

HOUSE BILL No. 1509

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-16-9; IC 12-9-5; IC 34-28-5-5.

Synopsis: Accessible parking spaces. Creates the accessible parking spaces for persons with a physical disability fund (fund). Provides that a civil judgment or penalty of at least \$400 must be imposed for an infraction or an ordinance violation for parking in an accessible parking space without the proper credentials. Provides that \$100 of the civil judgment or penalty must transferred to the fund. Provides that photographic or video evidence of violations of the law concerning parking in an accessible parking space without the proper credentials may be made for purposes of enforcement. Makes corresponding amendments.

Effective: July 1, 2013.

VanNatter, Mahan, Karickhoff

January 22, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1509



A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

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

1 SECTION 1. IC 5-16-9-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Any person who parks a
3 motor vehicle which does not have displayed a placard of a person with
4 a physical disability or a disabled veteran, issued under IC 9-14-5 or
5 under the laws of another state, or a registration plate of a person with
6 a physical disability or a disabled veteran, issued under IC 9-18-18,
7 IC 9-18-22, or under the laws of another state, in a parking space
8 reserved under this chapter for a vehicle of a person with a physical
9 disability commits a Class C infraction.

10 (b) Any person who knowingly parks in a parking space reserved for
11 a person with a physical disability while displaying a placard to which
12 neither the person nor the person's passenger is entitled commits a
13 Class C infraction.

14 (c) Any person who displays for use in parking in a parking space
15 reserved for a person with a physical disability a placard or a special
16 license plate that was not issued under IC 9-14-5, IC 9-18-18,
17 IC 9-18-22, or under the laws of another state commits a Class C



1 misdemeanor.

2 (d) A person who, in a parking space reserved for a person with a
3 physical disability, parks a vehicle that displays a placard or special
4 registration plate entitling a person to park in a parking space reserved
5 for a person with a physical disability commits a Class C infraction if
6 that person is not, at that time, in the process of transporting a person
7 with a physical disability or disabled veteran.

8 (e) Notwithstanding IC 34-28-5-4(c), a civil judgment of not less
9 than ~~fifty four hundred~~ dollars (~~\$50~~) (**\$400**) must be imposed for an
10 infraction committed in violation of this section.

11 **(f) Notwithstanding IC 34-28-5-5(c), one hundred dollars (\$100)**
12 **of the civil judgment collected under subsection (e) shall be**
13 **transferred to the accessible parking spaces for persons with a**
14 **physical disability fund established by IC 12-9-5-6.**

15 **(g) Proof of a violation of this section may be made by a**
16 **photograph or video recording.**

17 SECTION 2. IC 5-16-9-8 IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this section,
19 "owner" means a person in whose name a motor vehicle is registered
20 under:

- 21 (1) IC 9-18;
22 (2) the laws of another state; or
23 (3) the laws of a foreign country.

24 (b) As used in this section, "lessee" means a person who has care,
25 custody, or control of a motor vehicle under a written agreement for the
26 rental or lease of the motor vehicle for less than sixty-one (61) days.
27 The term does not include an employee of the owner of the motor
28 vehicle.

29 (c) An owner or lessee of a motor vehicle commits a Class C
30 infraction if the motor vehicle:

- 31 (1) is located in a parking space in a parking facility that is
32 marked under section 2 of this chapter as a parking space reserved
33 for a person with a physical disability; and
34 (2) does not display:
35 (A) an unexpired parking permit for a person with a physical
36 disability issued under IC 9-14-5;
37 (B) an unexpired disabled veteran's registration plate issued
38 under IC 9-18-18;
39 (C) an unexpired registration plate or decal for a person with
40 a physical disability issued under IC 9-18-22; or
41 (D) an unexpired parking permit for a person with a physical
42 disability, an unexpired disabled veteran's registration plate, or

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1 an unexpired registration plate or decal for a person with a
2 physical disability issued under the laws of another state.

3 (d) It is a defense that IC 9-30-11-8 applies to the violation.

4 (e) It is a defense that the motor vehicle was the subject of an
5 offense described in IC 35-43-4 at the time of the violation of this
6 section.

7 (f) Notwithstanding IC 34-28-5-4(c), a civil judgment of not less
8 than ~~fifty~~ **four hundred** dollars (~~\$50~~) (**\$400**) must be imposed for an
9 infraction committed in violation of this section.

10 **(g) Notwithstanding IC 34-28-5-5(c), one hundred dollars (\$100)**
11 **of the civil judgment collected under subsection (f) shall be**
12 **transferred to the accessible parking spaces for persons with a**
13 **physical disability fund established by IC 12-9-5-6.**

14 **(h) Proof of a violation of this section may be made by a**
15 **photograph or video recording.**

16 SECTION 3. IC 5-16-9-9 IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) This chapter does not prohibit
18 a county, city, or town from adopting and enforcing an ordinance that
19 regulates standing or parking of motor vehicles in a space reserved for
20 a person with a physical disability under section 2 of this chapter,
21 IC 9-21-1-3, or IC 9-21-18-4.

22 (b) An ordinance described in subsection (a) may not conflict with
23 this chapter.

24 (c) An ordinance described in subsection (a) may not require a
25 person to obtain or display any permit, registration plate, or registration
26 decal to stand or park in a space reserved for a person with a physical
27 disability under section 2 of this chapter, except the following:

28 (1) A parking permit for a person with a physical disability issued
29 under IC 9-14-5.

30 (2) A disabled veteran's registration plate issued under
31 IC 9-18-18.

