



February 14, 2020

**ENGROSSED
SENATE BILL No. 39**

DIGEST OF SB 39 (Updated February 12, 2020 12:35 pm - DI 131)

Citations Affected: IC 9-30.

Synopsis: Specialized driving privileges. Provides that in certain circumstances a court may stay the suspension of a person's driving privileges and grant specialized driving privileges for a period of time as determined by the court. Provides that the court may set periodic hearings to review the grant of specialized driving privileges. Provides that, if a probable cause affidavit must be sent by a judicial officer to the bureau of motor vehicles, the probable cause affidavit must be sent at the conclusion of the initial hearing.

Effective: July 1, 2020.

**Freeman, Young M, Merritt,
Randolph Lonnie M**

(HOUSE SPONSOR — YOUNG J)

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.

January 9, 2020, amended, reported favorably — Do Pass.

January 13, 2020, read second time, ordered engrossed. Engrossed.

January 14, 2020, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 2020, read first time and referred to Committee on Courts and Criminal Code.

February 13, 2020, amended, reported — Do Pass.

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February 14, 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 SENATE BILL No. 39

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 9-30-6-8, AS AMENDED BY P.L.188-2015,
2 SECTION 109, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) **Except as provided in**
4 **IC 9-30-16-1(g)**, whenever a judicial officer has determined that there
5 was probable cause to believe that a person has violated IC 9-30-5,
6 IC 35-46-9, or IC 14-15-8 (before its repeal), the clerk of the court shall
7 forward:
8 (1) a paper copy of the affidavit, or an electronic substitute; or
9 (2) a bureau certificate as described in section 16 of this chapter;
10 to the bureau **at the conclusion of the initial hearing under**
11 **subsection (c)**.
12 (b) The probable cause affidavit required under section 7(b)(2) of
13 this chapter must do the following:
14 (1) Set forth the grounds for the arresting officer's belief that there
15 was probable cause that the arrested person was operating a
16 vehicle in violation of IC 9-30-5 or a motorboat in violation of
17 IC 35-46-9 or IC 14-15-8 (before its repeal).

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1 (2) State that the person was arrested for a violation of IC 9-30-5
 2 or operating a motorboat in violation of IC 35-46-9 or IC 14-15-8
 3 (before its repeal).

4 (3) State whether the person:

5 (A) refused to submit to a chemical test when offered; or

6 (B) submitted to a chemical test that resulted in prima facie
 7 evidence that the person was intoxicated.

8 (4) Be sworn to by the arresting officer.

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

17 (d) If it is determined under subsection (a) that there is probable
 18 cause to believe that a person violated IC 9-30-5, the court may, as an
 19 alternative to suspension of the person's driving privileges under
 20 subsection (c), issue an order recommending that the person be
 21 prohibited from operating a motor vehicle unless the motor vehicle is
 22 equipped with a functioning certified ignition interlock device under
 23 IC 9-30-8 until the bureau is notified by a court that the criminal
 24 charges against the person have been resolved.

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

26 (1) operates a motor vehicle without a functioning certified
 27 ignition interlock device; and

28 (2) is prohibited from operating a motor vehicle unless the motor
 29 vehicle is equipped with a functioning certified ignition interlock
 30 device under subsection (d).

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

32 (1) operates a motor vehicle without a functioning certified
 33 ignition interlock device; and

34 (2) knows the person is prohibited from operating a motor vehicle
 35 unless the motor vehicle is equipped with a functioning certified
 36 ignition interlock device under subsection (d).

37 SECTION 2. IC 9-30-16-3, AS AMENDED BY P.L.161-2018,
 38 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 3. (a) This section does not apply to specialized
 40 driving privileges granted in accordance with section 3.5 of this
 41 chapter. If a court orders a suspension of driving privileges under this
 42 chapter, or imposes a suspension of driving privileges under



1 IC 9-30-6-9(c), the court may stay the suspension and grant a
2 specialized driving privilege as set forth in this section.

3 (b) An individual who seeks specialized driving privileges must file
4 a petition for specialized driving privileges in each court that has
5 ordered or imposed a suspension of the individual's driving privileges.
6 Each petition must:

- 7 (1) be verified by the petitioner;
8 (2) state the petitioner's age, date of birth, and address;
9 (3) state the grounds for relief and the relief sought;
10 (4) be filed in the court case that resulted in the order of
11 suspension; and
12 (5) be served on the bureau and the prosecuting attorney.

