



Reprinted
February 24, 2009

HOUSE BILL No. 1242

DIGEST OF HB 1242 (Updated February 23, 2009 10:26 pm - DI 96)

Citations Affected: IC 9-13; IC 9-21; IC 9-24.

Synopsis: Personal communication devices. Prohibits the use of a personal communication device by a motor vehicle operator less than 18 years of age except in certain public safety or emergency situations and prohibits a county, city, town or other governmental unit from adopting a more restrictive ordinance concerning personal communication devices. Provides that personal communication devices do not include two-way radios or walkie-talkies. Imposes civil penalties for violations and restricts the bureau of motor vehicles from assessing points for a violation. Provides for the deposit of the penalties in the state general fund.

Effective: July 1, 2009.

Summers, Welch

January 12, 2009, read first time and referred to Committee on Public Policy.
February 12, 2009, amended, reported — Do Pass.
February 16, 2009, read second time, amended, call withdrawn.
February 23, 2009, re-read second time, ordered engrossed.

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HB 1242—LS 7035/DI 103+



First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1242

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 9-13-2-124.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: **Sec. 124.3. "Personal communication**
4 **device", for purposes of IC 9-21-22, has the meaning set forth in**
5 **IC 9-21-22-1.**

6 SECTION 2. IC 9-13-2-195.2 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2009]: **Sec. 195.2. "Using a personal**
9 **communication device", for purposes of IC 9-21-22, has the**
10 **meaning set forth in IC 9-21-22-2.**

11 SECTION 3. IC 9-21-22 IS ADDED TO THE INDIANA CODE AS
12 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2009]:

14 **Chapter 22. Use of Personal Communication Devices**

15 **Sec. 1. As used in this chapter, "personal communication**
16 **device" includes the following:**

17 **(1) A device, including a mobile or cellular telephone, used to**

HB 1242—LS 7035/DI 103+



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access wireless telephone service.

(2) A personal data assistant.

The term does not include a two-way radio, including, but not limited to, a citizens band (CB) radio or a handheld, portable, two-way radio transceiver commonly known as a walkie-talkie.

Sec. 2. As used in this chapter, "using a personal communication device" includes using a personal communication device to communicate orally or in writing or text.

Sec. 3. Except as provided in sections 4 and 5 of this chapter, an individual who is less than eighteen (18) years of age shall not operate a motor vehicle while using a personal communication device.

Sec. 4. Section 3 of this chapter does not apply to an operator of:

- (1) an authorized emergency vehicle;
- (2) a medical services vehicle;
- (3) a privately owned vehicle if:
 - (A) the operator or a passenger in the vehicle is a volunteer firefighter en route to the scene of a fire or other emergency in the line of duty; and
 - (B) a blue light is displayed on the vehicle under IC 36-8-12-11; or
- (4) a privately owned vehicle if:
 - (A) the operator or a passenger in the vehicle is a certified:
 - (i) paramedic;
 - (ii) emergency medical technician-intermediate;
 - (iii) emergency medical technician-basic advanced;
 - (iv) emergency medical technician;
 - (v) emergency medical service driver; or
 - (vi) emergency medical service first responder;
 en route to the scene of emergency medical service activities in the line of duty; and
 - (B) a green light is displayed on the vehicle under IC 9-19-14.5-1.

Sec. 5. Section 3 of this chapter does not apply to an operator of a motor vehicle who uses a personal communication device in an emergency situation to:

- (1) transmit an emergency call (as defined in IC 35-45-2-3(c)) or other emergency communication;
- (2) contact a health care provider (as defined in IC 16-18-2-163);
- (3) contact a police and law enforcement system established under IC 36-8-2-2; or

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(4) contact a firefighting and fire prevention system established under IC 36-8-2-3.

Sec. 6. An individual who violates section 3 of this chapter is subject to a civil penalty as follows:

- (1) Twenty-five dollars (\$25) for the first violation.**
- (2) Fifty dollars (\$50) for the second violation.**
- (3) One hundred dollars (\$100) for the third and each subsequent violation.**

Penalties collected under this subsection shall be deposited in the state general fund.

