

# HOUSE BILL No. 1246

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-21-3.7.

**Synopsis:** Automated traffic control in construction zones. Authorizes the state police department to establish an automated traffic control system to enforce highway work zone speed limits.

**Effective:** July 1, 2018.

---

---

## Moseley, Soliday

---

---

January 11, 2018, read first time and referred to Committee on Roads and Transportation.

---

---



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1246

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 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]:

4 **Chapter 3.7. Automatic Traffic Control System to Enforce**  
5 **Work Zone Speed Limits**

6 **Sec. 1. This chapter does not apply to a road or bridge**  
7 **maintained by or under a contract with the Indiana finance**  
8 **authority.**

9 **Sec. 2. As used in this chapter, "automated traffic control**  
10 **system" means a photographic device, radar device, laser device,**  
11 **or other electrical or mechanical device or devices designed to:**

- 12 (1) record the speed of a motor vehicle; and
- 13 (2) obtain a clear photograph or other recorded image of the
- 14 motor vehicle, the operator of the motor vehicle, and the
- 15 license plate affixed to the motor vehicle at the time the
- 16 recorded speed of the motor vehicle exceeds a speed limit
- 17 established under IC 9-21-5-11(a).



1           **Sec. 3.** As used in this chapter, "department" refers to the state  
2 police department established by IC 10-11-2-4.

3           **Sec. 4.** As used in this chapter, "owner" means a person in  
4 whose name a motor vehicle is registered under any of the  
5 following:

6           (1) IC 9-18.1.

7           (2) The law of another state.

8           (3) The law of a foreign country.

9           (4) The International Registration Plan.

10          **Sec. 5.** As used in this chapter, "motor vehicle rental company"  
11 means a person that routinely engages in the business of renting  
12 motor vehicles for periods of not more than thirty (30) days.

13          **Sec. 6.** As used in this chapter, "work zone" means any part of  
14 a road or bridge on which the Indiana department of  
15 transportation has established a speed limit under IC 9-21-5-11(a).

16          **Sec. 7. (a)** The department may establish an automated traffic  
17 control system in a work zone.

18          **(b)** The department may operate an automated traffic control  
19 system established under this section only when workers are  
20 present in a work zone.

21          **(c)** The burden of proving that workers were present at the time  
22 an automated traffic control system recorded a speed limit  
23 violation is on the state in an action to enforce the alleged violation  
24 recorded by the automated traffic control system.

25          **(d)** Except as provided in section 12 of this chapter, the operator  
26 of a motor vehicle identified through an automated traffic control  
27 system is liable for the civil penalty imposed for violating a speed  
28 limit established under IC 9-21-5-11 rather than the owner of the  
29 motor vehicle at the time of the recorded violation.

30          **Sec. 8.** If the department establishes an automated traffic  
31 control system under section 7 of this chapter, the department shall  
32 do the following:

33           (1) Conduct a public information campaign to inform drivers  
34 about the use of an automated traffic control system to  
35 enforce work zone speed limits before implementing the  
36 automated traffic control system.

37           (2) Post signs indicating that work zone speed limits are  
38 enforced through an automated traffic control system before  
39 the entrance to any work zone in which an automated traffic  
40 control system is in use.

41           (3) Limit the operation of an automated traffic control system  
42 to areas where workers are present and highway construction



1 or maintenance is occurring.

2 **Sec. 9. (a) A photograph or recorded image obtained through**  
 3 **the use of an automated traffic control system may not be used as**  
 4 **evidence in any action other than the action to enforce a work zone**  
 5 **speed limit violation for which the photograph or recorded image**  
 6 **was obtained.**

7 **(b) Except by court order, a photograph or recorded image**  
 8 **obtained through the use of an automated traffic control system**  
 9 **may not be disclosed to anyone other than:**

10 **(1) the owner of the motor vehicle at the time the recorded**  
 11 **speed of the motor vehicle exceeded a speed limit established**  
 12 **under IC 9-21-5-11(a);**

