HOUSE BILL No. 1586

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-8; IC 9-13-2; IC 9-21; IC 9-30-3; IC 34-6-2-85; IC 34-28-5; IC 36-1-6-3.

Synopsis: Automated traffic law violations. Allows a municipality to install a traffic infraction detection system (a device that produces still photographs of a vehicle that proceeds through a red light) at local, county, and state highway intersections within the municipal boundaries. Requires dismissal of a citation based on a traffic infraction detection system that does not comply with installation, maintenance, or operational requirements. Provides that the civil penalty for a violation detected by a traffic infraction detection system is $75 for a driver who does not have a violation in the previous five years, and $100 for a driver who has one or more violations in the previous five years. Specifies that: (1) 50% of the civil penalty collected must be deposited in the local road and street fund; (2) 25% of the civil penalty must be deposited in the county or local law enforcement continuing education fund; and (3) 25% of the civil penalty must be deposited in the local police equipment fund. Provides that a person who does not contest the violation and pays the civil penalty in a timely manner is not liable for court costs. Makes other changes, conforming amendments, and technical corrections. Repeals a superseded definition.

Effective: July 1, 2009.

VanDenburgh

January 22, 2009, read first time and referred to Committee on Roads and Transportation.

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Introduced

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1586

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:

SECTION 1. IC 5-2-8-1, AS AMENDED BY P.L.132-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The following definitions apply in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-6 **and by civil penalties collected**

under IC 9-21-3.6-10.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in

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abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 2. IC 5-2-8-2, AS AMENDED BY P.L.132-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The following definitions apply in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and **civil penalties or** fees collected under **IC 9-21-3.6-10,** IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal

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body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section

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1(h) of this chapter.

SECTION 3. IC 9-13-2-42.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 42.8. "Designated employee", for purposes of IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-2.**

SECTION 4. IC 9-13-2-94.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 94.3. "Local police officer", for purposes of IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-3.**

SECTION 5. IC 9-13-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 110. "Moving traffic ~~offense",~~ **violation",** for purposes of IC 9-25-9-1 and IC 9-30-3-14, has the meaning set forth in ~~IC 9-30-3-14(a).~~ **IC 9-30-3-14(b).**

SECTION 6. IC 9-13-2-121 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 121. (a) "Owner" means, except as otherwise provided in this section, when used in reference to a motor vehicle:

(1) a person who holds the legal title of a motor vehicle;

(2) a person renting or leasing a motor vehicle and having exclusive use of the motor vehicle for more than thirty (30) days; or

(3) if a motor vehicle is the subject of an agreement for the conditional sale or lease vested in the conditional vendee or lessee, or in the event the mortgagor, with the right of purchase upon the performance of the conditions stated in the agreement and with an immediate right of possession of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor.

(b) "Owner", for purposes of IC 9-21, **except IC 9-21-3.6,** and IC 9-25, means, when used in reference to a motor vehicle, a person who holds the legal title of a motor vehicle, or if a:

(1) motor vehicle is the subject of an agreement for the conditional sale or lease of the motor vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee; or

(2) mortgagor of a motor vehicle is entitled to possession;

the conditional vendee or lessee or mortgagor is considered to be the owner for the purpose of IC 9-21 and IC 9-25.

(c) "Owner, for purposes of IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-4.

~~(c)~~ **(d)** "Owner", for purposes of IC 9-22-1, means the last known record titleholder of a vehicle according to the records of the bureau

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under IC 9-17.

~~(d)~~ **(e)** "Owner", for purposes of IC 9-31, means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person reserved or created by agreement and securing payment or performance of an obligation. The term excludes a lessee under a lease not intended as security.

