

SENATE BILL No. 525

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-6-8; IC 9-30.

Synopsis: Operating while intoxicated and open containers. Makes it: (1) a Class C misdemeanor for a person to operate a vehicle with at least 0.10% by weight of alcohol in the person's blood or breath but less than 0.15% by weight of alcohol in the person's blood or breath; (2) a Class B misdemeanor for a person to operate a vehicle with at least 0.15% by weight of alcohol in the person's blood or breath but less than 0.20% by weight of alcohol in the person's blood or breath; and (3) a Class A misdemeanor for a person to operate a vehicle with at least 0.20% by weight of alcohol in the person's blood or breath. Requires a court to order a person who has been convicted of operating a vehicle while intoxicated: (1) to be imprisoned for at least five days or to
(Continued next page)

Effective: July 1, 1999.

Simpson

January 19, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Digest Continued

perform at least 30 days of community service if the person has one previous conviction of operating a vehicle while intoxicated; and (2) to be imprisoned for at least ten days or to perform at least 60 days of community service if the person has at least two previous convictions of operating a vehicle while intoxicated. Makes it a Class B infraction for the operator of a motor vehicle to, while the motor vehicle is in operation, knowingly allow an alcoholic beverage container that has been opened, that has a broken seal, or from which some of the contents have been removed to be in the passenger compartment of the motor vehicle.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 525



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 9-24-6-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 8. The following, if committed
3 while driving a commercial motor vehicle, are disqualifying offenses:
4 (1) Operating a vehicle while under the influence of alcohol in
5 violation of IC 9-30-5-1(a), **IC 9-30-5-1(b)**, **IC 9-30-5-1(c)**, or
6 section 15 of this chapter.
7 (2) Operating a vehicle while under the influence of a controlled
8 substance in violation of ~~IC 9-30-5-1(b)~~ **IC 9-30-5-1(d)**.
9 (3) Leaving the scene of an accident involving the driver's
10 commercial motor vehicle in violation of IC 9-26-1.
11 (4) Conviction of a felony involving the use of a commercial
12 motor vehicle other than a felony described in subdivision (5).
13 (5) Use of a commercial motor vehicle in the commission of a
14 felony under IC 35-48 involving manufacturing, distributing, or
15 dispensing of a controlled substance.



1 (6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving
2 operating a vehicle while intoxicated.

3 (7) Refusing to undergo testing for the enforcement of
4 IC 9-30-5-1 or section 15 of this chapter.

5 SECTION 2. IC 9-30-5-1 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A person who operates a
7 vehicle with at least ten-hundredths percent (0.10%) of alcohol by
8 weight in grams **but less than fifteen-hundredths percent (0.15%)**
9 **of alcohol by weight in grams in:**

10 (1) one hundred (100) milliliters of the person's blood; or

11 (2) two hundred ten (210) liters of the person's breath;

12 commits a Class C misdemeanor.

13 (b) **A person who operates a vehicle with at least**
14 **fifteen-hundredths percent (0.15%) of alcohol by weight in grams**
15 **but less than twenty-hundredths percent (0.20%) of alcohol by**
16 **weight in 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 **commits a Class B misdemeanor.**

20 (c) **A person who operates a vehicle with at least**
21 **twenty-hundredths percent (0.20%) of alcohol by weight in grams**
22 **in:**

23 (1) **one hundred (100) milliliters of the person's blood; or**

24 (2) **two hundred ten (210) liters of the person's breath;**

25 **commits a Class A misdemeanor.**

26 ~~(b)~~ (d) A person who operates a vehicle with a controlled substance
27 listed in schedule I or II of IC 35-48-2 or its metabolite in the person's
28 body commits a Class C misdemeanor.

29 ~~(c)~~ (e) It is a defense to subsection ~~(b)~~ (d) that the accused person
30 consumed the controlled substance under a valid prescription or order
31 of a practitioner (as defined in IC 35-48-1) who acted in the course of
32 the practitioner's professional practice.

33 SECTION 3. IC 9-30-5-15 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) In addition to
35 any criminal penalty imposed for an offense under this chapter, the
36 court shall:

37 (1) order that the person be imprisoned for **at least** five (5) days;
38 or

39 (2) order the person to perform at least ~~eighty (80) hours~~ **thirty**
40 **(30) days** of community service;

41 if ~~(1)~~ the person has a **one (1)** previous conviction of operating while
42 intoxicated. ~~and~~



1 ~~(2)~~ the previous conviction of operating while intoxicated
 2 occurred within the five ~~(5)~~ years immediately preceding the
 3 occurrence of the offense for which the five ~~(5)~~ day mandatory
 4 sentence is imposed.

5 **(b) In addition to any criminal penalty imposed for an offense**
 6 **under this chapter, the court shall:**

7 **(1) order that the person be imprisoned for at least ten (10)**
 8 **days; or**

9 **(2) order the person to perform at least sixty (60) days of**
 10 **community service;**

11 **if the person has at least two (2) previous convictions of operating**
 12 **while intoxicated.**

13 ~~(b)~~ **(c)** Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a five ~~(5)~~
 14 ~~day~~ sentence **imposed** under this section may not be suspended. The
 15 court may require that the person serve the five ~~(5)~~ day term of
 16 imprisonment in an appropriate facility at whatever time or intervals
 17 (consecutive or intermittent) determined appropriate by the court.
 18 However:

19 (1) at least forty-eight (48) hours of the sentence must be served
 20 consecutively; and

21 (2) the entire five ~~(5)~~ day sentence must be served within six (6)
 22 months after the date of sentencing.

23 ~~(c)~~ **(d)** Notwithstanding IC 35-50-6, a person does not earn credit
 24 time while serving a five ~~(5)~~ day sentence **imposed** under this section.

25 SECTION 4. IC 9-30-15-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The operator of a
 27 motor vehicle ~~who has at least four-hundredths percent (0.04%) of~~
 28 ~~alcohol by weight in grams in one hundred milliliters of the blood; or~~
 29 ~~two hundred ten (210) liters of the breath; and who, while the motor~~
 30 ~~vehicle is in operation, knowingly allows a container:~~

31 (1) that has been opened;

32 (2) that has a broken seal; or

33 (3) from which some of the contents have been removed;

34 to be in the passenger compartment of the motor vehicle commits a
 35 Class B infraction. If a person is found to have a previous unrelated
 36 judgment under this section or a previous unrelated conviction or
 37 judgment under IC 9-30-5 within twelve (12) months before a violation
 38 that results in a judgment under this chapter, the court may recommend
 39 the person's driving privileges be suspended for not more than one (1)
 40 year.



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