

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 9-13-2-77.3 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 1999]: **Sec. 77.3. "Impoundment or**
6 **immobilization", for purposes of IC 9-30-5-16.5, means the**
7 **removal of a motor vehicle or the rendering inoperable of a motor**
8 **vehicle."**

9 Page 2, between lines 4 and 5, begin a new paragraph and insert:

10 "SECTION 3. IC 9-30-4-6 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Whenever the
12 bureau suspends or revokes the current driver's license upon receiving
13 a record of the conviction of a person for any offense under the motor
14 vehicle laws not enumerated under subsection (b), the bureau may also
15 suspend any of the certificates of registration and license plates issued
16 for any motor vehicle registered in the name of the person so convicted.
17 However, the bureau may not suspend the evidence of registration,
18 unless otherwise required by law, if the person has given or gives and
19 maintains during the three (3) years following the date of suspension
20 or revocation proof of financial responsibility in the future in the

1 manner specified in this section.

2 (b) The bureau shall suspend or revoke without notice or hearing the
3 current driver's license and all certificates of registration and license
4 plates issued or registered in the name of a person who is convicted of
5 any of the following:

6 (1) Manslaughter or reckless homicide resulting from the
7 operation of a motor vehicle.

8 (2) Perjury or knowingly making a false affidavit to the
9 department under this chapter or any other law requiring the
10 registration of motor vehicles or regulating motor vehicle
11 operation upon the highways.

12 (3) A felony under Indiana motor vehicle laws or felony in the
13 commission of which a motor vehicle is used.

14 (4) Three (3) charges of criminal recklessness involving the use
15 of a motor vehicle within the preceding twelve (12) months.

16 (5) Failure to stop and give information or assistance or failure to
17 stop and disclose the person's identity at the scene of an accident
18 that has resulted in death, personal injury, or property damage in
19 excess of two hundred dollars (\$200).

20 (6) Possession, distribution, manufacture, cultivation, transfer,
21 use, or sale of a controlled substance or counterfeit substance, or
22 attempting or conspiring to possess, distribute, manufacture,
23 cultivate, transfer, use, or sell a controlled substance or
24 counterfeit substance.

25 **(c) The bureau shall revoke or suspend any certification of**
26 **registration and license plate in the name of a person who has at**
27 **least two (2) convictions of operating a motor vehicle while**
28 **intoxicated under IC 9-30-5 within a five (5) year period if the**
29 **court orders the suspension or revocation under IC 9-30-5-16.5.**
30 **The court shall set the time that any suspension under this**
31 **subsection must remain in effect.**

32 ~~(e)~~ (d) The license of a person shall also be suspended upon
33 conviction in another jurisdiction for any offense described in
34 subsections (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property
35 damage is less than two hundred dollars (\$200), the bureau may
36 determine whether the driver's license and certificates of registration
37 and license plates shall be suspended or revoked. The license of a
38 person shall also be suspended upon conviction in another jurisdiction

1 for any offense described in subsection (b)(6).

2 ~~(d)~~ (e) A suspension or revocation remains in effect and a new or
3 renewal license may not be issued to the person and a motor vehicle
4 may not be registered in the name of the person as follows:

5 (1) Except as provided in subdivisions (2) and (3), for six (6)
6 months from the date of conviction or on the date on which the
7 person is otherwise eligible for a license, whichever is later.
8 Except as provided in IC 35-48-4-15, this includes a person
9 convicted of a crime for which the person's license is suspended
10 or revoked under subsection (b)(6).

11 (2) Upon conviction of an offense described in subsection (b)(1),
12 for a fixed period of not less than two (2) years and not more than
13 five (5) years, to be fixed by the bureau based upon
14 recommendation of the court entering a conviction. A new or
15 reinstated license may not be issued to the person unless that
16 person, within the three (3) years following the expiration of the
17 suspension or revocation, gives and maintains in force at all times
18 during the effective period of a new or reinstated license proof of
19 financial responsibility in the future in the manner specified in
20 this chapter. However, the liability of the insurance carrier under
21 a motor vehicle liability policy that is furnished for proof of
22 financial responsibility in the future as set out in this chapter
23 becomes absolute whenever loss or damage covered by the policy
24 occurs, and the satisfaction by the insured of a final judgment for
25 loss or damage is not a condition precedent to the right or
26 obligation of the carrier to make payment on account of loss or
27 damage, but the insurance carrier has the right to settle a claim
28 covered by the policy. If the settlement is made in good faith, the
29 amount shall be deductive from the limits of liability specified in
30 the policy. A policy may not be canceled or annulled with respect
31 to a loss or damage by an agreement between the carrier and the
32 insured after the insured has become responsible for the loss or
33 damage, and a cancellation or annulment is void. The policy may
34 provide that the insured or any other person covered by the policy
35 shall reimburse the insurance carrier for payment made on
36 account of any loss or damage claim or suit involving a breach of
37 the terms, provisions, or conditions of the policy. If the policy
38 provides for limits in excess of the limits specified in this chapter,

