



Reprinted
February 2, 2010

SENATE BILL No. 265

DIGEST OF SB 265 (Updated February 1, 2010 7:45 pm - DI 87)

Citations Affected: IC 9-24; IC 9-30; IC 35-44.

Synopsis: Resisting law enforcement and license suspension. Provides that the driver's license of a person convicted of resisting law enforcement while using a vehicle and: (1) exceeding the speed limit by at least 20 miles per hour; (2) committing criminal recklessness; or (3) engaging in reckless driving with a vehicle; may be suspended for one year after the date the person is convicted (if the person is not incarcerated) or released from incarceration for a first offense, and two years for a second or subsequent offense. Specifies in which court a petition for a hardship license must be filed. Requires the court to notify the bureau of motor vehicles of the person's conviction, and specifies that the convicted person has the burden of applying for a new or renewal license and establishing that the one year or two year period has elapsed.

Effective: July 1, 2010.

Arnold, Yoder, Head

January 11, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 28, 2010, amended, reported favorably — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.

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SB 265—LS 6915/DI 106+



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.

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SENATE BILL No. 265

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 9-24-15-4, AS AMENDED BY P.L.127-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 4. (a) A verified petition filed under section 2 of
4 this chapter must be filed in the circuit court or superior court of the
5 county in which the petitioner resides. However, if at the time the
6 petition is filed:
7 (1) the petitioner is a defendant in a pending case concerning the
8 commission of an offense described in IC 9-30-5;
9 (2) the petitioner is on probation after being convicted of
10 committing an offense described in IC 9-30-5; ~~or~~
11 (3) the petitioner's driving privileges have been suspended under
12 IC 35-48-4-15 after the petitioner was convicted of committing an
13 offense described in IC 35-48-4-15(a); **or**
14 **(4) the petitioner's driving privileges have been suspended in**
15 **accordance with IC 9-30-4-6(b)(3) following the petitioner's**
16 **conviction in Indiana for a felony;**
17 the petition may be filed only in the circuit court or superior court in



- 1 which the case is pending or the petitioner was convicted.
- 2 (b) The clerk of the court shall docket the verified petition in the
- 3 name of the petitioner against the prosecuting attorney of the county.
- 4 (c) The prosecuting attorney shall appear in person or by deputy and
- 5 be heard by the court on the petition.
- 6 (d) The bureau:
- 7 (1) serves as a recordkeeper; and
- 8 (2) is not a party;
- 9 in a proceeding under this chapter.

10 SECTION 2. IC 9-30-4-6 IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Whenever the bureau
 12 suspends or revokes the current driver's license upon receiving a record
 13 of the conviction of a person for any offense under the motor vehicle
 14 laws not enumerated under subsection (b), the bureau may also suspend
 15 any of the certificates of registration and license plates issued for any
 16 motor vehicle registered in the name of the person so convicted.
 17 However, the bureau may not suspend the evidence of registration,
 18 unless otherwise required by law, if the person has given or gives and
 19 maintains during the three (3) years following the date of suspension
 20 or revocation proof of financial responsibility in the future in the
 21 manner specified in this section.

22 (b) The bureau shall suspend or revoke without notice or hearing the
 23 current driver's license and all certificates of registration and license
 24 plates issued or registered in the name of a person who is convicted of
 25 any of the following:

- 26 (1) Manslaughter or reckless homicide resulting from the
- 27 operation of a motor vehicle.
- 28 (2) Perjury or knowingly making a false affidavit to the
- 29 department under this chapter or any other law requiring the
- 30 registration of motor vehicles or regulating motor vehicle
- 31 operation upon the highways.
- 32 (3) A felony under Indiana motor vehicle laws or felony in the
- 33 commission of which a motor vehicle is used.
- 34 (4) Three (3) charges of criminal recklessness involving the use
- 35 of a motor vehicle within the preceding twelve (12) months.
- 36 (5) Failure to stop and give information or assistance or failure to
- 37 stop and disclose the person's identity at the scene of an accident
- 38 that has resulted in death, personal injury, or property damage in
- 39 excess of two hundred dollars (\$200).
- 40 (6) Possession, distribution, manufacture, cultivation, transfer,
- 41 use, or sale of a controlled substance or counterfeit substance, or
- 42 attempting or conspiring to possess, distribute, manufacture,

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1 cultivate, transfer, use, or sell a controlled substance or
 2 counterfeit substance.

3 (c) The license of a person shall also be suspended upon conviction
 4 in another jurisdiction for any offense described in subsections (b)(1),
 5 (b)(2), (b)(3), (b)(4), and (b)(5), except if property damage is less than
 6 two hundred dollars (\$200), the bureau may determine whether the
 7 driver's license and certificates of registration and license plates shall
 8 be suspended or revoked. The license of a person shall also be
 9 suspended upon conviction in another jurisdiction for any offense
 10 described in subsection (b)(6).

