



February 18, 2004

**ENGROSSED
HOUSE BILL No. 1098**

DIGEST OF HB 1098 (Updated February 17, 2004 12:38 pm - DI 71)

Citations Affected: IC 9-13; IC 9-19.

Synopsis: Child restraints in motor vehicles. Requires a person who operates a motor vehicle with a child who is less than 16 years of age to restrain the child by a child restraint system or a safety belt. Removes the exception that a person who operates a vehicle registered outside Indiana is not required to use a child restraint system unless the vehicle is operated in Indiana for more than 60 days in a year. Establishes the child restraint system account within the general fund. Provides that violation of the child restraint laws does not: (1) add points to the driver's traffic report; and (2) count toward habitual violator status. Repeals the current law governing passenger restraint systems and safety belt use for children at least four and less than 12 years of age.

Effective: July 1, 2005.

Welch, Lawson L, Brown T

(SENATE SPONSORS — WYSS, SIPES)

January 15, 2004, read first time and referred to Committee on Judiciary.

January 26, 2004, amended, reported — Do Pass.

February 4, 2004, read second time, amended, ordered engrossed.

February 5, 2004, engrossed. Read third time, passed. Yeas 76, nays 18.

SENATE ACTION

February 9, 2004, read first time and referred to Committee on Transportation and Homeland Security.

February 17, 2004, amended, reported favorably — Do Pass.

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EH 1098—LS 6705/DI 105+



February 18, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1098

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-23 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. "Child ~~passenger~~
- 3 restraint system" means a device that:
- 4 (1) is manufactured for the purpose of protecting children from
- 5 injury during a motor vehicle accident; and
- 6 (2) meets the standards prescribed **and definition contained in**
- 7 49 CFR 571.213.
- 8 SECTION 2. IC 9-19-10-1 IS AMENDED TO READ AS
- 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not
- 10 apply to a front seat occupant who meets any of the following
- 11 conditions:
- 12 (1) For medical reasons should not wear safety belts.
- 13 (2) Is a child required to be restrained by a child ~~passenger~~
- 14 restraint system under IC 9-19-11.
- 15 (3) Is traveling in a commercial or a United States Postal Service
- 16 vehicle that makes frequent stops for the purpose of pickup or
- 17 delivery of goods or services.

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- 1 (4) Is a rural carrier of the United States Postal Service and is
- 2 operating a vehicle while serving a rural postal route.
- 3 (5) Is a newspaper motor route carrier or newspaper bundle hauler
- 4 who stops to make deliveries from a vehicle.
- 5 (6) Is a driver examiner designated and appointed under
- 6 IC 9-14-2-3 and is conducting an examination of an applicant for
- 7 a permit or license under IC 9-24-10.

8 SECTION 3. IC 9-19-11-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not
 10 apply to a person who operates any of the following vehicles:

- 11 (1) A school bus.
- 12 (2) A taxicab.
- 13 ~~(3) A rental vehicle leased for not more than thirty (30) days:~~
- 14 ~~(4) (3) An ambulance.~~
- 15 ~~(5) A vehicle registered in a jurisdiction other than Indiana unless~~
- 16 ~~the vehicle is operated in Indiana for more than sixty (60) days in~~
- 17 ~~any calendar year.~~
- 18 ~~(6) (4) A public passenger bus.~~
- 19 ~~(7) (5) A motor vehicle having a seating capacity greater than~~
- 20 ~~nine (9) individuals that is owned or leased and operated by a~~
- 21 ~~religious or not-for-profit youth organization.~~
- 22 ~~(8) (6) An antique motor vehicle.~~
- 23 ~~(9) (7) A motorcycle.~~
- 24 ~~(10) (8) A motor vehicle that is owned or leased by a~~
- 25 ~~governmental unit and is being used in the performance of official~~
- 26 ~~law enforcement duties.~~
- 27 ~~(11) (9) A motor vehicle that is being used in an emergency.~~

28 SECTION 4. IC 9-19-11-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person who:

- 30 **(1) holds an Indiana driver's license; and**
- 31 **(2) operates a motor vehicle in which there is a child less than**
- 32 **four ~~(4)~~ eight (8) years of age who is not properly fastened and**
- 33 **restrained according to the child restraint system**
- 34 **manufacturer's instructions by a child passenger restraint**
- 35 **system;**

36 commits a Class D infraction, unless it is reasonably determined that
 37 the child will not fit in a child passenger restraint system.

