

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 248 be amended to read as follows:

- 1 Page 11, after line 29, begin a new paragraph and insert:
2 "SECTION 15. IC 9-13-2-131, AS AMENDED BY P.L.33-1997,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]: Sec. 131. "Prima facie evidence of intoxication"
5 includes evidence that at the time of an alleged violation there was at
6 least ~~ten-hundredths~~ **eight-hundredths** percent (~~0.10%~~) (**0.08%**) of
7 alcohol by weight in grams in:
8 (1) one hundred (100) milliliters of the person's blood; or
9 (2) two hundred ten (210) liters of the person's breath.
10 SECTION 16. IC 9-13-2-151, AS AMENDED BY P.L.33-1997,
11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 1998]: Sec. 151. "Relevant evidence of intoxication" includes
13 evidence that at the time of an alleged violation there was at least
14 five-hundredths percent (0.05%), but less than ~~ten-hundredths~~
15 **eight-hundredths** percent (~~0.10%~~) (**0.08%**) of alcohol by weight in
16 grams in:
17 (1) one hundred (100) milliliters of the person's blood; or
18 (2) two hundred ten (210) liters of the person's breath.
19 SECTION 17. IC 9-24-6-15, AS AMENDED BY P.L.33-1997,
20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 1998]: Sec. 15. A person who operates a commercial motor
22 vehicle with at least four-hundredths percent (0.04%) but less than
23 ~~ten-hundredths~~ **eight-hundredths** percent (~~0.10%~~) (**0.08%**) of alcohol
24 by weight in grams in:
25 (1) one hundred (100) milliliters of the person's blood; or
26 (2) two hundred ten (210) liters of the person's breath;

1 commits a Class C infraction.
2 SECTION 18. IC 9-30-5-1, AS AMENDED BY P.L.33-1997,
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]: Sec. 1. (a) A person who operates a vehicle with at
5 least ~~ten-hundredths~~ **eight-hundredths** percent (~~0.10%~~) (**0.08%**) of
6 alcohol by weight in grams in:
7 (1) one hundred (100) milliliters of the person's blood; or
8 (2) two hundred ten (210) liters of the person's breath;
9 commits a Class C misdemeanor.
10 (b) A person who operates a vehicle with a controlled substance
11 listed in schedule I or II of IC 35-48-2 or its metabolite in the person's
12 body commits a Class C misdemeanor.
13 (c) It is a defense to subsection (b) that the accused person
14 consumed the controlled substance under a valid prescription or order
15 of a practitioner (as defined in IC 35-48-1) who acted in the course of
16 the practitioner's professional practice.
17 SECTION 19. IC 9-30-5-4, AS AMENDED BY P.L.33-1997,
18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 1998]: Sec. 4. (a) A person who causes serious bodily injury
20 to another person when operating a motor vehicle:
21 (1) with at least ~~ten-hundredths~~ **eight-hundredths** percent
22 (~~0.10%~~) (**0.08%**) of alcohol by weight in grams in:
23 (A) one hundred (100) milliliters of the person's blood; or
24 (B) two hundred ten (210) liters of the person's breath;
25 (2) with a controlled substance listed in schedule I or II of
26 IC 35-48-2 or its metabolite in the person's body; or
27 (3) while intoxicated;
28 commits a Class D felony. However, the offense is a Class C felony if,
29 within the five (5) years preceding the commission of the offense, the
30 person had a prior unrelated conviction under this chapter.
31 (b) A person who violates subsection (a) commits a separate
32 offense for each person whose serious bodily injury is caused by the
33 violation of subsection (a).
34 (c) It is a defense under subsection (a)(2) that the accused person
35 consumed the controlled substance under a valid prescription or order
36 of a practitioner (as defined in IC 35-48-1) who acted in the course of
37 the practitioner's professional practice.
38 SECTION 20. IC 9-30-5-5, AS AMENDED BY P.L.33-1997,
39 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 1998]: Sec. 5. (a) A person who causes the death of another
41 person when operating a motor vehicle:
42 (1) with at least ~~ten-hundredths~~ **eight-hundredths** percent
43 (~~0.10%~~) (**0.08%**) of alcohol by weight in grams in:
44 (A) one hundred (100) milliliters of the person's blood; or
45 (B) two hundred ten (210) liters of the person's breath;
46 (2) with a controlled substance listed in schedule I or II of
47 IC 35-48-2 or its metabolite in the person's blood; or
48 (3) while intoxicated;
49 commits a Class C felony. However, the offense is a Class B felony if,
50 within the five (5) years preceding the commission of the offense, the
51 person had a prior unrelated conviction under this chapter.

