

Title 7 and Title 9

Chris Daniels
Traffic Safety Resource Prosecutor
chdaniels@ipac.in.gov

Title 7

- Removes most license suspensions for minors and alcohol.
- Behavior not tied to the nexus of driving, except for Minor Transporting.
- Effective July 1st, 2014

Title 7

- Immunity – 7.1-5-1-6.5
 - Law enforcement cannot arrest for an offense solely involving alcohol if any of the following apply:
 - Requested or aided in requesting assistance for someone in a medical emergency
 - Is the victim of a sex offense
 - Witnessed and reported a crime
 - Suspect must also remain at the scene and provide all relevant information to officers
 - Applies to Public Intoxication, Minor Consuming, and Minor in Possession.

Title 7

- 7.1-5-7-1 – Class C Misdemeanor to show a Fake ID to get alcohol, up from infraction.
- 7.1-5-7-9 – Class B Misdemeanor to rent, provide, or arrange a place for minors to consume alcohol, the "social host" law.
- 7.1-5-7-10 – Minor in Tavern moved to a Class C infraction from a C Misdemeanor.
- Many additional statutes have "knowingly or intentionally" inserted.

Title 7

- Repealed:
 - 7.1-5-10-16 – Sale to inmate – Covered by harsher trafficking statutes.
 - 7.1-5-10-18 – Taking Alcohol from a Train
 - 7.1-5-10-19 – Taking Alcohol from a Boat

HEA 1279

- Effective January 1st, 2015
- Includes license suspension provisions from Title 7, making their effective date January 1st, 2015, instead of July 1st, 2014.
- May be adjusted by technical corrections bill.

Highway Work Zone

- New definition of Highway Work Zone
- Removes requirement that work zone be in compliance with INDOT manuals
- (2) notice is posted in accordance with the: (A) Indiana Manual on Uniform Traffic Control Devices; or (B) Indiana Work Site Traffic Control Manual; **indicating that the highway work zone is a specific area designated with signage on the highway.**

Window Tint

- IC 9-19-19-4
- Same protection as seat-belts
- "a vehicle may be stopped to determine compliance with this section. However the vehicle, contents of the vehicle, the driver of a vehicle, or a passenger in a vehicle may not be inspected, searched, or detained solely because of a violation of this section"

Fake I.D./Application

IC 9-24-16-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]:

Sec. 12.5. (a) A person who knowingly sells, offers to sell, buys, produces, forges, counterfeits, or offers a false identification card that could reasonably be mistaken for a valid identification card required by this chapter to be issued by the bureau but that has not been issued by the bureau commits a Class B misdemeanor.

(b) A person who:

(1) knowingly or intentionally uses false information in an application: (A) for an identification card issued under this chapter; or (B) for a renewal, amendment, or replacement of an identification card issued under this chapter; or

(2) knowingly or intentionally makes a false statement or otherwise commits fraud in an application for an identification card issued under this chapter; commits application fraud, a Level 6 felony.

License Suspensions

- Most mandatory suspensions based off of conviction have been removed;
 - Operating While Intoxicated
 - Driving While Suspended/Operator Never Licensed
 - Title 7 suspensions
- Administrative suspensions stay in place;
 - BMV Point Accrual
 - OWI PC Affidavit/Refusal
 - Failure to Appear
 - Child Support

Operating While Intoxicated Suspensions

- Now dictated by 9-30-5-10
 - Any OWI suspension is 0-2 years, regardless of priors.
 - OWI causing SBI or Death is 0-5
- Compare with new Specialized Driving Privilege statute, 9-30-16-2
 - Offense causing SBI or death and involved operation of motor vehicle must be suspended for at least one year.
 - Blakely issues? Compare with vehicle was 'used' for drugs.
 - Possible statutory misconstruction.
- Can still begin after period of incarceration, but notification method still does not exist between the DOC and BMV.

Specialized Driving Privileges

- New section, 9-30-16
- All suspensions other than OWI governed by this statute.
- **(c) Except as specifically provided in this chapter, for any criminal conviction in which the operation of a motor vehicle is an element of the offense, a court may suspend the person's driving privileges for a period up to the maximum allowable period of incarceration under the penalty for the offense.**

Specialized Driving Privileges

- Eliminates Probationary and Hardship licenses.
- Combines both into a single Specialized Driving Privilege.
 - "Privilege" to help deal our Sovereign Citizens.
 - MUCH more flexible than current requirements.
 - Judge controls terms of the SDP
 - Can incorporate new treatment

Specialized Driving Privileges

- Applicable for every suspension except;
 - C.D.L. licenses (though they can surrender the CDL)
 - Suspensions based on Refusal to take a chemical test
 - Person who has no operators license
- SBI has a mandatory one year, but is eligible for a SDP.
- Death is mandatory 2 year, not eligible for an SDP.