SECTION 7. IC 9-13-2-182.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 182.3. "Traffic control device", for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-1.5.**

SECTION 8. IC 9-13-2-182.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 182.5. "Traffic control signal", for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-1.7.**

SECTION 9. IC 9-13-2-182.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 182.7. "Traffic infraction detection system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.6-5.**

SECTION 10. IC 9-13-2-196.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 196.4. "Vendor", for purposes of IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-6.**

SECTION 11. IC 9-21-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this article, "traffic control device" means a sign, signal, marking, or device, including a railroad advance warning sign, consistent with this title, placed or erected by the authority of a public body or an official having jurisdiction for purposes of regulating, warning, or guiding traffic.**

SECTION 12. IC 9-21-1-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this article, "traffic control signal" means a traffic signal as defined by the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted by rule under IC 9-21-2-1 by which traffic alternately is directed to stop and permitted to proceed.**

SECTION 13. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with section 2 of this chapter, and within the

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reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control signals, **including enforcement by use of a traffic infraction detection system under IC 9-21-3.6.**

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(14) Regulate or prohibit the operation of low speed vehicles on highways.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), (a)(13), or (a)(14) is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 14. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

(1) responding to an emergency call;

(2) in the pursuit of an actual or suspected violator of the law; or

(3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do

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the following:

(1) Park or stand, notwithstanding other provisions of this article.

(2) Proceed past a red ~~or stop~~ **traffic control** signal or ~~stop sign,~~ **traffic control device,** but only after slowing down as necessary for safe operation.

(3) Exceed the maximum speed limits if the person who drives the vehicle does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

(1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.

(2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

SECTION 15. IC 9-21-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Each traffic **control** signal installation on a street or highway within Indiana may be erected only after the completion of traffic engineering studies that verify that the traffic ~~signal~~ control **signal** is necessary as set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways.

(b) If:

(1) the proposed installation is in the immediate vicinity of a school; and

(2) the installation does not meet the requirements of this section;

the governmental unit responsible for the control of traffic at the location shall grant a special hearing on the question to a person who has properly petitioned for the installation of a traffic **control** signal.

SECTION 16. IC 9-21-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Each traffic **control** signal upon a street or highway in Indiana that does not conform to this chapter shall be removed by the governmental agency having jurisdiction over the highway.

SECTION 17. IC 9-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The Indiana

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department of transportation is responsible for the control of all traffic **control** signals on the state highway system.

SECTION 18. IC 9-21-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. A traffic **control** signal installation on a state route is the property of the Indiana department of transportation.

SECTION 19. IC 9-21-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (b), a public or private agency may not erect a traffic control device on a state maintained highway without the written permission of the Indiana department of transportation.

(b) This subsection applies to the installation of traffic **control** signals on a state highway in a city or town. The Indiana department of transportation shall:

(1) install any **traffic control** signal that meets the standards, specifications, and warrants set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways; or

(2) grant written permission to a city or town to erect the **traffic control** signal if it is not possible for the state immediately to install the **traffic control** signal.

SECTION 20. IC 9-21-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively, one (1) at a time or in combination, only the colors green, red, or yellow may be used, except for special pedestrian signals under IC 9-21-18.

(b) The lights indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication means the following:

(A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at the place prohibits either turn.

(B) Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent sidewalk at the time the signal is exhibited.

(C) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the green arrow or other movement permitted by other indications shown at the same time.

(D) Vehicular traffic shall yield the right-of-way to pedestrians

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lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(E) Unless otherwise directed by a pedestrian control signal, pedestrians facing a green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within a marked or unmarked crosswalk.

(2) Steady yellow indication means the following:

(A) Vehicular traffic facing a steady circular yellow or yellow arrow signal is warned that the related green movement is being terminated and that a red indication will be exhibited immediately thereafter.

(B) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal, is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway at that time.

(3) Steady red indication means the following:

(A) Except as provided in clause (B), vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line. However, if there is no clearly marked stop line, vehicular traffic shall stop before entering the crosswalk on the near side of the intersection. If there is no crosswalk, vehicular traffic shall stop before entering the intersection and shall remain standing until an indication to proceed is shown.