1 (b) A person who violates subsection (a) commits a separate
 2 offense for each person whose death is caused by the violation of
 3 subsection (a).

4 (c) It is a defense under subsection (a)(2) that the accused person
 5 consumed the controlled substance under a valid prescription or order
 6 of a practitioner (as defined in IC 35-48-1) who acted in the course of
 7 the practitioner's professional practice.

8 SECTION 21. IC 9-30-5-8.5, AS AMENDED BY P.L.33-1997,
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 1998]: Sec. 8.5. (a) A person who:

11 (1) is less than twenty-one (21) years of age; and

12 (2) operates a vehicle with at least two-hundredths percent
 13 (0.02%) but less than ~~ten-hundredths~~ **eight-hundredths** percent
 14 (~~0.10%~~) (**0.08%**) of alcohol by weight in grams in:

15 (A) one hundred (100) milliliters of the person's blood; or

16 (B) two hundred ten (210) liters of the person's breath;

17 commits a Class C infraction.

18 (b) In addition to the penalty imposed under this section, the court
 19 may recommend the suspension of the driving privileges of the
 20 operator of the vehicle for not more than one (1) year.

21 SECTION 22. IC 9-30-6-15, AS AMENDED BY P.L.33-1997,
 22 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 1998]: Sec. 15. (a) At any proceeding concerning an offense
 24 under IC 9-30-5 or a violation under IC 9-30-15, evidence of the
 25 amount by weight of alcohol that was in the blood of the person
 26 charged with the offense:

27 (1) at the time of the alleged violation; or

28 (2) within the time allowed for testing under section 2 of this
 29 chapter;

30 as shown by an analysis of the person's breath, blood, urine, or other
 31 bodily substance is admissible.

32 (b) If, in a prosecution for an offense under IC 9-30-5, evidence
 33 establishes that:

34 (1) a chemical test was performed on a test sample taken from
 35 the person charged with the offense within the period of time
 36 allowed for testing under section 2 of this chapter; and

37 (2) the person charged with the offense had at least
 38 ~~ten-hundredths~~ **eight-hundredths** percent (~~0.10%~~) (**0.08%**) of
 39 alcohol by weight in grams in:

40 (A) one hundred (100) milliliters of the person's blood at the
 41 time the test sample was taken; or

42 (B) two hundred ten (210) liters of the person's breath;

43 the trier of fact shall presume that the person charged with the offense
 44 had at least ~~ten-hundredths~~ **eight-hundredths** percent (~~0.10%~~)
 45 (**0.08%**) of alcohol by weight in grams in one hundred (100) milliliters
 46 of the person's blood or in two hundred ten (210) liters of the person's
 47 breath at the time the person operated the vehicle. However, this
 48 presumption is rebuttable.