Sec. 8. The bureau may not assess points under the point system for a violation of this chapter.

Sec. 9. A county, city, town, or other governmental unit may not adopt an ordinance more restrictive than this chapter.

SECTION 4. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

- (1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.
- (2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:
 - (A) is at least twenty-one (21) years of age; and
 - (B) holds a valid operator's license issued under this article; is present in the front seat of the motor vehicle.
- (3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(4) Except as provided in IC 9-21-22-4 and IC 9-21-22-5, the individual who is less than eighteen years of age may not operate a motor vehicle while using a personal communication device.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

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1 (d) Except as provided in subsection (e), a probationary license
 2 issued under this section:
 3 (1) expires at midnight of the twenty-first birthday of the holder;
 4 and
 5 (2) may not be renewed.
 6 (e) A probationary license issued under this section to an individual
 7 who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:
 8 (1) at midnight one (1) year after issuance if there is no expiration
 9 date on the authorization granted to the individual to remain in the
 10 United States; or
 11 (2) if there is an expiration date on the authorization granted to
 12 the individual to remain in the United States, the earlier of the
 13 following:
 14 (A) At midnight of the date the authorization to remain in the
 15 United States expires.
 16 (B) At midnight of the twenty-first birthday of the holder.
 17 SECTION 5. IC 9-24-11-8 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as
 19 provided in subsections (b), ~~and (c)~~, **and (d)**, a person who violates this
 20 chapter commits a Class C infraction.
 21 (b) A person who:
 22 (1) has been issued a permit or license on which there is a printed
 23 or stamped restriction as provided under section 7 of this chapter;
 24 and
 25 (2) operates a motor vehicle in violation of the restriction;
 26 commits a Class C misdemeanor. The license of a person who violates
 27 this subsection may be suspended in the manner provided for the
 28 suspension or revocation of an operator's license.
 29 (c) A person who causes serious bodily injury to or the death of
 30 another person when operating a motor vehicle after knowingly or
 31 intentionally failing to take prescribed medication, the taking of which
 32 was a condition of the issuance of the operator's restricted license under
 33 section 7 of this chapter, commits a Class A misdemeanor. However,
 34 the offense is a Class D felony if, within the five (5) years preceding
 35 the commission of the offense, the person had a prior unrelated
 36 conviction under this subsection.
 37 **(d) The penalty for a violation of section 3(b)(4) of this chapter**
 38 **is a civil penalty as set forth in IC 9-21-22-7.**
 39 ~~(d)~~ (e) A person who violates subsection (c) commits a separate
 40 offense for each person whose serious bodily injury or death is caused
 41 by the violation of subsection (c).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1242, 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 13, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-124.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 124.3. "Personal communication device", for purposes of IC 9-21-22, has the meaning set forth in IC 9-21-22-1.**

SECTION 2. IC 9-13-2-195.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 195.2. "Using a personal communication device", for purposes of IC 9-21-22, has the meaning set forth in IC 9-21-22-2."**

Page 1, line 17, delete "Mobile Telephones" and insert "**Personal Communication Devices**".

Delete page 2.

Page 3, delete line 1, begin a new paragraph and insert:

"**Sec. 1. As used in this chapter, "personal communication device" includes the following:**

- (1) **A device, including a mobile or cellular telephone, used to access wireless telephone service.**
- (2) **A personal data assistant.**

Sec. 2. As used in this chapter, "using a personal communication device" includes using a personal communication device to communicate orally or in writing or text.

Sec. 3. (a) This section applies to an individual who holds a probationary license issued under IC 9-24-11-3.

(b) Except as provided in sections 5 and 6 of this chapter, an individual shall not operate a motor vehicle while using a personal communication device.

Sec. 4. (a) This section applies to an individual who holds an operator's license other than a probationary license issued under IC 9-24-11-3.

(b) Except as provided in sections 5 and 6 of this chapter, an individual shall not operate a motor vehicle while using a personal communication device unless:

- (1) **the individual uses the personal communication device only for oral communication; and**
- (2) **the personal communication device:**

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**(A) has an internal feature or function; or
(B) is equipped with an attachment or addition;
by which the individual engages in the oral communication
without the use of either hand. However, the individual may
use the individual's hand or hands to initiate or terminate the
oral communication."**

Page 3, line 2, delete "Sec. 6. Sections 4 and 5" and insert "**Sec. 5.
Sections 3 and 4**".

