
HOUSE BILL No. 1754

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-4-6; IC 35-44-3-3.

Synopsis: Resisting law enforcement. Requires a court to order that a person's: (1) motor vehicle operator's license be suspended; (2) existing motor vehicle registrations be suspended; and (3) ability to register motor vehicles be suspended; for at least six months but not more than two years if the person uses a motor vehicle to commit resisting law enforcement. Provides that if the person does not hold an operator's license or a learner's permit, the court shall order that the person may not receive an operator's license or a learner's permit for at least six months.

Effective: July 1, 2007.

Dermody, Tincher

January 26, 2007, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1754

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 9-30-4-6 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Whenever the bureau
3 suspends or revokes the current driver's license upon receiving a record
4 of the conviction of a person for any offense under the motor vehicle
5 laws not enumerated under subsection (b), the bureau may also suspend
6 any of the certificates of registration and license plates issued for any
7 motor vehicle registered in the name of the person so convicted.
8 However, the bureau may not suspend the evidence of registration,
9 unless otherwise required by law, if the person has given or gives and
10 maintains during the three (3) years following the date of suspension
11 or revocation proof of financial responsibility in the future in the
12 manner specified in this section.

13 (b) The bureau shall suspend or revoke without notice or hearing the
14 current driver's license and all certificates of registration and license
15 plates issued or registered in the name of a person who is convicted of
16 any of the following:

17 (1) Manslaughter or reckless homicide resulting from the



1 operation of a motor vehicle.
 2 (2) Perjury or knowingly making a false affidavit to the
 3 department under this chapter or any other law requiring the
 4 registration of motor vehicles or regulating motor vehicle
 5 operation upon the highways.
 6 (3) A felony under Indiana motor vehicle laws or felony in the
 7 commission of which a motor vehicle is used.
 8 (4) Three (3) charges of criminal recklessness involving the use
 9 of a motor vehicle within the preceding twelve (12) months.
 10 (5) Failure to stop and give information or assistance or failure to
 11 stop and disclose the person's identity at the scene of an accident
 12 that has resulted in death, personal injury, or property damage in
 13 excess of two hundred dollars (\$200).
 14 (6) Possession, distribution, manufacture, cultivation, transfer,
 15 use, or sale of a controlled substance or counterfeit substance, or
 16 attempting or conspiring to possess, distribute, manufacture,
 17 cultivate, transfer, use, or sell a controlled substance or
 18 counterfeit substance.
 19 **(7) Resisting law enforcement by use of a motor vehicle.**
 20 (c) The license of a person shall also be suspended upon conviction
 21 in another jurisdiction for any offense described in subsections (b)(1),
 22 (b)(2), (b)(3), (b)(4), and (b)(5), except if property damage is less than
 23 two hundred dollars (\$200), the bureau may determine whether the
 24 driver's license and certificates of registration and license plates shall
 25 be suspended or revoked. The license of a person shall also be
 26 suspended upon conviction in another jurisdiction for any offense
 27 described in subsection (b)(6) **or (b)(7)**.
 28 (d) A suspension or revocation remains in effect and a new or
 29 renewal license may not be issued to the person and a motor vehicle
 30 may not be registered in the name of the person as follows:
 31 (1) Except as provided in subdivisions (2) and (3), for six (6)
 32 months from the date of conviction or on the date on which the
 33 person is otherwise eligible for a license, whichever is later.
 34 Except as provided in IC 35-48-4-15 **and IC 35-44-3-3**, this
 35 includes a person convicted of a crime for which the person's
 36 license is suspended or revoked under subsection (b)(6) **or (b)(7)**.
 37 (2) Upon conviction of an offense described in subsection (b)(1),
 38 for a fixed period of not less than two (2) years and not more than
 39 five (5) years, to be fixed by the bureau based upon
 40 recommendation of the court entering a conviction. A new or
 41 reinstated license may not be issued to the person unless that
 42 person, within the three (3) years following the expiration of the

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1 suspension or revocation, gives and maintains in force at all times
 2 during the effective period of a new or reinstated license proof of
 3 financial responsibility in the future in the manner specified in
 4 this chapter. However, the liability of the insurance carrier under
 5 a motor vehicle liability policy that is furnished for proof of
 6 financial responsibility in the future as set out in this chapter
 7 becomes absolute whenever loss or damage covered by the policy
 8 occurs, and the satisfaction by the insured of a final judgment for
 9 loss or damage is not a condition precedent to the right or
 10 obligation of the carrier to make payment on account of loss or
 11 damage, but the insurance carrier has the right to settle a claim
 12 covered by the policy. If the settlement is made in good faith, the
 13 amount shall be deductive from the limits of liability specified in
 14 the policy. A policy may not be canceled or annulled with respect
 15 to a loss or damage by an agreement between the carrier and the
 16 insured after the insured has become responsible for the loss or
 17 damage, and a cancellation or annulment is void. The policy may
 18 provide that the insured or any other person covered by the policy
 19 shall reimburse the insurance carrier for payment made on
 20 account of any loss or damage claim or suit involving a breach of
 21 the terms, provisions, or conditions of the policy. If the policy
 22 provides for limits in excess of the limits specified in this chapter,
 23 the insurance carrier may plead against any plaintiff, with respect
 24 to the amount of the excess limits of liability, any defenses that
 25 the carrier may be entitled to plead against the insured. The policy
 26 may further provide for prorating of the insurance with other
 27 applicable valid and collectible insurance. An action does not lie
 28 against the insurance carrier by or on behalf of any claimant under
 29 the policy until a final judgment has been obtained after actual
 30 trial by or on behalf of any claimant under the policy.

