



February 28, 2020

ENGROSSED HOUSE BILL No. 1157

DIGEST OF HB 1157 (Updated February 25, 2020 6:21 pm - DI 106)

Citations Affected: IC 9-21; IC 9-30; IC 34-28; IC 35-46.

Synopsis: Driving privileges. Requires the bureau of motor vehicles to remove any record of a suspension from a defendant charged with operating while intoxicated if the case ends in favor of the defendant and the defendant's driving privileges were suspended because: (1) the defendant refused a chemical test; or (2) the results of a chemical test resulted in prima facie evidence of intoxication. Permits a court to award specialized driving privileges to a defendant who refused to submit to a chemical test if: (1) the person has not previously refused to submit to a chemical test; (2) the person does not have a prior unrelated conviction for operating a vehicle or motorboat while intoxicated; (3) at least 180 days have passed since the person's license was suspended; and (4) the court finds that awarding specialized driving privileges is in the interests of justice. Specifies the time period during which a court may terminate a suspension based on refusal to submit to a chemical test when an additional suspension period is ordered. Provides that a court and the bureau, if applicable, shall terminate all or any part of the remaining suspension of a person's license suspension if: (1) the charges against the person are dismissed;
(Continued next page)

Effective: July 1, 2020.

Hatfield, McNamara, Bartels, Shackleford

(SENATE SPONSORS — FREEMAN, TALLIAN)

January 8, 2020, read first time and referred to Committee on Courts and Criminal Code.
January 16, 2020, amended, reported — Do Pass.
January 21, 2020, read second time, ordered engrossed. Engrossed.
January 23, 2020, read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Corrections and Criminal Law.
February 27, 2020, amended, reported favorably — Do Pass.

EH 1157—LS 6966/DI 106



Digest Continued

(2) the person is acquitted; or (3) the person's conviction is vacated or reversed on appeal. Establishes that the following are Class A infractions: (1) Failure to stop at a traffic control signal resulting in bodily injury. (2) Failure to stop at an entrance to a through highway resulting in bodily injury. (3) Failure to stop at an intersection resulting in bodily injury. Makes an individual less than 18 years of age eligible for a deferral program. (Under current law, individuals under 18 years of age are not eligible for deferral.) Permits a court to suspend the driving privileges of a person adjudicated to have committed certain Class A and Class B infractions relating to the operation of a motor vehicle. Makes conforming changes.



February 28, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1157

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-21-3-7, AS AMENDED BY P.L.149-2015,
2 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 7. (a) Whenever traffic is controlled by traffic
4 control signals exhibiting different colored lights or colored lighted
5 arrows successively, one (1) at a time or in combination, only the
6 colors green, red, or yellow may be used, except for special pedestrian
7 signals under IC 9-21-18.
8 (b) The lights indicate and apply to drivers of vehicles and
9 pedestrians as follows:
10 (1) Green indication means the following:
11 (A) Vehicular traffic facing a circular green signal may
12 proceed straight through or turn right or left, unless a sign at
13 the place prohibits either turn.
14 (B) Vehicular traffic, including vehicles turning right or left,
15 shall yield the right-of-way to other vehicles and to pedestrians
16 lawfully within the intersection or an adjacent sidewalk at the
17 time the signal is exhibited.

EH 1157—LS 6966/DI 106



- 1 (C) Vehicular traffic facing a green arrow signal, shown alone
 2 or in combination with another indication, may cautiously
 3 enter the intersection only to make the movement indicated by
 4 the green arrow or other movement permitted by other
 5 indications shown at the same time.
- 6 (D) Vehicular traffic shall yield the right-of-way to pedestrians
 7 lawfully within an adjacent crosswalk and to other traffic
 8 lawfully using the intersection.
- 9 (E) Unless otherwise directed by a pedestrian control signal,
 10 pedestrians facing a green signal, except when the sole green
 11 signal is a turn arrow, may proceed across the roadway within
 12 a marked or unmarked crosswalk.
- 13 (2) Steady yellow indication means the following:
- 14 (A) Vehicular traffic facing a steady circular yellow or yellow
 15 arrow signal is warned that the related green movement is
 16 being terminated and that a red indication will be exhibited
 17 immediately thereafter.
- 18 (B) A pedestrian facing a steady circular yellow or yellow
 19 arrow signal, unless otherwise directed by a pedestrian control
 20 signal, is advised that there is insufficient time to cross the
 21 roadway before a red indication is shown, and a pedestrian
 22 may not start to cross the roadway at that time.
- 23 (3) Steady red indication means the following:
- 24 (A) Except as provided in clauses (B) and (D), vehicular
 25 traffic facing a steady circular red or red arrow signal shall
 26 stop at a clearly marked stop line. However, if there is no
 27 clearly marked stop line, vehicular traffic shall stop before
 28 entering the crosswalk on the near side of the intersection. If
 29 there is no crosswalk, vehicular traffic shall stop before
 30 entering the intersection and shall remain standing until an
 31 indication to proceed is shown.
- 32 (B) Except when a sign is in place prohibiting a turn described
 33 in this subdivision, vehicular traffic facing a steady red signal,
 34 after coming to a complete stop, may cautiously enter the
 35 intersection to do the following:
- 36 (i) Make a right turn.
- 37 (ii) Make a left turn if turning from the left lane of a
 38 one-way street into another one-way street with the flow of
 39 traffic.
- 40 Vehicular traffic making a turn described in this subdivision
 41 shall yield the right-of-way to pedestrians lawfully within an
 42 adjacent crosswalk and to other traffic using the intersection.