38 **(b) Notwithstanding IC 34-28-5-5(c), funds collected as**
 39 **judgments for violations under this section shall be deposited in the**
 40 **child restraint system account established by section 9 of this**
 41 **chapter.**

42 SECTION 5. IC 9-19-11-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who
 2 **holds an Indiana driver's license and** operates a motor vehicle in
 3 which there is a child commits a Class D infraction if:
 4 (1) the child is less than ~~four (4)~~ **eight (8)** years of age and it is
 5 reasonably determined that the child will not fit in a child restraint
 6 system; and
 7 (2) the child is not properly fastened and restrained **according to**
 8 **the child restraint system manufacturer's instructions** by a:
 9 (A) **child restraint system; or**
 10 (B) **safety belt.**
 11 (b) **Notwithstanding IC 34-28-5-5(c), funds collected as**
 12 **judgments for violations under this section shall be deposited in the**
 13 **child restraint system account established by section 9 of this**
 14 **chapter.**
 15 SECTION 6. IC 9-19-11-3.3 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2005]: Sec. 3.3. (a) **This section does not apply to a person who**
 18 **holds an Indiana driver's license.**
 19 (b) **A person who operates a motor vehicle in which there is a**
 20 **child less than sixteen (16) years of age who is not properly**
 21 **fastened and restrained according to the child restraint system**
 22 **manufacturer's instructions by a:**
 23 (1) **child restraint system; or**
 24 (2) **safety belt;**
 25 **commits a Class D infraction.**
 26 (c) **Notwithstanding IC 34-28-5-5(c), funds collected as**
 27 **judgments for violations under this section shall be deposited in the**
 28 **child restraint system account established by section 9 of this**
 29 **chapter.**
 30 SECTION 7. IC 9-19-11-3.6 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2005]: Sec. 3.6. (a) **A person who operates a motor vehicle in**
 33 **which there is a child and that is equipped with a safety belt**
 34 **meeting the standards stated in the Federal Motor Vehicle Safety**
 35 **Standard Number 208 (49 CFR 571.208) commits a Class D**
 36 **infraction if:**
 37 (1) **the child is at least eight (8) years of age but less than**
 38 **sixteen (16) years of age; and**
 39 (2) **the child is not properly fastened and restrained according**
 40 **to the child restraint system manufacturer's instructions by**
 41 **a:**
 42 (A) **child restraint system; or**

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(B) safety belt.
(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 8. IC 9-19-11-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.7. Notwithstanding sections 2, 3, 3.3, and 3.6 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:**

- (1) the motor vehicle is not equipped with lap and shoulder safety belts; or**
- (2) not including the operator's seat and the front passenger seat:**
 - (A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and**
 - (B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than sixteen (16) years of age.**

SECTION 9. IC 9-19-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. If at a proceeding to enforce section 2 of this chapter the court finds that the person:**

- (1) has violated this chapter; and**
 - (2) possesses or has acquired a child ~~passenger~~ restraint system;**
- the court shall enter judgment against the person. However, notwithstanding IC 34-28-5-4, the person is not liable for any costs or monetary judgment if the person has no previous judgments of violation of this chapter against the person.

SECTION 10. IC 9-19-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a) If at a proceeding to enforce section 2 of this chapter the court finds that the person:**

- (1) has violated this chapter; and**
 - (2) does not possess or has not acquired a child ~~passenger~~ restraint system;**
- the court shall enter judgment against the person and shall order the person to provide proof of possession or acquisition within thirty (30) days.

- (b) Notwithstanding IC 34-28-5-4, if the person:**
 - (1) complies with a court order under this section; and**
 - (2) has no previous judgments of violation of this chapter against the person;**

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1 the person is not liable for any costs or a monetary judgment.

2 SECTION 11. IC 9-19-11-9 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2005]: **Sec. 9. (a) The child restraint system account is
5 established within the state general fund to make grants under
6 subsection (d).**

7 **(b) The account consists of the following:**

8 **(1) Funds collected as judgments for violations under this
9 chapter.**

10 **(2) Appropriations to the account from the general assembly.**

11 **(3) Grants, gifts, and donations intended for deposit in the
12 account.**

13 **(4) Interest that accrues from money in the account.**

14 **(c) The account shall be administered by the criminal justice
15 institute.**

16 **(d) The criminal justice institute, upon the recommendation of
17 the governor's council on impaired and dangerous driving, shall
18 use money in the account to make grants to private and public
19 organizations to:**

20 **(1) purchase child restraint systems; and**

21 **(2) distribute the child restraint systems:**

22 **(A) without charge; or**

23 **(B) for a minimal charge;**

24 **to persons who are not otherwise able to afford to purchase
25 child restraint systems.**

26 **The criminal justice institute shall adopt rules under IC 4-22-2 to
27 implement this section.**

28 **(e) Money in the account is appropriated continuously to the
29 criminal justice institute for the purposes stated in subsection (a).**

30 **(f) The expenses of administering the account shall be paid from
31 money in the account.**

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

36 **(h) Money in the account at the end of a state fiscal year does
37 not revert to the state general fund.**

38 SECTION 12. IC 9-19-11-10 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2005]: **Sec. 10. The bureau may not assess
41 points under the point system for a violation of this chapter.**

42 SECTION 13. IC 9-19-11-11 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: **Sec. 11. A violation of this chapter**
3 **may not be included in a determination of habitual violator status**
4 **under IC 9-30-10-4.**

5 SECTION 14. IC 9-19-10-2.5 IS REPEALED [EFFECTIVE JULY
6 1, 2005].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1098, 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:

Replace the effective dates in SECTIONS 1 through 14 with "[EFFECTIVE JANUARY 1, 2005]".