1 the insurance carrier may plead against any plaintiff, with respect
 2 to the amount of the excess limits of liability, any defenses that
 3 the carrier may be entitled to plead against the insured. The policy
 4 may further provide for prorating of the insurance with other
 5 applicable valid and collectible insurance. An action does not lie
 6 against the insurance carrier by or on behalf of any claimant under
 7 the policy until a final judgment has been obtained after actual
 8 trial by or on behalf of any claimant under the policy.

9 (3) For the period ordered by a court under IC 35-48-4-15.

10 **(4) For the period ordered by a court under subsection (c).**

11 ~~(e)~~ (f) The bureau may take action as required in this section upon
 12 receiving satisfactory evidence of a conviction of a person in another
 13 state.

14 ~~(f)~~ (g) For the purpose of this chapter, "conviction" includes any of
 15 the following:

16 (1) A conviction upon a plea of guilty.

17 (2) A determination of guilt by a jury or court, even if:

18 (A) no sentence is imposed; or

19 (B) a sentence is suspended.

20 (3) A forfeiture of bail, bond, or collateral deposited to secure the
 21 defendant's appearance for trial, unless the forfeiture is vacated.

22 (4) A payment of money as a penalty or as costs in accordance
 23 with an agreement between a moving traffic violator and a traffic
 24 violations bureau.

25 ~~(g)~~ (h) A suspension or revocation under this section or under
 26 IC 9-25-6-8 stands pending appeal of the conviction to a higher court
 27 and may be set aside or modified only upon the receipt by the bureau
 28 of the certificate of the court reversing or modifying the judgment that
 29 the cause has been reversed or modified. However, if the suspension or
 30 revocation follows a conviction in a court of no record in Indiana, the
 31 suspension or revocation is stayed pending appeal of the conviction to
 32 a court of record.

33 ~~(h)~~ (i) A person aggrieved by an order or act of the bureau under this
 34 section or IC 9-25-6-8 may file a petition for a court review."

35 Page 2, line 8, delete "but less than fifteen-hundredths percent
 36 (0.15%)".

37 Page 2, line 9, delete "of alcohol by weight in grams".

38 Page 2, delete line 15.

- 1 Page 2, line 16, delete "weight in grams".
- 2 Page 2, line 19, delete "Class B" and insert "**Class A**".
- 3 Page 2, delete lines 20 through 25.
- 4 Page 2, line 26, delete "(d)" and insert "(c)".
- 5 Page 2, line 29, delete "(e)" and insert "(d)".
- 6 Page 2, line 29, delete "(d)" and insert "(c)".
- 7 Page 2, delete lines 33 through 42.
- 8 Page 3, delete lines 1 through 24, begin a new paragraph and insert:
- 9 "SECTION 5. IC 9-30-5-15 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) In addition to
- 11 any criminal penalty imposed for an offense under this chapter, the
- 12 court shall:
- 13 (1) order:
- 14 (A) that the person be imprisoned for **at least** five (5) days; or
- 15 ~~order~~
- 16 (B) the person to perform at least ~~eighty (80) hours~~ **thirty (30)**
- 17 **days** of community service; **and**
- 18 (2) **order the person to successfully complete an alcohol or a**
- 19 **drug abuse deterrent program approved by the court;**
- 20 if ~~(†)~~ the person has a **one (1)** previous conviction of operating while
- 21 intoxicated. ~~and~~
- 22 ~~(2) the previous conviction of operating while intoxicated~~
- 23 ~~occurred within the five (5) years immediately preceding the~~
- 24 ~~occurrence of the offense for which the five (5) day mandatory~~
- 25 ~~sentence is imposed.~~
- 26 (b) **In addition to any criminal penalty imposed for an offense**
- 27 **under this chapter, the court shall:**
- 28 (1) order:
- 29 (A) **that the person be imprisoned for at least ten (10) days;**
- 30 **or**
- 31 (B) **the person to perform at least sixty (60) days of**
- 32 **community service; and**
- 33 (2) **order the person to successfully complete an alcohol or a**
- 34 **drug abuse deterrent program;**
- 35 **if the person has at least two (2) previous convictions of operating**
- 36 **while intoxicated.**
- 37 ~~(b)~~ (c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a ~~five (5)~~
- 38 ~~day~~ sentence **imposed** under this section may not be suspended. The

1 court may require that the person serve the ~~five (5) day~~ term of
 2 imprisonment in an appropriate facility at whatever time or intervals
 3 (consecutive or intermittent) determined appropriate by the court.

