
HOUSE BILL No. 1158

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-10-4; IC 35-41-1; IC 35-42-2-4.5.

Synopsis: Texting while operating a motor vehicle. Makes a handheld wireless communications device to place or receive a call, transmit a text message, or transmit an electronic mail message while operating a moving motor vehicle a Class D felony if the person causes serious bodily injury to another person. Enhances the penalty to a Class C felony if a person is killed. Provides that calling while driving resulting in injury or death may constitute a predicate offense for a habitual traffic violator determination. Makes conforming amendments.

Effective: July 1, 2011.

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January 10, 2011, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1158



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 9-30-10-4, AS AMENDED BY P.L.28-2010,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 4. (a) A person who has accumulated at least two
4 (2) judgments within a ten (10) year period for any of the following
5 violations, singularly or in combination, not arising out of the same
6 incident, and with at least one (1) violation occurring after March 31,
7 1984, is a habitual violator:

- 8 (1) Reckless homicide resulting from the operation of a motor
9 vehicle.
- 10 (2) Voluntary or involuntary manslaughter resulting from the
11 operation of a motor vehicle.
- 12 (3) Failure of the driver of a motor vehicle involved in an accident
13 resulting in death or injury to any person to stop at the scene of
14 the accident and give the required information and assistance.
- 15 (4) Operation of a vehicle while intoxicated resulting in death.
- 16 (5) Before July 1, 1997, operation of a vehicle with at least
17 ten-hundredths percent (0.10%) alcohol in the blood resulting in



- 1 death.
- 2 (6) After June 30, 1997, and before July 1, 2001, operation of a
- 3 vehicle with an alcohol concentration equivalent to at least
- 4 ten-hundredths (0.10) gram of alcohol per:
- 5 (A) one hundred (100) milliliters of the blood; or
- 6 (B) two hundred ten (210) liters of the breath;
- 7 resulting in death.
- 8 (7) After June 30, 2001, operation of a vehicle with an alcohol
- 9 concentration equivalent to at least eight-hundredths (0.08) gram
- 10 of alcohol per:
- 11 (A) one hundred (100) milliliters of the blood; or
- 12 (B) two hundred ten (210) liters of the breath;
- 13 resulting in death.
- 14 **(8) Calling while driving causing injury or death**
- 15 **(IC 35-42-2-4.5).**
- 16 (b) A person who has accumulated at least three (3) judgments
- 17 within a ten (10) year period for any of the following violations,
- 18 singularly or in combination, not arising out of the same incident, and
- 19 with at least one (1) violation occurring after March 31, 1984, is a
- 20 habitual violator:
- 21 (1) Operation of a vehicle while intoxicated.
- 22 (2) Before July 1, 1997, operation of a vehicle with at least
- 23 ten-hundredths percent (0.10%) alcohol in the blood.
- 24 (3) After June 30, 1997, and before July 1, 2001, operation of a
- 25 vehicle with an alcohol concentration equivalent to at least
- 26 ten-hundredths (0.10) gram of alcohol per:
- 27 (A) one hundred (100) milliliters of the blood; or
- 28 (B) two hundred ten (210) liters of the breath.
- 29 (4) After June 30, 2001, operation of a vehicle with an alcohol
- 30 concentration equivalent to at least eight-hundredths (0.08) gram
- 31 of alcohol per:
- 32 (A) one hundred (100) milliliters of the blood; or
- 33 (B) two hundred ten (210) liters of the breath.
- 34 (5) Operating a motor vehicle while the person's license to do so
- 35 has been suspended or revoked as a result of the person's
- 36 conviction of an offense under IC 9-1-4-52 (repealed July 1,
- 37 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3, or
- 38 IC 9-24-19-5.
- 39 (6) Operating a motor vehicle without ever having obtained a
- 40 license to do so.
- 41 (7) Reckless driving.
- 42 (8) Criminal recklessness involving the operation of a motor

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1 vehicle.

2 (9) Drag racing or engaging in a speed contest in violation of law.

3 (10) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46

4 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2),

5 IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or

6 IC 9-26-1-4.

7 **(11) Calling while driving causing injury or death**

8 **(IC 35-42-2-4.5).**

9 ~~(11)~~ **(12)** Any felony under an Indiana motor vehicle statute or

10 any felony in the commission of which a motor vehicle is used.

11 A judgment for a violation enumerated in subsection (a) shall be added

12 to the violations described in this subsection for the purposes of this

13 subsection.

14 (c) A person who has accumulated at least ten (10) judgments

15 within a ten (10) year period for any traffic violation, except a parking

16 or an equipment violation, of the type required to be reported to the

17 bureau, singularly or in combination, not arising out of the same

18 incident, and with at least one (1) violation occurring after March 31,

19 1984, is a habitual violator. However, at least one (1) of the judgments

20 must be for a violation enumerated in subsection (a) or (b). A judgment

21 for a violation enumerated in subsection (a) or (b) shall be added to the

22 judgments described in this subsection for the purposes of this

23 subsection.

24 (d) For purposes of this section, a judgment includes a judgment in

25 any other jurisdiction in which the elements of the offense for which

26 the conviction was entered are substantially similar to the elements of

27 the offenses described in subsections (a) and (b).

28 SECTION 2. IC 35-41-1-12.5 IS ADDED TO THE INDIANA

29 CODE AS A NEW SECTION TO READ AS FOLLOWS

30 [EFFECTIVE JULY 1, 2011]: **Sec. 12.5. "Handheld wireless**

31 **communications device" means a handheld device used for the**

32 **transfer of information without the use of electrical conductors or**

33 **wires. The term includes the following:**

34 **(1) A wireless telephone.**

35 **(2) A personal digital assistant.**

36 **(3) A pager.**

37 **(4) A text messaging device.**

38 SECTION 3. IC 35-41-1-26.6 IS ADDED TO THE INDIANA

39 CODE AS A NEW SECTION TO READ AS FOLLOWS

40 [EFFECTIVE JULY 1, 2011]: **Sec. 26.6. "Text message" means a**

41 **communication in the form of electronic text sent from a handheld**

42 **wireless communications device.**

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1 SECTION 4. IC 35-42-2-4.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2011]: **Sec. 4.5. (a) This section does not apply to a law
 4 enforcement officer or an emergency medical services provider
 5 while the law enforcement officer or emergency medical services
 6 provider is responding to an emergency or operating within the
 7 scope of the officer's or provider's employment.**
 8 **(b) A person who:**
 9 **(1) knowingly or intentionally uses a handheld wireless
 10 communications device to:**
 11 **(A) place or receive a call; or**
 12 **(B) transmit a text message or an electronic mail message;**
 13 **while operating a moving motor vehicle on a public highway**
 14 **(as defined in IC 9-25-2-4); and**
 15 **(2) causes serious bodily injury to another person;**
 16 **commits calling while driving causing injury or death, a Class D**
 17 **felony. However, the offense is a Class C felony if it results in the**
 18 **death of another person.**

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