- 1 (C) Unless otherwise directed by a pedestrian control signal
 2 pedestrians facing a steady circular red or red arrow signal
 3 may not enter the roadway.
- 4 (D) This clause does not apply to the operation of an
 5 autocycle. If the operator of a motorcycle, motor driven cycle,
 6 or bicycle approaches an intersection that is controlled by a
 7 traffic control signal, the operator may proceed through the
 8 intersection on a steady red signal only if the operator:
- 9 (i) comes to a complete stop at the intersection for at least
 10 one hundred twenty (120) seconds; and
- 11 (ii) exercises due caution as provided by law, otherwise
 12 treats the traffic control signal as a stop sign, and determines
 13 that it is safe to proceed.
- 14 (4) No indication or conflicting indications means the following:
- 15 (A) Except as provided in clause (C), vehicular traffic facing
 16 an intersection having a signal that displays no indication or
 17 conflicting indications, where no other control is present, shall
 18 stop before entering the intersection.
- 19 (B) After stopping, vehicular traffic may proceed with caution
 20 through the intersection and shall yield the right-of-way to
 21 traffic within the intersection or approaching so closely as to
 22 constitute an immediate hazard.
- 23 (C) Vehicular traffic entering an intersection or crosswalk
 24 facing a pedestrian hybrid beacon may proceed without
 25 stopping if no indication is displayed on the pedestrian hybrid
 26 beacon.
- 27 (5) This section applies to traffic control signals located at a place
 28 other than an intersection. A stop required under this subdivision
 29 must be made at the signal, except when the signal is
 30 supplemented by a sign or pavement marking indicating where
 31 the stop must be made.
- 32 **(c) A person who violates this section commits a Class C**
 33 **infraction. However, a failure to stop under subsection (b)(3) that**
 34 **results in bodily injury to a person is a Class A infraction.**
- 35 SECTION 2. IC 9-21-3-8, AS AMENDED BY P.L.43-2011,
 36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2020]: Sec. 8. (a) This section does not apply at railroad grade
 38 crossings.
- 39 (b) Whenever an illuminated flashing red or yellow light is used in
 40 a traffic signal or with a traffic sign, vehicular traffic shall obey the
 41 signal in the following manner:
- 42 (1) Flashing red (stop signal) means the following:



- 1 (A) When a red lens is illuminated by rapid intermittent
 2 flashes, a person who drives a vehicle shall stop at a clearly
 3 marked stop line before entering the crosswalk on the near
 4 side of the intersection.
 5 (B) If no line exists, the person shall stop at the point nearest
 6 the intersecting roadway where the person has a view of
 7 approaching traffic on the intersecting roadway before
 8 entering the roadway.
 9 (C) The right to proceed is subject to the rules applicable after
 10 making a stop at a stop sign.
 11 (2) Except as provided in subdivision (3), flashing yellow (caution
 12 signal) means that when a yellow lens is illuminated with rapid
 13 intermittent flashes, a person who drives a vehicle may proceed
 14 through the intersection or past the signal only with caution.
 15 (3) When a yellow lens with an arrow is illuminated with rapid
 16 intermittent flashes, a person who operates a vehicle may turn
 17 only after yielding to oncoming traffic.
 18 **(c) A person who violates this section commits a Class C**
 19 **infraction. However, a failure to stop under subsection (b)(1) that**
 20 **results in bodily injury to a person is a Class A infraction.**
 21 SECTION 3. IC 9-21-3-11, AS AMENDED BY P.L.217-2014,
 22 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2020]: Sec. 11. A person who violates section 7, 8, or 9 of this
 24 chapter commits a Class C infraction.
 25 SECTION 4. IC 9-21-8-31 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 31. (a) A person who
 27 drives a vehicle shall do the following:
 28 (1) Stop as required under this article at the entrance to a through
 29 highway.
 30 (2) Yield the right-of-way to other vehicles that have entered the
 31 intersection from the through highway or that are approaching so
 32 closely on the through highway as to constitute an immediate
 33 hazard.
 34 (b) After yielding as described in subsection (a)(2), the person who
 35 drives a vehicle may proceed and persons who drive other vehicles
 36 approaching the intersection on the through highway shall yield the
 37 right-of-way to the vehicle proceeding into or across the through
 38 highway.
 39 **(c) A person who violates this section commits a Class C**
 40 **infraction. However, a failure to stop under subsection (a)(1) that**
 41 **results in bodily injury to a person is a Class A infraction.**
 42 SECTION 5. IC 9-21-8-32 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 32. (a) A person who
 2 drives a vehicle shall stop at an intersection where a stop sign is erected
 3 at one (1) or more entrances to a through highway that are not a part of
 4 the through highway and proceed cautiously, yielding to vehicles that
 5 are not required to stop.

6 **(b) A person who violates this section commits a Class C**
 7 **infraction. However, a failure to stop under this section that results**
 8 **in bodily injury to a person is a Class A infraction.**

9 SECTION 6. IC 9-21-8-49, AS AMENDED BY P.L.188-2015,
 10 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2020]: Sec. 49. Except as provided in sections 31, 32, 35, 50,
 12 51, 52, 55, 56, and 58 of this chapter, a person who violates this
 13 chapter commits a Class C infraction.

14 SECTION 7. IC 9-30-6-7, AS AMENDED BY P.L.85-2013,
 15 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 7. (a) If a person refuses to submit to a chemical
 17 test, the arresting officer shall inform the person that refusal will result
 18 in the suspension of the person's driving privileges, **and that the**
 19 **person will not be eligible for specialized driving privileges for at**
 20 **least one hundred eighty (180) days following the suspension.**

21 (b) If a person refuses to submit to a chemical test after having been
 22 advised that the refusal will result in the suspension of driving
 23 privileges or submits to a chemical test that results in prima facie
 24 evidence of intoxication, the arresting officer shall do the following:

- 25 (1) Obtain the person's driver's license or permit if the person is
 26 in possession of the document and issue a receipt valid until the
 27 initial hearing of the matter held under IC 35-33-7-1.
- 28 (2) Submit a probable cause affidavit to the prosecuting attorney
 29 of the county in which the alleged offense occurred.

30 SECTION 8. IC 9-30-6-13.5, AS AMENDED BY P.L.2-2005,
 31 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2020]: Sec. 13.5. ~~Whenever~~ **If:**

- 33 (1) a case filed under IC 9-30-5 is terminated in favor of the
 34 defendant; and
- 35 (2) the defendant's driving privileges were suspended under:
 36 (A) ~~section 9(c)~~ **section 9(b)** of this chapter; **or**
 37 (B) **section 9(c) of this chapter;**

38 the bureau shall remove any record of the suspension, including the
 39 reason for suspension, from the defendant's official driving record.