4 However:

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

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

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

11 SECTION 6. IC 9-30-5-16 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Except as
 13 provided in subsection (b) **and section 16.5 of this chapter**, the court
 14 may, in granting probationary driving privileges under this chapter,
 15 also order that the probationary driving privileges include the
 16 requirement that a person may not operate a motor vehicle unless the
 17 vehicle is equipped with a functioning certified ignition interlock
 18 device under IC 9-30-8.

19 (b) A court may not order the installation of an ignition interlock
 20 device on a vehicle operated by an employee to whom any of the
 21 following apply:

22 (1) Has been convicted of violating IC 9-30-5-1 or IC 9-30-5-2.

23 (2) Is employed as the operator of a vehicle owned, leased, or
 24 provided by the employee's employer.

25 (3) Is subject to a labor agreement that prohibits an employee who
 26 is convicted of an alcohol related offense from operating the
 27 employer's vehicle.

28 SECTION 7. IC 9-30-5-16.5 IS ADDED TO THE INDIANA CODE
 29 AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 1999]: **Sec. 16.5. (a) This section applies if:**

31 **(1) a person has at least two (2) convictions of operating while**
 32 **intoxicated; and**

33 **(2) the person's driving privileges have been suspended for at**
 34 **least one (1) year following the person's most recent**
 35 **conviction of operating while intoxicated.**

36 **(b) The court shall order:**

37 **(1) that the person may not operate a motor vehicle after the**
 38 **person's driving privileges have been reinstated unless the**

1 **motor vehicle is equipped with a functioning certified ignition**
 2 **interlock device under IC 9-30-8; or**

3 **(2) the impoundment or immobilization of all motor vehicles**
 4 **owned by the person, subject to subsection (c).**

5 **(c) Whenever the court orders the impoundment or**
 6 **immobilization under subsection (b)(2), the court shall order:**

7 **(1) forfeiture under IC 34-24-1; or**

8 **(2) the revocation or suspension of each motor vehicle license**
 9 **plate or registration pertaining to;**

10 **all motor vehicles exclusively owned by the person. The court shall**
 11 **order the impoundment or immobilization of each motor vehicle**
 12 **during the person's one (1) year license suspension for a period to**
 13 **be set by the court.**

14 SECTION 8. IC 9-30-8-1 IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 1999]: Sec. 1. **(a)** If a court orders the
 16 installation of a certified ignition interlock device under IC 9-30-5-16
 17 on a motor vehicle that a person whose license is restricted owns or
 18 expects to operate, the court shall set the time that the installation must
 19 remain in effect. However, the term may not exceed the maximum term
 20 of imprisonment the court could have imposed. The person shall pay
 21 the cost of installation.

22 **(b) If a court orders a person to install a certified ignition**
 23 **interlock device on motor vehicles operated by the person under**
 24 **IC 9-30-5-16.5, the court shall set the time that the installation**
 25 **must remain in effect. The person shall pay the cost of installation.**

26 SECTION 9. IC 9-30-8-3 IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 1999]: Sec. 3. The bureau shall adopt rules
 28 under IC 4-22-2 to establish standards and specifications for an ignition
 29 interlock device, the installation of which the courts may mandate
 30 under IC 9-30-5-16 **and IC 9-30-5-16.5**. The standards and
 31 specifications must require at a minimum that the device meets the
 32 following requirements:

33 (1) Is accurate.

34 (2) Does not impede the safe operation of a vehicle.

35 (3) Provides a minimum opportunity to be bypassed.

36 (4) Shows evidence of tampering if tampering is attempted.

37 (5) Has a label affixed warning that a person tampering with or
 38 misusing the device is subject to a civil penalty.

1 SECTION 10. IC 9-30-8-5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. If a court orders a
 3 person under IC 9-30-5-16 or **IC 9-30-5-16.5** to operate only a vehicle
 4 that is equipped with an ignition interlock device, the bureau shall
 5 include that condition when issuing a license."

6 Page 3, line 26, after "3." insert "**(a) This section does not apply**
 7 **to:**

8 **(1) the passenger compartment of a motor vehicle designed,**
 9 **maintained, or used primarily for the transportation of**
 10 **persons for compensation; and**

11 **(2) the living quarters of a motor home or house trailer."**

12 Page 3, line 26, before "The" begin a new paragraph and insert:
 13 **"(b)".**

14 Page 3, after line 40, begin a new paragraph and insert:

15 "SECTION 12. IC 34-24-1-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) The following
 17 may be seized:

18 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
 19 intended for use by the person or persons in possession of them to
 20 transport or in any manner to facilitate the transportation of the
 21 following:

22 (A) A controlled substance for the purpose of committing,
 23 attempting to commit, or conspiring to commit any of the
 24 following:

25 (i) Dealing in cocaine or narcotic drug (IC 35-48-4-1).