(B) Except when a sign is in place prohibiting a turn described in this ~~subdivision,~~ **clause,** vehicular traffic facing a steady red signal, after coming to a complete stop, may cautiously enter the intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

Vehicular traffic making a turn described in this ~~subdivision~~ **clause** shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal, pedestrians facing a steady circular red signal alone may not enter the roadway.

(4) No indication or conflicting indications means the following:

(A) Vehicular traffic facing an intersection having a **traffic control** signal that displays no indication or conflicting

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indications, where no other **traffic** control **signal** is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(5) This ~~section~~ **subdivision** applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the **traffic control** signal, except when the **traffic control** signal is supplemented by a sign or pavement marking indicating where the stop must be made.

(c) The duration of a steady yellow indication must be at least five (5) seconds.

SECTION 21. IC 9-21-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section does not apply at railroad grade crossings.

(b) Whenever an illuminated flashing red or yellow light is used in a traffic **control** signal or with a traffic sign, vehicular traffic shall obey the **traffic control** signal in the following manner:

(1) Flashing red (stop signal) means the following:

(A) When a red lens is illuminated by rapid intermittent flashes, a person who drives a vehicle shall stop at a clearly marked stop line before entering the crosswalk on the near side of the intersection.

(B) If no line exists, the person shall stop at the point nearest the intersecting roadway where the person has a view of approaching traffic on the intersecting roadway before entering the roadway.

(C) The right to proceed is subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal) means that when a yellow lens is illuminated with rapid intermittent flashes, a person who drives a vehicle may proceed through the intersection or past the **traffic control** signal only with caution.

SECTION 22. IC 9-21-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 3.6. Traffic Infraction Detection System

Sec. 1. This chapter does not apply to the following:

(1) Farm wagons.

(2) Farm tractors.

(3) Farm machinery.

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Sec. 2. As used in this chapter, "designated employee" means an employee of a local authority or of a vendor who:

(1) is employed to review the recorded image captured by a traffic infraction detection system as described in section 5(2) of this chapter; and

(2) has received sufficient training concerning the traffic laws of Indiana to determine when the defenses described in section 13 of this chapter apply.

Sec. 3. As used in this chapter, "local police officer" means any of the following:

(1) A regular member of a city or town police department.

(2) A town marshal or deputy town marshal.

(3) A regular member of the county police force.

Sec. 4. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under any of the following:

(1) IC 9-18.

(2) The law of another state.

(3) The law of a foreign country.

(4) The International Registration Plan.

Sec. 5. As used in this chapter, "traffic infraction detection system" means a device that:

(1) has one (1) or more motor vehicle sensors working in conjunction with a traffic control signal that exhibits:

(A) a steady red light as described in IC 9-21-3-7(b)(3); or

(B) an illuminated flashing red light as described in IC 9-21-3-8(b)(1); and

(2) is capable of producing a photographically recorded image of a motor vehicle or a vehicle being drawn by a motor vehicle, including an image of the vehicle's rear license plate, as the vehicle proceeds through an intersection while the traffic control signal is exhibiting a steady red light or an illuminated flashing red light.

The recorded image referred to in subdivision (2) may include a recorded video image of a motor vehicle.

Sec. 6. As used in this chapter, "vendor" means a person who:

(1) provides to a local authority; or

(2) services;

a traffic infraction detection system.

Sec. 7. A local authority, with respect to all local, county, and state highways within its municipal boundaries, may adopt and enforce an ordinance that regulates the placement and use of

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traffic infraction detection systems if the ordinance adopted by the local authority complies with this chapter.

Sec. 8. Before enforcing an ordinance adopted under section 7 of this chapter, the local authority must install advance warning signs along all approaches of the roadways preceding the intersection at which a traffic infraction detection system is located. The advance warning signs must warn motorists of the existence of the traffic infraction detection system.

Sec. 9. (a) Any citation based on a traffic infraction detection system that is not in compliance with the:

(1) installation;

(2) maintenance; and

(3) operational;

requirements of the system shall be dismissed.

