
SENATE BILL No. 431

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-27-5-1; IC 9-30-6-5; IC 10-20; IC 21-45-3.

Synopsis: Department of toxicology. Creates the department of toxicology as a state agency. (Currently, the department of toxicology is part of Indiana University.) Makes conforming changes. Repeals the law pertaining to the department of toxicology that is part of Indiana University.

Effective: July 1, 2011.

Wyss, Zakas

January 12, 2011, read first time and referred to Committee on Appointments and Claims.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 431



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 9-27-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The state, in recognition of
3 the need for and lack of adequate information regarding the role of
4 alcohol, carbon monoxide, and certain drugs in fatalities occurring as
5 a result of traffic accidents involving motor vehicles, requires specific
6 information pertaining to Indiana. The information, to be of value in
7 the evaluation of the traffic accident rate in Indiana, must be gathered,
8 prepared, and interpreted on the basis of local conditions. It is
9 recognized that the extrapolation of information gathered in other states
10 will not provide accurate information in view of the variables
11 introduced by demographic differences and a multitude of
12 environmental factors that differ from state to state.

13 (b) In recognition of the need for the information described in
14 subsection (a), the director of the state department of toxicology,
15 ~~Indiana University School of Medicine~~, in conjunction with the office
16 of traffic safety, shall conduct a study of the incidence and effect of
17 alcohol, carbon monoxide, and certain drugs in all motor vehicle traffic



1 accidents involving a fatality.

2 SECTION 2. IC 9-30-6-5 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The director of the **state**
4 department of toxicology ~~of the Indiana University school of medicine~~
5 shall adopt rules under IC 4-22-2 concerning the following:

6 (1) Standards and regulations for the:

- 7 (A) selection;
- 8 (B) training; and
- 9 (C) certification;

10 of breath test operators.

11 (2) Standards and regulations for the:

- 12 (A) selection; and
- 13 (B) certification;

14 of breath test equipment and chemicals.

15 (3) The certification of the proper technique for administering a
16 breath test.

17 (b) Certificates issued in accordance with rules adopted under
18 subsection (a) shall be sent to the clerk of the circuit court in each
19 county where the breath test operator, equipment, or chemicals are used
20 to administer breath tests. However, failure to send a certificate does
21 not invalidate any test.

22 (c) Certified copies of certificates issued in accordance with rules
23 adopted under subsection (a):

24 (1) are admissible in a proceeding under this chapter, IC 9-30-5,
25 IC 9-30-9, or IC 9-30-15;

26 (2) constitute prima facie evidence that the equipment or
27 chemical:

28 (A) was inspected and approved by the department of
29 toxicology on the date specified on the certificate copy; and

30 (B) was in proper working condition on the date the breath test
31 was administered if the date of approval is not more than one
32 hundred eighty (180) days before the date of the breath test;

33 (3) constitute prima facie evidence of the approved technique for
34 administering a breath test; and

35 (4) constitute prima facie evidence that the breath test operator
36 was certified by the department of toxicology on the date
37 specified on the certificate.

38 (d) Results of chemical tests that involve an analysis of a person's
39 breath are not admissible in a proceeding under this chapter, IC 9-30-5,
40 IC 9-30-9, or IC 9-30-15 if:

- 41 (1) the test operator;
- 42 (2) the test equipment;

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1 (3) the chemicals used in the test, if any; or
2 (4) the techniques used in the test;
3 have not been approved in accordance with the rules adopted under
4 subsection (a).

5 SECTION 3. IC 10-20 IS ADDED TO THE INDIANA CODE AS
6 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
7 2011]:

8 **ARTICLE 20. STATE DEPARTMENT OF TOXICOLOGY**
9 **Chapter 1. Definitions**

10 **Sec. 1. The definitions in this chapter apply throughout this**
11 **article.**

12 **Sec. 2. "Department" refers to the state department of**
13 **toxicology established by IC 10-20-2-1.**

14 **Sec. 3. "Director" refers to the director of the state department**
15 **of toxicology appointed under IC 10-20-2-2.**

16 **Chapter 2. State Department of Toxicology**

17 **Sec. 1. The state department of toxicology is established as a**
18 **department of state government.**

19 **Sec. 2. The governor shall appoint a director of the department.**
20 **The director has the authority to carry out the responsibilities of**
21 **the department. The director:**

- 22 (1) serves at the governor's pleasure; and
- 23 (2) is entitled to receive compensation in an amount set by the
24 governor.

25 **Sec. 3. The director may appoint employees in the manner**
26 **provided by IC 4-15-2 and fix their compensation, subject to the**
27 **approval of the budget agency under IC 4-12-1-13.**

28 **Sec. 4. (a) The department shall do the following:**

29 (1) **Conduct analyses for poisons, drugs, and alcohols upon**
30 **human tissues and fluids submitted by:**

- 31 (A) **Indiana coroners, prosecuting attorneys, and sheriffs;**
- 32 (B) **authorized officials of the Indiana state police and**
33 **Indiana city police departments; and**
- 34 (C) **officials of hospitals;**

35 **in cases of suspected poisoning or intoxication of human**
36 **beings.**

37 (2) **Report the analytical findings of the department to the**
38 **official requesting the analyses.**

39 (3) **Consult with Indiana coroners and coroner's physicians**
40 **regarding the interpretation of the analytical findings.**

41 (b) **The personnel of the department shall furnish expert**
42 **testimony regarding the department's analytical findings in all**

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1 legal hearings, including criminal prosecutions related to the
2 findings.

3 **Sec. 5. The department has the following duties:**

4 (1) Provide instruction in toxicology to law enforcement
5 officers and certify law enforcement officers as required by
6 the statutes for the administration of breath and other
7 chemical tests.

8 (2) Provide instruction and technical assistance as needed to
9 prosecutors and defense counsel for the proper administration
10 or exclusion of test results into evidence.

11 (3) Provide instruction to judges concerning toxicology and
12 the science of alcohol and drug testing as needed to improve
13 the administration of justice.

14 (4) Provide information to the public concerning chemical
15 testing and the science of toxicology to advance a better
16 understanding of the system of justice in the state.

17 **Sec. 6. The department shall conduct research on the following:**

18 (1) The detection of toxic compounds that may be components
19 of drugs or medicines or may be present in pesticides used for
20 agricultural or other purposes.

21 (2) The treatment of poisoning from toxic substances.

22 **Sec. 7. (a) Department examiners shall make periodic visits to
23 various state, county, city, and hospital laboratories in Indiana:**

24 (1) that are performing analyses for alcohol upon materials
25 from the human body; and

26 (2) whose analytical results may be used in criminal
27 prosecutions.

28 **(b) An examiner shall conduct a visit under this section to:**

29 (1) examine the person conducting the tests concerning the
30 person's competence to reliably perform the analyses; and

31 (2) inspect the apparatus and chemicals employed in making
32 the analyses.

33 **(c) The department shall keep a record of the examiners'
34 findings under this section.**

35 **Sec. 8. (a) After June 30, 2011, a reference in any law, rule,
36 contract, or other document or record to the state department of
37 toxicology established under IC 21-45-3 shall be treated as a
38 reference to the department.**

39 **(b) On July 1, 2011, the property and obligations of the state
40 department of toxicology established under IC 21-45-3 are
41 transferred to the department.**

42 **(c) Money that is in any fund or account administered by the**

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1 state department of toxicology established under IC 21-45-3 on
2 June 30, 2011, shall be transferred to the department.

3 (d) This section expires July 1, 2012.

4 SECTION 4. IC 21-45-3 IS REPEALED [EFFECTIVE JULY 1,
5 2011].

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