26 (ii) Dealing in a schedule I, II, or III controlled substance (IC
 27 35-48-4-2).

28 (iii) Dealing in a schedule IV controlled substance (IC
 29 35-48-4-3).

30 (iv) Dealing in a schedule V controlled substance (IC
 31 35-48-4-4).

32 (v) Dealing in a counterfeit substance (IC 35-48-4-5).

33 (vi) Possession of cocaine or narcotic drug (IC 35-48-4-6).

34 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).

35 (viii) Dealing in marijuana, hash oil, or hashish (IC
 36 35-48-4-10).

37 (B) Any stolen (IC 35-43-4-2) or converted property (IC
 38 35-43-4-3) if the retail or repurchase value of that property is

- 1 one hundred dollars (\$100) or more.
- 2 (C) Any hazardous waste in violation of IC 13-30-6-6.
- 3 (2) All money, negotiable instruments, securities, weapons,
4 communications devices, or any property commonly used as
5 consideration for a violation of IC 35-48-4 (other than items
6 subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1
7 before its repeal):
- 8 (A) furnished or intended to be furnished by any person in
9 exchange for an act that is in violation of a criminal statute;
- 10 (B) used to facilitate any violation of a criminal statute; or
- 11 (C) traceable as proceeds of the violation of a criminal statute.
- 12 (3) Any portion of real or personal property purchased with
13 money that is traceable as a proceed of a violation of a criminal
14 statute.
- 15 (4) A vehicle that is used by a person to:
- 16 (A) commit, attempt to commit, or conspire to commit;
- 17 (B) facilitate the commission of; or
- 18 (C) escape from the commission of;
- 19 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
20 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
21 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4).
- 22 (5) Real property owned by a person who uses it to commit any of
23 the following as a Class A felony, a Class B felony, or a Class C
24 felony:
- 25 (A) Dealing in cocaine or narcotic drug (IC 35-48-4-1).
- 26 (B) Dealing in a schedule I, II, or III controlled substance (IC
27 35-48-4-2).
- 28 (C) Dealing in a schedule IV controlled substance (IC
29 35-48-4-3).
- 30 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 31 (6) Equipment and recordings used by a person to commit fraud
32 under IC 35-43-5-4(11).
- 33 (7) Recordings sold, rented, transported, or possessed by a person
34 in violation of IC 24-4-10.
- 35 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
36 defined by IC 35-45-6-1) that is the object of a corrupt business
37 influence violation (IC 35-45-6-2).
- 38 (9) Unlawful telecommunications devices (as defined in

1 IC 35-45-13-6) and plans, instructions, or publications used to
2 commit an offense under IC 35-45-13.

3 **(10) Motor vehicles owned by a person who has at least two**
4 **(2) convictions of operating while intoxicated under IC 9-30-5**
5 **within a five (5) year period if the court orders the forfeiture**
6 **under IC 9-30-5-16.5.**

7 (b) A vehicle used by any person as a common or contract carrier in
8 the transaction of business as a common or contract carrier is not
9 subject to seizure under this section, unless it can be proven by a
10 preponderance of the evidence that the owner of the vehicle knowingly
11 permitted the vehicle to be used to engage in conduct that subjects it to
12 seizure under subsection (a).

13 (c) Money, negotiable instruments, securities, weapons,
14 communications devices, or any property commonly used as
15 consideration for a violation of IC 35-48-4 found near or on a person
16 who is committing, attempting to commit, or conspiring to commit any
17 of the following offenses shall be admitted into evidence in an action
18 under this chapter as prima facie evidence that the money, negotiable
19 instrument, security, or other thing of value is property that has been
20 used or was to have been used to facilitate the violation of a criminal
21 statute or is the proceeds of the violation of a criminal statute:

- 22 (1) IC 35-48-4-1 (dealing in cocaine or narcotic drug).
- 23 (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
24 substance).
- 25 (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- 26 (4) IC 35-48-4-4 (dealing in a schedule V controlled substance)
27 as a Class B felony.
- 28 (5) IC 35-48-4-6 (possession of cocaine or narcotic drug) as a
29 Class A felony, Class B felony, or Class C felony.

- 1 (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
- 2 a Class C felony."
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 525 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 3.

Meeks R

Chairperson