49 (c) If evidence in an action for a violation under IC 9-30-5-8.5

- 1 establishes that:
- 2 (1) a chemical test was performed on a test sample taken from
- 3 the person charged with the violation within the time allowed for
- 4 testing under section 2 of this chapter; and
- 5 (2) the person charged with the violation:
- 6 (A) was less than twenty-one (21) years of age at the time
- 7 of the alleged violation; and
- 8 (B) had at least two-hundredths percent (0.02%) of alcohol
- 9 by weight in grams in:
- 10 (i) one hundred (100) milliliters of the person's blood;
- 11 or
- 12 (ii) two hundred ten (210) liters of the person's breath;
- 13 at the time the test sample was taken;
- 14 the trier of fact shall presume that the person charged with the violation
- 15 had at least two-hundredths percent (0.02%) of alcohol by weight in
- 16 grams in one hundred (100) milliliters of the person's blood or in two
- 17 hundred ten (210) liters of the person's breath at the time the person
- 18 operated the vehicle. However, the presumption is rebuttable.
- 19 (d) If, in an action for a violation under IC 9-30-15, evidence
- 20 establishes that:
- 21 (1) a chemical test was performed on a test sample taken from
- 22 the person charged with the offense within the time allowed for
- 23 testing under section 2 of this chapter; and
- 24 (2) the person charged with the offense had at least
- 25 four-hundredths percent (0.04%) of alcohol by weight in grams
- 26 in:
- 27 (A) one hundred (100) milliliters of the person's blood; or
- 28 (B) two hundred ten (210) liters of the person's breath;
- 29 at the time the test sample was taken;
- 30 the trier of fact shall presume that the person charged with the offense
- 31 had at least four-hundredths percent (0.04%) of alcohol by weight in
- 32 grams in one hundred (100) milliliters of the person's blood or in two
- 33 hundred ten (210) liters of the person's breath at the time the person
- 34 operated the vehicle. However, this presumption is rebuttable.
- 35 SECTION 23. IC 9-30-10-4, AS AMENDED BY P.L.33-1997,
- 36 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 1998]: Sec. 4. (a) A person who has accumulated at least two
- 38 (2) judgments within a ten (10) year period for any of the following
- 39 violations, singularly or in combination, not arising out of the same
- 40 incident, and with at least one (1) violation occurring after March 31,
- 41 1984, is a habitual violator:
- 42 (1) Reckless homicide resulting from the operation of a motor
- 43 vehicle.
- 44 (2) Voluntary or involuntary manslaughter resulting from the
- 45 operation of a motor vehicle.
- 46 (3) Failure of the driver of a motor vehicle involved in an
- 47 accident resulting in death or injury to any person to stop at the
- 48 scene of the accident and give the required information and
- 49 assistance.
- 50 (4) Operation of a vehicle while intoxicated resulting in death.

- 1 (5) Before July 1, 1997, operation of a vehicle with at least
 2 ten-hundredths percent (0.10%) alcohol in the blood resulting in
 3 death.
- 4 (6) After June 30, 1997, **and before July 1, 1998**, operation of
 5 a vehicle with at least ten-hundredths percent (0.10%) of alcohol
 6 by weight in grams in:
 7 (A) one hundred (100) milliliters of the blood; or
 8 (B) two hundred ten (210) liters of the breath;
 9 resulting in death.
- 10 **(7) After June 30, 1998, operation of a vehicle with at least**
 11 **eight-hundredths percent (0.08%) of alcohol by weight in**
 12 **grams in:**
 13 **(A) one hundred (100) milliliters of the blood; or**
 14 **(B) two hundred ten (210) liters of the breath;**
 15 **resulting in death.**
- 16 (b) A person who has accumulated at least three (3) judgments
 17 within a ten (10) year period for any of the following violations,
 18 singularly or in combination, not arising out of the same incident, and
 19 with at least one (1) violation occurring after March 31, 1984, is a
 20 habitual violator:
 21 (1) Operation of a vehicle while intoxicated.
 22 (2) Before July 1, 1997, operation of a vehicle with at least
 23 ten-hundredths percent (0.10%) alcohol in the blood.
 24 (3) After June 30, 1997, **and before July 1, 1998**, operation of
 25 a vehicle with at least ten-hundredths percent (0.10%) of alcohol
 26 by weight in grams in:
 27 (A) one hundred (100) milliliters of the blood; or
 28 (B) two hundred ten (210) liters of the breath.
 29 **(4) After June 30, 1998, operation of a vehicle with at least**
 30 **eight-hundredths percent (0.08%) of alcohol by weight in**
 31 **grams in:**
 32 **(A) one hundred (100) milliliters of the blood; or**
 33 **(B) two hundred ten (210) liters of the breath.**
- 34 ~~(4)~~ **(5)** Operating a motor vehicle while the person's license to do
 35 so has been suspended or revoked as a result of the person's
 36 conviction of an offense under IC 9-1-4-52 (repealed July 1,
 37 1991) or IC 9-24-18-5(b).
- 38 ~~(5)~~ **(6)** Operating a motor vehicle without ever having obtained
 39 a license to do so.
- 40 ~~(6)~~ **(7)** Reckless driving.
- 41 ~~(7)~~ **(8)** Criminal recklessness involving the operation of a motor
 42 vehicle.
- 43 ~~(8)~~ **(9)** Drag racing or engaging in a speed contest in violation of
 44 law.
- 45 ~~(9)~~ **(10)** Violating IC 9-4-1-40 (repealed July 1, 1991),
 46 IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1),
 47 IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2),
 48 IC 9-26-1-3, or IC 9-26-1-4.
- 49 ~~(10)~~ **(11)** Any felony under an Indiana motor vehicle statute or
 50 any felony in the commission of which a motor vehicle is used.

