 5/11-501 (c-1) (1)**.

G.O. 01-03 Driving While Under the Influence – Implied Consent has been amended to reflect the changes in the law. In order to process these arrests as felonies, department members are reminded to refer to G.O. 01-03, Addendums 3a entitled “DUI Arrest Procedures and Court Responsibilities” and Addendum 6a entitled “Watch Commander And Desk Sergeant Responsibilities.”

**Arresting Officers must:**

**Notify the Watch Commander, who will ensure that the Felony Review Unit is notified for approval of the Felony charges.**

**Record the name of the Assistant State’s Attorney *whether or not the DUI felony charge is approved, and the time*, include it in the “Felony Review” field of the Automated Arrest Report or in box 38 of the CPD Arrest Report (CPD-11.420).**

If the DUI Felony charge is approved, write “**FELONY**” in the left-hand corner of the Alcohol/Drug Influence Report. (CPD-22.118 (01/01))

If the felony DUI charge was not approved, enter the reason in “Incident Narrative” field of the Automated Arrest Report or box 43 of the CPD Arrest Report.

Print the LEADS response and include a copy of the LEADS print out with the DUI Evidentiary Reports to be presented to Watch Commander.

**1<sup>st</sup> Watch Desk Sergeants:**

**Ensure all *original* DUI Evidentiary Reports enumerated in Addendum 6A, Item III-A are forwarded to the Traffic Court/Records Unit (148).**

Desk Sergeants will ensure that a copy of LEADS response printout is included when forwarding DUI Evidentiary Reports to the Traffic Court Records Unit.

If the DUI Felony charge has been approved, Desk Sergeants will ensure that the word “**FELONY**” has been written in the remarks box on the Transmittal Listing DUI Evidentiary Report Form Set CPD-22.909(5/00).

***Approved Felony DUI charges should be scheduled in accordance with the Department directive entitled “Court Call Schedule” DSO 02-13.***

If an arrestee is charged with a felony DUI or a misdemeanor DUI and is sent to bond court, include **PHOTOCOPIES** of all DUI Evidentiary Reports as outlined in Addendum 6A, Item III-A along with the Arrest Report, original complaints (citations and/or Long-form complaint), and any other reports which will normally accompany the arrestee’s transfer to court.

Officers are reminded to secure and impound the arrestee’s vehicle in accordance with MCC 7-24-226 and Department directive entitled “Impoundment of Vehicles for Municipal Code Violations.”

If an arrestee is involved in a DUI motor vehicle traffic crash resulting in a fatality, follow the procedures in the Department directive entitled “Digital Recording of Homicide Interrogations.”

***Be Safe***

***Be Courteous***

***Be Professional***