Page 2, line 33, after "the" insert "**child restraint system**".

Page 2, line 38, delete "tall." and insert "**tall at the time of the alleged offense.**".

Page 3, line 8, delete "tall;" and insert "**tall at the time of the alleged offense;**".

Page 3, line 10, after "the" insert "**child restraint system**".

Page 3, line 23, after "the" insert "**child restraint system**".

Page 3, line 41, after "the" insert "**child restraint system**".

Page 4, line 14, after "seat" insert "**and the front passenger seat**".

and when so amended that said bill do pass.

(Reference is to HB 1098 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

- Page 1, line 2, delete "January 1, 2005" and insert "July 1, 2005".
- Page 1, line 9, delete "January 1, 2005" and insert "July 1, 2005".
- Page 2, line 9, delete "January 1, 2005" and insert "July 1, 2005".
- Page 2, line 29, delete "January 1, 2005" and insert "July 1, 2005".
- Page 3, line 4, delete "January 1, 2005" and insert "July 1, 2005".
- Page 3, line 22, delete "January 1, 2005" and insert "July 1, 2005".
- Page 3, line 37, delete "January 1, 2005" and insert "July 1, 2005".
- Page 4, line 13, delete "January 1, 2005" and insert "July 1, 2005".
- Page 4, line 27, delete "January 1, 2005" and insert "July 1, 2005".
- Page 4, line 37, delete "January 1, 2005" and insert "July 1, 2005".
- Page 5, line 11, delete "January 1, 2005" and insert "July 1, 2005".
- Page 6, line 5, delete "January 1, 2005" and insert "July 1, 2005".
- Page 6, line 9, delete "January 1, 2005" and insert "July 1, 2005".
- Page 13, line 13, delete "January 1, 2005" and insert "July 1, 2005".

(Reference is to HB 1098 as printed January 27, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

- Page 2, line 33, delete "**eight (8)**" and insert "**five (5)**".
- Page 2, line 37, reset in roman "it is reasonably determined that".
- Page 2, line 38, reset in roman "will not fit in a child passenger restraint system".
- Page 2, line 38, delete "**weighs more**".
- Page 2, delete lines 39 through 40.
- Page 3, line 7, delete "**eight (8)**" and insert "**five (5)**".
- Page 3, line 7, reset in roman "it is".
- Page 3, line 8, reset in roman "reasonably determined that".
- Page 3, line 8, reset in roman "will not fit in a child restraint".
- Page 3, line 9, reset in roman "system".
- Page 3, line 9, delete "**weighs more than eighty (80) pounds or is more than**".
- Page 3, delete line 10.
- Page 3, line 11, delete "**offense**".

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Page 3, line 42, delete "eight (8)" and insert "five (5)".
Page 4, line 1, delete "twelve (12)" and insert "sixteen (16)"
Page 4, line 24, delete "twelve" and insert "sixteen".
Page 4, line 25, delete "12" and insert "16".

(Reference is to HB 1098 as printed January 27, 2004.)

STUTZMAN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 3. IC 9-19-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.5. A vehicle may not be stopped by a law enforcement officer based upon reasonable suspicion or probable cause that a person in the vehicle has violated this chapter unless the law enforcement officer has reasonable suspicion or probable cause to believe that the operator of the vehicle or a passenger in the vehicle has violated an infraction, other than an infraction under this chapter, or committed a criminal offense.**"

Page 6, line 12, delete "IC 9-19-10-2.5 IS" and insert "THE FOLLOWING ARE".

Page 6, line 13, delete "." and insert ": IC 9-19-10-2.5; IC 9-19-10-3 (as amended by P.L.116-1998, SECTION 2 and as amended by P.L.57-1998, SECTION 2).".

Re-number all SECTIONS consecutively.

(Reference is to HB 1098 as printed January 27, 2004.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Transportation and Homeland Security, to which was referred House Bill No. 1098, 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, delete lines 8 through 16.

Page 2, line 41, delete "five (5)" and insert "**eight (8)**".

Page 3, line 13, delete "five (5)" and insert "**eight (8)**".

Page 3, line 29, delete "twelve (12)" and insert "**sixteen (16)**".

Page 3, line 39, delete "IC 9-19-11-3.5" and insert "IC 9-19-11-3.6".

Page 3, line 41, delete "3.5." and insert "**3.6.**".

Page 4, line 4, delete "five (5)" and insert "**eight (8)**".

Page 4, line 17, delete "3.5" and insert "**3.6**".

Page 6, delete lines 14 through 17, begin a new paragraph and insert:

"SECTION 15. IC 9-19-10-2.5 IS REPEALED [EFFECTIVE JULY 1, 2005].".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1098 as reprinted February 5, 2004.)

WYSS, Chairperson

Committee Vote: Yeas 6, Nays 0.

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