



Sen. Steve McClure

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1 AMENDMENT TO SENATE BILL 905

2 AMENDMENT NO. _____. Amend Senate Bill 905 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as Lindsey's Law.

5 Section 5. The Illinois Vehicle Code is amended by changing
6 Section 11-501 as follows:

7 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

8 Sec. 11-501. Driving while under the influence of alcohol,
9 other drug or drugs, intoxicating compound or compounds or any
10 combination thereof.

11 (a) A person shall not drive or be in actual physical
12 control of any vehicle within this State while:

13 (1) the alcohol concentration in the person's blood,
14 other bodily substance, or breath is 0.08 or more based on
15 the definition of blood and breath units in Section

1 11-501.2;

2 (2) under the influence of alcohol;

3 (3) under the influence of any intoxicating compound or
4 combination of intoxicating compounds to a degree that
5 renders the person incapable of driving safely;

6 (4) under the influence of any other drug or
7 combination of drugs to a degree that renders the person
8 incapable of safely driving;

9 (5) under the combined influence of alcohol, other drug
10 or drugs, or intoxicating compound or compounds to a degree
11 that renders the person incapable of safely driving;

12 (6) there is any amount of a drug, substance, or
13 compound in the person's breath, blood, other bodily
14 substance, or urine resulting from the unlawful use or
15 consumption of a controlled substance listed in the
16 Illinois Controlled Substances Act, an intoxicating
17 compound listed in the Use of Intoxicating Compounds Act,
18 or methamphetamine as listed in the Methamphetamine
19 Control and Community Protection Act; or

20 (7) the person has, within 2 hours of driving or being
21 in actual physical control of a vehicle, a
22 tetrahydrocannabinol concentration in the person's whole
23 blood or other bodily substance as defined in paragraph 6
24 of subsection (a) of Section 11-501.2 of this Code. Subject
25 to all other requirements and provisions under this
26 Section, this paragraph (7) does not apply to the lawful

1 consumption of cannabis by a qualifying patient licensed
2 under the Compassionate Use of Medical Cannabis Pilot
3 Program Act who is in possession of a valid registry card
4 issued under that Act, unless that person is impaired by
5 the use of cannabis.

6 (b) The fact that any person charged with violating this
7 Section is or has been legally entitled to use alcohol,
8 cannabis under the Compassionate Use of Medical Cannabis Pilot
9 Program Act, other drug or drugs, or intoxicating compound or
10 compounds, or any combination thereof, shall not constitute a
11 defense against any charge of violating this Section.

12 (c) Penalties.

13 (1) Except as otherwise provided in this Section, any
14 person convicted of violating subsection (a) of this
15 Section is guilty of a Class A misdemeanor.

16 (2) A person who violates subsection (a) or a similar
17 provision a second time shall be sentenced to a mandatory
18 minimum term of either 5 days of imprisonment or 240 hours
19 of community service in addition to any other criminal or
20 administrative sanction.

21 (3) A person who violates subsection (a) is subject to
22 6 months of imprisonment, an additional mandatory minimum
23 fine of \$1,000, and 25 days of community service in a
24 program benefiting children if the person was transporting
25 a person under the age of 16 at the time of the violation.

26 (4) A person who violates subsection (a) a first time,

1 if the alcohol concentration in his or her blood, breath,
2 other bodily substance, or urine was 0.16 or more based on
3 the definition of blood, breath, other bodily substance, or
4 urine units in Section 11-501.2, shall be subject, in
5 addition to any other penalty that may be imposed, to a
6 mandatory minimum of 100 hours of community service and a
7 mandatory minimum fine of \$500.

8 (5) A person who violates subsection (a) a second time,
9 if at the time of the second violation the alcohol
10 concentration in his or her blood, breath, other bodily
11 substance, or urine was 0.16 or more based on the
12 definition of blood, breath, other bodily substance, or
13 urine units in Section 11-501.2, shall be subject, in
14 addition to any other penalty that may be imposed, to a
15 mandatory minimum of 2 days of imprisonment and a mandatory
16 minimum fine of \$1,250.

17 (d) Aggravated driving under the influence of alcohol,
18 other drug or drugs, or intoxicating compound or compounds, or
19 any combination thereof.

