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# HOUSE BILL No. 1556

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-30.

**Synopsis:** Ignition interlock devices. Requires a court to prohibit a person convicted of operating while intoxicated from operating a motor vehicle that is not equipped with an ignition interlock device for: (1) at least six months, if the person does not have a prior conviction for operating while intoxicated; or (2) at least one year, if the person has a prior conviction for operating while intoxicated. Requires a court to order the installation of an ignition interlock device if the court grants a person probationary driving privileges in connection with an operating while intoxicated offense. Makes it a class A misdemeanor for a person to knowingly rent, lease, or loan a motor vehicle that is not equipped with a functioning ignition interlock device to a person who is restricted under a court order to the use of a vehicle with an ignition interlock device. Removes language permitting a court to make a determination whether a person is indigent for purposes of determining whether to require the person to pay costs associated with the installation of an ignition interlock device. Makes conforming amendments. Repeals superseded provisions.

**Effective:** July 1, 2011.

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**Clere, Welch**

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January 20, 2011, read first time and referred to Committee on Courts and Criminal Code.

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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. 1556



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 9-30-5-7 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2011]: Sec. 7. ~~(a)~~ A person who violates a court  
3 order issued under section 16 of this chapter commits a Class A  
4 misdemeanor.

5 ~~(b)~~ (a) Except as provided in subsection ~~(c)~~; (b), a person who  
6 knowingly assists another person who is restricted to the use of an  
7 ignition interlock device to violate a court order issued under this  
8 chapter commits a Class A misdemeanor.

9 ~~(c)~~ (b) Subsection ~~(b)~~ (a) does not apply if the starting of a motor  
10 vehicle, or the request to start a motor vehicle, equipped with an  
11 ignition interlock device:

12 (1) is done for the purpose of safety or mechanical repair of the  
13 device or the vehicle; and

14 (2) the restricted person does not operate the vehicle.

15 ~~(d)~~ (c) A person who, except in an emergency, knowingly rents,  
16 leases, or loans a motor vehicle that is not equipped with a functioning  
17 ignition interlock device to a person who is restricted under a court



1 order to the use of a vehicle with an ignition interlock device commits  
2 a Class A ~~infraction~~: **misdemeanor**.

3 ~~(e)~~ **(d)** A person who is subject to an ignition interlock device  
4 restriction and drives another vehicle in an emergency situation must  
5 notify the court of the emergency within twenty-four (24) hours.

6 SECTION 2. IC 9-30-5-10, AS AMENDED BY P.L.126-2008,  
7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2011]: Sec. 10. (a) In addition to a criminal penalty imposed  
9 for an offense under this chapter or IC 14-15-8, the court shall, after  
10 reviewing the person's bureau driving record and other relevant  
11 evidence, recommend the suspension of the person's driving privileges  
12 for the fixed period of time specified under this section. The court may  
13 require that a period of suspension recommended under this section be  
14 imposed, if applicable, before a period of incarceration or after a period  
15 of incarceration, or both before and after a period of incarceration, as  
16 long as the suspension otherwise complies with the periods established  
17 in this section. **Except as provided in subsection (g), if the court  
18 grants a person probationary driving privileges under this section,  
19 the court shall order that the probationary driving privileges  
20 include the condition that the person is prohibited from operating  
21 a motor vehicle unless the motor vehicle is equipped with a  
22 functioning certified ignition interlock device under IC 9-30-8.**

23 (b) If the court finds that the person:  
24 (1) does not have a previous conviction of operating a vehicle or  
25 a motorboat while intoxicated; or  
26 (2) has a previous conviction of operating a vehicle or a  
27 motorboat while intoxicated that occurred at least ten (10) years  
28 before the conviction under consideration by the court;  
29 the court shall recommend the suspension of the person's driving  
30 privileges for at least ninety (90) days but not more than two (2) years.

31 (c) If the court finds that the person has a previous conviction of  
32 operating a vehicle or a motorboat while intoxicated and the previous  
33 conviction occurred more than five (5) years but less than ten (10)  
34 years before the conviction under consideration by the court, the court  
35 shall recommend the suspension of the person's driving privileges for  
36 at least one hundred eighty (180) days but not more than two (2) years.  
37 The court may stay the execution of that part of the suspension that  
38 exceeds the minimum period of suspension and grant the person  
39 probationary driving privileges for a period of time equal to the length  
40 of the stay.

