



Reprinted
March 4, 2003

HOUSE BILL No. 1232

DIGEST OF HB 1232 (Updated March 3, 2003 7:01 PM - DI 92)

Citations Affected: IC 9-30.

Synopsis: Driver's licenses and suspensions. Provides that a court must require an ignition interlock device in an order for probationary driving privileges if the person has a prior, unrelated conviction or a conviction involving serious bodily injury or death. Provides that, except for a person with a prior conviction involving serious bodily injury or death, a person who is refused probationary driving privileges shall receive probationary driving privileges if the person installs an ignition interlock device on the person's primary vehicle. Makes it a class B misdemeanor if a person tampers with an ignition interlock device under certain circumstances.

Effective: July 1, 2003.

Duncan, Kuzman

January 8, 2003, read first time and referred to Committee on Judiciary.
February 27, 2003, amended, reported — Do Pass.
March 3, 2003, read second time, amended, ordered engrossed.

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HB 1232—LS 6206/DI 96+



Reprinted
March 4, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1232

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 9-30-5-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person who tampers with
3 an ignition interlock device for the purpose of:
4 (1) circumventing the ignition interlock device; or
5 (2) rendering the ignition interlock device inaccurate or
6 inoperative;
7 commits a Class B ~~infraction~~. **misdemeanor**.
8 (b) A person who solicits another person to:
9 (1) blow into an ignition interlock device; or
10 (2) start a motor vehicle equipped with an ignition interlock
11 device;
12 for the purpose of providing an operable vehicle to a person who is
13 restricted to driving a vehicle with the ignition interlock device
14 commits a Class C infraction.
15 SECTION 2. IC 9-30-5-10 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) In addition to a
17 criminal penalty imposed for an offense under this chapter or

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1 IC 14-15-8, the court shall, after reviewing the person's bureau driving
 2 record and other relevant evidence, recommend the suspension of the
 3 person's driving privileges for the fixed period of time specified under
 4 this section.

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

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

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

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

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

27 (d) If the court finds that the person has a previous conviction of
 28 operating a vehicle or a motorboat while intoxicated and the previous
 29 conviction occurred less than five (5) years before the conviction under
 30 consideration by the court, the court shall recommend the suspension
 31 of the person's driving privileges for at least one (1) year but not more
 32 than two (2) years. The court may stay the execution of that part of the
 33 suspension that exceeds the minimum period of suspension and grant
 34 the person probationary driving privileges for a period of time equal to
 35 the length of the stay. If the court grants probationary driving privileges
 36 under this subsection, the court ~~may~~ **shall** order that the probationary
 37 driving privileges include the requirement that the person may not
 38 operate a motor vehicle unless the motor vehicle is equipped with a
 39 functioning certified ignition interlock device under IC 9-30-8.

40 (e) If the conviction under consideration by the court is for an
 41 offense under:

42 (1) section 4 of this chapter;

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1 (2) section 5 of this chapter;

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

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

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

6 (f) If the conviction under consideration by the court is for an
7 offense involving the use of a controlled substance listed in schedule
8 I, II, III, IV, or V of IC 35-48-2, the court shall recommend the
9 suspension or revocation of the person's driving privileges for at least
10 six (6) months.

11 SECTION 3. IC 9-30-5-12.5 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2003]: **Sec. 12.5. (a) This section does not apply to a person with
14 a conviction under section 4 or 5 of this chapter.**

15 **(b) If a court recommends suspension of a person's driving
16 privileges under section 10 of this chapter and the court does not
17 stay the execution of the suspension of the person's driving
18 privileges and grant the person probationary driving privileges as
19 provided in section 12(a) or 12(c) of this chapter, the person may
20 obtain probationary driving privileges as provided in subsection
21 (c).**

22 **(c) An order for probationary driving privileges shall be
23 granted if a person whose driving privileges are suspended under
24 subsection (b) satisfies the burden of proof under subsection (e).
25 The person who seeks a restricted driving permit under this section
26 must first file a verified petition averring that the person:**

