

HOUSE BILL No. 1286

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-2-15; IC 9-13-2-121; IC 9-21; IC 33-37-5-14.

Synopsis: Automated traffic control in construction zones. Authorizes the state police department to establish an automated traffic control system pilot program to enforce highway worksite speed limits. Provides that a worksite speed limit violation recorded by an automated traffic control system may not be enforced unless the violation exceeds 11 miles per hour above the established worksite speed limit. Replaces the term "work zone" with "worksite" throughout the relevant statutes.

Effective: July 1, 2020.

Moseley

January 14, 2020, read first time and referred to Committee on Roads and Transportation.



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 BILL No. 1286

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 8-23-2-15, AS AMENDED BY P.L.217-2014,
- 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]: Sec. 15. (a) As used in this section, "highway ~~work~~
- 4 ~~zone~~ **worksite**" means an area where:
- 5 (1) highway construction, reconstruction, or maintenance is
- 6 actually occurring; and
- 7 (2) notice is posted indicating that the highway ~~work zone~~
- 8 **worksite** is a specific area designated with signage on the
- 9 highway.
- 10 (b) The department may contract with the state police department
- 11 or local law enforcement agencies to hire off duty police officers to
- 12 patrol highway ~~work zones~~ **worksites**. The duties of a police officer
- 13 who is hired under this section:
- 14 (1) are limited to those duties that the police officer normally
- 15 performs while on active duty; and
- 16 (2) do not include the duties of a:
- 17 (A) flagman; or



1 (B) security officer.

2 (c) The department shall use the money transferred to the
3 department under IC 33-37-9-4(a)(6) to pay the costs of hiring off duty
4 police officers to perform the duties described in subsection (b).

5 (d) All money transferred to the department under
6 IC 33-37-9-4(a)(6) is annually appropriated to pay off duty police
7 officers to perform the duties described in subsection (b).

8 SECTION 2. IC 9-13-2-121, AS AMENDED BY P.L.198-2016,
9 SECTION 142, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2020]: Sec. 121. (a) Except as otherwise
11 provided in **subsection (b) or IC 9-31**, "owner" means a person, other
12 than a lienholder, that:

13 (1) holds the property in or title to, as applicable, a vehicle,
14 manufactured home, mobile home, off-road vehicle, snowmobile,
15 or watercraft; or

16 (2) is entitled to the use or possession of, as applicable, a vehicle,
17 manufactured home, off-road vehicle, snowmobile, or watercraft,
18 through a lease or other agreement intended to operate as a
19 security.

20 (b) For purposes of IC 9-21-3.7, "owner" has the meaning set
21 forth in IC 9-21-3.7-5.

22 SECTION 3. IC 9-21-3.7 IS ADDED TO THE INDIANA CODE
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2020]:

25 **Chapter 3.7. Automated Traffic Control System Pilot Program**
26 **to Enforce Worksite Speed Limits**

27 **Sec. 1. (a) This chapter does not apply to a road or bridge**
28 **maintained by or under a contract with the Indiana finance**
29 **authority.**

30 **(b) This chapter applies only to a part of a road or bridge on the**
31 **interstate system (as defined by IC 8-23-1-25) or a U.S. route.**

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

35 **(1) record the speed of a motor vehicle; and**

36 **(2) obtain a clear photograph or other recorded image of the**
37 **rear of the motor vehicle and the license plate affixed to the**
38 **motor vehicle at the time the recorded speed of the motor**
39 **vehicle exceeds a speed limit established under IC 9-21-5-11.**

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

42 **Sec. 4. As used in this chapter, "motor vehicle rental company"**



1 means a person that routinely engages in the business of renting
2 motor vehicles for periods of not more than thirty (30) days.

3 Sec. 5. 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. 6. As used in this chapter, "worksite" means any part of a
11 road or bridge on the interstate system (as defined by IC 8-23-1-25)
12 or a U.S. route on which the Indiana department of transportation
13 has established a speed limit under IC 9-21-5-11.

14 Sec. 7. (a) The department may establish an automated traffic
15 control system pilot program in a worksite. However, the
16 department may operate an automated traffic control system
17 installed under this subsection only when workers are present in
18 the worksite.