41 (d) If the court finds that the person has a previous conviction of  
42 operating a vehicle or a motorboat while intoxicated and the previous

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1 conviction occurred less than five (5) years before the conviction under  
 2 consideration by the court, the court shall recommend the suspension  
 3 of the person's driving privileges for at least one (1) year but not more  
 4 than two (2) years. The court may stay the execution of that part of the  
 5 suspension that exceeds the minimum period of suspension and grant  
 6 the person probationary driving privileges for a period of time equal to  
 7 the length of the stay. ~~If the court grants probationary driving privileges~~  
 8 ~~under this subsection, the court shall order that the probationary driving~~  
 9 ~~privileges include the requirement that the person may not operate a~~  
 10 ~~motor vehicle unless the motor vehicle is equipped with a functioning~~  
 11 ~~certified ignition interlock device under IC 9-30-8. However, the court~~  
 12 ~~may grant probationary driving privileges under this subsection without~~  
 13 ~~requiring the installation of an ignition interlock device if the person is~~  
 14 ~~successfully participating in a court supervised alcohol treatment~~  
 15 ~~program in which the person is taking disulfiram or a similar substance~~  
 16 ~~that the court determines is effective in treating alcohol abuse. The~~  
 17 ~~person granted probationary driving privileges under this subsection~~  
 18 ~~shall pay all costs associated with the installation of an ignition~~  
 19 ~~interlock device. unless the sentencing court determines that the person~~  
 20 ~~is indigent.~~

21 (e) If the conviction under consideration by the court is for an  
 22 offense under:

- 23 (1) section 4 of this chapter;
- 24 (2) section 5 of this chapter;
- 25 (3) IC 14-15-8-8(b); or
- 26 (4) IC 14-15-8-8(c);

27 the court shall recommend the suspension of the person's driving  
 28 privileges for at least two (2) years but not more than five (5) years.

29 (f) If the conviction under consideration by the court is for an  
 30 offense involving the use of a controlled substance listed in schedule  
 31 I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the  
 32 offense, the court shall recommend the suspension or revocation of the  
 33 person's driving privileges for at least six (6) months.

34 **(g) A court may not order the installation of an ignition**  
 35 **interlock device on a vehicle that is operated by a person whose**  
 36 **driving privileges are suspended under this section but that is**  
 37 **owned, leased, or provided by the person's employer if:**

- 38 (1) **the offense for which the person's driving privileges are**  
 39 **suspended is a misdemeanor under section 1 or 2 of this**  
 40 **chapter;**
- 41 (2) **the person is employed as the operator of the vehicle**  
 42 **owned, leased, or provided by the employer; or**

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1 (3) the person is subject to a labor agreement that prohibits  
2 an employee who is convicted of an alcohol related offense  
3 from operating the employer's vehicle.

4 SECTION 3. IC 9-30-5-18 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2011]: Sec. 18. (a) As used in this section, "impaired driving  
7 offense" means an offense described in sections 1 through 5 of this  
8 chapter.

9 (b) In addition to any sentence imposed on a person for a felony  
10 or a misdemeanor, a court shall prohibit a person convicted of an  
11 impaired driving offense from operating a motor vehicle unless the  
12 vehicle is equipped with a functioning certified ignition interlock  
13 device under IC 9-30-8. The period for which the court shall  
14 prohibit the person from operating a motor vehicle not equipped  
15 with a functioning certified ignition interlock device must be at  
16 least:

17 (1) six (6) months, if the person does not have a previous  
18 conviction for an impaired driving offense, including a  
19 conviction for a substantially similar offense in another  
20 jurisdiction; or

21 (2) one (1) year, if the person has a previous conviction for an  
22 impaired driving offense, including a conviction for a  
23 substantially similar offense in another jurisdiction.

24 (c) The period for which the person shall be prohibited from  
25 operating a vehicle not equipped with a certified ignition interlock  
26 device under subsection (b):

- 27 (1) may be imposed, if applicable:
  - 28 (A) before a period of incarceration;
  - 29 (B) after a period of incarceration; or
  - 30 (C) both before a period of incarceration and after a  
31 period of incarceration;

32 as long as the suspension otherwise complies with the periods  
33 established in this section; and

34 (2) may extend one (1) year beyond a sentence imposed under  
35 IC 35-50-2 or IC 35-50-3.

36 This subsection does not prohibit a court from imposing a separate  
37 ignition interlock device requirement as a condition of pretrial  
38 release or in accordance with IC 9-30-6-8. However, any period of  
39 time during which the person operated a motor vehicle equipped  
40 with an ignition interlock device as a condition of pretrial release  
41 or under IC 9-30-6-8 does not reduce the period for which the  
42 person is prohibited from operating a vehicle not equipped with a

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**certified ignition interlock device under subsection (b).**

**(d) A person prohibited under this section from operating a motor vehicle not equipped with a certified ignition interlock device shall pay the cost of installing and monitoring the ignition interlock device.**

SECTION 4. IC 9-30-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. The bureau shall adopt rules under IC 4-22-2 to establish standards and specifications for an ignition interlock device. ~~the installation of which the courts may mandate under IC 9-30-5-16.~~ The standards and specifications must require at a minimum that the device meets the following requirements:

- (1) Is accurate.
- (2) Does not impede the safe operation of a vehicle.
- (3) Provides a minimum opportunity to be bypassed.
- (4) Shows evidence of tampering if tampering is attempted.
- (5) Has a label affixed warning that a person tampering with or misusing the device is subject to a civil penalty.

SECTION 5. IC 9-30-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. If a court orders a person ~~under IC 9-30-5-16~~ to operate only a vehicle that is equipped with an ignition interlock device, the bureau shall include that condition when issuing a license.

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 9-30-5-16; IC 9-30-8-1.

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