(b) All civil penalties collected during the period of noncompliance shall be refunded to all defendants, regardless of plea.

Sec. 10. (a) An ordinance adopted under section 7 of this chapter must specify the following:

(1) That, except as provided in subdivision (2) and notwithstanding IC 9-21-3-7 and IC 9-21-8-41, the owner of a motor vehicle commits a violation of the ordinance when the traffic infraction detection system produces a recorded image as described in section 5(2) of this chapter of the motor vehicle proceeding or the vehicle being drawn by a motor vehicle proceeding through an intersection contrary to the requirement to stop at a red signal light under IC 9-21-3-7(b)(3).

(2) That, if the owner of a motor vehicle establishes a defense under section 11 or 12 of this chapter, the person:

(A) identified as having the care, custody, or control of the motor vehicle under section 11 of this chapter; or

(B) identified as the person driving the motor vehicle under section 12 of this chapter;

at the time of the violation commits the violation of the ordinance when the traffic infraction detection system produces a recorded image as described in section 5(2) of this chapter of the motor vehicle proceeding or the vehicle being drawn by a motor vehicle proceeding through an intersection contrary to the requirement to stop at a red signal light under IC 9-21-3-7(b)(3).

(b) The local authority shall mail the owner of a motor vehicle

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or a vehicle being drawn by a motor vehicle committing a violation of an ordinance adopted under section 7 of this chapter notice of the ordinance violation by certified mail postmarked not later than seven (7) business days after the alleged violation. The notice must include the following:

(1) The name and address of the owner of the motor vehicle or the vehicle being drawn by a motor vehicle.

(2) The registration number of the motor vehicle or the vehicle being drawn by a motor vehicle.

(3) The violation charged.

(4) The location of the intersection.

(5) The date and time of the violation.

(6) A copy of the recorded image described in section 5(2) of this chapter.

(7) The amount of the civil penalty imposed for the violation.

(8) The date by which the civil penalty must be paid if the owner of the vehicle:

(A) does not desire to contest the violation; and

(B) wishes to avoid paying court costs.

The date by which the civil penalty must be paid to comply with this subdivision must be at least thirty (30) days from the date of the violation if a defense described in section 11 of this chapter does not apply, or forty-five (45) days after the date of the violation if a defense described in section 11 of this chapter requires the notice to be sent to another person.

(c) An ordinance adopted under section 7 of this chapter must impose a civil penalty of:

(1) seventy-five dollars ($75) if the person does not have a prior unrelated violation of this section within the previous five (5) years; and

(2) one hundred dollars ($100) if the person has one (1) or more prior violations of this section within the previous five (5) years.

(d) An ordinance adopted under section 7 of this chapter must provide that a civil penalty collected under subsection (c) be distributed as follows:

(1) Fifty percent (50%) of the civil penalty shall be deposited in the local road and street fund.

(2) Twenty-five percent (25%) of the civil penalty shall be deposited in the:

(A) county law enforcement continuing education fund (as described by IC 5-2-8-1) (if the ordinance is adopted by a

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county); or

(B) local law enforcement continuing education fund (as described by IC 5-2-8-2) (if the ordinance is adopted by a city or town).

(3) Twenty-five percent (25%) of the civil penalty shall be deposited in the local police equipment fund.

(e) An ordinance adopted under section 7 of this chapter may authorize the local authority to mail a warning notice to the owner of the motor vehicle or the vehicle being drawn by a motor vehicle instead of imposing a civil penalty for the violation of the ordinance.

(f) An ordinance adopted under section 7 of this chapter must provide that a local police officer or designated employee must review the recorded image described in section 5(2) of this chapter before the notices referred to in subsections (b) and (e) are mailed to the owner of the motor vehicle or the vehicle being drawn by a motor vehicle.