40 SECTION 9. IC 9-30-7-3 IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) A law enforcement officer
 42 shall offer a portable breath test or chemical test to any person who the



1 officer has reason to believe operated a vehicle that was involved in a
 2 fatal accident or an accident involving serious bodily injury. **If the**
 3 **person refuses to submit to the breath test, the officer shall inform**
 4 **the person that refusal will result in the suspension of the person's**
 5 **driving privileges, and that the person will not be eligible for**
 6 **specialized driving privileges for at least one hundred eighty (180)**
 7 **days following the suspension. If:**

8 (1) the results of a portable breath test indicate the presence of
 9 alcohol;

10 (2) the results of a portable breath test do not indicate the
 11 presence of alcohol but the law enforcement officer has probable
 12 cause to believe the person is under the influence of a controlled
 13 substance or another drug; or

14 (3) the person refuses to submit to a portable breath test;

15 the law enforcement officer shall offer a chemical test to the person.

16 (b) A law enforcement officer may offer a person more than one (1)
 17 portable breath test or chemical test under this section. However, all
 18 chemical tests must be administered within three (3) hours after the
 19 fatal accident or the accident involving serious bodily injury.

20 (c) It is not necessary for a law enforcement officer to offer a
 21 portable breath test or chemical test to an unconscious person.

22 SECTION 10. IC 9-30-13-0.5, AS AMENDED BY P.L.198-2016,
 23 SECTION 604, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2020]: Sec. 0.5. (a) A court shall forward to the
 25 bureau a certified abstract of the record of the conviction of a person
 26 in the court for a violation of a law relating to motor vehicles.

27 (b) If in the opinion of the court a defendant should be deprived of
 28 the privilege to operate a motor vehicle upon a public highway, the
 29 court may recommend the suspension of the convicted person's driving
 30 privileges for a period that does not exceed:

31 (1) the maximum period of incarceration for the offense of which
 32 the person was convicted; or

33 (2) **one hundred eighty (180) days, if the person was**
 34 **adjudicated to have committed a Class A or Class B infraction**
 35 **under IC 9-21-8.**

36 (c) The bureau shall comply with the court's recommendation.

37 (d) At the time of a conviction referred to in subsection (a) or under
 38 IC 9-30-5-7, the court may obtain and destroy the defendant's current
 39 driver's license.

40 (e) An abstract required by this section must be in the form
 41 prescribed by the bureau and, when certified, shall be accepted by an
 42 administrative agency or a court as prima facie evidence of the



- 1 conviction and all other action stated in the abstract.
- 2 SECTION 11. IC 9-30-16-1, AS AMENDED BY P.L.144-2019,
 3 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2020]: Sec. 1. (a) Except as provided in ~~subsection (b)~~;
 5 **subsections (b) and (h)**, the following are ineligible for specialized
 6 driving privileges under this chapter:
- 7 (1) A person who has never been an Indiana resident.
 - 8 (2) A person seeking specialized driving privileges with respect
 9 to a suspension based on the person's refusal to submit to a
 10 chemical test offered under IC 9-30-6 or IC 9-30-7, **except as**
 11 **provided in subsection (h).**
 - 12 (3) A person whose driving privileges have been suspended or
 13 revoked under IC 9-24-10-7(b)(2)(A).
 - 14 (4) A person whose driving privileges have been suspended under
 15 IC 9-21-8-52(e) or IC 9-21-12-1(b).
- 16 (b) This chapter applies to the following:
- 17 (1) A person who held an operator's, a commercial driver's, a
 18 public passenger chauffeur's, or a chauffeur's license at the time
 19 of:
 - 20 (A) the criminal conviction for which the operation of a motor
 21 vehicle is an element of the offense;
 - 22 (B) any criminal conviction for an offense under IC 9-30-5,
 23 IC 35-46-9, or IC 14-15-8 (before its repeal); or
 - 24 (C) committing the infraction of exceeding a worksite speed
 25 limit for the second time in one (1) year under IC 9-21-5-11(f).
 - 26 (2) A person who:
 - 27 (A) has never held a valid Indiana driver's license or does not
 28 currently hold a valid Indiana learner's permit; and
 - 29 (B) was an Indiana resident when the driving privileges for
 30 which the person is seeking specialized driving privileges
 31 were suspended.
 - 32 (c) Except as specifically provided in this chapter, a court may
 33 suspend the driving privileges of a person convicted of any of the
 34 following offenses for a period up to the maximum allowable period of
 35 incarceration under the penalty for the offense:
 - 36 (1) Any criminal conviction in which the operation of a motor
 37 vehicle is an element of the offense.
 - 38 (2) Any criminal conviction for an offense under IC 9-30-5,
 39 IC 35-46-9, or IC 14-15-8 (before its repeal).
 - 40 (3) Any offense under IC 35-42-1, IC 35-42-2, or IC 35-44.1-3-1
 41 that involves the use of a vehicle.
 - 42 (d) Except as provided in section 3.5 of this chapter, a suspension



1 of driving privileges under this chapter may begin before the
2 conviction. Multiple suspensions of driving privileges ordered by a
3 court that are part of the same episode of criminal conduct shall be
4 served concurrently. A court may grant credit time for any suspension
5 that began before the conviction, except as prohibited by section
6 6(a)(2) of this chapter.

7 (e) If a person has had an ignition interlock device installed as a
8 condition of specialized driving privileges or under IC 9-30-6-8(d), the
9 period of the installation shall be credited as part of the suspension of
10 driving privileges.

11 (f) This subsection applies to a person described in subsection
12 (b)(2). A court shall, as a condition of granting specialized driving
13 privileges to the person, require the person to apply for and obtain an
14 Indiana driver's license.

15 (g) If a person indicates to the court at an initial hearing (as
16 described in IC 35-33-7) that the person intends to file a petition for a
17 specialized driving privileges hearing with that court under section 3
18 or 4 of this chapter, the following apply:

19 (1) The court shall:

20 (A) stay the suspension of the person's driving privileges at the
21 initial hearing and shall not submit the probable cause
22 affidavit related to the person's offense to the bureau; and

23 (B) set the matter for a specialized driving privileges hearing
24 not later than thirty (30) days after the initial hearing.

25 (2) If the person does not file a petition for a specialized driving
26 privileges hearing not later than ten (10) days after the date of the
27 initial hearing, the court shall lift the stay of the suspension of the
28 person's driving privileges and shall submit the probable cause
29 affidavit related to the person's offense to the bureau for
30 automatic suspension.

