
SENATE BILL No. 294

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-15-2; IC 9-30-5; IC 35-50-2-2.

Synopsis: Operating a vehicle while intoxicated. Makes it a Class A misdemeanor for a person less than 21 years of age to operate a motor vehicle while intoxicated with at least one passenger less than 18 years of age in the vehicle. Makes the offense a nonsuspendible Class D felony if the operator is at least 21 years of age. Prohibits certain persons who have had their driving privileges suspended for life from filing a petition to obtain a restricted driving permit for a specified period. Prohibits persons who have been convicted of certain offenses involving operating a motor vehicle while intoxicated from obtaining a probationary license. Requires a court to recommend lifetime suspension of driving privileges for persons who: (1) have at least three unrelated convictions for certain offenses involving operating a motor vehicle while intoxicated; or (2) are convicted of operating a motor vehicle while intoxicated and causing death. Increases or establishes mandatory jail time for persons convicted of committing certain offenses involving operating a motor vehicle while intoxicated. Provides that court ordered drug and alcohol assessment and treatment programs must be: (1) administered by a court; (2) certified by the division of mental health; or (3) authorized under a circuit court alcohol abuse deterrent program.

Effective: July 1, 2002.

Young R Michael

January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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SENATE BILL No. 294



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 9-24-15-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **(a) Except as**
 3 **provided in subsections (b) and (c),** if:
 4 (1) an individual's driving license has been suspended under
 5 Indiana motor vehicle law; and
 6 (2) because of the nature of the individual's employment the
 7 suspension would work an undue hardship and burden upon the
 8 individual's family or dependents;
 9 the individual may file a verified petition for a restricted driving permit
 10 for the sole purpose of driving to and from work and in the course of
 11 employment during the period of the driving license suspension.
 12 **(b) A person who is convicted of an offense under IC 9-30-5-5 or**
 13 **who is a habitual substance offender as described in IC 9-30-5-3(b)**
 14 **may not file a verified petition for a restricted driving permit if:**
 15 **(1) less than ten (10) years have elapsed after the date the**
 16 **person's license was suspended for the offense; and**
 17 **(2) the person was less than twenty-one (21) years of age when**



1 the person committed the offense.

2 (c) A person who is convicted of an offense under IC 9-30-5-5 or
3 who is a habitual substance offender as described in IC 9-30-5-3(b)
4 may not file a verified petition for a restricted driving permit if:

5 (1) less than twenty-five (25) years have elapsed after the date
6 the person's license was suspended for the offense; and

7 (2) the person was at least twenty-one (21) years of age when
8 the person committed the offense.

9 SECTION 2. IC 9-30-5-3, AS AMENDED BY P.L.291-2001,
10 SECTION 222, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person who violates section
12 1 or 2 of this chapter commits: ~~a Class D felony~~ if:

13 (1) ~~a Class D felony~~ if the person has a previous conviction of
14 operating while intoxicated ~~and~~

15 ~~(2) the previous conviction of operating while intoxicated that~~
16 occurred within the five (5) years immediately preceding the
17 occurrence of the violation of section 1 or 2 of this chapter; or

18 (2) ~~a Class A misdemeanor if the person was less than~~
19 ~~twenty-one (21) years of age and operated a motor vehicle~~
20 ~~with at least one (1) passenger less than eighteen (18) years of~~
21 ~~age in the vehicle. However, the offense is a class D felony if~~
22 ~~the person who operated the motor vehicle was at least~~
23 ~~twenty-one (21) years of age.~~

24 (b) ~~A person who violates section 1 or 2 of this chapter is a~~
25 ~~habitual substance offender (IC 35-50-2-10) if the person has at~~
26 ~~least two (2) prior unrelated convictions for operating while~~
27 ~~intoxicated.~~

28 SECTION 3. IC 9-30-5-10 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) In addition to a
30 criminal penalty imposed for an offense under this chapter or
31 IC 14-15-8, the court shall, after reviewing the person's bureau driving
32 record and other relevant evidence, recommend the suspension of the
33 person's driving privileges for the fixed period of time specified under
34 this section.

35 (b) If the court finds that the person:

36 (1) does not have a previous conviction of operating a vehicle or
37 a motorboat while intoxicated; or

38 (2) has a previous conviction of operating a vehicle or a
39 motorboat while intoxicated that occurred at least ten (10) years
40 before the conviction under consideration by the court;

41 the court shall recommend the suspension of the person's driving
42 privileges for at least ninety (90) days but not more than two (2) years.

