

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.

HOUSE ENROLLED ACT No. 1157

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. 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. **However, a person who violates section 7, 8, or 9 of this chapter in a manner that results in bodily injury to a person commits a Class A infraction.**

SECTION 2. 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. (a) **Except as provided in subsection (b) except or** as provided in sections 35, 50, ~~51~~, 52, 55, 56, and 58 of this chapter, a person who violates this chapter commits a Class C infraction.

(b) Except as provided in sections 35, 50, 52, 55, 56, 58, and 59 of this chapter, a person who violates this chapter in a manner that results in bodily injury to a person commits a Class A infraction.

SECTION 3. IC 9-21-8-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 51. A person ~~who~~ **may not:**

- (1) ~~operates~~ **operate** a vehicle; and
- (2) ~~fails~~ **fail** to dim bright or blinding lights when meeting another vehicle or pedestrian.

~~commits a Class B infraction.~~

SECTION 4. IC 9-30-6-8, AS AMENDED BY P.L.188-2015,

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SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) Whenever a judicial officer has determined that there was probable cause to believe that a person has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), the clerk of the court shall forward:

- (1) a paper copy of the affidavit, or an electronic substitute; or
- (2) a bureau certificate as described in section 16 of this chapter;

to the bureau.

(b) The probable cause affidavit required under section 7(b)(2) of this chapter must do the following:

- (1) Set forth the grounds for the arresting officer's belief that there was probable cause that the arrested person was operating a vehicle in violation of IC 9-30-5 or a motorboat in violation of IC 35-46-9 or IC 14-15-8 (before its repeal).
- (2) State that the person was arrested for a violation of IC 9-30-5 or operating a motorboat in violation of IC 35-46-9 or IC 14-15-8 (before its repeal).
- (3) State whether the person:
 - (A) refused to submit to a chemical test when offered; or
 - (B) submitted to a chemical test that resulted in prima facie evidence that the person was intoxicated.

(4) Be sworn to by the arresting officer.

(c) Except as provided in subsection (d), if it is determined under subsection (a) that there was probable cause to believe that a person has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), at the initial hearing of the matter held under IC 35-33-7-1 the court shall recommend immediate suspension of the person's driving privileges to take effect on the date the order is entered, and forward to the bureau a copy of the order recommending immediate suspension of driving privileges.

(d) If it is determined under subsection (a) that there is probable cause to believe that a person violated IC 9-30-5, the court may, as an alternative to **any** suspension of the person's driving privileges under subsection (c), issue an order recommending that the person be prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. **This subsection applies even if the probable cause affidavit in subsection (b) states that the person:**

- (1) refused to submit to a chemical test; or**
- (2) submitted to a chemical test that resulted in prima facie evidence that the person was intoxicated.**

The order remains in effect until the bureau is notified by a court that



the criminal charges against the person have been resolved. **When the court issues an order under this subsection, no administrative suspension is imposed by the bureau and no suspension is noted on the person's driving record.**

(e) A person commits a Class B infraction if the person:

- (1) operates a motor vehicle without a functioning certified ignition interlock device; and
- (2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under subsection (d).

(f) A person commits a Class B misdemeanor if the person:

- (1) operates a motor vehicle without a functioning certified ignition interlock device; and
- (2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under subsection (d).

SECTION 5. IC 9-30-6-13.5, AS AMENDED BY P.L.2-2005, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13.5. **Whenever If:**

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

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

SECTION 6. IC 9-30-16-1, AS AMENDED BY P.L.144-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Except as provided in subsection (b), the following are ineligible for specialized driving privileges under this chapter:

- (1) A person who has never been an Indiana resident.
- (2) A person seeking specialized driving privileges with respect to a suspension based on the person's refusal to submit to a chemical test offered under IC 9-30-6 or IC 9-30-7. **However, a court may grant this person driving privileges under IC 9-30-6-8(d).**
- (3) A person whose driving privileges have been suspended or revoked under IC 9-24-10-7(b)(2)(A).
- (4) A person whose driving privileges have been suspended under IC 9-21-8-52(e) or IC 9-21-12-1(b).

(b) This chapter applies to the following:



(1) A person who held an operator's, a commercial driver's, a public passenger chauffeur's, or a chauffeur's license at the time of:

- (A) the criminal conviction for which the operation of a motor vehicle is an element of the offense;
- (B) any criminal conviction for an offense under IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal); or
- (C) committing the infraction of exceeding a worksite speed limit for the second time in one (1) year under IC 9-21-5-11(f).

(2) A person who:

- (A) has never held a valid Indiana driver's license or does not currently hold a valid Indiana learner's permit; and
- (B) was an Indiana resident when the driving privileges for which the person is seeking specialized driving privileges were suspended.

(c) Except as specifically provided in this chapter, a court may suspend the driving privileges of a person convicted of any of the following offenses for a period up to the maximum allowable period of incarceration under the penalty for the offense:

- (1) Any criminal conviction in which the operation of a motor vehicle is an element of the offense.
- (2) Any criminal conviction for an offense under IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal).
- (3) Any offense under IC 35-42-1, IC 35-42-2, or IC 35-44.1-3-1 that involves the use of a vehicle.

(d) Except as provided in section 3.5 of this chapter, a suspension of driving privileges under this chapter may begin before the conviction. Multiple suspensions of driving privileges ordered by a court that are part of the same episode of criminal conduct shall be served concurrently. A court may grant credit time for any suspension that began before the conviction, except as prohibited by section 6(a)(2) of this chapter.

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

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

(g) If a person indicates to the court at an initial hearing (as described in IC 35-33-7) that the person intends to file a petition for a



specialized driving privileges hearing with that court under section 3 or 4 of this chapter, the following apply:

(1) The court shall:

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

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

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

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

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

(A) a congestion of the court calendar;

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

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

the stay of the suspension of the person's driving privileges continues until addressed at the next hearing.

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

SECTION 7. IC 9-30-16-6, AS ADDED BY P.L.188-2015, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) A person whose driving privileges are suspended under section 1(c) of this chapter:

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

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

(b) A period of suspension of driving privileges imposed under



section 1(c) of this chapter must be consecutive to any period of suspension imposed under IC 9-30-6-9(b). However, **if the state and defendant agree pursuant to a term in an accepted plea agreement, or if the court finds in the sentencing order at sentencing** that it is in the best interest of society, the court ~~may~~ **shall** terminate all or any part of the remaining suspension under IC 9-30-6-9(b) **and shall enter this finding in its sentencing order.**

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

SECTION 8. 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.**

SECTION 9. 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 10. 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 1~~(f) **section 1** 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 11. 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)~~ **section 1** 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 12. 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 13. IC 35-48-4-15 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 15: If a person is convicted of an offense under section 1, 1.1, 1.2, 2, 3, 4, or 10 of this chapter, and the court finds that a motor vehicle was used in the commission of the offense, the court may, in addition to any other order the court enters, order that the person's driving privileges be suspended by the bureau of motor vehicles for a period specified by the court of not more than two (2) years.~~



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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