31 (3) If the person files a petition for a specialized driving privileges
32 hearing not later than ten (10) days after the initial hearing, the
33 stay of the suspension of the person's driving privileges continues
34 until the matter is heard and a determination is made by the court
35 at the specialized driving privileges hearing.

36 (4) If the specialized driving privileges hearing is continued due
37 to:

38 (A) a congestion of the court calendar;

39 (B) the prosecuting attorney's motion for a continuance; or

40 (C) the person's motion for a continuance with no objection by
41 the prosecuting attorney;

42 the stay of the suspension of the person's driving privileges



1 continues until addressed at the next hearing.

2 (5) If the person moves for a continuance of the specialized
3 driving privileges hearing and the court grants the continuance
4 over the prosecuting attorney's objection, the court shall lift the
5 stay of the suspension of the person's driving privileges and shall
6 submit the probable cause affidavit related to the person's offense
7 to the bureau for automatic suspension.

8 **(h) This subsection applies to a person described in subsection**
9 **(a)(2) who is seeking specialized driving privileges with respect to**
10 **a suspension based on the person's refusal to submit to a chemical**
11 **test offered under IC 9-30-6 or IC 9-30-7. A court may award**
12 **specialized driving privileges to a person to whom this subsection**
13 **applies if:**

14 **(1) the person has not previously refused to submit to a**
15 **chemical test offered under IC 9-30-6 or IC 9-30-7;**

16 **(2) the person does not have a prior unrelated conviction in**
17 **violation of IC 9-30-5 (operating a vehicle while intoxicated)**
18 **or in violation of IC 35-46-9 or IC 14-15-8 (before its repeal)**
19 **(operating a motorboat while intoxicated);**

20 **(3) at least one hundred eighty (180) days have elapsed since**
21 **the person's license was suspended for refusal to submit to a**
22 **chemical test offered under IC 9-30-6 or IC 9-30-7; and**

23 **(4) the court, in the exercise of its discretion, finds that**
24 **awarding specialized driving privileges is in the interests of**
25 **justice.**

26 SECTION 12. IC 9-30-16-6, AS ADDED BY P.L.188-2015,
27 SECTION 128, IS AMENDED TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) A person whose driving
29 privileges are suspended under section 1(c) of this chapter:

30 (1) is entitled to credit for any days during which the license was
31 suspended under IC 9-30-6-9(c); and

32 (2) may not receive any credit for days during which the person's
33 driving privileges were suspended under IC 9-30-6-9(b).

34 (b) A period of suspension of driving privileges imposed under
35 section 1(c) of this chapter must be consecutive to any period of
36 suspension imposed under IC 9-30-6-9(b). However, **at or after the**
37 **time:**

38 **(1) the person pleads guilty;**

39 **(2) a jury returns a guilty verdict after a jury trial, or the**
40 **court returns a guilty verdict in a bench trial; or**

41 **(3) of sentencing;**

42 if the court finds ~~in the sentencing order~~ that it is in the best interest of



1 society, the court may terminate all or any part of the remaining
 2 suspension under IC 9-30-6-9(b) **and all or part of the suspension**
 3 **imposed under section 1(c) of this chapter.**

4 (c) The bureau shall designate a period of suspension of driving
 5 privileges imposed under section 1(c) of this chapter as consecutive to
 6 any period of suspension imposed under IC 9-30-6-9(b) unless the
 7 sentencing order of the court under subsection (b) terminates all or part
 8 of the remaining suspension under IC 9-30-6-9(b).

9 SECTION 13. IC 9-30-16-6.5 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2020]: **Sec. 6.5. A court and the bureau, if**
 12 **applicable, shall terminate all or any part of the remaining**
 13 **suspension of a person's license suspension under section 1(c) of**
 14 **this chapter or under IC 9-30-6-9 if:**

15 (1) the charges against the person are dismissed;

16 (2) the person is acquitted; or

17 (3) the person's conviction is vacated or reversed on appeal.

18 SECTION 14. IC 34-28-5-1, AS AMENDED BY P.L.198-2016,
 19 SECTION 667, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An action to enforce a statute
 21 defining an infraction shall be brought in the name of the state of
 22 Indiana by the prosecuting attorney for the judicial circuit in which the
 23 infraction allegedly took place. However, if the infraction allegedly
 24 took place on a public highway (as defined in IC 9-25-2-4) that runs on
 25 and along a common boundary shared by two (2) or more judicial
 26 circuits, a prosecuting attorney for any judicial circuit sharing the
 27 common boundary may bring the action.

28 (b) An action to enforce an ordinance shall be brought in the name
 29 of the municipal corporation. The municipal corporation need not
 30 prove that it or the ordinance is valid unless validity is controverted by
 31 affidavit.

32 (c) Actions under this chapter (or IC 34-4-32 before its repeal):

33 (1) shall be conducted in accordance with the Indiana Rules of
 34 Trial Procedure; and

35 (2) must be brought within two (2) years after the alleged conduct
 36 or violation occurred.

37 (d) The plaintiff in an action under this chapter must prove the
 38 commission of an infraction or ordinance violation by a preponderance
 39 of the evidence.

40 (e) The complaint and summons described in IC 9-30-3-6 may be
 41 used for any infraction or ordinance violation.

42 (f) Subsection (g) does not apply to an individual who is alleged to



1 have committed an infraction under any of the following when the
2 individual was less than eighteen (18) years of age at the time of the
3 alleged offense:

- 4 ~~IC 9-19~~
- 5 ~~IC 9-21~~
- 6 ~~IC 9-24~~
- 7 ~~IC 9-25~~
- 8 ~~IC 9-26~~
- 9 ~~IC 9-30-5~~
- 10 ~~IC 9-30-10~~
- 11 ~~IC 9-30-15.~~

12 ~~(g)~~ (f) This subsection does not apply to an offense or violation
13 under IC 9-24-6 (before its repeal) or IC 9-24-6.1 involving the
14 operation of a commercial motor vehicle. The prosecuting attorney or
15 the attorney for a municipal corporation may establish a deferral
16 program for deferring actions brought under this section. Actions may
17 be deferred under this section if:

- 18 (1) the defendant in the action agrees to conditions of a deferral
19 program offered by the prosecuting attorney or the attorney for a
20 municipal corporation;
- 21 (2) the defendant in the action agrees to pay to the clerk of the
22 court an initial user's fee and monthly user's fee set by the
23 prosecuting attorney or the attorney for the municipal corporation
24 in accordance with IC 33-37-4-2(e);
- 25 (3) the terms of the agreement are recorded in an instrument
26 signed by the defendant and the prosecuting attorney or the
27 attorney for the municipal corporation;
- 28 (4) the defendant in the action agrees to pay a fee of seventy
29 dollars (\$70) to the clerk of court if the action involves a moving
30 traffic offense (as defined in IC 9-13-2-110);
- 31 (5) the agreement is filed in the court in which the action is
32 brought; and
- 33 (6) if the deferral program is offered by the prosecuting attorney,
34 the prosecuting attorney electronically transmits information
35 required by the prosecuting attorneys council concerning the
36 withheld prosecution to the prosecuting attorneys council, in a
37 manner and format designated by the prosecuting attorneys
38 council.

39 When a defendant complies with the terms of an agreement filed under
40 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
41 attorney or the attorney for the municipal corporation shall request the
42 court to dismiss the action. Upon receipt of a request to dismiss an



1 action under this subsection, the court shall dismiss the action. An
 2 action dismissed under this subsection (or IC 34-4-32-1(f) before its
 3 repeal) may not be refiled.

4 ~~(h)~~ (g) If a judgment is entered against a defendant in an action to
 5 enforce an ordinance, the defendant may perform community
 6 restitution or service (as defined in IC 35-31.5-2-50) instead of paying
 7 a monetary judgment for the ordinance violation as described in section
 8 4(e) of this chapter if:

9 (1) the:

10 (A) defendant; and

11 (B) attorney for the municipal corporation;

12 agree to the defendant's performance of community restitution or
 13 service instead of the payment of a monetary judgment;

14 (2) the terms of the agreement described in subdivision (1):

15 (A) include the amount of the judgment the municipal
 16 corporation requests that the defendant pay under section 4(e)
 17 of this chapter for the ordinance violation if the defendant fails
 18 to perform the community restitution or service provided for
 19 in the agreement as approved by the court; and

20 (B) are recorded in a written instrument signed by the
 21 defendant and the attorney for the municipal corporation;

22 (3) the agreement is filed in the court where the judgment was
 23 entered; and

24 (4) the court approves the agreement.

25 If a defendant fails to comply with an agreement approved by a court
 26 under this subsection, the court shall require the defendant to pay up to
 27 the amount of the judgment requested in the action under section 4(e)
 28 of this chapter as if the defendant had not entered into an agreement
 29 under this subsection.

30 SECTION 15. IC 34-28-5-4, AS AMENDED BY P.L.146-2016,
 31 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2020]: Sec. 4. (a) A judgment of up to ten thousand dollars
 33 (\$10,000) may be entered for a violation constituting a Class A
 34 infraction.

35 (b) A judgment of up to one thousand dollars (\$1,000) may be
 36 entered for a violation constituting a Class B infraction.

37 (c) Except as provided in subsection (f), a judgment of up to five
 38 hundred dollars (\$500) may be entered for a violation constituting a
 39 Class C infraction.

40 (d) A judgment of up to twenty-five dollars (\$25) may be entered for
 41 a violation constituting a Class D infraction.

42 (e) Subject to section ~~1(f)~~ 1(g) of this chapter, a judgment:



1 (1) up to the amount requested in the complaint; and
 2 (2) not exceeding any limitation under IC 36-1-3-8;
 3 may be entered for an ordinance violation.
 4 (f) Except as provided in subsections (g) and (h), a person who has
 5 admitted to a moving violation constituting a Class C infraction,
 6 pleaded nolo contendere to a moving violation constituting a Class C
 7 infraction, or has been found by a court to have committed a moving
 8 violation constituting a Class C infraction may not be required to pay
 9 more than the following amounts for the violation:
 10 (1) If, before the appearance date specified in the summons and
 11 complaint, the person mails or delivers an admission of the
 12 moving violation or a plea of nolo contendere to the moving
 13 violation, the person may not be required to pay any amount,
 14 except court costs and a judgment that does not exceed thirty-five
 15 dollars and fifty cents (\$35.50).
 16 (2) If the person admits the moving violation or enters a plea of
 17 nolo contendere to the moving violation on the appearance date
 18 specified in the summons and complaint, the person may not be
 19 required to pay any amount, except court costs and a judgment
 20 that does not exceed thirty-five dollars and fifty cents (\$35.50).
 21 (3) If the person contests the moving violation in court and is
 22 found to have committed the moving violation, the person may
 23 not be required to pay any amount, except:
 24 (A) court costs and a judgment that does not exceed thirty-five
 25 dollars and fifty cents (\$35.50) if, in the five (5) years before
 26 the appearance date specified in the summons and complaint,
 27 the person was not found by a court in the county to have
 28 committed a moving violation;
 29 (B) court costs and a judgment that does not exceed two
 30 hundred fifty dollars and fifty cents (\$250.50) if, in the five (5)
 31 years before the appearance date specified in the summons and
 32 complaint, the person was found by a court in the county to
 33 have committed one (1) moving violation; and
 34 (C) court costs and a judgment that does not exceed five
 35 hundred dollars (\$500) if, in the five (5) years before the
 36 appearance date specified in the summons and complaint, the
 37 person was found by a court in the county to have committed
 38 two (2) or more moving violations.
 39 In a proceeding under subdivision (3), the court may require the person
 40 to submit an affidavit or sworn testimony concerning whether, in the
 41 five (5) years before the appearance date specified in the summons and
 42 complaint, the person has been found by a court to have committed one