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

23 Sec. 8. If the department establishes an automated traffic
24 control system under section 7 of this chapter, the department shall
25 do the following:

- 26 (1) Conduct a public information campaign to inform drivers
27 about the use of an automated traffic control system to
28 enforce worksite speed limits before implementing the
29 automated traffic control system.
- 30 (2) Post signs indicating that worksite speed limits are
31 enforced through an automated traffic control system before
32 the entrance to any worksite in which an automated traffic
33 control system is in use.
- 34 (3) Limit the operation of an automated traffic control system
35 to areas where workers are present and highway construction
36 or maintenance is occurring.

37 Sec. 9. (a) An automated traffic control system may not be used
38 to take a photograph or recorded image of the front of a motor
39 vehicle.

40 (b) A front view photograph or recorded image obtained
41 through the use of an automated traffic control system may not be
42 used as evidence in any action under this chapter.



1 **Sec. 10. (a) A photograph or recorded image obtained through**
 2 **the use of an automated traffic control system may not be used as**
 3 **evidence in any action other than the action to enforce a worksite**
 4 **speed limit violation for which the photograph or recorded image**
 5 **was obtained.**

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

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

12 **(2) the individual alleged to have been operating the motor**
 13 **vehicle at the time of the worksite speed limit violation**
 14 **described in subdivision (1);**

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

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

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

19 **(6) the court having jurisdiction over the alleged worksite**
 20 **speed limit violation.**

21 **Sec. 11. (a) Except as provided in section 14 of this chapter, the**
 22 **owner of a motor vehicle identified through an automated traffic**
 23 **control system is liable for the penalty described in section 12 of**
 24 **this chapter for violating a speed limit established under**
 25 **IC 9-21-5-11.**

26 **(b) There is a rebuttable presumption that the owner of a motor**
 27 **vehicle that is the subject of a photograph or recorded image was**
 28 **operating the motor vehicle when the photograph or recorded**
 29 **image was obtained through an automated traffic control system.**
 30 **The presumption does not apply to the owner of a motor vehicle**
 31 **that is the subject of a photograph or recorded image if the owner**
 32 **of the motor vehicle is a motor vehicle rental company.**

33 **(c) The owner of a motor vehicle, including a motor vehicle**
 34 **rental company, may submit the information described in section**
 35 **14 of this chapter to rebut the presumption created by subsection**
 36 **(b).**

37 **(d) It is a defense under this section if any of the following**
 38 **apply:**

39 **(1) The person receiving a notice under section 13 of this**
 40 **chapter was not the owner of the motor vehicle and was not**
 41 **driving the vehicle at the time of the violation.**

42 **(2) The vehicle was reported stolen prior to the time the**



1 violation occurred and was not recovered prior to that time.

2 (3) The automated traffic control system was not properly
3 tested for accuracy, certification, or calibration.

4 Sec. 12. (a) A worksite speed limit established under
5 IC 9-21-5-11 may be enforced under this chapter if the automated
6 traffic control system indicates that the operator of a motor vehicle
7 has exceeded the worksite speed limit by at least eleven (11) miles
8 per hour.

9 (b) Except as provided in subsection (c)(1), a violation of a
10 worksite speed limit established under IC 9-21-5-11 that is detected
11 and enforced under this chapter is a Class B infraction.

12 (c) A person who commits a violation of a worksite speed limit
13 established under IC 9-21-5-11 that is detected and enforced under
14 this chapter is subject to the following:

15 (1) A written warning for the first time that the person
16 commits a violation detected and enforced under this chapter.

17 (2) A fine of seventy-five dollars (\$75) for the second time that
18 the person commits a violation detected and enforced under
19 this chapter.

20 (3) A fine of one hundred fifty dollars (\$150) for the third and
21 each subsequent time that the person commits a violation
22 detected and enforced under this chapter.

23 (d) Notwithstanding IC 34-28-5-5(c), a court that collects a fine
24 imposed under this section shall transfer the amount collected to
25 the treasurer of state for deposit in the fallen state trooper family
26 relief fund established by section 16 of this chapter.

27 Sec. 13. A person identified as the owner of the motor vehicle at
28 the time an automated traffic control system indicated that the
29 speed of the motor vehicle exceeded a speed limit established under
30 IC 9-21-5-11 is entitled to notice of the violation by first class mail
31 postmarked not later than fourteen (14) days after the date of the
32 alleged violation. The notice must include the following
33 information:

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

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

36 (3) The violation charged.