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1 (c) If the court finds that the person has a previous conviction of
 2 operating a vehicle or a motorboat while intoxicated and the previous
 3 conviction occurred more than five (5) years but less than ten (10)
 4 years before the conviction under consideration by the court, the court
 5 shall recommend the suspension of the person's driving privileges for
 6 at least one hundred eighty (180) days but not more than two (2) years.
 7 The court may stay the execution of that part of the suspension that
 8 exceeds the minimum period of suspension and grant the person
 9 probationary driving privileges for a period of time equal to the length
 10 of the stay. If the court grants probationary driving privileges under this
 11 subsection, the court may order that the probationary driving privileges
 12 include the requirement that the person may not operate a motor
 13 vehicle unless the motor vehicle is equipped with a functioning
 14 certified ignition interlock device under IC 9-30-8.

15 (d) If the court finds that the person has a previous conviction of
 16 operating a vehicle or a motorboat while intoxicated and the previous
 17 conviction occurred less than five (5) years before the conviction under
 18 consideration by the court, the court shall recommend the suspension
 19 of the person's driving privileges for at least one (1) year but not more
 20 than two (2) years. The court may stay the execution of that part of the
 21 suspension that exceeds the minimum period of suspension and grant
 22 the person probationary driving privileges for a period of time equal to
 23 the length of the stay. If the court grants probationary driving privileges
 24 under this subsection, the court may order that the probationary driving
 25 privileges include the requirement that the person may not operate a
 26 motor vehicle unless the motor vehicle is equipped with a functioning
 27 certified ignition interlock device under IC 9-30-8.

28 (e) **If the conviction under consideration by the court is for an**
 29 **offense under section 1(b) of this chapter, the court shall**
 30 **recommend the suspension of the person's driving privileges for at**
 31 **least one hundred eighty (180) days but not more than two (2)**
 32 **years.**

33 (f) **If:**

- 34 (1) **the conviction under consideration by the court is for an**
 35 **offense under section 1(a), 1(c), or 2 of this chapter; and**
 36 (2) **the court determines that the person operated a vehicle**
 37 **with at least one (1) passenger less than eighteen (18) years of**
 38 **age in the vehicle;**

39 **the court shall recommend the suspension of the person's driving**
 40 **privileges for at least one hundred eighty (180) days but not more**
 41 **than two (2) years.**

42 (g) **If the conviction under consideration by the court is for an**

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1 offense under:

2 (1) section 4 of this chapter;

3 ~~(2) section 5 of this chapter;~~

4 ~~(3) (2) IC 14-15-8-8(b); or~~

5 ~~(4) (3) IC 14-15-8-8(c);~~

6 the court shall recommend the suspension of the person's driving
7 privileges for at least two (2) years but not more than five (5) years.

8 **(h) If:**

9 **(1) the conviction under consideration by the court is for an**
10 **offense under section 1 or 2 of this chapter; and**

11 **(2) the court finds that the person has at least two (2) prior**
12 **unrelated convictions for operating while intoxicated;**

13 **the court shall recommend the lifetime suspension of the person's**
14 **driving privileges.**

15 **(i) If the conviction under consideration by the court is for an**
16 **offense under section 5 of this chapter, the court shall recommend**
17 **the lifetime suspension of the person's driving privileges.**

18 ~~(j)~~ **(j) Subject to this section,** if the conviction under consideration
19 by the court is for an offense involving the use of a controlled
20 substance listed in schedule I, II, III, IV, or V of IC 35-48-2, the court
21 shall recommend the suspension or revocation of the person's driving
22 privileges for at least six (6) months.

23 SECTION 4. IC 9-30-5-15, AS AMENDED BY P.L.32-2000,
24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2002]: Sec. 15. (a) In addition to any criminal penalty
26 imposed for an offense under this chapter the court shall:

27 (1) order:

28 (A) that the person be imprisoned for at least five (5) days; ~~or~~
29 **and**

30 (B) **that** the person ~~to~~ perform at least thirty (30) days of
31 community restitution or service; and

32 (2) order the person to receive an assessment of the person's
33 degree of alcohol and drug abuse and, if appropriate, to
34 successfully complete an alcohol or drug abuse treatment
35 program, including an alcohol deterrent program if the person
36 suffers from alcohol abuse;

37 if the person has one (1) previous conviction of operating while
38 intoxicated.

