February 6, 2009

SENATE BILL No. 252

DIGEST OF SB 252 (Updated February 3, 2009 12:30 pm - DI 106)

Citations Affected: IC 9-13; IC 9-24; IC 9-30; IC 14-8; IC 14-15; IC 35-33; IC 35-41; noncode.

Synopsis: Operating while intoxicated. Specifies alcohol concentration equivalents for blood tests conducted on blood serum instead of whole blood for use in laws concerning the operation of motor vehicles and motorboats while intoxicated.

Effective: July 1, 2009.

Wyss, Merritt, Broden, Steele, Hume, Head, Young R Michael, Lanane

January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 5, 2009, reported favorably — Do Pass.

C o p y

February 6, 2009

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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SENATE BILL No. 252

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-13-2-14.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 14.3. "Blood plasma", for purposes of sections 14.4 and 198.9 of this chapter, means the liquid component of blood in which the blood cells are suspended.**

SECTION 2. IC 9-13-2-14.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 14.4. "Blood serum", for purposes of IC 9-24-6-15 and IC 9-30, means blood plasma from which fibrinogen and other clotting factors have been removed.**

SECTION 3. IC 9-13-2-131 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 131. "Prima facie evidence of intoxication" includes evidence that at the time of an alleged violation the person had an alcohol concentration equivalent to at least:

(1) eight-hundredths (0.08) gram of alcohol per:

~~(1)~~ **(A)** one hundred (100) milliliters of the person's **whole**

blood; or

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

(2) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum.

SECTION 4. IC 9-13-2-151 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 151. "Relevant evidence of intoxication" includes evidence that at the time of an alleged violation a person had an alcohol concentration equivalent to at least:

(1) five-hundredths (0.05) gram but less than eight-hundredths (0.08) gram of alcohol per:

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

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

(2) six-hundredths (0.06) gram but less than ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum.

SECTION 5. IC 9-13-2-198.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 198.9. "Whole blood", for purposes of sections 131 and 151 of this chapter, IC 9-24-6-15, and IC 9-30, means blood from which a component, including red blood cells, white blood cells, blood plasma, or platelets, has not been removed.**

SECTION 6. IC 9-24-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. A person who operates a commercial motor vehicle with an alcohol concentration equivalent to at least:

(1) four-hundredths (0.04) gram but less than eight-hundredths (0.08) gram of alcohol per:

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

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

(2) forty-eight thousandths (0.048) gram but less than ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

commits a Class C infraction.

SECTION 7. IC 9-30-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person who operates a vehicle with an alcohol concentration equivalent to at least:

(1) eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:

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

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

(2) ninety-six thousandths (0.096) gram of alcohol but less than eighteen-hundredths (0.18) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

commits a Class C misdemeanor.

(b) A person who operates a vehicle with an alcohol concentration equivalent to at least:

(1) fifteen-hundredths (0.15) gram of alcohol per:

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

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

(2) eighteen-hundredths (0.18) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

commits a Class A misdemeanor.

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

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

SECTION 8. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

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

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

(2) with an alcohol concentration equivalent to at least ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

~~(2)~~ **(3)** with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

~~(3)~~ **(4)** while intoxicated;

commits a Class D felony. However, the offense is a Class C felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense.

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation

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of subsection (a).

(c) It is a defense under subsection ~~(a)(2)~~ **(a)(3)** that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 9. IC 9-30-5-5, AS AMENDED BY P.L.2-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

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

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

(2) with an alcohol concentration equivalent to at least ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

~~(2)~~ **(3)** with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's **whole** blood **or blood serum;** or

~~(3)~~ **(4)** while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least:

(A) fifteen-hundredths (0.15) gram of alcohol per:

~~(A)~~ **(i)** one hundred (100) milliliters of the person's **whole** blood; or

~~(B)~~ **(ii)** two hundred ten (210) liters of the person's breath; or

(B) eighteen-hundredths (0.18) gram of alcohol per one hundred (100) milliliters of the person's blood serum; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's **whole** blood **or blood serum;**

commits a Class B felony.

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

(d) It is a defense under subsection ~~(a)(2)~~ **(a)(3)** or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 10. IC 9-30-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) A person who:

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

(2) operates a vehicle with an alcohol concentration equivalent to at least:

(A) two-hundredths (0.02) gram but less than eight-hundredths (0.08) gram of alcohol per:

~~(A)~~ **(i)** one hundred (100) milliliters of the person's **whole** blood; or

~~(B)~~ **(ii)** two hundred ten (210) liters of the person's breath; **or**

(B) twenty-four thousandths (0.024) gram but less than ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

commits a Class C infraction.