37 (4) The location of the violation.

38 (5) The date and time of the violation.

39 (6) A copy of, and information on how to view through
40 electronic means, the photograph or recorded image of the
41 violation.

42 (7) The amount of the infraction and the amount of the fine



1 that may be imposed for the violation.

2 (8) The date by which the infraction and fine must be paid if
3 the owner of the motor vehicle:

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

5 (B) wishes to avoid paying court costs.

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

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

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

18 (11) Written verification that the automated traffic control
19 system was operating correctly at the time of the violation and
20 the date of the most recent inspection that confirms that the
21 automated traffic control system was operating properly.

22 Sec. 14. (a) The owner of a motor vehicle operated by another
23 individual at the time that an automated traffic control system
24 records the speed of the motor vehicle in excess of a speed limit
25 established under IC 9-21-5-11 is not liable for the violation of the
26 speed limit and is not required to pay the fine imposed for the
27 violation if the owner does the following:

28 (1) Responds to the notice of violation not more than thirty
29 (30) days after receiving the notice and submits to the court
30 an affidavit of nonliability stating that an individual other
31 than the owner of the motor vehicle had custody and control
32 of the motor vehicle at the time of the alleged violation.

33 (2) Provides the following information to the court about the
34 individual having custody and control of the motor vehicle at
35 the time of the alleged violation:

36 (A) The name and address of the individual.

37 (B) The individual's driver's license number.

38 (b) If the court finds by a preponderance of the evidence that an
39 individual other than the owner of the motor vehicle was operating
40 the motor vehicle at the time that an automated traffic control
41 system records the speed of the motor vehicle in excess of a speed
42 limit established under IC 9-21-5-11, the court shall issue a traffic



1 information and summons to the person found to be operating the
 2 motor vehicle for the violation of a speed limit established under
 3 IC 9-21-5-11.

4 Sec. 15. Before November 1 of each year, the department must
 5 submit a report to the interim study committee on roads and
 6 transportation established by IC 2-5-1.3-4 that includes the
 7 following:

8 (1) The number of motor vehicle accidents and related serious
 9 injuries and deaths that occurred in each worksite where an
 10 automated traffic control system was operated.

11 (2) Data related to the speed of motor vehicles traveling
 12 through a worksite where an automated traffic control system
 13 was operated.

14 (3) The number of violations issued in a worksite where an
 15 automated traffic control system was operated.

16 (4) The amount of fines imposed for violations occurring in a
 17 worksite where an automated traffic control system was
 18 operated.

19 Sec. 16. (a) The fallen state trooper family relief fund is
 20 established to provide short term assistance with food, housing,
 21 utilities, medical services, basic transportation, child care,
 22 education, employment or workforce, and other essential family
 23 support expenses that have become difficult to afford for the
 24 surviving family members of a state trooper killed in the line of
 25 duty.

26 (b) The fund consists of:

27 (1) money deposited into the fund under section 12 of this
 28 chapter;

29 (2) appropriations from the general assembly;

30 (3) grants, gifts, and donations intended for deposit in the
 31 fund; and

32 (4) interest deposited into the fund under subsection (c).

33 (c) The treasurer of state shall invest the money in the fund not
 34 currently needed to meet the obligations of the fund in the same
 35 manner as other public funds may be invested. Interest that
 36 accrues from these investments shall be deposited in the fund.

37 (d) The money in the fund at the end of a state fiscal year does
 38 not revert to the state general fund.

39 Sec. 17. (a) The department shall expend the money in the fallen
 40 state trooper family relief fund exclusively to provide grants for
 41 assistance in accordance with section 16(a) of this chapter.

42 (b) The department shall give priority to applications for grants



1 for assistance from the fund to surviving family members who have
2 never received a grant under this section.

3 (c) Subject to the approval of the budget agency, the department
4 shall establish the maximum total dollar amount of grants that
5 may be expended in a state fiscal year. Once the maximum total
6 dollar amount of grants that may be expended in a state fiscal year
7 is reached, no additional grants may be authorized until the start
8 of the following state fiscal year.

9 (d) The department shall each year provide a report to the
10 budget committee concerning the grant program established under
11 this section.