39 (b) In addition to any criminal penalty imposed for an offense under
40 this chapter, the court shall:

41 (1) order

42 ~~(A)~~ that the person be imprisoned for at least ~~ten (10)~~ **ninety**

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- 1 **(90) days; or**
 2 **(B) the person to perform at least sixty (60) days of community**
 3 **restitution or service; and**
 4 (2) order the person to receive an assessment of the person's
 5 degree of alcohol and drug abuse and, if appropriate, to
 6 successfully complete an alcohol or drug abuse treatment
 7 program, including an alcohol deterrent program if the person
 8 suffers from alcohol abuse;
 9 if the person has at least two (2) previous convictions of operating
 10 while intoxicated.
- 11 **(c) In addition to any criminal penalty imposed for an offense**
 12 **under this chapter, the court shall:**
 13 **(1) order that the person be imprisoned for at least three (3)**
 14 **days; and**
 15 **(2) order the person to receive an assessment of the person's**
 16 **degree of alcohol and drug abuse and, if appropriate, to**
 17 **successfully complete an alcohol or drug abuse treatment**
 18 **program, including an alcohol deterrent program if the**
 19 **person suffers from alcohol abuse;**
 20 **if the person is convicted of an offense under section 1(b) of this**
 21 **chapter.**
- 22 **(d) In addition to any criminal penalty imposed for an offense**
 23 **under this chapter, the court shall:**
 24 **(1) order that the person be imprisoned for at least three (3)**
 25 **days; and**
 26 **(2) order the person to:**
 27 **(A) receive an assessment of the person's degree of alcohol**
 28 **and drug abuse; and**
 29 **(B) if appropriate, successfully complete an alcohol or drug**
 30 **abuse treatment program, including an alcohol deterrent**
 31 **program, if the person suffers from alcohol abuse;**
 32 **if the person is convicted of an offense under section 1(a), 1(c), or**
 33 **2 of this chapter with at least one (1) passenger less than eighteen**
 34 **(18) years of age in the vehicle.**
- 35 **(e) In addition to any criminal penalty imposed for an offense**
 36 **under this chapter, the court shall:**
 37 **(1) order that the person be imprisoned for at least two (2)**
 38 **years; and**
 39 **(2) order the person to:**
 40 **(A) receive an assessment of the person's degree of alcohol**
 41 **and drug abuse; and**
 42 **(B) if appropriate, successfully complete an alcohol or drug**

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1 **abuse treatment program, including an alcohol deterrent**
 2 **program, if the person suffers from alcohol abuse;**
 3 **if the person is convicted of an offense under section 5 of this**
 4 **chapter.**

5 **(f) An assessment for alcohol and drug abuse required under**
 6 **this section must be:**

7 **(1) conducted by a program administered by a court under**
 8 **IC 12-23-14;**

9 **(2) conducted by a program certified by the division of mental**
 10 **health; or**

11 **(3) authorized under 9-30-9.**

12 **(g) A court ordering a person to complete an alcohol or drug**
 13 **abuse treatment program or an alcohol deterrent program under**
 14 **this section must determine that the program is:**

15 **(1) an alcohol and drug services program administered by a**
 16 **court under IC 12-23-14;**

17 **(2) a program certified by the division of mental health; or**

18 **(3) a circuit court alcohol abuse deterrent program**
 19 **established under IC 9-30-9.**

20 ~~(e)~~ **(h)** Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence
 21 imposed under this section may not be suspended. The court may
 22 require that the person serve the term of imprisonment in an
 23 appropriate facility at whatever time or intervals (consecutive or
 24 intermittent) determined appropriate by the court. However:

25 (1) at least forty-eight (48) hours of the sentence must be served
 26 consecutively; and

27 (2) **except as provided in subsection (e)**, the entire sentence
 28 must be served within six (6) months after the date of sentencing.

29 ~~(d)~~ **(i)** Notwithstanding IC 35-50-6, a person does not earn credit
 30 time while serving a sentence imposed under this section.

31 SECTION 5. IC 35-50-2-2, AS AMENDED BY P.L.238-2001,
 32 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2002]: Sec. 2. (a) The court may suspend any part of a
 34 sentence for a felony, except as provided in this section or in section
 35 2.1 of this chapter.

36 (b) With respect to the following crimes listed in this subsection, the
 37 court may suspend only that part of the sentence that is in excess of the
 38 minimum sentence:

39 (1) The crime committed was a Class A or Class B felony and the
 40 person has a prior unrelated felony conviction.