27 **(1) will not operate a motor vehicle unless the motor vehicle
28 is equipped with a functioning certified ignition interlock
29 device; and**

30 **(2) has installed or will install not later than thirty (30) days
31 after the filing of the verified petition a functioning certified
32 ignition interlock device on the person's primary vehicle.**

33 **A copy of the petition shall be provided to the prosecuting attorney
34 in the county in which the verified petition is filed. The prosecuting
35 attorney shall represent the state in the hearing under subsection
36 (d).**

37 **(d) When a petition is filed under subsection (c), the court shall
38 conduct a hearing not later than forty-five (45) days after receiving
39 the petition.**

40 **(e) The petitioner bears the burden of proving the elements
41 under subsection (c) and IC 9-24-15-2(2) by a preponderance of the
42 evidence.**



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1 SECTION 4. IC 9-30-5-13 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) An order for
 3 probationary driving privileges granted under ~~section 12~~ of this chapter
 4 must include the following:

- 5 (1) A requirement that the person may not violate a traffic law.
 6 (2) A restriction of a person's driving privileges providing for
 7 automatic execution of the suspension of driving privileges if an
 8 order is issued under subsection (b).
 9 (3) A written finding by the court that the court has reviewed the
 10 person's driving record and other relevant evidence and found that
 11 the person qualifies for a probationary license under ~~section 12~~ of
 12 this chapter.
 13 (4) Other reasonable terms of probation.

14 **(b) An order for probationary driving privileges granted under:**

- 15 **(1) section 12(a) of this chapter if the person has a previous**
 16 **conviction that occurred at least ten (10) years before the**
 17 **conviction under consideration by the court; or**
 18 **(2) section 12(c) of this chapter;**

19 **must include a requirement that the person may not operate a**
 20 **motor vehicle unless the vehicle is equipped with a functioning**
 21 **certified ignition interlock device under IC 9-30-8.**

22 (c) If the court finds that the person has violated the terms of the
 23 order granting probationary driving privileges, the court shall order
 24 execution of that part of the sentence concerning the suspension of the
 25 person's driving privileges.

26 SECTION 5. IC 9-30-5-16 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as
 28 provided in ~~subsection (b)~~, **subsections (b) and (c)**, the court may, in
 29 granting probationary driving privileges under this chapter, also order
 30 that the probationary driving privileges include the requirement that a
 31 person may not operate a motor vehicle unless the vehicle is equipped
 32 with a functioning certified ignition interlock device under IC 9-30-8.

33 **(b) In granting probationary driving privileges under this**
 34 **chapter, a court shall also order that the probationary driving**
 35 **privileges include the requirement that a person may not operate**
 36 **a motor vehicle unless the vehicle is equipped with a functioning**
 37 **certified ignition interlock device under IC 9-30-8 if the person has**
 38 **a prior unrelated conviction for an offense under this chapter for**
 39 **which alcohol is an element of the offense.**

40 (c) A court may not order the installation of an ignition interlock
 41 device on a vehicle operated by an employee to whom any of the
 42 following apply:



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- (1) Has been convicted of violating ~~IC 9-30-5-1~~ or ~~IC 9-30-5-2~~
section 1 or 2 of this chapter.
- (2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.
- (3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle.

SECTION 6. IC 9-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

- (1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.
- (2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year. **If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(c) **A person may be granted probationary driving privileges as set forth in IC 9-30-5-12.5 if the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges under subsection (b).**

SECTION 7. IC 9-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

- (1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.
- (2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9. **If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(c) **A person may be granted probationary driving privileges as**

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1 set forth in IC 9-30-5-12.5 if the court does not stay the execution
2 of the suspension of the person's driving privileges and grant the
3 person probationary driving privileges under subsection (b).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 25.

Page 4, between lines 9 and 10, begin a new paragraph and insert:
"SECTION 2. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person who tampers with an ignition interlock device for the purpose of:

- (1) circumventing the ignition interlock device; or
- (2) rendering the ignition interlock device inaccurate or inoperative;

commits a Class B ~~infraction~~ **misdemeanor**.