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

SECTION 11. IC 9-30-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) At any proceeding concerning an offense under IC 9-30-5 or a violation under IC 9-30-15, evidence of the alcohol concentration that was in the **whole** blood **or blood serum** of the person charged with the offense:

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

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

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

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

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

(2) the person charged with the offense had an alcohol concentration equivalent to at least:

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(A) eight-hundredths (0.08) gram of alcohol per:

~~(A)~~ **(i)** one hundred (100) milliliters of the person's **whole** blood at the time the test sample was taken; or

~~(B)~~ **(ii)** two hundred ten (210) liters of the person's breath; **or**

(B) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's **whole** blood or per two hundred ten (210) liters of the person's breath **or ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum** at the time the person operated the vehicle. However, this presumption is rebuttable.

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

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

(2) the person charged with the violation:

(A) was less than twenty-one (21) years of age at the time of the alleged violation; and

(B) had an alcohol concentration equivalent to at least:

(i) two-hundredths (0.02) gram of alcohol per ~~(i)~~ one hundred (100) milliliters of the person's **whole** blood or ~~(ii)~~ two hundred ten (210) liters of the person's breath; **or**

(ii) twenty-four thousandths (0.024) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

at the time the test sample was taken;

the trier of fact shall presume that the person charged with the violation had an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per one hundred (100) milliliters of the person's **whole** blood or per two hundred ten (210) liters of the person's breath **or twenty-four thousandths (0.024) gram of alcohol per one hundred (100) milliliters of the person's blood serum** at the time the person operated the vehicle. However, the presumption is rebuttable.

(d) If, in an action for a violation under IC 9-30-15, evidence establishes that:

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

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(2) the person charged with the offense had an alcohol concentration equivalent to at least:

(A) four-hundredths (0.04) gram of alcohol per:

~~(A)~~ **(i)** one hundred (100) milliliters of the person's **whole** blood; or

~~(B)~~ **(B)** two hundred ten (210) liters of the person's breath; **or**

(B) forty-eight thousandths (0.048) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

at the time the test sample was taken;

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least four-hundredths (0.04) gram of alcohol by weight in grams per one hundred (100) milliliters of the person's **whole** blood or per two hundred ten (210) liters of the person's breath **or forty-eight thousandths (0.048) gram of alcohol per one hundred (100) milliliters of the person's blood serum** at the time the person operated the vehicle. However, this presumption is rebuttable.

SECTION 12. IC 9-30-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. An ignition interlock device shall be set to render a motor vehicle inoperable if the ignition interlock device detects an alcohol concentration equivalent to at least:

(1) two-hundredths (0.02) gram of alcohol per:

~~(1)~~ **(A)** one hundred (100) milliliters of the **whole** blood of the person; or

~~(2)~~ **(B)** two hundred ten (210) liters of the breath of the person; **or**

(2) twenty-four thousandths (0.024) gram of alcohol per one hundred (100) milliliters of the person's blood serum;

who offers a breath sample.

SECTION 13. IC 9-30-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Reckless homicide resulting from the operation of a motor vehicle.

(2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

(3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of

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the accident and give the required information and assistance.

(4) Operation of a vehicle while intoxicated resulting in death.

(5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.

(6) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(7) After June 30, 2001, **and before July 1, 2009,** operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(8) After June 30, 2009, operation of a vehicle with an alcohol concentration equivalent to at least:

(A) eight-hundredths (0.08) gram of alcohol per:

(i) one hundred (100) milliliters of the whole blood; or

(ii) two hundred ten (210) liters of the breath; or

(B) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the blood serum.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Operation of a vehicle while intoxicated.

(2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(4) After June 30, 2001, **and before July 1, 2009,** operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

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(5) After June 30, 2009, operation of a vehicle with an alcohol concentration equivalent to at least:

(A) eight-hundredths (0.08) gram of alcohol per:

(i) one hundred (100) milliliters of the whole blood; or

(ii) two hundred ten (210) liters of the breath; or

(B) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the blood serum.

~~(5)~~ **(6)** Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3, or IC 9-24-19-5.

~~(6)~~ **(7)** Operating a motor vehicle without ever having obtained a license to do so.

~~(7)~~ **(8)** Reckless driving.

~~(8)~~ **(9)** Criminal recklessness involving the operation of a motor vehicle.

~~(9)~~ **(10)** Drag racing or engaging in a speed contest in violation of law.

~~(10)~~ **(11)** Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.

~~(11)~~ **(12)** Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

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

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

SECTION 14. IC 9-30-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

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(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

(B) may have been a factor that contributed to the person's poor driving record; and

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (d).