41 (2) The crime committed was a Class C felony and less than seven
 42 (7) years have elapsed between the date the person was

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1 discharged from probation, imprisonment, or parole, whichever
2 is later, for a prior unrelated felony conviction and the date the
3 person committed the Class C felony for which the person is
4 being sentenced.

5 (3) The crime committed was a Class D felony and less than three
6 (3) years have elapsed between the date the person was
7 discharged from probation, imprisonment, or parole, whichever
8 is later, for a prior unrelated felony conviction and the date the
9 person committed the Class D felony for which the person is
10 being sentenced. However, the court may suspend the minimum
11 sentence for the crime only if the court orders home detention
12 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
13 sentence specified for the crime under this chapter.

14 (4) The felony committed was:

15 (A) murder (IC 35-42-1-1);

16 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
17 causing death;

18 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

19 (D) kidnapping (IC 35-42-3-2);

20 (E) confinement (IC 35-42-3-3) with a deadly weapon;

21 (F) rape (IC 35-42-4-1) as a Class A felony;

22 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
23 felony;

24 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
25 felony;

26 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
27 with a deadly weapon;

28 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
29 injury;

30 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
31 or with a deadly weapon;

32 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
33 weapon;

34 (M) escape (IC 35-44-3-5) with a deadly weapon;

35 (N) rioting (IC 35-45-1-2) with a deadly weapon;

36 (O) dealing in cocaine, a narcotic drug, or methamphetamine
37 (IC 35-48-4-1) if the court finds the person possessed a firearm
38 (as defined in IC 35-47-1-5) at the time of the offense, or the
39 person delivered or intended to deliver to a person under
40 eighteen (18) years of age at least three (3) years junior to the
41 person and was on a school bus or within one thousand (1,000)
42 feet of:

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- 1 (i) school property;
 2 (ii) a public park;
 3 (iii) a family housing complex; or
 4 (iv) a youth program center;
- 5 (P) dealing in a schedule I, II, or III controlled substance
 6 (IC 35-48-4-2) if the court finds the person possessed a firearm
 7 (as defined in IC 35-47-1-5) at the time of the offense, or the
 8 person delivered or intended to deliver to a person under
 9 eighteen (18) years of age at least three (3) years junior to the
 10 person and was on a school bus or within one thousand (1,000)
 11 feet of:
- 12 (i) school property;
 13 (ii) a public park;
 14 (iii) a family housing complex; or
 15 (iv) a youth program center;
- 16 (Q) an offense under IC 9-30-5 (operating a vehicle while
 17 intoxicated) and the person who committed the offense has
 18 accumulated at least two (2) prior unrelated convictions under
 19 IC 9-30-5; ~~or~~
- 20 **(R) operating a vehicle while intoxicated with at least one**
 21 **(1) passenger less than eighteen (18) years of age in the**
 22 **vehicle as a Class D felony (IC 9-30-5-3(a)(2)); or**
 23 **(S) aggravated battery (IC 35-42-2-1.5).**
- 24 (c) Except as provided in subsection (e), whenever the court
 25 suspends a sentence for a felony, it shall place the person on probation
 26 under IC 35-38-2 for a fixed period to end not later than the date that
 27 the maximum sentence that may be imposed for the felony will expire.
- 28 (d) The minimum sentence for a person convicted of voluntary
 29 manslaughter may not be suspended unless the court finds at the
 30 sentencing hearing that the crime was not committed by means of a
 31 deadly weapon.
- 32 (e) Whenever the court suspends that part of a sex and violent
 33 offender's (as defined in IC 5-2-12-4) sentence that is suspendible
 34 under subsection (b), the court shall place the offender on probation
 35 under IC 35-38-2 for not more than ten (10) years.
- 36 (f) An additional term of imprisonment imposed under
 37 IC 35-50-2-11 may not be suspended.
- 38 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 39 IC 35-47-10-7 may not be suspended if the commission of the offense
 40 was knowing or intentional.
- 41 (h) A term of imprisonment imposed for an offense under
 42 IC 35-48-4-6(b)(1)(B) may not be suspended.

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1 SECTION 6. [EFFECTIVE JULY 1, 2002] **IC 9-30-5-3,**
2 **IC 9-30-5-10, IC 9-30-5-15, and IC 35-50-2-2, all as amended by**
3 **this act, apply only if the last offense was committed after June 30,**
4 **2002.**

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