Page 3, line 24, delete "Sec. 7. Sections 4 and 5" and insert "**Sec. 6.
Sections 3 and 4**".

Page 3, line 25, delete "mobile telephone" and insert "**personal
communication device**".

Page 3, line 27, delete ";" and insert "**or other emergency
communication;**".

Page 3, line 34, delete "8." and insert "7."

Page 3, line 34, delete "4 or 5" and insert "**3 or 4**".

Page 3, line 42, delete "9." and insert "8."

Page 4, line 22, delete "IC 9-21-22-6 and IC 9-21-22-7," and insert
"**IC 9-21-22-5 and IC 9-21-22-6**".

Page 4, line 24, delete "mobile telephone." and insert "**personal
communication device**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1242 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 3.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1242 be amended to read as follows:

Page 2, line 6, after "individual" insert "**who is less than eighteen
years of age and**".

Page 2, line 11, after "individual" insert "**eighteen (18) years of age
or older**".

Page 2, line 11, delete "holds an" and insert "**holds a driver's**".

Page 2, line 12, delete "operator's".

HB 1242—LS 7035/DI 103+



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Page 2, line 12, delete "other than" and insert "**whether or not the driver's license is**".

Page 4, line 6, after "individual" insert "**who is less than eighteen years of age**".

Page 4, after line 27, begin a new paragraph and insert:

"SECTION 5. IC 9-24-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as provided in subsections (b), ~~and~~ (c), **and (d)**, a person who violates this chapter commits a Class C infraction.

(b) A person who:

(1) has been issued a permit or license on which there is a printed or stamped restriction as provided under section 7 of this chapter; and

(2) operates a motor vehicle in violation of the restriction;

commits a Class C misdemeanor. The license of a person who violates this subsection may be suspended in the manner provided for the suspension or revocation of an operator's license.

(c) A person who causes serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted license under section 7 of this chapter, commits a Class A misdemeanor. However, the offense is a Class D felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this subsection.

(d) The penalty for a violation of section 3(b)(4) of this chapter is a civil penalty as set forth in IC 9-21-22-7.

~~(d)~~ (e) A person who violates subsection (c) commits a separate offense for each person whose serious bodily injury or death is caused by the violation of subsection (c)."

(Reference is to HB 1242 as printed February 13, 2009.)

SUMMERS

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1242 be amended to read as follows:

Page 3, between lines 26 and 27, begin a new paragraph and insert: **"Sec. 9. A county, city, town, or other governmental unit may not adopt an ordinance more restrictive than this chapter."**

(Reference is to HB 1242 as printed February 13, 2009.)

SUMMERS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1242 be amended to read as follows:

Page 2, between lines 2 and 3, begin a new line blocked left and insert:

"The term does not include a two-way radio, including, but not limited to, a citizens band (CB) radio or a handheld, portable, two-way radio transceiver commonly known as a walkie-talkie."

(Reference is to HB 1242 as printed February 13, 2009.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1242 be amended to read as follows:

Page 2, delete lines 6 through 25, begin a new paragraph and insert:

"Sec. 3. Except as provided in sections 4 and 5 of this chapter, an individual who is less than eighteen (18) years of age shall not operate a motor vehicle while using a personal communication device."

Page 2, line 26, delete "5. Sections" and insert **"4. Section"**.

Page 2, line 26, delete "and 4".

Page 2, line 26, delete "do" and insert **"does"**.

Page 3, line 6, delete "6. Sections" and insert **"5. Section"**.

Page 3, line 6, delete "and 4".

Page 3, line 6, delete "do" and insert **"does"**.

Page 3, line 17, delete "7." and insert **"6."**.



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Page 3, line 17, delete "or 4".

Page 4, line 5, after "in" insert "**IC 9-21-22-4 and**".

Page 4, line 5, delete "and IC 9-21-22-6," and insert ",".

(Reference is to HB 1242 as printed February 13, 2009.)

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