1 (1) or more moving violations.
 2 (g) The amounts described in subsection (f) are in addition to any
 3 amount that a person may be required to pay for attending a defensive
 4 driving school program.
 5 (h) This subsection applies only to infraction judgments imposed in
 6 Marion County for traffic violations after December 31, 2010.
 7 Subsection (f) applies to an infraction judgment described in this
 8 subsection. However, a court shall impose a judgment of not less than
 9 thirty-five dollars (\$35) for an infraction judgment that is entered in
 10 Marion County. These funds shall be transferred to a dedicated fund in
 11 accordance with section 5 of this chapter.
 12 (i) This subsection applies only to infraction judgments imposed in
 13 Clark County for toll violations after January 1, 2017. Subsection (f)
 14 applies to an infraction judgment described in this subsection.
 15 However, a court shall impose a judgment of not less than thirty-five
 16 dollars (\$35) for an infraction judgment that is entered in Clark County.
 17 These funds shall be transferred to a dedicated fund in accordance with
 18 section 5(f) of this chapter.
 19 SECTION 16. IC 34-28-5-8, AS AMENDED BY P.L.200-2005,
 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 8. The violations clerk or deputy violations clerk
 22 shall:
 23 (1) accept:
 24 (A) written appearances;
 25 (B) waivers of trial;
 26 (C) admissions of violation;
 27 (D) declarations of nolo contendere for moving traffic
 28 violations;
 29 (E) payments of judgments (including costs) in traffic
 30 violation cases;
 31 (F) deferral agreements made under ~~section 1(f)~~ **section 1** of
 32 this chapter (or IC 34-4-32-1(f) before its repeal) and deferral
 33 program fees prescribed under IC 33-37-4-2(e); and
 34 (G) community restitution or service agreements made under
 35 section 1(g) of this chapter;
 36 (2) issue receipts and account for any judgments (including costs)
 37 collected; and
 38 (3) pay the judgments (including costs) collected to the
 39 appropriate unit of government as provided by law.
 40 SECTION 17. IC 34-28-5-9 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. The court shall:
 42 (1) designate the traffic violations within the authority of the



- 1 violations clerk, but these violations may not include
- 2 misdemeanors or felonies;
- 3 (2) establish schedules, within limits prescribed by law, of the
- 4 judgments to be imposed for first violations, designating each
- 5 violation specifically;
- 6 (3) order that the schedule of judgments be prominently posted in
- 7 the place where the fines are paid;
- 8 (4) establish a procedure under which any violations clerk or
- 9 deputy violations clerk shall accept, receipt, and account for all
- 10 money tendered for designated traffic violations; and
- 11 (5) dismiss deferred actions if a dismissal request is made under
- 12 ~~section 1(f)~~ **section 1** of this chapter (or IC 34-4-32-1(f) before its
- 13 repeal).

14 SECTION 18. IC 35-46-9-9, AS ADDED BY P.L.40-2012,
 15 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 9. (a) A law enforcement officer who has probable
 17 cause to believe that a person has committed an offense under this
 18 chapter shall offer the person the opportunity to submit to a chemical
 19 test. **If the person refuses to submit to the breath test, the officer**
 20 **shall inform the person that refusal will result in the suspension of**
 21 **the person's driving privileges, and that the person will not be**
 22 **eligible for specialized driving privileges for at least one hundred**
 23 **eighty (180) days following the suspension.** It is not necessary for the
 24 law enforcement officer to offer a chemical test to an unconscious
 25 person.

26 (b) A law enforcement officer may offer a person more than one (1)
 27 chemical test under this chapter. However, all tests must be
 28 administered within three (3) hours after the officer had probable cause
 29 to believe the person violated this chapter.

30 (c) A person must submit to each chemical test offered by a law
 31 enforcement officer to comply with the implied consent provisions of
 32 this chapter.

33 SECTION 19. IC 35-46-9-10, AS ADDED BY P.L.40-2012,
 34 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 10. (a) A law enforcement officer shall offer a
 36 portable breath test or chemical test to any person if the officer has
 37 reason to believe the person operated a motorboat that was involved in
 38 a fatal accident or an accident involving serious bodily injury. **If the**
 39 **person refuses to submit to the breath test, the officer shall inform**
 40 **the person that refusal will result in the suspension of the person's**
 41 **driving privileges, and that the person will not be eligible for**
 42 **specialized driving privileges for at least one hundred eighty (180)**



1 **days following the suspension. If:**
2 (1) the results of a portable breath test indicate the presence of
3 alcohol;
4 (2) the results of a portable breath test do not indicate the
5 presence of alcohol but the law enforcement officer has probable
6 cause to believe the person is under the influence of a controlled
7 substance or another drug; or
8 (3) the person refuses to submit to a portable breath test;
9 the law enforcement officer shall offer a chemical test to the person.
10 (b) A law enforcement officer may offer a person more than one (1)
11 portable breath test or chemical test under this section. However, all
12 chemical tests must be administered within three (3) hours after the
13 fatal accident or the accident involving serious bodily injury.
14 (c) It is not necessary for a law enforcement officer to offer a
15 portable breath test or chemical test to an unconscious person.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 7 and 8, begin a new line block indented and insert:

"(2) the person does not have a prior unrelated conviction in violation of IC 9-30-5 (operating a vehicle while intoxicated) or in violation of IC 35-46-9 or IC 14-15-8 (before its repeal) (operating a motorboat while intoxicated);".

Page 4, line 8, delete "(2)" and insert "(3)".

Page 4, line 9, delete "(3)" and insert "(4)".

Page 4, delete lines 24 through 30, begin a new line block indented and insert:

"(1) the person pleads guilty;

(2) a jury returns a guilty verdict after a jury trial, or the court returns a guilty verdict in a bench trial; or

(3) of sentencing;".

Page 4, after line 39, begin a new paragraph and insert:

"SECTION 4. IC 9-30-16-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 6.5. A court and the bureau, if applicable, shall terminate all or any part of the remaining suspension of a person's license suspension under section 1(c) of this chapter or under IC 9-30-6-9 if:**

(1) the charges against the person are dismissed;

(2) the person is acquitted; or

(3) the person's conviction is vacated or reversed on appeal."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1157 as introduced.)

MCNAMARA

Committee Vote: yeas 12, nays 0.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1157, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-21-3-7, AS AMENDED BY P.L.149-2015, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively, one (1) at a time or in combination, only the colors green, red, or yellow may be used, except for special pedestrian signals under IC 9-21-18.

(b) The lights indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication means the following:

(A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at the place prohibits either turn.

(B) Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent sidewalk at the time the signal is exhibited.

(C) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the green arrow or other movement permitted by other indications shown at the same time.

(D) Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(E) Unless otherwise directed by a pedestrian control signal, pedestrians facing a green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within a marked or unmarked crosswalk.