11 (d) A suspension or revocation remains in effect and a new or
 12 renewal license may not be issued to the person and a motor vehicle
 13 may not be registered in the name of the person as follows:

14 (1) Except as provided in subdivisions (2), ~~and~~ (3), (4), and (5),
 15 for six (6) months from the date of conviction or on the date on
 16 which the person is otherwise eligible for a license, whichever is
 17 later. Except as provided in IC 35-48-4-15, this includes a person
 18 convicted of a crime for which the person's license is suspended
 19 or revoked under subsection (b)(6).

20 (2) Upon conviction of an offense described in subsection (b)(1),
 21 for a fixed period of not less than two (2) years and not more than
 22 five (5) years, to be fixed by the bureau based upon
 23 recommendation of the court entering a conviction. A new or
 24 reinstated license may not be issued to the person unless that
 25 person, within the three (3) years following the expiration of the
 26 suspension or revocation, gives and maintains in force at all times
 27 during the effective period of a new or reinstated license proof of
 28 financial responsibility in the future in the manner specified in
 29 this chapter. However, the liability of the insurance carrier under
 30 a motor vehicle liability policy that is furnished for proof of
 31 financial responsibility in the future as set out in this chapter
 32 becomes absolute whenever loss or damage covered by the policy
 33 occurs, and the satisfaction by the insured of a final judgment for
 34 loss or damage is not a condition precedent to the right or
 35 obligation of the carrier to make payment on account of loss or
 36 damage, but the insurance carrier has the right to settle a claim
 37 covered by the policy. If the settlement is made in good faith, the
 38 amount shall be deductive from the limits of liability specified in
 39 the policy. A policy may not be canceled or annulled with respect
 40 to a loss or damage by an agreement between the carrier and the
 41 insured after the insured has become responsible for the loss or
 42 damage, and a cancellation or annulment is void. The policy may

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1 provide that the insured or any other person covered by the policy
 2 shall reimburse the insurance carrier for payment made on
 3 account of any loss or damage claim or suit involving a breach of
 4 the terms, provisions, or conditions of the policy. If the policy
 5 provides for limits in excess of the limits specified in this chapter,
 6 the insurance carrier may plead against any plaintiff, with respect
 7 to the amount of the excess limits of liability, any defenses that
 8 the carrier may be entitled to plead against the insured. The policy
 9 may further provide for prorating of the insurance with other
 10 applicable valid and collectible insurance. An action does not lie
 11 against the insurance carrier by or on behalf of any claimant under
 12 the policy until a final judgment has been obtained after actual
 13 trial by or on behalf of any claimant under the policy.

14 (3) For the period ordered by a court under IC 35-48-4-15.

15 **(4) If the person is convicted of a felony involving the use of a
 16 motor vehicle under IC 35-44-3-3(b) and the person:**

17 (A) exceeded the speed limit by at least twenty (20) miles
 18 per hour;

19 (B) committed criminal recklessness with a vehicle
 20 (IC 35-42-2-2); or

21 (C) engaged in aggressive driving (as defined in
 22 IC 9-21-8-55(b);

23 while committing the felony, for one (1) year after the date the
 24 person was convicted, if the person was not sentenced to a
 25 term of incarceration, or for one (1) year after the date the
 26 person was released from incarceration, if the person was
 27 sentenced to a term of incarceration. The convicted person
 28 has the burden of applying for a new or renewal license and
 29 establishing that the one (1) year period described in this
 30 subdivision has elapsed.

31 **(5) If the person is convicted of a felony involving the use of a
 32 motor vehicle under IC 35-44-3-3(b), the person:**

33 (A) exceeded the speed limit by at least twenty (20) miles
 34 per hour;

35 (B) committed criminal recklessness with a vehicle
 36 (IC 35-42-2-2); or

37 (C) engaged in aggressive driving (as defined in
 38 IC 9-21-8-55(b);

39 while committing the felony, and the person has a prior
 40 unrelated conviction for a felony under IC 35-44-3-3(b), for
 41 two (2) years after the date the person was convicted, if the
 42 person was not sentenced to a term of incarceration, or for

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1 **two (2) years after the date the person was released from**
2 **incarceration, if the person was sentenced to a term of**
3 **incarceration. The convicted person has the burden of**
4 **applying for a new or renewal license and establishing that**
5 **the two (2) year period described in this subdivision has**
6 **elapsed.**

7 (e) The bureau may take action as required in this section upon
8 receiving satisfactory evidence of a conviction of a person in another
9 state.

10 (f) For the purpose of this chapter, "conviction" includes any of the
11 following:

- 12 (1) A conviction upon a plea of guilty.
- 13 (2) A determination of guilt by a jury or court, even if:
 - 14 (A) no sentence is imposed; or
 - 15 (B) a sentence is suspended.
- 16 (3) A forfeiture of bail, bond, or collateral deposited to secure the
17 defendant's appearance for trial, unless the forfeiture is vacated.
- 18 (4) A payment of money as a penalty or as costs in accordance
19 with an agreement between a moving traffic violator and a traffic
20 violations bureau.

