



February 10, 2012

**ENGROSSED  
SENATE BILL No. 274**

DIGEST OF SB 274 (Updated February 8, 2012 2:56 pm - DI 69)

**Citations Affected:** IC 7.1-1; IC 7.1-5.

**Synopsis:** Immunity for certain alcohol offenses. Prohibits a law enforcement officer from taking a person into custody for a crime of public intoxication or minor possession, consumption, or transportation of an alcoholic beverage if the officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that: (1) the officer has contact with the person because the person requested emergency medical assistance, or acted in concert with another person who requested emergency medical assistance, for an individual who reasonably appeared in need of medical assistance due to alcohol consumption; and (2) the person meets other requirements. Specifies that a person may not bring an action against a law enforcement officer who takes a person into custody in violation of this prohibition. Provides that a person meeting these conditions is immune from criminal prosecution for public intoxication or minor possession, consumption, or transportation of an alcoholic beverage.

**Effective:** July 1, 2012.

**Merritt, Simpson, Head, Taylor,  
Lanane, Randolph, Hershman**  
(HOUSE SPONSORS — MCMILLIN, TRUITT)

January 4, 2012, read first time and referred to Committee on Judiciary.  
January 19, 2012, amended, reported favorably — Do Pass.  
January 23, 2012, read second time, ordered engrossed.  
January 24, 2012, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Courts and Criminal Code.  
February 9, 2012, reported — Do Pass.

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February 10, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 274

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 7.1-1-3-19.7 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2012]: **Sec. 19.7. "Law enforcement officer",**  
4 **for purposes of IC 7.1-5-1-6.5, has the meaning set forth in**  
5 **IC 35-41-1-17(a).**

6 SECTION 2. IC 7.1-5-1-3 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. **Subject to section**  
8 **6.5 of this chapter**, it is a Class B misdemeanor for a person to be in  
9 a public place or a place of public resort in a state of intoxication  
10 caused by the person's use of alcohol or a controlled substance (as  
11 defined in IC 35-48-1-9).

12 SECTION 3. IC 7.1-5-1-6 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **Subject to section**  
14 **6.5 of this chapter**, it is a Class B misdemeanor for a person to be, or  
15 to become, intoxicated as a result of the person's use of alcohol or a  
16 controlled substance (as defined in IC 35-48-1-9) in or upon a vehicle  
17 commonly used for the public transportation of passengers, or in or

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1 upon a common carrier, or in or about a depot, station, airport, ticket  
2 office, waiting room or platform.

3 SECTION 4. IC 7.1-5-1-6.5 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2012]: **Sec. 6.5. (a) A law enforcement officer may not take a  
6 person into custody based solely on the commission of an offense  
7 involving alcohol described in subsection (b) if the law enforcement  
8 officer, after making a reasonable determination and considering  
9 the facts and surrounding circumstances, reasonably believes that  
10 all of the following apply:**

11 (1) **The law enforcement officer has contact with the person  
12 because the person either:**

- 13 (A) requested emergency medical assistance; or
- 14 (B) acted in concert with another person who requested  
15 emergency medical assistance;

16 **for an individual who reasonably appeared to be in need of  
17 medical assistance due to alcohol consumption.**

18 (2) **The person described in subdivision (1)(A) or (1)(B):**

- 19 (A) provided:
  - 20 (i) the person's full name; and
  - 21 (ii) any other relevant information requested by the law  
22 enforcement officer;

23 (B) remained at the scene with the individual who  
24 reasonably appeared to be in need of medical assistance  
25 due to alcohol consumption until emergency medical  
26 assistance arrived; and

27 (C) cooperated with emergency medical assistance  
28 personnel and law enforcement officers at the scene.

29 (b) **A person described in subsection (a) is immune from  
30 criminal prosecution for an offense under:**

- 31 (1) section 3 of this chapter if the offense involved a state of  
32 intoxication caused by the person's use of alcohol;
- 33 (2) section 6 of this chapter if the offense involved the person  
34 being, or becoming, intoxicated as a result of the person's use  
35 of alcohol; and
- 36 (3) IC 7.1-5-7-7.

37 (c) **A person may not initiate or maintain an action against a law  
38 enforcement officer based on a failure to comply with this section.**

39 SECTION 5. IC 7.1-5-7-7 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 7. (a) Subject to  
41 IC 7.1-5-1-6.5, it is a Class C misdemeanor for a minor to knowingly:**

- 42 (1) possess an alcoholic beverage;

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1           (2) consume it; or  
2           (3) transport it on a public highway when not accompanied by at  
3           least one (1) of his parents or guardians.  
4           (b) If a minor is found to have violated subsection (a) while  
5           operating a motor vehicle, the court may order the minor's driver's  
6           license suspended for up to one (1) year. However, if the minor is less  
7           than eighteen (18) years of age, the court shall order the minor's driver's  
8           license suspended for at least sixty (60) days.  
9           (c) The court shall deliver any order suspending the minor's driver's  
10          license under this section to the bureau of motor vehicles, which shall  
11          suspend the minor's driver's license under IC 9-24-18-12 for the period  
12          ordered by the court.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 274, 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, line 7, delete "(a)".

Page 1, delete lines 12 through 15.

Page 1, line 17, delete "(a)".

Page 2, delete lines 7 through 10.

Page 2, line 14, after "based" insert "**solely**".

Page 2, line 14, delete "under".

Page 2, line 15, delete "section 3 or 6 of this chapter or IC 7.1-5-7-7" and insert "**involving alcohol described in subsection (b)**".

Page 2, line 39, delete "chapter;" and insert "**chapter if the offense involved a state of intoxication caused by the person's use of alcohol;**".

Page 2, line 40, delete "chapter;" and insert "**chapter if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol;**".

Page 2, between lines 41 and 42, begin a new paragraph and insert: "**(c) A person may not initiate or maintain an action against a law enforcement officer based on a failure to comply with this section.**".

Page 3, delete lines 16 through 42.

Delete pages 4 through 12.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 274 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 274, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEUERWALD, Chair

Committee Vote: yeas 11, nays 0.

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