

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 08 be amended to read as follows:

- 1 Page 2, between lines 30 and 31, begin a new paragraph and insert:
2 "SECTION 5. IC 9-30-5-1.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2001]: **Sec. 1.5. (a) This section applies to a person who is**
5 **arrested for operation of a vehicle after June 30, 2001, in violation**
6 **of section 1(a) of this chapter with an alcohol concentration**
7 **equivalent to:**
8 **(1) at least eight-hundredths (0.08) gram; and**
9 **(2) not more than nine-hundredths (0.09) gram;**
10 **of alcohol per one hundred (100) milliliters of the person's blood or**
11 **two hundred ten (210) liters of the person's breath.**
12 **(b) Before conviction, a court may defer the prosecution of a**
13 **person who is a defendant under section 1(a) of this chapter if all**
14 **of the following conditions are met:**
15 **(1) The person does not have a previous conviction under**
16 **sections 1 through 5 of this chapter.**
17 **(2) The person has not:**
18 **(A) been previously charged under section 1(a) of this**
19 **chapter; and**
20 **(B) had the previous charges dismissed under this section.**
21 **(3) The offense does not involve bodily injury or property**
22 **damage.**
23 **(4) The person completes a court approved alcohol abuse**
24 **deterrent program.**
25 **(5) The court suspends the person's operator's license for**
26 **thirty (30) days under IC 9-30-6-9. The court may order the**
27 **suspension to commence retroactively on the date of the**
28 **person's arrest.**
29 **(6) The person and the prosecuting attorney consent to the**
30 **deferral of the prosecution.**
31 **(c) If the person whose prosecution is deferred under subsection**

1 **(b) fulfills the conditions set forth in subsection (b), the court shall**
 2 **dismiss the charges.**

3 **(d) If a person whose prosecution is deferred under subsection**
 4 **(b) violates a condition under subsection (b), the court may order**
 5 **the criminal proceedings to be resumed."**

6 Page 5, between lines 25 and 26, begin a new paragraph and insert:

7 "SECTION 10. IC 9-30-9-3 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) This section
 9 applies to a criminal proceeding in which the use or abuse of alcohol
 10 is a contributing factor or a material element of the offense. **This**
 11 **section does not apply to a defendant whose prosecution is deferred**
 12 **under IC 9-30-5-1.5.**

13 (b) The court may take judicial notice of the fact that proper medical
 14 treatment is likely to decrease the defendant's tendency to engage in
 15 antisocial behavior.

16 (c) Before conviction, the court, with the consent of the defendant
 17 and the prosecuting attorney, may conditionally defer the proceedings
 18 described in subsection (a) for up to four (4) years. However, a
 19 prosecution may not be deferred under this section if:

- 20 (1) the offense involves death or serious bodily injury;
 21 (2) other criminal proceedings, not arising out of the same
 22 incident, alleging commission of a felony are pending against the
 23 defendant;
 24 (3) the defendant is on probation or parole and the appropriate
 25 parole or probation authority does not consent to the defendant's
 26 participation; or
 27 (4) the defendant fails to meet additional eligibility requirements
 28 imposed by the court.

29 (d) The court may order the defendant to satisfactorily complete the
 30 program established under section 2 of this chapter if the court makes
 31 a determination under subsection (b). The court may impose other
 32 appropriate conditions upon the defendant."

33 Page 9, line 11, strike "4(b)(4)" and insert "**4(b)(5)**".

34 Page 9, between lines 21 and 22, begin a new paragraph and insert:

35 "SECTION 13. IC 12-23-5-0.5 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2001]: **Sec. 0.5 This chapter does not apply**

- 1 **to a defendant whose prosecution is deferred under IC 9-30-5-1.5."**
- 2 Renumber all SECTIONS consecutively.
 (Reference is to SB 8 as printed February 2, 2001.)

Senator BLADE