Specialized Driving Privileges

- Ineligible if more than one violation of an SDP in past 5 years
- Duties of driver with an SDP;
 - Insurance
 - Carry copy of order with them when driving
 - Produce copy to officer

Statutory Problems

- Still some errors in penalty clause
 - Violation refers to Section 2, which is only SBI and death descriptions
 - No statutory violation for driving in violation of SDP so long as Section 5 refers to the wrong section.
 - 9-30-4-8 – Driving in violation of restricted privilege – Restricted License is defined as any restrictions placed by the BMV, which is done at the order of the court.
- Out of state convictions – Current suspension indicates that the BMV shall suspend for the minimum...which is now zero.

Habitual Traffic Violator

- Changes made to what qualifies as a major offense.
 - Removed DWS/w Prior, ONL
 - Drug statutes
 - "Vehicle is used" changed to "Operation of motor vehicle is an element"
 - Still takes 3 violations to become HTV
- Minor
 - 10 violations, one of which must be a major
 - DWS and ONL count as majors for this determination

Habitual Traffic Violator

- HTVs are eligible for Specialized Driving Privileges.
- If a court finds by clear and convincing evidence that a person is a habitual traffic violator under IC 9-30-10-4, the court:
 - (1) shall order:
 - (A) that the person is a habitual traffic violator; and
 - (B) the bureau to suspend the person's driving license; and
 - (2) may order that the person is eligible for specialized driving privileges under IC 9-30-16.

Habitual Traffic Violator

- HTV Causing Death or SBI goes straight to a Level 5 Felony
- No more lifetime suspension for conviction on a Level 6.
- Lifetime suspension only triggers on death cases.

Habitual Vehicular Substance Offender

- HB1006 eliminates the Habitual Substance Offender.
- HB1279 creates a new Habitual Vehicular Substance Offender statute;
 - Same aggravator of 1-8 years
 - Does not count possession cases
 - Does count C Misdemeanor OWIs
 - Requires 2 priors in 10 years, or 3 priors in any time frame

Habitual Vehicular Substance Offender

- Statutory problems
 - Refers to prior occurrences as opposed to convictions.
 - Wording indicates that the priors must be within 10 years of each other, but make no reference to the current offense – Opposite of legislative intent.
 - Unclear wording on whether current offense, once found guilty, counts as a conviction for purposes of the enhancement.

Ignition Interlock

- Sets up system for certification of interlock vendors and devices
- No mandatory interlocks at this point
- Will be run by the department of toxicology...eventually
- May cause issues for any current interlock programs

Leaving the Scene

- Significant changes to statute
- Combines all the duties into one statute
- Changes some duties regarding property crashes – Allows driver to notify Sheriff if they cannot locate the property owner
- Changes the burden of knowledge to outcome
 - A person's duty is to stop and remain after an accident and provide their information.
 - The driver only must know that they were in an accident, not what they hit for the duty to apply.
 - Penalty depends on result.

Motor Vehicle Fraud

- Eliminates close to 100 motor vehicle statutes involving:
 - Title
 - Odometer
 - Transfer and sale
- Creates Motor Vehicle Fraud statute in Title 35 designed to catch the lie/cheat/steal aspect.
- Many other crimes moved to infractions to target dealerships with heavy fines.

Motor Driven Cycles

- No more mopeds, scooters, or motorized bicycles...they are all motor driven cycles.
- All must be registered and plated
- Divides into two categories;
 - Class A MDCs
 - Require Insurance
 - Require Operators License
 - Class B MDCs
 - 50cc (other requirements removed)
 - No license, no insurance
 - Requires ID

Motor Driven Cycles

- Class B requirements
 - 15 years old
 - ID card with MDC Endorsement
 - No interstates or sidewalks
 - Not faster than 35 mph
- HTV – MDC is an affirmative defense that only applies if driver meets the above requirements.

HB1279 Sentencing

- HB1006
 - Leaves misdemeanor sentences the same
 - Class D Felonies are all Level 6
 - Class C Felonies are all Level 5
 - Class B Felonies are all Level 4
 - Exception – Leaving the Scene After Committing OWI causing Serious Bodily Injury – Level 3

HB1279 Sentencing

- With 50% credit time on misdemeanors, there will be no change in sentences.
 - HB1279 will effect the number and terms of suspensions, resulting in fewer probation revocations based on driving behavior.

- Even with 75% credit time on Level 5 Felonies, all Felony OWI cases will see a decrease in minimum and maximum time.
 - In addition, the new Habitual Vehicular Substance Offender has been narrowed in its applicability.
 - There are no more non-suspendable sentences for OWI causing death.

- 10 day mandatory jail provisions for second and third offenses remain the same.

HB1279 Sentencing

- Changes to the Habitual Traffic Violator Statute will result in fewer offenses.
 - Driving while suspended removed from being one of three necessary 'major' offenses to become HTV.
 - No more lifetime suspensions except in cases causing death.
 - Violators only reach the Level 5 felony range in cases causing serious bodily injury or death.

3. HEA1006 & HB 1006

Sentencing Range Comparison

I.C.35-50-2	Class	Current	Level	New
-3	Murder	45-65 years	Murder	45-65 years
-4	A	20-50 years	1	20-40 years
-4.5			2	10-30 years
-5	B	06-20 years	3	03-16 years
-5.5			4	02-12 years
-6	C	02-08 years	5	01-06 years
-7	D	0.5-03 years	6	0.5-2.5 years

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