13 A prosecuting attorney shall appear on behalf of the bureau to respond
14 to a petition filed under this subsection.

15 (c) Except as provided in subsection (h), regardless of the
16 underlying offense, specialized driving privileges granted under this
17 section shall be granted for **a period of time as determined by the**
18 **court. A court, at its discretion, may set periodic review hearings**
19 **to review an individual's specialized driving privileges.**

- 20 ~~(1) at least one hundred eighty (180) days; and~~
21 ~~(2) not more than two and one-half (2 1/2) years.~~

22 (d) The terms of specialized driving privileges must be determined
23 by a court.

24 (e) A stay of a suspension and specialized driving privileges may
25 not be granted to an individual who:

- 26 (1) has previously been granted specialized driving privileges;
27 and
28 (2) has more than one (1) conviction under section 5 of this
29 chapter.

30 (f) An individual who has been granted specialized driving
31 privileges shall:

- 32 (1) maintain proof of future financial responsibility insurance
33 during the period of specialized driving privileges;
34 (2) carry a copy of the order granting specialized driving
35 privileges or have the order in the vehicle being operated by the
36 individual;
37 (3) produce the copy of the order granting specialized driving
38 privileges upon the request of a police officer; and
39 (4) carry a validly issued state identification card or driver's
40 license.

41 (g) An individual who holds a commercial driver's license and has
42 been granted specialized driving privileges under this chapter may not,



1 for the duration of the suspension for which the specialized driving
 2 privileges are sought, operate any vehicle that requires the individual
 3 to hold a commercial driver's license to operate the vehicle.

4 (h) Whenever a suspension of an individual's driving privileges
 5 under this chapter is terminated because:

6 (1) the underlying conviction, judgment, or finding that forms the
 7 basis of the suspension is reversed, vacated, or dismissed; or

8 (2) the individual is acquitted of, found not liable for, or otherwise
 9 found not to have committed the underlying act or offense that
 10 forms the basis of the suspension;

11 the individual's specialized driving privileges expire at the time the
 12 suspension of the individual's driving privileges is terminated.

13 (i) The court shall inform the bureau of a termination of a
 14 suspension and expiration of specialized driving privileges as described
 15 under subsection (h) in a format designated by the bureau.

16 SECTION 3. IC 9-30-16-3.5, AS AMENDED BY P.L.46-2018,
 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 3.5. (a) If a court imposes a suspension of driving
 19 privileges under IC 9-21-5-11(f), the court may stay the suspension and
 20 grant a specialized driving privilege as set forth in this section.

21 (b) Except as provided in subsection (g), specialized driving
 22 privileges granted under this section shall be granted for ~~sixty (60)~~
 23 ~~days, or the remainder of the sixty (60) day period of suspension as set~~
 24 ~~forth in IC 9-30-13-9(b)(2) if a petition for specialized driving~~
 25 ~~privileges is filed in the manner set forth under subsection (f): a period~~
 26 **of time as determined by the court. A court, at its discretion, may**
 27 **set periodic review hearings to review an individual's specialized**
 28 **driving privileges.**

29 (c) Specialized driving privileges granted under this section:

30 (1) must be determined by a court; and

31 (2) are limited to restricting the individual to being allowed to
 32 operate a motor vehicle between the place of employment of the
 33 individual and the individual's residence.

34 (d) An individual who has been granted specialized driving
 35 privileges under this section shall:

36 (1) maintain proof of future financial responsibility insurance
 37 during the period of specialized driving privileges;

38 (2) carry a copy of the order granting specialized driving
 39 privileges or have the order in the vehicle being operated by the
 40 individual;

41 (3) produce the copy of the order granting specialized driving
 42 privileges upon the request of a police officer; and



