

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1128

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AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-30-5-10, AS AMENDED BY SEA 145-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

- (1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or
- (2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

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

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years.

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The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. **However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device, if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.**

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

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

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

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

SECTION 2. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Except as provided in subsections (b) and (c) **and section 10 of this chapter**, the

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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) An order granting probationary driving privileges:

(1) under:

(A) 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

(B) section 12(c) of this chapter; or

(2) to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an element;

must prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, a court is not required to order the installation of an ignition interlock device for a person described in subdivision (1) or (2) if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse.

(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 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 3. IC 9-30-8-1, AS AMENDED BY SEA 145-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) If a court orders the installation of a certified ignition interlock device under IC 9-30-5 on a motor vehicle that a person whose license is restricted owns or expects to operate, except as provided in subsection (b), the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The person shall pay the cost of installation **unless the sentencing court determines that the person is indigent.**

(b) If the court orders installation of a certified ignition interlock

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device under IC 9-30-5-10(d), the installation must remain in effect for a period of six (6) months.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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