(c) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (d). However, if the person has any judgments for operation of a vehicle before July 1, 2001, while intoxicated or with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, ~~or~~ for the operation of a vehicle after June 30, 2001, **and before July 1, 2009,** while intoxicated or with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, **or for the operation of a vehicle**

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after June 30, 2009, while intoxicated or with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the whole blood or two hundred ten (210) liters of the breath or ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the blood serum, the court, before the court places a person on probation under subsection (d), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by one (1) or both of the following:

(A) The division of mental health and addiction.

(B) The Indiana judicial center.

(d) Whenever a court places a habitual violator on probation, the court:

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

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

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

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

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

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

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

(B) specific purposes in exceptional circumstances; and

(C) rehabilitation programs;

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

(8) may impose other appropriate conditions of probation.

(e) If a court finds that a person:

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

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

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(5) of this chapter that resulted from driving on a suspended license that was suspended for:

(A) the commission of infractions only; or

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(B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (d).

SECTION 15. IC 14-8-2-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.5. "Blood plasma", for purposes of IC 14-15-8, has the meaning set forth in IC 14-15-8-0.3.**

SECTION 16. IC 14-8-2-22.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.6. "Blood serum", for purposes of IC 14-15-8, has the meaning set forth in IC 14-15-8-0.4.**

SECTION 17. IC 14-8-2-317.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 317.5. "Whole blood", for purposes of IC 14-15-8, has the meaning set forth in IC 14-15-8-7.5.**

SECTION 18. IC 14-15-8-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.3. As used in this chapter, "blood plasma" means the liquid component of blood in which the blood cells are suspended.**

SECTION 19. IC 14-15-8-0.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.4. As used in this chapter, "blood serum" means blood plasma from which fibrinogen and other clotting factors have been removed.**

SECTION 20. IC 14-15-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. As used in this chapter, "prima facie evidence of intoxication" includes evidence that at the time of an alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least:

(1) eight-hundredths (0.08) gram of alcohol per:

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

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

(2) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum.

SECTION 21. IC 14-15-8-6 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. As used in this chapter, "relevant evidence" includes evidence that at the time of the alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least:

(1) five-hundredths (0.05) gram and less than eight-hundredths (0.08) gram of alcohol per:

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

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

(2) six-hundredths (0.06) gram and less than ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum.

SECTION 22. IC 14-15-8-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. As used in this chapter, "whole blood" means blood from which a component, including red blood cells, white blood cells, blood plasma, or platelets, has not been removed.**

SECTION 23. IC 14-15-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat:

(1) with an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least:

(A) eight-hundredths (0.08) gram of alcohol per:

~~(A)~~ **(i)** one hundred (100) milliliters of the person's **whole** blood; or

~~(B)~~ **(ii)** two hundred ten (210) liters of the person's breath; or

(B) ninety-six thousandths (0.096) gram of alcohol per one hundred (100) milliliters of the person's blood serum; or

(2) while intoxicated;

commits a Class C misdemeanor.

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

(1) the person has a previous conviction under:

(A) IC 14-1-5 (repealed); or

(B) this chapter; or

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

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

SECTION 24. IC 35-41-1-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.6. "Blood plasma" means the**

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liquid component of blood in which the blood cells are suspended.

SECTION 25. IC 35-41-1-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.7. "Blood serum" means blood plasma from which fibrinogen and other clotting factors have been removed.**

SECTION 26. IC 35-41-1-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28.5. "Whole blood" means blood from which a component, including red blood cells, white blood cells, blood plasma, or platelets, has not been removed.**

SECTION 27. IC 35-33-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A law enforcement agency may use the following chart to determine the minimum number of hours that a person arrested for an alcohol-related offense should be detained before his release pending trial:

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

Note: In order to find when a person will reach the legal blood or breath alcohol level, find the blood or breath alcohol level reading in the left hand column, go across and find where the blood or breath

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alcohol level reading is an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to below eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's **whole** blood or per two hundred ten (210) liters of the person's breath, then read up that column to find the minimum number of hours before the person can be released. **However, for purposes of this section, if a test to determine the alcohol concentration equivalent in grams of alcohol in a person's blood is conducted on the person's blood serum instead of on the person's whole blood, the amount of the alcohol in grams referred to in this section must be multiplied by one and two-tenths (1.2) to determine the correct alcohol concentration equivalent in grams of alcohol in the person's blood.**

SECTION 28. [EFFECTIVE JULY 1, 2009] **This act applies only to offenses committed after June 30, 2009.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 252, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 252 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

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