12 SECTION 4. IC 9-21-4-20, AS ADDED BY P.L.40-2007,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2020]: Sec. 20. (a) For purposes of this section, "highway
15 ~~work zone~~ **worksite**" has the meaning set forth in IC 8-23-2-15.

16 (b) The Indiana department of transportation shall design and
17 manufacture or have manufactured signs that inform vehicle operators
18 of the offenses and penalties under:

19 (1) IC 9-21-5-11; and

20 (2) IC 9-21-8-56.

21 (c) A sign described in subsection (b) shall be posted at a reasonable
22 distance before a highway ~~work zone~~ **worksite** by:

23 (1) the Indiana department of transportation;

24 (2) a political subdivision; or

25 (3) a contractor of the:

26 (A) Indiana department of transportation; or

27 (B) political subdivision;

28 that is working at the highway ~~work zone~~ **worksite**.

29 A sign that is posted before a highway ~~work zone~~ **worksite** must be
30 posted in accordance with the Indiana Manual on Uniform Traffic
31 Control Devices or the Indiana Work Site Traffic Control Manual.

32 SECTION 5. IC 9-21-5-11, AS AMENDED BY P.L.41-2016,
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2020]: Sec. 11. (a) Subject to subsection (b), the Indiana
35 department of transportation, the Indiana finance authority, or a local
36 authority may establish temporary maximum speed limits in their
37 respective jurisdictions and in the vicinity of a worksite without
38 conducting an engineering study and investigation required under this
39 article. The establishing authority shall post signs notifying the
40 traveling public of the temporary maximum speed limits established
41 under this section.

42 (b) Worksite speed limits set under this section must be at least ten



1 (10) miles per hour below the maximum established speed limit.

2 (c) A worksite speed limit set under this section may be enforced
3 ~~only if:~~ **as follows:**

4 (1) **If** workers are present in the immediate vicinity of the
5 worksite. ~~or~~

6 (2) If workers are not present in the immediate vicinity of the
7 worksite, the establishing authority determines that the safety of
8 the traveling public requires enforcement of the worksite speed
9 limit.

10 **(3) In the case of a worksite speed limit enforced through an**
11 **automated traffic control system under IC 9-21-3.7, if the**
12 **automated traffic control system indicates that the operator**
13 **of a motor vehicle has exceeded the worksite speed limit set**
14 **under this section by at least eleven (11) miles per hour.**

15 **(d) This subsection does not apply to a person whose violation**
16 **of a worksite speed limit is detected and enforced through an**
17 **automated traffic control system under IC 9-21-3.7.**
18 Notwithstanding IC 34-28-5-4(b), a judgment for the infraction of
19 violating a speed limit set under this section must be entered as
20 follows:

21 (1) If the person has not previously committed the infraction of
22 violating a speed limit set under this section, a judgment for a
23 Class B infraction and a fine of at least three hundred dollars
24 (\$300) shall be imposed.

25 (2) If the person has committed one (1) infraction of violating a
26 speed limit set under this section in the previous three (3) years,
27 a judgment for a Class B infraction and a fine of at least five
28 hundred dollars (\$500) shall be imposed.

29 (3) If the person has committed two (2) or more infractions of
30 violating a speed limit set under this section in the previous three
31 (3) years, a judgment for a Class B infraction and a fine of one
32 thousand dollars (\$1,000) shall be imposed.

33 **(e) This subsection does not apply to a person whose violation of**
34 **a worksite speed limit is detected and enforced through an**
35 **automated traffic control system under IC 9-21-3.7.**
36 Notwithstanding IC 34-28-5-5(c), the funds collected as judgments for
37 the infraction of violating a speed limit set under this section shall be
38 transferred to the Indiana department of transportation to pay the costs
39 of hiring off duty police officers to perform the duties described in
40 IC 8-23-2-15(b).

41 **(f) This subsection does not apply to a person whose violation of**
42 **a worksite speed limit is detected and enforced through an**



1 **automated traffic control system under IC 9-21-3.7.** If judgment has
 2 been imposed for committing two (2) infractions under this section
 3 within one (1) year, an additional penalty of the suspension of the
 4 driving privileges of the person who committed the infractions may be
 5 imposed by the court imposing the sentence for the second violation.
 6 If the court suspends a person's driving privileges under this
 7 subsection, the court shall issue an order to the bureau:

8 (1) stating that judgment against the person has been entered for
 9 committing the infraction of exceeding a worksite speed limit
 10 under this section for the second time in one (1) year; and

11 (2) ordering the suspension of the person's driving privileges by
 12 the bureau under IC 9-30-13-9.