20 (1) Every person convicted of committing a violation of
21 this Section shall be guilty of aggravated driving under
22 the influence of alcohol, other drug or drugs, or
23 intoxicating compound or compounds, or any combination
24 thereof if:

25 (A) the person committed a violation of subsection

26 (a) or a similar provision for the third or subsequent

1 time;

2 (B) the person committed a violation of subsection
3 (a) while driving a school bus with one or more
4 passengers on board;

5 (C) the person in committing a violation of
6 subsection (a) was involved in a motor vehicle accident
7 that resulted in great bodily harm or permanent
8 disability or disfigurement to another, when the
9 violation was a proximate cause of the injuries;

10 (D) the person committed a violation of subsection
11 (a) and has been previously convicted of violating
12 Section 9-3 of the Criminal Code of 1961 or the
13 Criminal Code of 2012 or a similar provision of a law
14 of another state relating to reckless homicide in which
15 the person was determined to have been under the
16 influence of alcohol, other drug or drugs, or
17 intoxicating compound or compounds as an element of the
18 offense or the person has previously been convicted
19 under subparagraph (C) or subparagraph (F) of this
20 paragraph (1);

21 (E) the person, in committing a violation of
22 subsection (a) while driving at any speed in a school
23 speed zone at a time when a speed limit of 20 miles per
24 hour was in effect under subsection (a) of Section
25 11-605 of this Code, was involved in a motor vehicle
26 accident that resulted in bodily harm, other than great

1 bodily harm or permanent disability or disfigurement,
2 to another person, when the violation of subsection (a)
3 was a proximate cause of the bodily harm;

4 (F) the person, in committing a violation of
5 subsection (a), was involved in a motor vehicle,
6 snowmobile, all-terrain vehicle, or watercraft
7 accident that resulted in the death of another person,
8 when the violation of subsection (a) was a proximate
9 cause of the death;

10 (G) the person committed a violation of subsection
11 (a) during a period in which the defendant's driving
12 privileges are revoked or suspended, where the
13 revocation or suspension was for a violation of
14 subsection (a) or a similar provision, Section
15 11-501.1, paragraph (b) of Section 11-401, or for
16 reckless homicide as defined in Section 9-3 of the
17 Criminal Code of 1961 or the Criminal Code of 2012;

18 (H) the person committed the violation while he or
19 she did not possess a driver's license or permit or a
20 restricted driving permit or a judicial driving permit
21 or a monitoring device driving permit;

22 (I) the person committed the violation while he or
23 she knew or should have known that the vehicle he or
24 she was driving was not covered by a liability
25 insurance policy;

26 (J) the person in committing a violation of

1 subsection (a) was involved in a motor vehicle accident
2 that resulted in bodily harm, but not great bodily
3 harm, to the child under the age of 16 being
4 transported by the person, if the violation was the
5 proximate cause of the injury;

6 (K) the person in committing a second violation of
7 subsection (a) or a similar provision was transporting
8 a person under the age of 16; or

9 (L) the person committed a violation of subsection
10 (a) of this Section while transporting one or more
11 passengers in a vehicle for-hire.

12 (2) (A) Except as provided otherwise, a person
13 convicted of aggravated driving under the influence of
14 alcohol, other drug or drugs, or intoxicating compound or
15 compounds, or any combination thereof is guilty of a Class
16 4 felony.

17 (B) A third violation of this Section or a similar
18 provision is a Class 2 felony. If at the time of the third
19 violation the alcohol concentration in his or her blood,
20 breath, other bodily substance, or urine was 0.16 or more
21 based on the definition of blood, breath, other bodily
22 substance, or urine units in Section 11-501.2, a mandatory
23 minimum of 90 days of imprisonment and a mandatory minimum
24 fine of \$2,500 shall be imposed in addition to any other
25 criminal or administrative sanction. If at the time of the
26 third violation, the defendant was transporting a person

1 under the age of 16, a mandatory fine of \$25,000 and 25
2 days of community service in a program benefiting children
3 shall be imposed in addition to any other criminal or
4 administrative sanction.

5 (C) A fourth violation of this Section or a similar
6 provision is a Class 2 felony, for which a sentence of
7 probation or conditional discharge may not be imposed. If
8 at the time of the violation, the alcohol concentration in
9 the defendant's blood, breath, other bodily substance, or
10 urine was 0.16 or more based on the definition of blood,
11 breath, other bodily substance, or urine units in Section
12 11-501.2, a mandatory minimum fine of \$5,000 shall be
13 imposed in addition to any other criminal or administrative
14 sanction. If at the time of the fourth violation, the
15 defendant was transporting a person under the age of 16 a
16 mandatory fine of \$25,000 and 25 days of community service
17 in a program benefiting children shall be imposed in
18 addition to any other criminal or administrative sanction.