- 1 (4) carry a validly issued driver's license.
- 2 (e) An individual who holds a commercial driver's license and has
3 been granted specialized driving privileges under this chapter may not,
4 for the duration of the suspension for which the specialized driving
5 privileges are sought, operate a motor vehicle that requires the
6 individual to hold a commercial driver's license to operate the motor
7 vehicle.
- 8 (f) An individual who seeks specialized driving privileges must file
9 a petition for specialized driving privileges in each court that has
10 ordered or imposed a suspension of the individual's driving privileges.
11 Each petition must:
- 12 (1) be verified by the petitioner;
13 (2) state the petitioner's age, date of birth, and address;
14 (3) state the grounds for relief and the relief sought;
15 (4) be filed in the court that ordered or imposed the suspension;
16 and
17 (5) be served on the bureau and the prosecuting attorney.
- 18 A prosecuting attorney shall appear on behalf of the bureau to respond
19 to a petition filed under this subsection.
- 20 (g) Whenever a suspension of an individual's driving privileges
21 under this chapter is terminated because:
- 22 (1) the underlying conviction, judgment, or finding that forms the
23 basis of the suspension is reversed, vacated, or dismissed; or
24 (2) the individual is acquitted of, found not liable for, or otherwise
25 found not to have committed the underlying act or offense that
26 forms the basis of the suspension;
- 27 the individual's specialized driving privileges expire at the time the
28 suspension of the individual's driving privileges is terminated.
- 29 (h) The court shall inform the bureau of a termination of a
30 suspension of driving privileges and expiration of specialized driving
31 privileges as described under subsection (g) in a format designated by
32 the bureau.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 39, 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 2, line 7, after "court." insert "**A court, at its discretion, may set periodic review hearings to review an individual's specialized driving privileges.**".

Page 3, after line 3, begin a new paragraph and insert:

"SECTION 2. IC 9-30-16-3.5, AS AMENDED BY P.L.46-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3.5. (a) If a court imposes a suspension of driving privileges under IC 9-21-5-11(f), the court may stay the suspension and grant a specialized driving privilege as set forth in this section.

(b) Except as provided in subsection (g), specialized driving privileges granted under this section shall be granted for ~~sixty (60) days, or the remainder of the sixty (60) day period of suspension as set forth in IC 9-30-13-9(b)(2)~~ if a petition for specialized driving privileges is filed in the manner set forth under subsection (f): **a period of time as determined by the court. A court, at its discretion, may set periodic review hearings to review an individual's specialized driving privileges.**

(c) Specialized driving privileges granted under this section:

- (1) must be determined by a court; and
- (2) are limited to restricting the individual to being allowed to operate a motor vehicle between the place of employment of the individual and the individual's residence.

(d) An individual who has been granted specialized driving privileges under this section shall:

- (1) maintain proof of future financial responsibility insurance during the period of specialized driving privileges;
- (2) carry a copy of the order granting specialized driving privileges or have the order in the vehicle being operated by the individual;
- (3) produce the copy of the order granting specialized driving privileges upon the request of a police officer; and
- (4) carry a validly issued driver's license.

(e) An individual who holds a commercial driver's license and has been granted specialized driving privileges under this chapter may not, for the duration of the suspension for which the specialized driving



privileges are sought, operate a motor vehicle that requires the individual to hold a commercial driver's license to operate the motor vehicle.

(f) An individual who seeks specialized driving privileges must file a petition for specialized driving privileges in each court that has ordered or imposed a suspension of the individual's driving privileges. Each petition must:

- (1) be verified by the petitioner;
- (2) state the petitioner's age, date of birth, and address;
- (3) state the grounds for relief and the relief sought;
- (4) be filed in the court that ordered or imposed the suspension; and
- (5) be served on the bureau and the prosecuting attorney.

A prosecuting attorney shall appear on behalf of the bureau to respond to a petition filed under this subsection.

(g) Whenever a suspension of an individual's driving privileges under this chapter is terminated because:

- (1) the underlying conviction, judgment, or finding that forms the basis of the suspension is reversed, vacated, or dismissed; or
- (2) the individual is acquitted of, found not liable for, or otherwise found not to have committed the underlying act or offense that forms the basis of the suspension;

the individual's specialized driving privileges expire at the time the suspension of the individual's driving privileges is terminated.

(h) The court shall inform the bureau of a termination of a suspension of driving privileges and expiration of specialized driving privileges as described under subsection (g) in a format designated by the bureau."

and when so amended that said bill do pass.

(Reference is to SB 39 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 39, has had the same under consideration and begs leave to report the same back to the House with

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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 9-30-6-8, AS AMENDED BY P.L.188-2015, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) **Except as provided in IC 9-30-16-1(g)**, 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 **at the conclusion of the initial hearing under subsection (c).**

(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 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 until the bureau is notified by a court that the criminal charges against the person have been resolved.

(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)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 39 as printed January 10, 2020.)

MCNAMARA

Committee Vote: yeas 10, nays 0.