(2) Steady yellow indication means the following:

(A) Vehicular traffic facing a steady circular yellow or yellow arrow signal is warned that the related green movement is being terminated and that a red indication will be exhibited



immediately thereafter.

(B) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal, is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway at that time.

(3) Steady red indication means the following:

(A) Except as provided in clauses (B) and (D), vehicular traffic facing a steady circular red or red arrow signal shall stop at a clearly marked stop line. However, if there is no clearly marked stop line, vehicular traffic shall stop before entering the crosswalk on the near side of the intersection. If there is no crosswalk, vehicular traffic shall stop before entering the intersection and shall remain standing until an indication to proceed is shown.

(B) Except when a sign is in place prohibiting a turn described in this subdivision, vehicular traffic facing a steady red signal, after coming to a complete stop, may cautiously enter the intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

Vehicular traffic making a turn described in this subdivision shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal pedestrians facing a steady circular red or red arrow signal may not enter the roadway.

(D) This clause does not apply to the operation of an autocycle. If the operator of a motorcycle, motor driven cycle, or bicycle approaches an intersection that is controlled by a traffic control signal, the operator may proceed through the intersection on a steady red signal only if the operator:

(i) comes to a complete stop at the intersection for at least one hundred twenty (120) seconds; and

(ii) exercises due caution as provided by law, otherwise treats the traffic control signal as a stop sign, and determines that it is safe to proceed.

(4) No indication or conflicting indications means the following:

(A) Except as provided in clause (C), vehicular traffic facing an intersection having a signal that displays no indication or



conflicting indications, where no other control is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(C) Vehicular traffic entering an intersection or crosswalk facing a pedestrian hybrid beacon may proceed without stopping if no indication is displayed on the pedestrian hybrid beacon.

(5) This section applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the signal, except when the signal is supplemented by a sign or pavement marking indicating where the stop must be made.

(c) A person who violates this section commits a Class C infraction. However, a failure to stop under subsection (b)(3) that results in bodily injury to a person is a Class A infraction.

SECTION 2. IC 9-21-3-8, AS AMENDED BY P.L.43-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) This section does not apply at railroad grade crossings.

(b) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, vehicular traffic shall obey the signal in the following manner:

(1) Flashing red (stop signal) means the following:

(A) When a red lens is illuminated by rapid intermittent flashes, a person who drives a vehicle shall stop at a clearly marked stop line before entering the crosswalk on the near side of the intersection.

(B) If no line exists, the person shall stop at the point nearest the intersecting roadway where the person has a view of approaching traffic on the intersecting roadway before entering the roadway.

(C) The right to proceed is subject to the rules applicable after making a stop at a stop sign.

(2) Except as provided in subdivision (3), flashing yellow (caution signal) means that when a yellow lens is illuminated with rapid intermittent flashes, a person who drives a vehicle may proceed through the intersection or past the signal only with caution.

(3) When a yellow lens with an arrow is illuminated with rapid intermittent flashes, a person who operates a vehicle may turn



only after yielding to oncoming traffic.

(c) A person who violates this section commits a Class C infraction. However, a failure to stop under subsection (b)(1) that results in bodily injury to a person is a Class A infraction.

SECTION 3. IC 9-21-3-11, AS AMENDED BY P.L.217-2014, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. A person who violates section 7, 8, or 9 of this chapter commits a Class C infraction.

SECTION 4. IC 9-21-8-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 31. (a) A person who drives a vehicle shall do the following:

- (1) Stop as required under this article at the entrance to a through highway.
- (2) Yield the right-of-way to other vehicles that have entered the intersection from the through highway or that are approaching so closely on the through highway as to constitute an immediate hazard.

(b) After yielding as described in subsection (a)(2), the person who drives a vehicle may proceed and persons who drive other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle proceeding into or across the through highway.

(c) A person who violates this section commits a Class C infraction. However, a failure to stop under subsection (a)(1) that results in bodily injury to a person is a Class A infraction.

SECTION 5. IC 9-21-8-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 32. (a) A person who drives a vehicle shall stop at an intersection where a stop sign is erected at one (1) or more entrances to a through highway that are not a part of the through highway and proceed cautiously, yielding to vehicles that are not required to stop.

(b) A person who violates this section commits a Class C infraction. However, a failure to stop under this section that results in bodily injury to a person is a Class A infraction.

SECTION 6. IC 9-21-8-49, AS AMENDED BY P.L.188-2015, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 49. Except as provided in sections 31, 32, 35, 50, 51, 52, 55, 56, and 58 of this chapter, a person who violates this chapter commits a Class C infraction.

SECTION 7. IC 9-30-6-7, AS AMENDED BY P.L.85-2013, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) If a person refuses to submit to a chemical



test, the arresting officer shall inform the person that refusal will result in the suspension of the person's driving privileges, **and that the person will not be eligible for specialized driving privileges for at least one hundred eighty (180) days following the suspension.**

(b) If a person refuses to submit to a chemical test after having been advised that the refusal will result in the suspension of driving privileges or submits to a chemical test that results in prima facie evidence of intoxication, the arresting officer shall do the following:

- (1) Obtain the person's driver's license or permit if the person is in possession of the document and issue a receipt valid until the initial hearing of the matter held under IC 35-33-7-1.
- (2) Submit a probable cause affidavit to the prosecuting attorney of the county in which the alleged offense occurred."

Page 1, line 7, strike "section 9(c)" and insert "**section 9(b)**".

Page 1, line 8, delete "section 9(b)" and insert "**section 9(c)**".

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 9. IC 9-30-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) A law enforcement officer shall offer a portable breath test or chemical test to any person who the officer has reason to believe operated a vehicle that was involved in a fatal accident or an accident involving serious bodily injury. **If the person refuses to submit to the breath test, the officer shall inform the person that refusal will result in the suspension of the person's driving privileges, and that the person will not be eligible for specialized driving privileges for at least one hundred eighty (180) days following the suspension. If:**

- (1) the results of a portable breath test indicate the presence of alcohol;
 - (2) the results of a portable breath test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or
 - (3) the person refuses to submit to a portable breath test;
- the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable breath test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable breath test or chemical test to an unconscious person.