21 (g) A suspension or revocation under this section or under
22 IC 9-25-6-8 stands pending appeal of the conviction to a higher court
23 and may be set aside or modified only upon the receipt by the bureau
24 of the certificate of the court reversing or modifying the judgment that
25 the cause has been reversed or modified. However, if the suspension or
26 revocation follows a conviction in a court of no record in Indiana, the
27 suspension or revocation is stayed pending appeal of the conviction to
28 a court of record.

29 (h) A person aggrieved by an order or act of the bureau under this
30 section or IC 9-25-6-8 may file a petition for a court review.

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

- 34 (1) forcibly resists, obstructs, or interferes with a law enforcement
35 officer or a person assisting the officer while the officer is
36 lawfully engaged in the execution of the officer's duties;
- 37 (2) forcibly resists, obstructs, or interferes with the authorized
38 service or execution of a civil or criminal process or order of a
39 court; or
- 40 (3) flees from a law enforcement officer after the officer has, by
41 visible or audible means, including operation of the law
42 enforcement officer's siren or emergency lights, identified himself

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1 or herself and ordered the person to stop;
2 commits resisting law enforcement, a Class A misdemeanor, except as
3 provided in subsection (b).

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

5 (1) Class D felony if:

6 (A) the offense is described in subsection (a)(3) and the person
7 uses a vehicle to commit the offense; or

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

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

16 (3) Class B felony if, while committing any offense described in
17 subsection (a), the person operates a vehicle in a manner that
18 causes the death of another person.

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

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

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

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

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

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

35 **(f) If a person is convicted of an offense involving the use of a
36 motor vehicle under subsection:**

37 **(1) (b)(1)(A), if the person exceeded the speed limit by at least
38 twenty (20) miles per hour while committing the offense;**

39 **(2) (b)(2); or**

40 **(3) (b)(3);**

41 **the court may notify the bureau of motor vehicles to suspend or**
42 **revoke the person's driver's license and all certificates of**

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1 registration and license plates issued or registered in the person's
2 name in accordance with IC 9-30-4-6(b)(3) for the period described
3 in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform
4 the bureau whether the person has been sentenced to a term of
5 incarceration. At the time of conviction, the court may obtain the
6 person's current driver's license and return the license to the
7 bureau of motor vehicles.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 265, 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 3, line 14, delete "and".

Page 3, line 14, after "(4)," insert "**and (5),**".

Page 4, line 16, delete "IC 35-44-3-3(b)," and insert "**IC 35-44-3-3(b) and the person exceeded the speed limit by at least twenty (20) miles per hour while committing the felony,**".

Page 4, between lines 24 and 25, begin a new line block indented and insert:

"(5) If the person is convicted of a felony involving the use of a motor vehicle under IC 35-44-3-3(b), the person exceeded the speed limit by at least twenty (20) miles per hour while committing the felony, and the person has a prior unrelated conviction for a felony under IC 35-44-3-3(b), for two (2) years after the date the person:

(A) was convicted, if the person was not sentenced to a term of incarceration; or

(B) was released from incarceration, if the person was sentenced to a term of incarceration.

The convicted person has the burden of applying for a new or renewal license and establishing that the two (2) year period described in this subdivision has elapsed."

Page 5, delete lines 7 through 42.

Delete pages 6 through 8.

Page 9, delete lines 1 through 12.

Page 10, line 18, delete "(b)(1)(A), (b)(2), or (b)(3)," and insert ":

(1) (b)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) (b)(2); or

(3) (b)(3);"

Page 10, line 18, beginning with "the" begin a new line blocked left.

Page 10, line 19, delete "shall" and insert "**may**".

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Page 10, line 23, delete "IC 9-30-4-6(d)(4)." and insert "IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 265 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 10, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 265 be amended to read as follows:

Page 4, line 16, after "person" insert ":

(A)".

Page 4, line 17, after "hour" insert ";

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b));".

Page 4, line 17, begin a new line single block indented beginning with "while".

Page 4, line 19, delete ":".

Page 4, line 20, delete "(A)".

Page 4, line 21, delete ";" and insert ",".

Page 4, line 21, after "or" insert "for one (1) year after the date the person".

Page 4, line 22, delete "(B)".

Page 4, run in lines 19 through 24.

Page 4, line 28, after "person" insert ":

(A)".

Page 4, line 29, after "hour" insert ";

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b));".

Page 4, line 29, begin a new line single block indented beginning with "while".

Page 4, line 32, delete ":".

Page 4, line 33, delete "(A)".

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Page 4, line 34, delete ";" and insert ",".

Page 4, line 34, after "or" insert "**for two (2) years after the date the person**".

Page 4, line 35, delete "(B)".

Page 4, run in lines 32 through 37.

(Reference is to SB 265 as printed January 29, 2010.)

Senator TAYLOR

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