

# SB1934



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB1934

Introduced 2/26/2021, by Sen. Steve McClure

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a violation of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compounds, or any combination thereof, involving a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that results in the death of one person and great bodily harm or permanent disability or disfigurement of one or more other persons is a Class 2 felony punishable by a term of imprisonment of not less than 4 years and not more than 20 years. Provides that the Act may be referred to as Lindsey's Law.

LRB102 15078 RAM 20433 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

5 Section 5. The Illinois Vehicle Code is amended by  
6 changing 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  
16 11-501.2;

17 (2) under the influence of alcohol;

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

21 (4) under the influence of any other drug or  
22 combination of drugs to a degree that renders the person

1 incapable of safely driving;

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

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

14 (7) the person has, within 2 hours of driving or being  
15 in actual physical control of a vehicle, a  
16 tetrahydrocannabinol concentration in the person's whole  
17 blood or other bodily substance as defined in paragraph 6  
18 of subsection (a) of Section 11-501.2 of this Code.  
19 Subject to all other requirements and provisions under  
20 this Section, this paragraph (7) does not apply to the  
21 lawful consumption of cannabis by a qualifying patient  
22 licensed under the Compassionate Use of Medical Cannabis  
23 Program Act who is in possession of a valid registry card  
24 issued under that Act, unless that person is impaired by  
25 the use of cannabis.

26 (b) The fact that any person charged with violating this

1 Section is or has been legally entitled to use alcohol,  
2 cannabis under the Compassionate Use of Medical Cannabis  
3 Program Act, other drug or drugs, or intoxicating compound or  
4 compounds, or any combination thereof, shall not constitute a  
5 defense against any charge of violating this Section.

6 (c) Penalties.

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

10 (2) A person who violates subsection (a) or a similar  
11 provision a second time shall be sentenced to a mandatory  
12 minimum term of either 5 days of imprisonment or 240 hours  
13 of community service in addition to any other criminal or  
14 administrative sanction.

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

20 (4) A person who violates subsection (a) a first time,  
21 if the alcohol concentration in his or her blood, breath,  
22 other bodily substance, or urine was 0.16 or more based on  
23 the definition of blood, breath, other bodily substance,  
24 or urine units in Section 11-501.2, shall be subject, in  
25 addition to any other penalty that may be imposed, to a  
26 mandatory minimum of 100 hours of community service and a

1 mandatory minimum fine of \$500.

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

11 (d) Aggravated driving under the influence of alcohol,  
12 other drug or drugs, or intoxicating compound or compounds, or  
13 any combination thereof.

14 (1) Every person convicted of committing a violation  
15 of this Section shall be guilty of aggravated driving  
16 under the influence of alcohol, other drug or drugs, or  
17 intoxicating compound or compounds, or any combination  
18 thereof if:

19 (A) the person committed a violation of subsection  
20 (a) or a similar provision for the third or subsequent  
21 time;

22 (B) the person committed a violation of subsection  
23 (a) while driving a school bus with one or more  
24 passengers on board;

25 (C) the person in committing a violation of  
26 subsection (a) was involved in a motor vehicle

1 accident that resulted in great bodily harm or  
2 permanent disability or disfigurement to another, when  
3 the violation was a proximate cause of the injuries;

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

15 (E) the person, in committing a violation of  
16 subsection (a) while driving at any speed in a school  
17 speed zone at a time when a speed limit of 20 miles per  
18 hour was in effect under subsection (a) of Section  
19 11-605 of this Code, was involved in a motor vehicle  
20 accident that resulted in bodily harm, other than  
21 great bodily harm or permanent disability or  
22 disfigurement, to another person, when the violation  
23 of subsection (a) was a proximate cause of the bodily  
24 harm;

25 (F) the person, in committing a violation of  
26 subsection (a), was involved in a motor vehicle,

1 snowmobile, all-terrain vehicle, or watercraft  
2 accident that resulted in the death of another person,  
3 when the violation of subsection (a) was a proximate  
4 cause of the death;

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

13 (H) the person committed the violation while he or  
14 she did not possess a driver's license or permit or a  
15 restricted driving permit or a judicial driving permit  
16 or a monitoring device driving permit;

17 (I) the person committed the violation while he or  
18 she knew or should have known that the vehicle he or  
19 she was driving was not covered by a liability  
20 insurance policy;

21 (J) the person in committing a violation of  
22 subsection (a) was involved in a motor vehicle  
23 accident that resulted in bodily harm, but not great  
24 bodily harm, to the child under the age of 16 being  
25 transported by the person, if the violation was the  
26 proximate cause of the injury;

1 (K) the person in committing a second violation of  
2 subsection (a) or a similar provision was transporting  
3 a person under the age of 16; or

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

7 (2) (A) Except as provided otherwise, a person  
8 convicted of aggravated driving under the influence of  
9 alcohol, other drug or drugs, or intoxicating compound or  
10 compounds, or any combination thereof is guilty of a Class  
11 4 felony.

12 (B) A third violation of this Section or a similar  
13 provision is a Class 2 felony. If at the time of the third  
14 violation the alcohol concentration in his or her blood,  
15 breath, other bodily substance, or urine was 0.16 or more  
16 based on the definition of blood, breath, other bodily  
17 substance, or urine units in Section 11-501.2, a mandatory  
18 minimum of 90 days of imprisonment and a mandatory minimum  
19 fine of \$2,500 shall be imposed in addition to any other  
20 criminal or administrative sanction. If at the time of the  
21 third violation, the defendant was transporting a person  
22 under the age of 16, a mandatory fine of \$25,000 and 25  
23 days of community service in a program benefiting children  
24 shall be imposed in addition to any other criminal or  
25 administrative sanction.

26 (C) A fourth violation of this Section or a similar



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

15 (D) A fifth violation of this Section or a similar  
16 provision is a Class 1 felony, for which a sentence of  
17 probation or conditional discharge may not be imposed. If  
18 at the time of the violation, the alcohol concentration in  
19 the defendant's blood, breath, other bodily substance, or  
20 urine was 0.16 or more based on the definition of blood,  
21 breath, other bodily substance, or urine units in Section  
22 11-501.2, a mandatory minimum fine of \$5,000 shall be  
23 imposed in addition to any other criminal or  
24 administrative sanction. If at the time of the fifth  
25 violation, the defendant was transporting a person under  
26 the age of 16, a mandatory fine of \$25,000, and 25 days of

1 community service in a program benefiting children shall  
2 be imposed in addition to any other criminal or  
3 administrative sanction.

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

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

22 (G) A violation of subparagraph (F) of paragraph (1)  
23 of this subsection (d) is a Class 2 felony, for which the  
24 defendant, unless the court determines that extraordinary  
25 circumstances exist and require probation, shall be  
26 sentenced to: (i) a term of imprisonment of not less than 3

1 years and not more than 14 years if the violation resulted  
2 in the death of one person; ~~or~~ (ii) a term of imprisonment  
3 of not less than 6 years and not more than 28 years if the  
4 violation resulted in the deaths of 2 or more persons; or  
5 (iii) a term of imprisonment of not less than 4 years and  
6 not more than 20 years if the violation resulted in the  
7 death of one person and great bodily harm or permanent  
8 disability or disfigurement of one or more other persons.

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

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

25 (J) A violation of subparagraph (D) of paragraph (1)  
26 of this subsection (d) is a Class 3 felony, for which a

1 sentence of probation or conditional discharge may not be  
2 imposed.

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

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

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

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

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

24 (Source: P.A. 101-363, eff. 8-9-19.)