COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 389, 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:

Page 1, delete lines 1 through 6, begin a new paragraph and insert:

"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:

(1) civil penalties collected under IC 9-21-3.6-10; and

(2) amounts appropriated under IC 33-37-8-6.

(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 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 and** 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 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 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.**".

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"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 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.".

Page 2, line 37, delete "if authorized by the Indiana department of".

Page 2, line 38, delete "transportation".

Page 7, delete lines 26 through 42, begin a new paragraph and insert:

"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 Program

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

(1) Farm wagons.

(2) Farm tractors.

(3) Farm machinery.

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 still 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 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 9-21-1-2(a), IC 9-21-3-7, IC 9-21-8-41, and IC 36-1-3-8(8), 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 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 first class 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 after 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:

(1) may not impose a civil penalty of more than one hundred dollars ($100); and

(2) must require that the civil penalty imposed for a violation of an ordinance adopted under section 7 of this chapter be applied to defray the cost of the installation, operation, and maintenance of the traffic infraction detection system, and that the remaining funds be distributed as follows:

(A) Fifty percent (50%) shall be deposited in the local road and street fund.

(B) Twenty-five percent (25%) shall be deposited in the:

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

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

(C) Twenty-five percent (25%) shall be deposited in the local police equipment fund.

(d) 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.

(e) 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 (d) 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

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 this section or 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 the following:

(1) An affidavit signed under the penalties of perjury that the owner was not driving the motor vehicle at the time of the alleged violation.

(2) An affidavit signed under the penalties of perjury stating either of the following:

(A) The name and address of the person driving the motor vehicle or the motor vehicle drawing a vehicle at the time of the alleged violation.

(B) That:

(i) the motor vehicle; or

(ii) 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 clause, the owner must submit proof that

a police report was filed concerning the stolen motor vehicle or stolen license plate.

(c) If the owner of a motor vehicle or a vehicle being drawn by a motor vehicle submits the evidence required under subsection (b)(2)(A), the ordinance violations bureau or the court shall mail a notice of the ordinance violation to the person identified as the person driving the motor vehicle at the time of the violation. The evidence required under subsection (b)(2)(A) creates a rebuttable presumption that the person identified in the affidavit required under subsection (b)(2)(A) 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 as the person driving the motor vehicle at the time of the violation.

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).

(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).

Sec. 14. A violation under this chapter may not be used to determine rates for motor vehicle insurance.".

Delete pages 8 through 13.

Page 14, delete line 1.

Page 15, line 31, delete "IC 9-21-3.6-9." and insert "**IC 9-21-3.6-7.**".

Page 16, line 14, delete "IC 9-21-3.6-9;" and insert "**IC 9-21-3.6-7;**".

Page 18, between lines 15 and 16, begin a new paragraph and insert:

"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 under 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

~~(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 9-21-3.6-10(c);

(8) IC 9-21-5-11(e);

(9) IC 24-3-2-3;

(10) IC 35-46-1-10.2;

(11) IC 35-46-1-11.5;

(12) IC 35-46-1-11.7; and

(13) 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.".

Page 18, line 29, delete "IC 9-21-3.6-9" and insert "**IC 9-21-3.6-7**".

Renumber all SECTIONS consecutively.

(Reference is to SB 389 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 3.

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Wyss **Chairperson**