Sec. 11. (a) It is a defense in a proceeding to enforce an ordinance adopted under section 7 of this chapter if the owner:

(1) proves that, at the time of the alleged violation, the owner was engaged in the business of renting or leasing motor vehicles under written agreements;

(2) proves that, at the time of the alleged violation, the motor vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner of the motor vehicle or the vehicle being drawn by a motor vehicle) under a written agreement for the rental or lease of the motor vehicle or the vehicle being drawn by a motor vehicle for a period of not more than sixty (60) days; and

(3) provides to the ordinance violations bureau or court the name and address of the person who was renting or leasing the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the alleged violation.

(b) The owner of a motor vehicle or a vehicle being drawn by a motor vehicle may establish proof under subsection (a)(2) by submitting, not more than fifteen (15) business days after the owner receives notice by mail of the ordinance violation, a copy of the rental or lease agreement to the ordinance violations bureau or court.

(c) If the owner of a motor vehicle or a vehicle being drawn by a motor vehicle establishes the proof required under subsection (a)(2), the ordinance violations bureau or the court shall mail a

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notice of the ordinance violation to the person identified as the person having the care, custody, or control of the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the violation. The proof required under subsection (a)(2) creates a rebuttable presumption that the person having the care, custody, or control of the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the violation was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain the following:

(1) The information described in section 10(b) of this chapter.

(2) A statement that the person receiving the notice was identified by the owner of the motor vehicle or the vehicle being drawn by a motor vehicle as the person having the care, custody, or control of the motor vehicle at the time of the violation.

(3) A statement that a person may offer a defense as described in section 12 or 13 of this chapter.

Sec. 12. (a) This section applies to an owner other than an owner described in section 11 of this chapter.

(b) It is a defense to a proceeding to enforce an ordinance adopted under section 7 of this chapter if the owner provides to the ordinance violations bureau or court an affidavit signed under the penalties of perjury stating that:

(1) the motor vehicle; or

(2) the license plate of the motor vehicle or the vehicle being drawn by the motor vehicle;

had been stolen before the alleged violation occurred and was not under the control or possession of the owner at the time of the alleged violation. In addition to the affidavit described in this subsection, the owner must submit proof that a police report was filed concerning the stolen motor vehicle or stolen license plate.

Sec. 13. It is a defense to a proceeding to enforce an ordinance adopted under section 7 of this chapter that any of the following applies:

(1) IC 9-21-1-8(b)(2) (a person driving an authorized emergency vehicle may proceed past a red traffic control signal or traffic control device after slowing down as necessary for safe operation).

(2) IC 9-21-3-7(b)(4) (traffic control signal lights are giving no indication or conflicting indications).

(3) IC 9-21-8-1 (complying with a lawful order or direction of a law enforcement officer).

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(4) IC 9-21-8-35(a) (yielding right-of-way to authorized emergency vehicles).

(5) IC 9-21-13-1 (vehicle with lighted headlights is in a funeral procession).

SECTION 23. IC 9-21-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A person may not place, maintain, or display upon or in view of a highway an unauthorized sign, signal, marking, or device that:

(1) purports to be, is an imitation of, or resembles ~~an official~~ **a** traffic control device or a railroad sign or signal;

(2) attempts to direct the movement of traffic; or

(3) hides from view or interferes with the effectiveness of ~~an official~~ **a** traffic control device or a railroad sign or signal.

SECTION 24. IC 9-21-8-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) A person who drives a vehicle or street car may not disobey the instructions of ~~an official~~ **a** traffic control device placed in accordance with this article unless otherwise directed by a police officer.

(b) When a traffic control device or flagman is utilized at a worksite on a highway for traffic control, a person who drives a vehicle shall exercise extraordinary care to secure the mutual safety of all persons and vehicles at the worksite.

(c) All traffic shall observe and obey traffic control devices including signals, signs, and warnings, and all directions, signs, or warning devices that may be given or displayed by a police officer or flagman to safely control traffic movement at a worksite and promote safety at a worksite.