31 (3) For the period ordered by a court under IC 35-48-4-15 or
 32 **IC 35-44-3-3.**

33 (e) The bureau may take action as required in this section upon
 34 receiving satisfactory evidence of a conviction of a person in another
 35 state.

36 (f) For the purpose of this chapter, "conviction" includes any of the
 37 following:

- 38 (1) A conviction upon a plea of guilty.
 39 (2) A determination of guilt by a jury or court, even if:
 40 (A) no sentence is imposed; or
 41 (B) a sentence is suspended.
 42 (3) A forfeiture of bail, bond, or collateral deposited to secure the

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1 defendant's appearance for trial, unless the forfeiture is vacated.
2 (4) A payment of money as a penalty or as costs in accordance
3 with an agreement between a moving traffic violator and a traffic
4 violations bureau.

5 (g) A suspension or revocation under this section or under
6 IC 9-25-6-8 stands pending appeal of the conviction to a higher court
7 and may be set aside or modified only upon the receipt by the bureau
8 of the certificate of the court reversing or modifying the judgment that
9 the cause has been reversed or modified. However, if the suspension or
10 revocation follows a conviction in a court of no record in Indiana, the
11 suspension or revocation is stayed pending appeal of the conviction to
12 a court of record.

13 (h) A person aggrieved by an order or act of the bureau under this
14 section or IC 9-25-6-8 may file a petition for a court review.

15 SECTION 2. IC 35-44-3-3, AS AMENDED BY P.L.143-2006,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2007]: Sec. 3. (a) A person who knowingly or intentionally:

18 (1) forcibly resists, obstructs, or interferes with a law enforcement
19 officer or a person assisting the officer while the officer is
20 lawfully engaged in the execution of the officer's duties;

21 (2) forcibly resists, obstructs, or interferes with the authorized
22 service or execution of a civil or criminal process or order of a
23 court; or

24 (3) flees from a law enforcement officer after the officer has, by
25 visible or audible means, including operation of the law
26 enforcement officer's siren or emergency lights, identified himself
27 or herself and ordered the person to stop;

28 commits resisting law enforcement, a Class A misdemeanor, except as
29 provided in subsection (b).

30 (b) The offense under subsection (a) is a:

31 (1) Class D felony if:

32 (A) the offense is described in subsection (a)(3) and the person
33 uses a vehicle to commit the offense; or

34 (B) while committing any offense described in subsection (a),
35 the person draws or uses a deadly weapon, inflicts bodily
36 injury on or otherwise causes bodily injury to another person,
37 or operates a vehicle in a manner that creates a substantial risk
38 of bodily injury to another person;

39 (2) Class C felony if, while committing any offense described in
40 subsection (a), the person operates a vehicle in a manner that
41 causes serious bodily injury to another person; and

42 (3) Class B felony if, while committing any offense described in

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1 subsection (a), the person operates a vehicle in a manner that
2 causes the death of another person.

3 (c) For purposes of this section, a law enforcement officer includes
4 an enforcement officer of the alcohol and tobacco commission and a
5 conservation officer of the department of natural resources.

6 (d) If a person uses a vehicle to commit a felony offense under
7 subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty
8 imposed for the offense, the court shall impose a minimum executed
9 sentence of at least:

10 (1) thirty (30) days, if the person does not have a prior unrelated
11 conviction under this section;

12 (2) one hundred eighty (180) days, if the person has one (1) prior
13 unrelated conviction under this section; or

14 (3) one (1) year, if the person has two (2) or more prior unrelated
15 convictions under this section.

16 (e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory
17 minimum sentence imposed under subsection (d) may not be
18 suspended.

19 **(f) If a person uses a vehicle to commit a felony offense under
20 subsection (b), as part of the criminal penalty imposed for the
21 offense, the court shall, in addition to any other order the court
22 enters, order that the person's:**

23 **(1) motor vehicle operator's license be suspended;**

24 **(2) existing motor vehicle registrations be suspended; and**

25 **(3) ability to register motor vehicles be suspended;**

26 **by the bureau of motor vehicles for a period specified by the court
27 of at least six (6) months but not more than two (2) years. If a
28 person is convicted of an offense described in subsection (a) and the
29 person does not hold an operator's license or a learner's permit,
30 the court shall order that the person may not receive an operator's
31 license or a learner's permit from the bureau of motor vehicles for
32 at least six (6) months.**

33 SECTION 3. [EFFECTIVE JULY 1, 2007] IC 9-30-4-6 and
34 IC 35-44-3-3, both as amended by this act, apply only to offenses
35 committed after June 30, 2007.

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