

HOUSE BILL No. 1199

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-21.

Synopsis: Automated traffic control systems. Authorizes the installation of an automated traffic control system in a construction or maintenance zone with a temporary maximum speed limit or a school speed zone. Provides: (1) for issuance of a citation for a violation of the maximum speed limit (violation) by an electronic traffic ticket; and (2) certain defenses to the issuance of a citation for a violation.

Effective: July 1, 2011.

Friend, VanDenburgh

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. 1199



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

1 SECTION 1. IC 9-13-2-6.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 6.1. "Automated traffic control system" means:**

- 4 (1) a photographic device;
 - 5 (2) a radar device;
 - 6 (3) a laser device; or
 - 7 (4) another electrical or mechanical device;
- 8 **designed to record the speed of a motor vehicle and obtain a clear**
9 **photograph or other recorded image of the motor vehicle, the**
10 **operator of the motor vehicle, and the vehicle registration number**
11 **of the license plate of the motor vehicle.**

12 SECTION 2. IC 9-13-2-34.4 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2011]: **Sec. 34.4. "Construction or maintenance zone" means an**
15 **area in which the Indiana department of transportation or the**
16 **Indiana finance authority has established a lower speed limit in**
17 **accordance with IC 9-21-5-11(a).**



1 SECTION 3. IC 9-13-2-121 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 121. (a) "Owner"
3 means, except as otherwise provided in this section, when used in
4 reference to a motor vehicle:

- 5 (1) a person who holds the legal title of a motor vehicle;
- 6 (2) a person renting or leasing a motor vehicle and having
7 exclusive use of the motor vehicle for more than thirty (30) days;
- 8 or
- 9 (3) if a motor vehicle is the subject of an agreement for the
10 conditional sale or lease vested in the conditional vendee or
11 lessee, or in the event the mortgagor, with the right of purchase
12 upon the performance of the conditions stated in the agreement
13 and with an immediate right of possession of a vehicle is entitled
14 to possession, the conditional vendee or lessee or mortgagor.

15 (b) "Owner", **except as provided in subsection (e)**, for purposes of
16 IC 9-21 and IC 9-25, means, when used in reference to a motor vehicle,
17 a person who holds the legal title of a motor vehicle, or if a:

- 18 (1) motor vehicle is the subject of an agreement for the
19 conditional sale or lease of the motor vehicle with the right of
20 purchase upon performance of the conditions stated in the
21 agreement and with an immediate right of possession vested in
22 the conditional vendee or lessee; or
- 23 (2) mortgagor of a motor vehicle is entitled to possession;

24 the conditional vendee or lessee or mortgagor is considered to be the
25 owner for the purpose of IC 9-21 and IC 9-25.

26 (c) "Owner", for purposes of IC 9-22-1, means the last known record
27 titleholder of a vehicle according to the records of the bureau under
28 IC 9-17.

29 (d) "Owner", for purposes of IC 9-31, means a person, other than a
30 lienholder, having the property in or title to a motorboat. The term
31 includes a person entitled to the use or possession of a motorboat
32 subject to an interest in another person reserved or created by
33 agreement and securing payment or performance of an obligation. The
34 term excludes a lessee under a lease not intended as security.

35 (e) "Owner", **for purposes of IC 9-21-3.5 and IC 9-21-5-17, has**
36 **the meaning set forth in IC 9-21-3.5-5.**

37 SECTION 4. IC 9-21-4-20, AS ADDED BY P.L.40-2007,
38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2011]: Sec. 20. (a) For purposes of this section, "highway
40 work zone" has the meaning set forth in IC 8-23-2-15.

41 (b) The Indiana department of transportation shall design and
42 manufacture or have manufactured signs that inform vehicle operators

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- 1 of the offenses and penalties under:
- 2 (1) IC 9-21-5-11; and
- 3 (2) IC 9-21-8-56.
- 4 (c) A sign described in subsection (b) shall be posted at a reasonable
- 5 distance before a highway work zone by:
- 6 (1) the Indiana department of transportation;
- 7 (2) a political subdivision; or
- 8 (3) a contractor of the:
- 9 (A) Indiana department of transportation; or
- 10 (B) political subdivision;
- 11 that is working at the highway work zone.

12 A sign that is posted before a highway work zone must be posted in
 13 accordance with the Indiana Manual on Uniform Traffic Control
 14 Devices or the Indiana Work Site Traffic Control Manual.

