

**SB3323**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB3323**

Introduced 2/14/2020, 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.

LRB101 20073 HEP 69604 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 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  
16 11-501.2;

17 (2) under the influence of alcohol;

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

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

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

25 (b) The fact that any person charged with violating this  
26 Section is or has been legally entitled to use alcohol,

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

5 (c) Penalties.

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

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

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

19 (4) A person who violates subsection (a) a first time,  
20 if the alcohol concentration in his or her blood, breath,  
21 other bodily substance, or urine was 0.16 or more based on  
22 the definition of blood, breath, other bodily substance, or  
23 urine units in Section 11-501.2, shall be subject, in  
24 addition to any other penalty that may be imposed, to a  
25 mandatory minimum of 100 hours of community service and a  
26 mandatory minimum fine of \$500.

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

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

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

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

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

24                       (C) the person in committing a violation of  
25                       subsection (a) was involved in a motor vehicle accident  
26                       that resulted in great bodily harm or permanent

1           disability or disfigurement to another, when the  
2           violation was a proximate cause of the injuries;

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

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

23          (F) the person, in committing a violation of  
24          subsection (a), was involved in a motor vehicle,  
25          snowmobile, all-terrain vehicle, or watercraft  
26          accident that resulted in the death of another person,

1 when the violation of subsection (a) was a proximate  
2 cause of the death;

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

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

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

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

25 (K) the person in committing a second violation of  
26 subsection (a) or a similar provision was transporting

1 a person under the age of 16; or

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

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

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

24 (C) A fourth violation of this Section or a similar  
25 provision is a Class 2 felony, for which a sentence of  
26 probation or conditional discharge may not be imposed. If



1 at the time of the violation, the alcohol concentration in  
2 the defendant's blood, breath, other bodily substance, or  
3 urine was 0.16 or more based on the definition of blood,  
4 breath, other bodily substance, or urine units in Section  
5 11-501.2, a mandatory minimum fine of \$5,000 shall be  
6 imposed in addition to any other criminal or administrative  
7 sanction. If at the time of the fourth violation, the  
8 defendant was transporting a person under the age of 16 a  
9 mandatory fine of \$25,000 and 25 days of community service  
10 in a program benefiting children shall be imposed in  
11 addition to any other criminal or administrative sanction.

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

26 (E) A sixth or subsequent violation of this Section or

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

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

17 (G) A violation of subparagraph (F) of paragraph (1) of  
18 this subsection (d) is a Class 2 felony, for which the  
19 defendant, unless the court determines that extraordinary  
20 circumstances exist and require probation, shall be  
21 sentenced to: (i) a term of imprisonment of not less than 3  
22 years and not more than 14 years if the violation resulted  
23 in the death of one person; ~~or~~ (ii) a term of imprisonment  
24 of not less than 6 years and not more than 28 years if the  
25 violation resulted in the deaths of 2 or more persons; or  
26 (iii) a term of imprisonment of not less than 4 years and

1       not more than 20 years if the violation resulted in the  
2       death of one person and great bodily harm or permanent  
3       disability or disfigurement of one or more other persons.

4           (H) For a violation of subparagraph (J) of paragraph  
5       (1) of this subsection (d), a mandatory fine of \$2,500, and  
6       25 days of community service in a program benefiting  
7       children shall be imposed in addition to any other criminal  
8       or administrative sanction.

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

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

24           (3) Any person sentenced under this subsection (d) who  
25       receives a term of probation or conditional discharge must  
26       serve a minimum term of either 480 hours of community

1 service or 10 days of imprisonment as a condition of the  
2 probation or conditional discharge in addition to any other  
3 criminal or administrative sanction.

4 (e) Any reference to a prior violation of subsection (a) or  
5 a similar provision includes any violation of a provision of a  
6 local ordinance or a provision of a law of another state or an  
7 offense committed on a military installation that is similar to  
8 a violation of subsection (a) of this Section.

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

12 (g) Any penalty imposed for driving with a license that has  
13 been revoked for a previous violation of subsection (a) of this  
14 Section shall be in addition to the penalty imposed for any  
15 subsequent violation of subsection (a).

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

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