



Reprinted
February 25, 2010

ENGROSSED
SENATE BILL No. 170

DIGEST OF SB 170 (Updated February 24, 2010 6:37 pm - DI 97)

Citations Affected: IC 9-26; IC 9-30; IC 35-44.

Synopsis: Motor vehicle offenses. Increases the penalties for failing to stop after a traffic accident in which a person was injured or died. Makes it a Class D felony if a person, when operating a vehicle while intoxicated, causes the death of a law enforcement animal. Makes resisting law enforcement a Class A felony instead of a Class A misdemeanor if while committing the offense a person operates a vehicle in a manner that causes the death of a law enforcement officer. Makes conforming changes.

Effective: July 1, 2010.

Zakas, Broden, Mishler,
Charbonneau, Arnold

(HOUSE SPONSORS — BAUER, FRY, NEESE, DVORAK)

January 5, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 21, 2010, amended, reported favorably — Do Pass.

January 26, 2010, read second time, amended, ordered engrossed.

January 27, 2010, engrossed.

February 2, 2010, read third time, passed. Yeas 42, nays 8.

HOUSE ACTION

February 9, 2010, read first time and referred to Committee on Interstate and International Cooperation.

February 18, 2010, amended, reported — Do Pass.

February 24, 2010, read second time, amended, ordered engrossed.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED SENATE BILL No. 170

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:

- 1 SECTION 1. IC 9-26-1-8, AS AMENDED BY P.L.126-2008,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 8. (a) A person who knowingly or intentionally
4 fails to stop or comply with section 1(1) or 1(2) of this chapter after
5 causing injury to a person commits a Class A misdemeanor. However,
6 the offense is:
7 (1) a Class D felony if:
8 (A) the accident involves ~~serious~~ bodily injury to a person; or
9 (B) within the five (5) years preceding the commission of the
10 offense, the person had a previous conviction of any of the
11 offenses listed in IC 9-30-10-4(a);
12 (2) a Class C felony if the accident involves ~~the death~~ **serious**
13 **bodily injury** of a person; and
14 (3) a Class B felony if:
15 (A) **the accident involves the death of a person; or**
16 (B) the person knowingly or intentionally fails to stop or
17 comply with section 1(1) or 1(2) of this chapter after

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1 committing operating while intoxicated causing serious bodily
 2 injury (IC 9-30-5-4).

3 (b) A person who knowingly or intentionally fails to stop or comply
 4 with section 3 or 4 of this chapter after causing damage to the property
 5 of another person commits a Class B misdemeanor.

6 SECTION 2. IC 9-30-5-5, AS AMENDED BY P.L.2-2005,
 7 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2010]: Sec. 5. (a) A person who causes the death of another
 9 person when operating a motor vehicle:

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

12 (A) one hundred (100) milliliters of the person's blood; or
 13 (B) two hundred ten (210) liters of the person's breath;

14 (2) with a controlled substance listed in schedule I or II of
 15 IC 35-48-2 or its metabolite in the person's blood; or
 16 (3) while intoxicated;

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

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

26 (1) with an alcohol concentration equivalent to at least
 27 fifteen-hundredths (0.15) gram of alcohol per:

28 (A) one hundred (100) milliliters of the person's blood; or
 29 (B) two hundred ten (210) liters of the person's breath; or
 30 (2) with a controlled substance listed in schedule I or II of
 31 IC 35-48-2 or its metabolite in the person's blood;

32 commits a Class B felony.

33 **(c) A person who causes the death of a law enforcement animal**
 34 **(as defined in IC 35-46-3-4.5) when operating a motor vehicle:**

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

37 **(A) one hundred (100) milliliters of the person's blood; or**
 38 **(B) two hundred ten (210) liters of the person's breath; or**
 39 **(2) with a controlled substance listed in schedule I or II of**
 40 **IC 35-48-2 or its metabolite in the person's blood;**
 41 **commits a Class D felony.**

42 ~~(c)~~ **(d)** A person who violates subsection (a), ~~(b)~~, **or (c)** commits