15 **(d) If a highway work zone includes a construction or**
 16 **maintenance zone enforced by means of an automated traffic**
 17 **control system, the state police department shall post a sign in**
 18 **accordance with IC 9-21-5-15(d).**

19 SECTION 5. IC 9-21-5-6, AS AMENDED BY P.L.138-2009,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2011]: Sec. 6. (a) Except as provided in subsections (e) and
 22 (f), whenever a local authority in the authority's jurisdiction determines
 23 that the maximum speed permitted under this chapter is greater or less
 24 than reasonable and safe under the conditions found to exist on a
 25 highway or part of a highway, the local authority may determine and
 26 declare a reasonable and safe maximum limit on the highway. The
 27 maximum limit declared under this section may do any of the
 28 following:

- 29 (1) Decrease the limit within urban districts, but not to less than
- 30 twenty (20) miles per hour.
- 31 (2) Increase the limit within an urban district, but not to more than
- 32 fifty-five (55) miles per hour during daytime and fifty (50) miles
- 33 per hour during nighttime.
- 34 (3) Decrease the limit outside an urban district, but not to less
- 35 than thirty (30) miles per hour.
- 36 (4) Decrease the limit in an alley, but to not less than five (5)
- 37 miles per hour.
- 38 (5) Increase the limit in an alley, but to not more than thirty (30)
- 39 miles per hour.

40 The local authority must perform an engineering and traffic
 41 investigation before a determination may be made to change a speed
 42 limit under subdivision (2), (3), (4), or (5) or before the speed limit

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1 within an urban district may be decreased to less than twenty-five (25)
2 miles per hour under subdivision (1).

3 (b) Except as provided in subsection (f), a local authority in the
4 authority's jurisdiction shall determine by an engineering and traffic
5 investigation the proper maximum speed for all local streets and shall
6 declare a reasonable and safe maximum speed permitted under this
7 chapter for an urban district. However, an engineering and traffic study
8 is not required to be performed for the local streets in an urban district
9 under this subsection if the local authority determines that the proper
10 maximum speed in the urban district is not less than twenty-five (25)
11 miles per hour.

12 (c) An altered limit established under this section is effective at all
13 times or during hours of darkness or at other times as may be
14 determined when appropriate signs giving notice of the altered limit are
15 erected on the street or highway.

16 (d) Except as provided in this subsection, a local authority may not
17 alter a speed limit on a highway or extension of a highway in the state
18 highway system. A city or town may establish speed limits on state
19 highways upon which a school is located. However, a speed limit
20 established under this subsection is valid only if the following
21 conditions exist:

- 22 (1) The limit is not less than twenty (20) miles per hour.
23 (2) The limit is imposed only in the immediate vicinity of the
24 school.
25 (3) Children are present.
26 (4) The speed zone is properly signed. After June 30, 2011, there
27 must be:
28 (A) a sign located:
29 (i) where the reduced speed zone begins; or
30 (ii) as near as practical to the point where the reduced speed
31 zone begins;
32 indicating the reduced speed limit; and
33 (B) a sign located at the end of the reduced speed zone
34 indicating:
35 (i) the speed limit for the section of highway that follows; or
36 (ii) the end of the reduced speed zone.
37 (5) The Indiana department of transportation has been notified of
38 the limit imposed by certified mail.

39 (e) A local authority may decrease a limit on a street to not less than
40 fifteen (15) miles per hour if the following conditions exist:

- 41 (1) The street is located within a park or playground established
42 under IC 36-10.

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1 (2) The:

2 (A) board established under IC 36-10-3;

3 (B) board established under IC 36-10-4; or

4 (C) park authority established under IC 36-10-5;

5 requests the local authority to decrease the limit.

6 (3) The speed zone is properly signed.

7 (f) A city, town, or county may establish speed limits on a street or

8 highway upon which a school is located if the street or highway is

9 under the jurisdiction of the city, town, or county, respectively.

10 However, a speed limit established under this subsection is valid only

11 if the following conditions exist:

12 (1) The limit is not less than:

13 (A) twenty (20) miles per hour within an urban district; and

14 (B) thirty (30) miles per hour outside an urban district.

15 (2) The limit is imposed only in the immediate vicinity of the

16 school.

17 (3) Children are present.

18 (4) The speed zone is properly signed. After June 30, 2011, there

19 must be:

20 (A) a sign located:

21 (i) where the reduced speed zone begins; or

22 (ii) as near as practical to the point where the reduced speed

23 zone begins;

24 indicating the reduced speed limit; and

25 (B) a sign located at the end of the reduced speed zone

26 indicating the end of the reduced speed zone.