19 (D) A fifth violation of this Section or a similar
20 provision is a Class 1 felony, for which a sentence of
21 probation or conditional discharge may not be imposed. If
22 at the time of the violation, the alcohol concentration in
23 the defendant's blood, breath, other bodily substance, or
24 urine was 0.16 or more based on the definition of blood,
25 breath, other bodily substance, or urine units in Section
26 11-501.2, a mandatory minimum fine of \$5,000 shall be

1 imposed in addition to any other criminal or administrative
2 sanction. If at the time of the fifth violation, the
3 defendant was transporting a person under the age of 16, a
4 mandatory fine of \$25,000, and 25 days of community service
5 in a program benefiting children shall be imposed in
6 addition to any other criminal or administrative sanction.

7 (E) A sixth or subsequent violation of this Section or
8 similar provision is a Class X felony. If at the time of
9 the violation, the alcohol concentration in the
10 defendant's blood, breath, other bodily substance, or
11 urine was 0.16 or more based on the definition of blood,
12 breath, other bodily substance, or urine units in Section
13 11-501.2, a mandatory minimum fine of \$5,000 shall be
14 imposed in addition to any other criminal or administrative
15 sanction. If at the time of the violation, the defendant
16 was transporting a person under the age of 16, a mandatory
17 fine of \$25,000 and 25 days of community service in a
18 program benefiting children shall be imposed in addition to
19 any other criminal or administrative sanction.

20 (F) For a violation of subparagraph (C) of paragraph
21 (1) of this subsection (d), the defendant, if sentenced to
22 a term of imprisonment, shall be sentenced to not less than
23 one year nor more than 12 years.

24 (G) A violation of subparagraph (F) of paragraph (1) of
25 this subsection (d) is a Class 2 felony, for which the
26 defendant, unless the court determines that extraordinary

1 circumstances exist and require probation, shall be
2 sentenced to: (i) a term of imprisonment of not less than 3
3 years and not more than 14 years if the violation resulted
4 in the death of one person; ~~or~~ (ii) a term of imprisonment
5 of not less than 6 years and not more than 28 years if the
6 violation resulted in the deaths of 2 or more persons; or
7 (iii) a term of imprisonment of not less than 4 years and
8 not more than 20 years if the violation resulted in death
9 of one person and great bodily harm or permanent disability
10 or disfigurement of one or more persons.

11 (H) For a violation of subparagraph (J) of paragraph
12 (1) of this subsection (d), a mandatory fine of \$2,500, and
13 25 days of community service in a program benefiting
14 children shall be imposed in addition to any other criminal
15 or administrative sanction.

16 (I) A violation of subparagraph (K) of paragraph (1) of
17 this subsection (d), is a Class 2 felony and a mandatory
18 fine of \$2,500, and 25 days of community service in a
19 program benefiting children shall be imposed in addition to
20 any other criminal or administrative sanction. If the child
21 being transported suffered bodily harm, but not great
22 bodily harm, in a motor vehicle accident, and the violation
23 was the proximate cause of that injury, a mandatory fine of
24 \$5,000 and 25 days of community service in a program
25 benefiting children shall be imposed in addition to any
26 other criminal or administrative sanction.

1 (J) A violation of subparagraph (D) of paragraph (1) of
2 this subsection (d) is a Class 3 felony, for which a
3 sentence of probation or conditional discharge may not be
4 imposed.

5 (3) Any person sentenced under this subsection (d) who
6 receives a term of probation or conditional discharge must
7 serve a minimum term of either 480 hours of community
8 service or 10 days of imprisonment as a condition of the
9 probation or conditional discharge in addition to any other
10 criminal or administrative sanction.

11 (e) Any reference to a prior violation of subsection (a) or
12 a similar provision includes any violation of a provision of a
13 local ordinance or a provision of a law of another state or an
14 offense committed on a military installation that is similar to
15 a violation of subsection (a) of this Section.

16 (f) The imposition of a mandatory term of imprisonment or
17 assignment of community service for a violation of this Section
18 shall not be suspended or reduced by the court.

19 (g) Any penalty imposed for driving with a license that has
20 been revoked for a previous violation of subsection (a) of this
21 Section shall be in addition to the penalty imposed for any
22 subsequent violation of subsection (a).

23 (h) For any prosecution under this Section, a certified
24 copy of the driving abstract of the defendant shall be admitted
25 as proof of any prior conviction.

26 (Source: P.A. 98-122, eff. 1-1-14; 98-573, eff. 8-27-13;

1 98-756, eff. 7-16-14; 99-697, eff. 7-29-16.)".