1 A judgment for a violation enumerated in subsection (a) shall be added
 2 to the violations described in this subsection for the purposes of this
 3 subsection.

4 (c) A person who has accumulated at least ten (10) judgments
 5 within a ten (10) year period for any traffic violation, except a parking
 6 or an equipment violation, of the type required to be reported to the
 7 bureau, singularly or in combination, not arising out of the same
 8 incident, and with at least one (1) violation occurring after March 31,
 9 1984, is a habitual violator. However, at least one (1) of the judgments
 10 must be for a violation enumerated in subsection (a) or (b). A judgment
 11 for a violation enumerated in subsection (a) or (b) shall be added to the
 12 judgments described in this subsection for the purposes of this
 13 subsection.

14 SECTION 24. IC 9-30-10-9, AS AMENDED BY P.L.33-1997,
 15 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 1998]: Sec. 9. (a) If a court finds that a person:

- 17 (1) is a habitual violator under section 4(c) of this chapter;
 18 (2) has not been previously placed on probation under this
 19 section by a court;
 20 (3) operates a vehicle for commercial or business purposes, and
 21 the person's mileage for commercial or business purposes:
 22 (A) is substantially in excess of the mileage of an average
 23 driver; and
 24 (B) may have been a factor that contributed to the person's
 25 poor driving record; and
 26 (4) does not have:
 27 (A) a judgment for a violation enumerated in section 4(a) of
 28 this chapter; or
 29 (B) at least three (3) judgments (singularly or in
 30 combination and not arising out of the same incident) of the
 31 violations enumerated in section 4(b) of this chapter;

32 the court may place the person on probation in accordance with
 33 subsection (c).

34 (b) If a court finds that a person:

- 35 (1) is a habitual violator under section 4(b) of this chapter;
 36 (2) has not been previously placed on probation under this
 37 section by a court;
 38 (3) does not have a judgment for any violation listed in section
 39 4(a) of this chapter;
 40 (4) has had the person's driving privileges suspended under this
 41 chapter for at least five (5) consecutive years; and
 42 (5) has not violated the terms of the person's suspension by
 43 operating a vehicle;

44 the court may place the person on probation in accordance with
 45 subsection (c). However, if the person has any judgments for **the**
 46 operation of a vehicle **before July 1, 1998**, while intoxicated or with
 47 at least ten-hundredths percent (0.10%) alcohol by weight in grams in
 48 one hundred (100) milliliters of the blood, or two hundred ten (210)
 49 liters of the breath, **or for the operation of a vehicle after June 30,**

1 **1998, while intoxicated or with at least eight-hundredths percent**
2 **(0.08%) alcohol by weight in grams in one hundred (100) milliliters**
3 **of the blood or two hundred ten (210) liters of the breath,** the court,
4 before the court places a person on probation under subsection (c),
5 must find that the person has successfully fulfilled the requirements of
6 a rehabilitation program certified by the division of mental health.

7 (c) Whenever a court places a habitual violator on probation, the
8 court:

9 (1) shall record each of the court's findings under this section in
10 writing;

11 (2) shall obtain the person's driver's license or permit and send
12 the license or permit to the bureau;

13 (3) shall direct the person to apply to the bureau for a restricted
14 driver's license;

15 (4) shall order the bureau to issue the person an appropriate
16 license;

17 (5) shall place the person on probation for a fixed period of not
18 less than three (3) years and not more than ten (10) years;

19 (6) shall attach restrictions to the person's driving privileges,
20 including restrictions limiting the person's driving to:

21 (A) commercial or business purposes or other employment
22 related driving;

23 (B) specific purposes in exceptional circumstances; and

24 (C) rehabilitation programs;

25 (7) shall order the person to file proof of financial responsibility
26 for three (3) years following the date of being placed on
27 probation; and

28 (8) may impose other appropriate conditions of probation.