27 **A city, town, or county that has established a speed zone under this**

28 **subsection may enforce the speed limit by means of an automated**

29 **traffic control system in the manner required by sections 16 and 17**

30 **of this chapter.**

31 SECTION 6. IC 9-21-5-11, AS AMENDED BY P.L.40-2007,

32 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

33 JULY 1, 2011]: Sec. 11. (a) Subject to subsection (b), the Indiana

34 department of transportation, the Indiana finance authority, or a local

35 authority may establish temporary maximum speed limits in their

36 respective jurisdictions and in the vicinity of a worksite without

37 conducting an engineering study and investigation required under this

38 article. The establishing authority shall post signs notifying the

39 traveling public of the temporary maximum speed limits established

40 under this section. **A local authority that establishes a temporary**

41 **maximum speed limit under this subsection shall maintain a record**

42 **that indicates:**

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- 1 **(1) the location of the worksite zone;**
- 2 **(2) the temporary maximum speed limit set and posted for the**
- 3 **worksite zone; and**
- 4 **(3) the dates when the temporary maximum speed limit was**
- 5 **in effect.**

6 (b) Worksite speed limits set under this section must be ten (10)

7 miles below the maximum established speed limit. A worksite speed

8 limit may not exceed forty-five (45) miles per hour in any location.

9 (c) A worksite speed limit set under this section may be enforced

10 only if:

- 11 (1) workers are present in the immediate vicinity of the worksite;
- 12 or
- 13 (2) if workers are not present in the immediate vicinity of the
- 14 worksite, the establishing authority determines that the safety of
- 15 the traveling public requires enforcement of the worksite speed
- 16 limit.

17 (d) Notwithstanding IC 34-28-5-4(b), a judgment for the infraction

18 of violating a speed limit set under this section must be entered as

19 follows:

- 20 (1) If the person has not previously committed the infraction of
- 21 violating a speed limit set under this section, a judgment of at
- 22 least three hundred dollars (\$300).
- 23 (2) If the person has committed one (1) infraction of violating a
- 24 speed limit set under this section in the previous three (3) years,
- 25 a judgment of at least five hundred dollars (\$500).
- 26 (3) If the person has committed two (2) or more infractions of
- 27 violating a speed limit set under this section in the previous three
- 28 (3) years, a judgment of one thousand dollars (\$1,000).

29 (e) Notwithstanding IC 34-28-5-5(c), the funds collected as

30 judgments for the infraction of violating a speed limit set under this

31 section shall be transferred to the Indiana department of transportation

32 to pay the costs of hiring off duty police officers to perform the duties

33 described in IC 8-23-2-15(b).

34 **(f) A violation of a speed limit set by the Indiana department of**

35 **transportation or the Indiana finance authority under subsection**

36 **(a) may be enforced under sections 15 and 17 of this chapter.**

37 SECTION 7. IC 9-21-5-15 IS ADDED TO THE INDIANA CODE

38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

39 1, 2011]: **Sec. 15. (a) The state police department may install an**

40 **automated traffic control system in a construction or maintenance**

41 **zone on a highway under the jurisdiction of the Indiana**

42 **department of transportation or the Indiana finance authority.**

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1 (b) Before the installation of an automated traffic control
 2 system, the state police department must conduct a public
 3 information campaign to inform operators of motor vehicles
 4 concerning the use of automated traffic control systems in
 5 construction or maintenance zones.

6 (c) An automated traffic control system:

7 (1) may be installed only in an area where road construction
 8 is occurring; and

9 (2) may operate only during periods when workers are
 10 present in the construction or maintenance zone.

11 (d) Before an automated traffic control system installed in a
 12 construction or maintenance zone under subsection (b) is used, the
 13 state police department shall post signs in the construction or
 14 maintenance zone in accordance with the Indiana Manual on
 15 Uniform Traffic Control Devices. The signs must clearly indicate
 16 that an automated traffic control system is in use in the area in
 17 which the signs are posted.

18 SECTION 8. IC 9-21-5-16 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2011]: Sec. 16. (a) A city, town, or county may install an
 21 automated traffic control system in a school zone on a highway
 22 under the jurisdiction of the city, town, or county.

23 (b) Before the installation of an automated traffic control
 24 system, the city, town, or county must conduct a public information
 25 campaign to inform operators of motor vehicles concerning the use
 26 of automated traffic control systems in school zones.

27 (c) An automated traffic control system:

28 (1) may be installed only in a marked school zone; and

29 (2) may operate only during periods when children are
 30 present at the school that is located in the school zone.

31 (d) Before an automated traffic control system installed in a
 32 school zone under subsection (a) is used, the city, town, or county
 33 shall post signs in the school zone in accordance with the Indiana
 34 Manual on Uniform Traffic Control Devices. The signs must
 35 clearly indicate that an automated traffic control system is in use
 36 in the area in which the signs are posted.