SECTION 25. IC 9-21-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A pedestrian shall obey the instructions of ~~an official~~ **a** traffic control device specifically applicable to the pedestrian, unless otherwise directed by a police officer.

SECTION 26. IC 9-21-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A pedestrian may not cross a roadway intersection diagonally unless authorized by ~~official~~ traffic control devices. When authorized to cross diagonally, pedestrians ~~shall~~ **may** cross only in accordance with the ~~official~~ traffic control devices pertaining to diagonal crossing movements.

SECTION 27. IC 9-30-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

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(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;

the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred:

(1) The individual has been convicted of a moving traffic ~~offense~~ **violation** (as defined in section ~~14(a)~~ **14(b)** of this chapter), other than an offense that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding IC 33-37-4-2, any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 28. IC 9-30-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. **(a) This section does not apply to a violation of an ordinance adopted under IC 9-21-3.6-7.**

~~(a)~~ **(b)** As used in this section, "moving traffic ~~offense"~~ **violation"** means a violation of a statute, an ordinance, or a rule relating to the operation or use of motor vehicles while the motor vehicle is in motion.

~~(b)~~ **(c)** If a court convicts a person for a moving traffic ~~offense~~ **violation,** and the person is known or believed by the court not to be the owner of the motor vehicle, the court shall, within seven (7) days after entering the conviction, deposit with the United States Postal Service, first class postage prepaid, **a** notice addressed to the owner of

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the motor vehicle giving the owner the following information:

(1) The name and address of the person convicted.

(2) The name and address of the owner of the motor vehicle.

(3) The offense upon which the conviction was made.

(4) The date of arrest of the person convicted and the location of the place of the offense.

(5) The license plate number of the motor vehicle.

(6) The operator's or chauffeur's license number of the person convicted.

(7) The date of the conviction and the name of the court making the conviction.

SECTION 29. IC 34-6-2-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 85. "Moving traffic violation", for purposes of IC 34-28-5, means a violation of:

(1) a statute defining an infraction; or

(2) an ordinance, **other than a violation of an ordinance adopted under IC 9-21-3.6-7;**

that applies when a motor vehicle is in motion.

SECTION 30. IC 34-28-5-1, AS AMENDED BY P.L.200-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

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(f) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay a fee of seventy dollars ($70) to the clerk of **the** court if the action involves a moving traffic ~~offense~~ **violation** (as defined in ~~IC 9-13-2-110),~~ **IC 34-6-2-85);**

(5) the agreement is filed in the court in which the action is brought; and

(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

(g) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-41-1-4.6) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

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agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 31. IC 34-28-5-5, AS AMENDED BY P.L.40-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; ~~or~~

(2) for a violation of an ordinance enforced by a traffic infraction detection system (IC 9-21-3.6) if the defendant pays a civil penalty within the time specified in a notice under IC 9-21-3.6-10(b)(8); or

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~~(2)~~ **(3)** in favor of the defendant in any case;
the defendant is not liable for costs.

(c) Except for costs, and except as provided in:

(1) IC 7.1-3-18.5-6;
(2) IC 7.1-3-18.5-7;
(3) IC 9-19-11-2;
(4) IC 9-19-11-3;
(5) IC 9-19-11-3.3;
(6) IC 9-19-11-3.6;
(7) IC 9-21-5-11(e);
(8) IC 24-3-2-3;
(9) IC 35-46-1-10.2;
(10) IC 35-46-1-11.5;
(11) IC 35-46-1-11.7; and
(12) IC 35-46-1-11.8;

the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

(1) violated:
(A) a statute defining an infraction; or
(B) an ordinance; or
(2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

SECTION 32. IC 36-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

(1) an admission of violation before the violations clerk under IC 33-36; or
(2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

(c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.

(d) An ordinance adopted under IC 9-21-3.6-7 may be enforced under IC 33-36 or IC 34-28-5.

SECTION 33. IC 9-13-2-117 IS REPEALED [EFFECTIVE JULY 1, 2009].

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