29 (d) If a court finds that a person:

30 (1) is a habitual violator under section 4(b) or 4(c) of this
31 chapter;

32 (2) does not have any judgments for violations under section 4(a)
33 of this chapter;

34 (3) does not have any judgments or convictions for violations
35 under section 4(b) of this chapter, except for judgments or
36 convictions under section 4(b)(3) of this chapter that resulted
37 from driving on a suspended license that was suspended for:

- 1 (A) the commission of infractions only; or
 2 (B) previously driving on a suspended license;
 3 (4) has not been previously placed on probation under this
 4 section by a court; and
 5 (5) has had the person's driving privileges suspended under this
 6 chapter for at least three (3) consecutive years and has not
 7 violated the terms of the person's suspension by operating a
 8 vehicle for at least three (3) consecutive years;
 9 the court may place the person on probation under subsection (c).

10 SECTION 25. IC 14-15-8-5, AS AMENDED BY P.L.33-1997,
 11 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 1998]: Sec. 5. As used in this chapter, "prima facie evidence
 13 of intoxication" includes evidence that at the time of an alleged
 14 violation there was at least ~~ten-hundredths~~ **eight-hundredths** percent
 15 ~~(0.10%)~~ **(0.08%)** of alcohol by weight in grams in:

- 16 (1) one hundred (100) milliliters of the person's blood; or
 17 (2) two hundred ten (210) liters of the person's breath.

18 SECTION 26. IC 14-15-8-6, AS AMENDED BY P.L.33-1997,
 19 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 1998]: Sec. 6. As used in this chapter, "relevant evidence"
 21 includes evidence that at the time of the alleged violation there was:

- 22 (1) at least five-hundredths percent (0.05%); and
 23 (2) less than ~~ten-hundredths~~ **eight-hundredths** percent ~~(0.10%)~~;
 24 **(0.08%)**;

25 of alcohol by weight in grams in

- 26 ~~(1)~~ one hundred (100) milliliters of the person's blood or
 27 ~~(2)~~ two hundred ten (210) liters of the person's breath.

28 SECTION 27. IC 14-15-8-8, AS AMENDED BY P.L.33-1997,
 29 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 1998]: Sec. 8. (a) Except as provided in subsections (b) and
 31 (c), a person who operates a motorboat:

- 32 (1) with at least ~~ten-hundredths~~ **eight-hundredths** percent
 33 ~~(0.10%)~~ **(0.08%)** of alcohol by weight in grams in:

- 34 (A) one hundred (100) milliliters of the person's blood; or
 35 (B) two hundred ten (210) liters of the person's breath; or
 36 (2) while intoxicated;

37 commits a Class C misdemeanor.

38 (b) The offense is a Class D felony if:

- 39 (1) the person has a previous conviction under:

- 40 (A) IC 14-1-5 (repealed); or
 41 (B) this chapter; or

42 (2) the offense results in serious bodily injury to another person.

43 (c) The offense is a Class C felony if the offense results in the
 44 death of another person.

45 SECTION 28. IC 35-33-1-6, AS AMENDED BY P.L.33-1997,
 46 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 47 JULY 1, 1998]: Sec. 6. A law enforcement agency may use the
 48 following chart to determine the minimum number of hours that a
 49 person arrested for an alcohol-related offense should be detained before

1 his release pending trial:

2 PERCENTAGE

3 BLOOD OR HOURS AFTER INITIAL READING

4 BREATH IS TAKEN

5 ALCOHOL

6 LEVEL	1	2	3	4	5	6	7	8	9	10	11	12	13	14
7 .09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00	.000	.00
8 .10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00	.000	.00
9 .11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00	.000	.00
10 .12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00
11 .13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00
12 .14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00
13 .15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00
14 .16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00
15 .17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00
16 .18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00
17 .19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00
18 .20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00
19 .21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00
20 .22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01
21 .23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02
22 .24	.225	.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03
23 .25	.235	.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04
24 .26	.245	.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05

25 Note: In order to find when a person will reach the legal blood or
 26 breath alcohol level, find the blood or breath alcohol level reading in
 27 the left hand column, go across and find where the blood or breath
 28 alcohol level reading is below ~~10%~~, **eight-hundredths percent**
 29 **(0.08%)**, then read up that column to find the minimum number of
 30 hours before the person can be released."

(Reference is to ESB248 as printed February 16, 1998.)

Representative TURNER