37 SECTION 9. IC 9-21-5-17 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2011]: Sec. 17. (a) As used in this section, "owner" has the
 40 meaning set forth in IC 9-21-3.5-5.

41 (b) In order for a photograph or other recorded image made by
 42 an automated traffic control system to be introduced as evidence

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1 in an action or a proceeding against an individual alleged to have
 2 violated a speed limit established under section 6(f) or 11(a) of this
 3 chapter:

- 4 (1) the motor vehicle allegedly operated at a speed violating
 5 the maximum speed limit;
 6 (2) the operator of the motor vehicle;
 7 (3) the vehicle registration number of a license plate of the
 8 motor vehicle;
 9 (4) the speed of the motor vehicle;
 10 (5) the date of the violation;
 11 (6) the time of the violation; and
 12 (7) the location of the violation;

13 must be clearly shown on the photograph or recorded image made
 14 by the automated traffic control system.

15 (c) A photograph or other recorded image made by an
 16 automated traffic control system may be introduced as evidence in
 17 an action or proceeding against an individual alleged to have
 18 violated a speed limit established under section 6(f) or 11(a) of this
 19 chapter even if a law enforcement officer is not present to witness
 20 the alleged speed limit violation detected by the automated traffic
 21 control system.

22 (d) Except as provided in section 15 or 16 of this chapter, a
 23 photograph or other recorded image made by an automated traffic
 24 control system may not be introduced as evidence in an action or
 25 proceeding against an individual alleged to have violated a speed
 26 limit unless the violation is alleged to have occurred in a speed limit
 27 zone established under section 6(f) or 11(a) of this chapter. The
 28 photograph or recorded image is confidential and may be released
 29 only to:

- 30 (1) the owner of the motor vehicle that allegedly appears in
 31 the photograph or other recorded image and the attorney of
 32 the owner;
 33 (2) the alleged violator if the alleged violator is not the owner
 34 of the motor vehicle and the attorney of the alleged violator;
 35 (3) the prosecuting attorney of the county in which the alleged
 36 violation occurred;
 37 (4) the court (as defined in IC 9-30-3-2); and
 38 (5) a law enforcement officer of the jurisdiction in which the
 39 offense occurred.

40 (e) An electronic traffic ticket shall be mailed or given to the
 41 owner or operator of a motor vehicle that, according to a
 42 photograph or other image made by an automated traffic control

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1 system, allegedly was operated in violation of a speed limit
 2 established under section 6(f) or 11(a) of this chapter. If mailed, the
 3 electronic ticket must be sent by means of certified mail, return
 4 receipt requested, not later than six (6) business days after the day
 5 of the alleged violation. If the operator of the motor vehicle cannot
 6 be identified by means of the photograph or recorded image, an
 7 electronic traffic ticket based on the alleged violation may not be
 8 mailed or given to the owner or operator of the motor vehicle.

9 (f) In an action or a proceeding against a person alleged to have
 10 violated a speed limit established under section 6(f) or 11(a) of this
 11 chapter based on a photograph or other recorded image made by
 12 an automated traffic control system, it is a defense if the owner of
 13 the motor vehicle:

14 (1) proves that at the time of the alleged violation the owner
 15 was engaged in the business of renting or leasing vehicles
 16 under written agreements;

17 (2) proves that at the time of the alleged violation the motor
 18 vehicle was in the care, custody, or control of a person other
 19 than the owner or an employee of the owner under a written
 20 agreement for the rental or lease of the vehicle for a period of
 21 not more than sixty (60) days; and

22 (3) provides to the traffic violations bureau or court that has
 23 jurisdiction, not later than thirty (30) days after the owner
 24 receives notice of the alleged violation, the name and address
 25 of the person who was renting or leasing the vehicle at the
 26 time of the alleged violation.

27 Not later than six (6) days after receipt of the information provided
 28 by a motor vehicle owner under subdivision (3), an electronic ticket
 29 must be sent by means of certified mail, return receipt requested,
 30 to the person who is identified in the information provided under
 31 subdivision (3) as having rented or leased the motor vehicle at the
 32 time of the alleged violation.

33 (g) In an action or a proceeding against a person alleged to have
 34 violated a speed limit established under section 6(f) of this chapter
 35 based on a photograph or other recorded image made by an
 36 automated traffic control system, it is a defense if the owner of the
 37 motor vehicle provides to the traffic violations bureau or court that
 38 has jurisdiction proof that school was not in session at the time of
 39 the alleged violation.

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