(b) A person who solicits another person to:

- (1) blow into an ignition interlock device; or
- (2) start a motor vehicle equipped with an ignition interlock device;

for the purpose of providing an operable vehicle to a person who is restricted to driving a vehicle with the ignition interlock device commits a Class C infraction."

Page 4, line 25, delete "If:".

Page 4, delete lines 26 through 34.

Page 4, line 35, delete "(d)".

Page 4, delete lines 41 through 42.

Page 5, delete line 1.

Page 5, line 2, delete "the court enters the order."

Page 5, line 6, reset in roman "may".

Page 5, line 6, delete "shall".

Page 5, line 11, reset in roman "(d)".

Page 5, line 11, delete "(e)".

Page 5, line 16, delete "The court shall order that each motor vehicle".

Page 5, delete lines 17 through 18.

Page 5, line 19, delete "days after the date the court enters the order."

Page 5, line 28, reset in roman "(e)".

Page 5, line 28, delete "(f)".

Page 5, line 36, reset in roman "(f)".

Page 5, line 36, delete "(g)".

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Page 7, between lines 23 and 24, begin a new paragraph and insert:
"SECTION 4. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as provided in subsection (b), the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) **The court shall order that a person convicted under section 3 of this chapter may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device.**

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

- (1) Has been convicted of violating ~~IC 9-30-5-1~~ or ~~IC 9-30-5-2~~. **section 1 or 2 of this chapter.**
- (2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.
- (3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1232 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1232 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 9.

Page 3, line 7, strike "may" and insert "**shall**".

Page 3, delete lines 37 through 42.

Delete page 4.

Page 5, delete lines 1 through 2.

Page 5, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 3. IC 9-30-5-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.5. (a) This section does not apply to a person with a conviction under section 4 or 5 of this chapter.**

(b) If a court recommends suspension of a person's driving privileges under section 10 of this chapter and the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges as provided in section 12(a) or 12(c) of this chapter, the person may obtain probationary driving privileges as provided in subsection (c).

(c) An order for probationary driving privileges shall be granted if a person whose driving privileges are suspended under subsection (b) satisfies the burden of proof under subsection (e). The person who seeks a restricted driving permit under this section must first file a verified petition averring that the person:

(1) will not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device; and

(2) has installed or will install not later than thirty (30) days after the filing of the verified petition a functioning certified ignition interlock device on the person's primary vehicle.

A copy of the petition shall be provided to the prosecuting attorney in the county in which the verified petition is filed. The prosecuting attorney shall represent the state in the hearing under subsection (d).

(d) When a petition is filed under subsection (c), the court shall conduct a hearing not later than forty-five (45) days after receiving the petition.

(e) The petitioner bears the burden of proving the elements under subsection (c) and IC 9-24-15-2(2) by a preponderance of the



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evidence."

Page 5, line 16, after "(b)" insert **"An order for probationary driving privileges granted under:**

(1) section 12(a) of this chapter if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or

(2) section 12(c) of this chapter;

must include a requirement that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(c)".

Page 5, line 22, strike "subsection (b)," and insert **"subsections (b) and (c),"**

Page 5, line 27, delete "The court shall order that a person convicted under section" and insert **"In granting probationary driving privileges under this chapter, a court shall also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 if the person has a prior unrelated conviction for an offense under this chapter for which alcohol is an element of the offense."**

Page 5, delete lines 28 through 30.

Page 5, between lines 40 and 41, begin a new paragraph and insert:

SECTION 6. IC 9-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

(1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.

(2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year. If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(c) A person may be granted probationary driving privileges as set forth in IC 9-30-5-12.5 if the court does not stay the execution

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of the suspension of the person's driving privileges and grant the person probationary driving privileges under subsection (b).

SECTION 7. IC 9-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

- (1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.
- (2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9. **If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(c) **A person may be granted probationary driving privileges as set forth in IC 9-30-5-12.5 if the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges under subsection (b)."**

Page 5, delete lines 41 through 42.

Delete pages 6 through 8.

Renumber all SECTIONS consecutively.

(Reference is to HB 1232 as printed February 28, 2003.)

KUZMAN

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