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1 a separate offense for each person **or law enforcement animal** whose
 2 death is caused by the violation of subsection (a), ~~or~~ (b), **or (c)**.
 3 ~~(d)~~ **(e)** It is a defense under subsection (a)(2), ~~or subsection (b)(2)~~,
 4 **or (c)(2)** that the accused person consumed the controlled substance
 5 under a valid prescription or order of a practitioner (as defined in
 6 IC 35-48-1) who acted in the course of the practitioner's professional
 7 practice.
 8 SECTION 3. IC 35-44-3-3, AS AMENDED BY P.L.143-2006,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2010]: Sec. 3. (a) A person who knowingly or intentionally:
 11 (1) forcibly resists, obstructs, or interferes with a law enforcement
 12 officer or a person assisting the officer while the officer is
 13 lawfully engaged in the execution of the officer's duties;
 14 (2) forcibly resists, obstructs, or interferes with the authorized
 15 service or execution of a civil or criminal process or order of a
 16 court; or
 17 (3) flees from a law enforcement officer after the officer has, by
 18 visible or audible means, including operation of the law
 19 enforcement officer's siren or emergency lights, identified himself
 20 or herself and ordered the person to stop;
 21 commits resisting law enforcement, a Class A misdemeanor, except as
 22 provided in subsection (b).
 23 (b) The offense under subsection (a) is a:
 24 (1) Class D felony if:
 25 (A) the offense is described in subsection (a)(3) and the person
 26 uses a vehicle to commit the offense; or
 27 (B) while committing any offense described in subsection (a),
 28 the person draws or uses a deadly weapon, inflicts bodily
 29 injury on or otherwise causes bodily injury to another person,
 30 or operates a vehicle in a manner that creates a substantial risk
 31 of bodily injury to another person;
 32 (2) Class C felony if, while committing any offense described in
 33 subsection (a), the person operates a vehicle in a manner that
 34 causes serious bodily injury to another person; ~~and~~
 35 (3) Class B felony if, while committing any offense described in
 36 subsection (a), the person operates a vehicle in a manner that
 37 causes the death of another person; **and**
 38 **(4) Class A felony if, while committing any offense described**
 39 **in subsection (a), the person operates a vehicle in a manner**
 40 **that causes the death of a law enforcement officer.**
 41 (c) For purposes of this section, a law enforcement officer includes
 42 an enforcement officer of the alcohol and tobacco commission and a

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1 conservation officer of the department of natural resources.
2 (d) If a person uses a vehicle to commit a felony offense under
3 subsection (b)(1)(B), (b)(2), ~~or~~ (b)(3), **or (b)(4)**, as part of the criminal
4 penalty imposed for the offense, the court shall impose a minimum
5 executed sentence of at least:
6 (1) thirty (30) days, if the person does not have a prior unrelated
7 conviction under this section;
8 (2) one hundred eighty (180) days, if the person has one (1) prior
9 unrelated conviction under this section; or
10 (3) one (1) year, if the person has two (2) or more prior unrelated
11 convictions under this section.
12 (e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory
13 minimum sentence imposed under subsection (d) may not be
14 suspended.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 170, 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, between lines 15 and 16, begin a new line block indented and insert:

"(2) Ireland Road."

Page 1, line 16, strike "(2)" and insert **"(3)"**.

Page 1, line 17, strike "(3)" and insert **"(4)"**.

Page 2, line 1, strike "(4)" and insert **"(5)"**.

Page 2, line 2, strike "(5)" and insert **"(6)"**.

Page 2, line 3, strike "(6)" and insert **"(7)"**.

Page 2, line 4, strike "(7)" and insert **"(8)"**.

Page 2, line 5, delete "(8)" and insert **"(9)"**.

Page 2, delete line 6, begin a new line block indented and insert:

"(10) (New) Evergreen Road directly across from the Indiana Toll Road interchange."

Page 2, line 7, delete "(10)" and insert **"(11)"**.

Page 2, line 8, delete "(11)" and insert **"(12)"**.

and when so amended that said bill do pass.

(Reference is to SB 170 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 170 be amended to read as follows:

Page 2, between lines 8 and 9, begin a new line block indented and insert:

"(11) The Indiana Toll Road."

Page 2, line 9, delete "(11)" and insert **"(12)"**.

Page 2, line 10, delete "(12)" and insert **"(13)"**.

(Reference is to SB 170 as printed January 22, 2010.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 170, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 170 as reprinted January 27, 2010.)

HARRIS, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 170 be amended to read as follows:

Page 3, after line 7, begin a new paragraph and insert:

"SECTION 3. IC 35-44-3-3, AS AMENDED BY P.L.143-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person who knowingly or intentionally:

- (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;
- (2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or
- (3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

- (1) Class D felony if:
 - (A) the offense is described in subsection (a)(3) and the person



uses a vehicle to commit the offense; or
(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; ~~and~~

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person; **and**

(4) Class A felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), ~~or~~ (b)(3), **or (b)(4)**, as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended."

(Reference is to ESB 170 as printed February 19, 2010.)

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