

# HOUSE BILL No. 1412

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## 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 pilot program to enforce highway work zone speed limits.

**Effective:** July 1, 2019.

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## Moseley, Soliday, Pressel

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January 14, 2019, read first time and referred to Committee on Roads and Transportation.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1412

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, 2019]:  
4 **Chapter 3.7. Automated Traffic Control System Pilot Program**  
5 **to Enforce 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, "motor vehicle rental company"  
4 means a person that routinely engages in the business of renting  
5 motor vehicles for periods of not more than thirty (30) days.

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

9           (1) IC 9-18.1.

10          (2) The law of another state.

11          (3) The law of a foreign country.

12          (4) The International Registration Plan.

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

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

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

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

27           (1) Conduct a public information campaign to inform drivers  
28 about the use of an automated traffic control system to  
29 enforce work zone speed limits before implementing the  
30 automated traffic control system.

31           (2) Post signs indicating that work zone speed limits are  
32 enforced through an automated traffic control system before  
33 the entrance to any work zone in which an automated traffic  
34 control system is in use.

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

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



- 1 (1) the owner of the motor vehicle at the time the recorded
- 2 speed of the motor vehicle exceeded a speed limit established
- 3 under IC 9-21-5-11(a);
- 4 (2) the individual alleged to have been operating the motor
- 5 vehicle at the time of the work zone speed limit violation
- 6 described in subdivision (1);
- 7 (3) an attorney representing an individual described in
- 8 subdivision (1) or (2);
- 9 (4) a state police officer;
- 10 (5) the appropriate prosecuting attorney; and
- 11 (6) the court having jurisdiction over the alleged work zone
- 12 speed limit violation.

13 **Sec. 10.** There is a rebuttable presumption that the owner of a  
 14 motor vehicle that is the subject of a photograph or recorded  
 15 image was operating the motor vehicle when the photograph or  
 16 recorded image was obtained through an automated traffic control  
 17 system. The presumption does not apply to the owner of a motor  
 18 vehicle that is the subject of a photograph or recorded image if the  
 19 owner of the motor vehicle is a motor vehicle rental company.

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

- 27 (1) The name and address of the owner of the motor vehicle.
- 28 (2) The license plate number of the motor vehicle.
- 29 (3) The violation charged.
- 30 (4) The location of the violation.
- 31 (5) The date and time of the violation.
- 32 (6) A copy of, and information on how to view through
- 33 electronic means, the photograph or recorded image of the
- 34 violation.
- 35 (7) The amount of the infraction and fine imposed for the
- 36 violation.
- 37 (8) The date by which the infraction and fine must be paid if
- 38 the owner of the motor vehicle:
- 39 (A) does not desire to contest the violation; and
- 40 (B) wishes to avoid paying court costs.
- 41 The infraction and fine must be paid not later than thirty (30)
- 42 days after the date the violation notice is issued if a defense



1 does not apply, or not later than forty-five (45) days after the  
 2 issuance date of the violation notice if a defense requires the  
 3 violation notice to be sent to another person.

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

6 (10) The procedure under which the notice of violation may be  
 7 contested, and the procedure and conditions under which the  
 8 responsibility for payment of the civil penalty may be  
 9 transferred to another individual who was operating the  
 10 motor vehicle at the time of the violation.

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

13 (1) the operator of a motor vehicle owned by a motor vehicle  
 14 rental company; or

15 (2) an operator of a motor vehicle owned by an individual  
 16 other than the operator.

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

22 (c) An owner of a motor vehicle operated by another individual  
 23 at the time that an automated traffic control system records the  
 24 speed of the motor vehicle in excess of a speed limit established  
 25 under IC 9-21-5-11(a) may be relieved from the liability imposed  
 26 by subsection (b) by doing the following:

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

33 (2) Providing 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 (d) Information submitted under subsection (c) may be used by  
 39 a person other than a motor vehicle rental company to rebut the  
 40 presumption described in section 10 of this chapter.

41 **Sec. 13. Before November 1 of each year, the department must**  
 42 **submit a report to the interim study committee on roads and**



1 transportation established by IC 2-5-1.3-4 that includes the  
2 following:  
3 (1) The number of motor vehicle accidents and related serious  
4 injuries and deaths that occurred in each work zone where an  
5 automated traffic control system was operated.  
6 (2) Data related to the speed of motor vehicles traveling  
7 through a work zone where an automated traffic control  
8 system was operated.  
9 (3) The number of violations issued in a work zone where an  
10 automated traffic control system was operated.  
11 (4) The amount of fines imposed for violations occurring in a  
12 work zone where an automated traffic control system was  
13 operated.  
14 **Sec. 14. This chapter expires July 1, 2024.**