SECTION 10. IC 9-30-13-0.5, AS AMENDED BY P.L.198-2016, SECTION 604, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2020]: Sec. 0.5. (a) A court shall forward to the bureau a certified abstract of the record of the conviction of a person in the court for a violation of a law relating to motor vehicles.

(b) If in the opinion of the court a defendant should be deprived of the privilege to operate a motor vehicle upon a public highway, the court may recommend the suspension of the convicted person's driving privileges for a period that does not exceed:

(1) the maximum period of incarceration for the offense of which the person was convicted; or

(2) **one hundred eighty (180) days, if the person was adjudicated to have committed a Class A or Class B infraction under IC 9-21-8.**

(c) The bureau shall comply with the court's recommendation.

(d) At the time of a conviction referred to in subsection (a) or under IC 9-30-5-7, the court may obtain and destroy the defendant's current driver's license.

(e) An abstract required by this section must be in the form prescribed by the bureau and, when certified, shall be accepted by an administrative agency or a court as prima facie evidence of the conviction and all other action stated in the abstract."

Page 4, line 12, delete "the person installs a certified ignition interlock device; and" and insert "**at least one hundred eighty (180) days have elapsed since the person's license was suspended for refusal to submit to a chemical test offered under IC 9-30-6 or IC 9-30-7; and**".

Page 5, after line 7, begin a new paragraph and insert:

"SECTION 14. IC 34-28-5-1, AS AMENDED BY P.L.198-2016, SECTION 667, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of



Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

~~(f)~~ ~~Subsection (g) does not apply to an individual who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:~~

~~IC 9-19~~

~~IC 9-21~~

~~IC 9-24~~

~~IC 9-25~~

~~IC 9-26~~

~~IC 9-30-5~~

~~IC 9-30-10~~

~~IC 9-30-15.~~

~~(g)~~ **(f)** This subsection does not apply to an offense or violation under IC 9-24-6 (before its repeal) or IC 9-24-6.1 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay a fee of seventy dollars (\$70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);

(5) the agreement is filed in the court in which the action is brought; and

(6) if the deferral program is offered by the prosecuting attorney,



the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

~~(h)~~ (g) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-31.5-2-50) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

- (1) the:
 - (A) defendant; and
 - (B) attorney for the municipal corporation;
 agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;
- (2) the terms of the agreement described in subdivision (1):
 - (A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and
 - (B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;
- (3) the agreement is filed in the court where the judgment was entered; and
- (4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 15. IC 34-28-5-4, AS AMENDED BY P.L.146-2016, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A



infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) Except as provided in subsection (f), a judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section ~~11(i)~~ **1(g)** of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) Except as provided in subsections (g) and (h), a person who has admitted to a moving violation constituting a Class C infraction, pleaded nolo contendere to a moving violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction may not be required to pay more than the following amounts for the violation:

(1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

(2) If the person admits the moving violation or enters a plea of nolo contendere to the moving violation on the appearance date specified in the summons and complaint, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

(3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except:

(A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation;

(B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents (\$250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and



(C) court costs and a judgment that does not exceed five hundred dollars (\$500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations.

In a proceeding under subdivision (3), the court may require the person to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations.

(g) The amounts described in subsection (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program.

(h) This subsection applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with section 5 of this chapter.

(i) This subsection applies only to infraction judgments imposed in Clark County for toll violations after January 1, 2017. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Clark County. These funds shall be transferred to a dedicated fund in accordance with section 5(f) of this chapter.

SECTION 16. IC 34-28-5-8, AS AMENDED BY P.L.200-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. The violations clerk or deputy violations clerk shall:

- (1) accept:
 - (A) written appearances;
 - (B) waivers of trial;
 - (C) admissions of violation;
 - (D) declarations of nolo contendere for moving traffic violations;
 - (E) payments of judgments (including costs) in traffic violation cases;
 - (F) deferral agreements made under ~~section 1(f)~~ **section 1** of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2(e); and



- (G) community restitution or service agreements made under section 1(g) of this chapter;
- (2) issue receipts and account for any judgments (including costs) collected; and
- (3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

SECTION 17. IC 34-28-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. The court shall:

- (1) designate the traffic violations within the authority of the violations clerk, but these violations may not include misdemeanors or felonies;
- (2) establish schedules, within limits prescribed by law, of the judgments to be imposed for first violations, designating each violation specifically;
- (3) order that the schedule of judgments be prominently posted in the place where the fines are paid;
- (4) establish a procedure under which any violations clerk or deputy violations clerk shall accept, receipt, and account for all money tendered for designated traffic violations; and
- (5) dismiss deferred actions if a dismissal request is made under ~~section 1(f)~~ **section 1** of this chapter (or IC 34-4-32-1(f) before its repeal).

SECTION 18. IC 35-46-9-9, AS ADDED BY P.L.40-2012, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) A law enforcement officer who has probable cause to believe that a person has committed an offense under this chapter shall offer the person the opportunity to submit to a chemical test. **If the person refuses to submit to the breath test, the officer shall inform the person that refusal will result in the suspension of the person's driving privileges, and that the person will not be eligible for specialized driving privileges for at least one hundred eighty (180) days following the suspension.** It is not necessary for the law enforcement officer to offer a chemical test to an unconscious person.

(b) A law enforcement officer may offer a person more than one (1) chemical test under this chapter. However, all tests must be administered within three (3) hours after the officer had probable cause to believe the person violated this chapter.

(c) A person must submit to each chemical test offered by a law enforcement officer to comply with the implied consent provisions of this chapter.

SECTION 19. IC 35-46-9-10, AS ADDED BY P.L.40-2012,



SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) A law enforcement officer shall offer a portable breath test or chemical test to any person if the officer has reason to believe the person operated a motorboat that was involved in a fatal accident or an accident involving serious bodily injury. **If the person refuses to submit to the breath test, the officer shall inform the person that refusal will result in the suspension of the person's driving privileges, and that the person will not be eligible for specialized driving privileges for at least one hundred eighty (180) days following the suspension. If:**

- (1) the results of a portable breath test indicate the presence of alcohol;
 - (2) the results of a portable breath test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or
 - (3) the person refuses to submit to a portable breath test;
- the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable breath test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable breath test or chemical test to an unconscious person."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1157 as printed January 17, 2020.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

EH 1157—LS 6966/DI 106

