

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.

SENATE ENROLLED ACT No. 431

AN ACT to amend the Indiana Code concerning public safety.

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

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

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

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

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shall adopt rules under IC 4-22-2 concerning the following:

(1) Standards and regulations for the:

- (A) selection;
- (B) training; and
- (C) certification;

of breath test operators.

(2) Standards and regulations for the:

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

of breath test equipment and chemicals.

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

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

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

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

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

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

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

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

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

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

(1) the test operator;

(2) the test equipment;

(3) the chemicals used in the test, if any; or

(4) the techniques used in the test;

have not been approved in accordance with the rules adopted under subsection (a).

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

ARTICLE 20. STATE DEPARTMENT OF TOXICOLOGY

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

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

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

Chapter 2. State Department of Toxicology

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

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

- (1) serves at the governor's pleasure;**
- (2) is entitled to receive compensation in an amount set by the governor; and**
- (3) is qualified by education and experience to administer the affairs of the department.**

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

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

- (1) Conduct analyses for poisons, drugs, and alcohols upon human tissues and fluids submitted by:**
 - (A) Indiana coroners, prosecuting attorneys, and sheriffs;**
 - (B) authorized officials of the Indiana state police and Indiana city police departments; and**
 - (C) officials of hospitals;**

in cases of suspected poisoning or intoxication of human beings.

- (2) Report the analytical findings of the department to the official requesting the analyses.**
- (3) Consult with Indiana coroners and coroner's physicians regarding the interpretation of the analytical findings.**

(b) The personnel of the department shall furnish expert testimony regarding the department's analytical findings in all legal hearings, including criminal prosecutions related to the findings.

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Sec. 5. The department has the following duties:

- (1) Provide instruction in toxicology to law enforcement officers and certify law enforcement officers as required by the statutes for the administration of breath and other chemical tests.**
- (2) Provide instruction and technical assistance as needed to prosecutors and defense counsel for the proper:**
 - (A) administration of test results into evidence; or**
 - (B) exclusion of test results from evidence.**
- (3) Provide instruction to judges concerning toxicology and the science of alcohol and drug testing as needed to improve the administration of justice.**
- (4) Provide information to the public concerning chemical testing and the science of toxicology to advance a better understanding of the system of justice in Indiana.**

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

- (1) The detection of toxic compounds that may be components of drugs or medicines or may be present in pesticides used for agricultural or other purposes.**
- (2) The treatment of poisoning from toxic substances.**

Sec. 7. (a) After June 30, 2011, a reference in any law, rule, contract, or other document or record to the state department of toxicology established under IC 21-45-3 shall be treated as a reference to the department.

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

(c) Money that is in any fund or account administered by the state department of toxicology established under IC 21-45-3 on June 30, 2011, shall be transferred to the department.

(d) This section expires July 1, 2012.

SECTION 4. IC 10-20.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 20.1. TOXICOLOGY DEPARTMENT ADVISORY BOARD

Chapter 1. Toxicology Department Advisory Board

Sec. 1. (a) As used in this section, "board" means the toxicology advisory board established by subsection (b).

(b) The toxicology advisory board is established to assist in the transition of the state department of toxicology from the Indiana University School of Medicine to the state department of toxicology

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under IC 10-20. The board shall provide guidance on:

- (1) the transition to the department;
- (2) obtaining accreditation by a nationally recognized organization that sets toxicology standards; and
- (3) recommendations for additional legislation needed regarding the ongoing operations of the department of toxicology.

(c) The board consists of three (3) members appointed by the governor. Each member must have expertise and experience in toxicology. One (1) of the members must be a judge or retired judge who is knowledgeable in the area of toxicology and in training in toxicology issues.

(c) Service on the board does not constitute holding a public office.

(d) Each member of the board is not entitled to the minimum salary per diem provide by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The affirmative votes of a majority of the members are required for the board to take action on any measure, including final report.

(f) The board shall deliver a report to the governor and the legislative council by September 1, 2012. The report to the legislative council must be in an electronic format under IC 5-14-6.

(g) This article expires December 21, 2012.

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

SECTION 6. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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