13 **(2) the individual alleged to have been driving the motor**  
 14 **vehicle at the time of the work zone speed limit violation**  
 15 **described in subdivision (1);**

16 **(3) an attorney representing an individual described in**  
 17 **subdivision (1) or (2);**

18 **(4) a state police officer;**

19 **(5) the appropriate prosecuting attorney; and**

20 **(6) the court having jurisdiction over the alleged work zone**  
 21 **speed limit violation.**

22 **Sec. 10. There is a rebuttable presumption that the owner of a**  
 23 **vehicle that is the subject of a photograph or recorded image was**  
 24 **operating the vehicle when the photograph or recorded image was**  
 25 **obtained through an automated traffic control system. The**  
 26 **presumption does not apply to the owner of a vehicle that is the**  
 27 **subject of a photograph or recorded image if the owner of the**  
 28 **motor vehicle is a motor vehicle rental company.**

29 **Sec. 11. A person identified as the owner of motor vehicle at the**  
 30 **time an automated traffic control system indicated that the speed**  
 31 **of the motor vehicle exceeded a speed limit established under**  
 32 **IC 9-21-5-11(a) is entitled to notice of the violation by first class**  
 33 **mail postmarked not later than fourteen (14) days after the date of**  
 34 **the alleged violation. The notice must include the following**  
 35 **information:**

36 **(1) The name and address of the owner of the motor vehicle.**

37 **(2) The license plate number of the motor vehicle.**

38 **(3) The violation charged.**

39 **(4) The location of the violation.**

40 **(5) The date and time of the violation.**

41 **(6) A copy of, and information on how to view through**  
 42 **electronic means, the photograph or recorded image of the**



1 violation.

2 (7) The amount of the infraction and fine imposed for the  
3 violation.

4 (8) The date by which the infraction and fine must be paid if  
5 the owner of the vehicle:

6 (A) does not desire to contest the violation; and

7 (B) wishes to avoid paying court costs.

8 The infraction and fine must be paid not later than thirty (30)  
9 days after the date the violation notice is issued if a defense  
10 does not apply, or not later than forty-five (45) days after the  
11 issuance date of the violation notice if a defense requires the  
12 violation notice to be sent to another person.

13 (9) A statement that the photograph or recorded image of the  
14 violation is prima facie evidence of a violation.

15 (10) The procedure under which the notice of violation may be  
16 contested, and the procedure and conditions under which the  
17 responsibility for payment of the civil penalty may be  
18 transferred to another individual who was operating the  
19 motor vehicle at the time of the violation.

20 Sec. 12. (a) This section applies to a work zone speed limit  
21 violation committed by:

22 (1) the driver of a motor vehicle owned by a motor vehicle  
23 rental company; or

24 (2) a driver of a motor vehicle owned by an individual other  
25 than the driver.

26 (b) Subject to subsection (c), the owner of a motor vehicle driven  
27 by another individual at the time that an automated traffic control  
28 system records the speed of the motor vehicle in excess of a speed  
29 limit established under IC 9-21-5-11(a) is liable for the infraction  
30 and fine imposed for the violation.

31 (c) An owner of a motor vehicle driven by another individual at  
32 the time that an automated traffic control system records the speed  
33 of the motor vehicle in excess of a speed limit established under  
34 IC 9-21-5-11(a) may be relieved from the liability imposed by  
35 subsection (b) by doing the following:

36 (1) Responding to the notice of violation not more than thirty  
37 (30) days after receiving the notice and submitting to the  
38 court an affidavit of non-liability stating that an individual  
39 other than the owner of the motor vehicle had custody and  
40 control of the motor vehicle at the time of the alleged  
41 violation.

42 (2) Providing the following information to the court about the



1           **individual having custody and control of the motor vehicle at**  
2           **the time of the alleged violation:**  
3           **(A) The name and address of the individual.**  
4           **(B) The individual's driver's license number.**  
5           **(d) Information submitted under subsection (c) may be used by**  
6           **a person other than a motor vehicle rental company to rebut the**  
7           **presumption described in section 10 of this chapter.**