13 The suspension of a person's driving privileges under this section is in
 14 addition to any other penalties imposed under this section and any fee
 15 imposed under IC 33-37-5-14.

16 SECTION 6. IC 9-21-8-56, AS AMENDED BY P.L.217-2014,
 17 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 56. (a) For purposes of this section, "highway
 19 ~~work zone~~ **worksite**" has the meaning set forth in IC 8-23-2-15.

20 (b) Except as provided in subsections (f) through (h), a person who
 21 recklessly operates a vehicle in the immediate vicinity of a highway
 22 ~~work zone~~ **worksite** when workers are present commits a Class A
 23 misdemeanor.

24 (c) Except as provided in subsections (f) through (h), a person who
 25 knowingly or intentionally operates a motor vehicle in the immediate
 26 vicinity of a highway ~~work zone~~ **worksite** when workers are present
 27 with the intent to:

28 (1) damage traffic control devices; or

29 (2) inflict bodily injury on a worker;

30 commits a Class A misdemeanor.

31 (d) Except as provided in subsections (f) through (h), a person who
 32 knowingly, intentionally, or recklessly engages in:

33 (1) aggressive driving, as defined in section 55 of this chapter; or

34 (2) a speed contest, as prohibited under IC 9-21-6-1;

35 in the immediate vicinity of a highway ~~work zone~~ **worksite** when
 36 workers are present commits a Class A misdemeanor.

37 (e) Except as provided in subsections (f) through (h), a person who
 38 recklessly fails to obey a traffic control device or flagman, as
 39 prohibited under section 41 of this chapter, in the immediate vicinity
 40 of a highway ~~work zone~~ **worksite** when workers are present commits
 41 a Class A misdemeanor.

42 (f) An offense under subsection (b), (c), (d), or (e) is a Level 6



1 felony if the person who commits the offense:
 2 (1) has a prior unrelated conviction under this section in the
 3 previous five (5) years; or
 4 (2) is operating the vehicle in violation of IC 9-30-5-1 or
 5 IC 9-30-5-2.
 6 (g) An offense under subsection (b), (c), (d), or (e) is a Level 6
 7 felony if the offense results in bodily injury to a worker in the worksite.
 8 (h) An offense under subsection (b), (c), (d), or (e) is a Level 5
 9 felony if the offense results in the death of a worker in the worksite.
 10 (i) A person who knowingly, intentionally, or recklessly engages in
 11 an act described in section 55(b)(1), 55(b)(2), 55(b)(3), 55(b)(4),
 12 55(b)(5), or 55(b)(6) of this chapter in the immediate vicinity of a
 13 highway ~~work zone~~ **worksite** when workers are present commits a
 14 Class B infraction. Notwithstanding IC 34-28-5-5(c), the funds
 15 collected as judgments for an infraction under this subsection shall be
 16 transferred to the Indiana department of transportation to pay the costs
 17 of hiring off duty police officers to perform the duties described in
 18 IC 8-23-2-15(b).
 19 SECTION 7. IC 33-37-5-14, AS AMENDED BY P.L.85-2013,
 20 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) This section applies to
 22 criminal, infraction, and ordinance violation actions that are traffic
 23 offenses (as defined in IC 9-13-2-183).
 24 (b) The clerk shall collect a highway worksite ~~zone~~ fee of fifty cents
 25 (\$0.50). However, the clerk shall collect a highway worksite ~~zone~~ fee
 26 of twenty-five dollars and fifty cents (\$25.50) if:
 27 (1) the criminal action, infraction, or ordinance violation is:
 28 (A) exceeding a worksite speed limit (as provided in
 29 IC 9-21-5-2 and authorized by IC 9-21-5-3); or
 30 (B) failure to merge (as provided in IC 9-21-8-7.5); and
 31 (2) the judge orders the clerk to collect the fee for exceeding a
 32 worksite speed limit or failure to merge.