32 (3) A registration plate or decal for a person with a physical
33 disability issued under IC 9-18-22.

34 (d) An ordinance described in subsection (a) must permit a motor
35 vehicle displaying an unexpired parking permit for a person with a
36 physical disability, an unexpired disabled veteran's registration plate,
37 or an unexpired registration plate or decal for a person with a physical
38 disability issued under the laws of another state to stand or park in a
39 space reserved for a person with a physical disability but only when the
40 vehicle is being used to transport a person with a physical disability.

41 **(e) Notwithstanding IC 36-1-3-8(a)(10)(B), a penalty of not less**
42 **than four hundred dollars (\$400) must be imposed for the violation**

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1 of an ordinance authorized under this section.

2 (f) One hundred dollars (\$100) of the penalty collected under
3 subsection (e) shall be transferred to the accessible parking spaces
4 for persons with a physical disability fund established by
5 IC 12-9-5-6.

6 (g) Proof of a violation of this section may be made by a
7 photograph or video recording.

8 SECTION 4. IC 5-16-9-11 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) A law
10 enforcement agency authorized to enforce:

11 (1) section 5 or 8 of this chapter; or

12 (2) an ordinance described in section 9 of this chapter;

13 may appoint volunteers to issue complaints and summonses for
14 violations of section 5 or 8 of this chapter or an ordinance described in
15 section 9 of this chapter. **Proof of a violation of section 5 or 8 of this
16 chapter or an ordinance described in section 9 of this chapter may
17 be made by a photograph or video recording made by a volunteer.**

18 (b) A volunteer appointed under this section must:

19 (1) be at least twenty-one (21) years of age;

20 (2) complete a course of instruction concerning the enforcement
21 of this chapter that is conducted by the appointing law
22 enforcement agency;

23 (3) after successfully completing the course of instruction, obtain
24 a certificate from the executive authority of the appointing law
25 enforcement agency; and

26 (4) satisfy any other qualifications established by the law
27 enforcement agency.

28 (c) The executive authority of a law enforcement agency that
29 appoints volunteers under this section shall file a copy of each
30 certificate issued under subsection (b)(3) with the prosecuting attorney
31 having jurisdiction over the area served by the law enforcement
32 agency.

33 (d) A complaint and summons issued by a volunteer appointed
34 under this section has the same force and effect as a complaint and
35 summons issued by a law enforcement officer for the same violation.

36 (e) A volunteer appointed under this section does not have powers
37 of a law enforcement officer except those powers granted under this
38 section.

39 (f) The executive authority of a law enforcement authority that
40 appoints a volunteer under this section may, at any time, revoke the
41 certificate issued to the volunteer under subsection (b)(3). If a
42 certificate is revoked under this subsection:

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- 1 (1) the executive authority shall notify the prosecuting attorney
- 2 where the certificate was filed under subsection (c) of the
- 3 revocation; and
- 4 (2) the volunteer's powers under this section terminate
- 5 immediately upon the revocation.

6 (g) A volunteer may not issue a complaint and summons upon
 7 private property unless the law enforcement agency first receives
 8 permission from the property owner or the property manager.

9 (h) A property owner is not liable for any property damage or
 10 personal injury resulting from the actions of a volunteer in issuing a
 11 complaint and summons.

12 SECTION 5. IC 12-9-5-3, AS AMENDED BY P.L.1-2007,
 13 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2013]: Sec. 3. The division shall administer the
 15 following programs:

- 16 (1) Programs established under any of the following statutes:
 - 17 (A) This article, **including section 6 of this chapter.**
 - 18 (B) IC 12-11.
 - 19 (C) IC 12-12.
 - 20 (D) IC 12-12.5.
 - 21 (E) IC 12-12.7.
- 22 (2) Programs under the following statutes, to the extent the
 23 division has responsibilities for programs under those statutes:
 - 24 (A) IC 12-24.
 - 25 (B) IC 12-26.
 - 26 (C) IC 12-27.
 - 27 (D) IC 12-28.
 - 28 (E) IC 12-29.
- 29 (3) Supported employment for a person with developmental
 30 disabilities.
- 31 (4) Epilepsy service centers program.
- 32 (5) Epilepsy clinic program.
- 33 (6) Medicaid waivers for in-home services for treatment of
 34 developmental disabilities.

35 SECTION 6. IC 12-9-5-6 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2013]: **Sec. 6. (a) As used in this section, "accessible parking
 38 space" has the meaning set forth in IC 5-16-9-1(b).**

39 **(b) As used in this section, "person with a physical disability"
 40 has the meaning set forth in IC 5-16-9-1(e).**

41 **(c) The accessible parking spaces for persons with a physical
 42 disability fund is established for the purpose of providing**

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1 education to increase awareness of the issues related to
2 unauthorized persons using accessible parking spaces.

3 (d) The fund shall be administered by the division.

4 (e) The fund consists of:

5 (1) civil judgments imposed by IC 5-16-9-5(e) and transferred
6 to the fund under IC 5-16-9-5(f);

7 (2) civil judgments imposed by IC 5-16-9-8(f) and transferred
8 to the fund under IC 5-16-9-8(g); and

9 (3) penalties imposed under IC 5-16-9-9(e) and transferred to
10 the fund under IC 5-16-9-9(f).

11 (f) The expenses of administering the fund shall be paid from
12 money in the fund.

13 (g) The treasurer of state shall invest the money in the fund not
14 currently needed to meet the obligations of the fund in the same
15 manner as other public money may be invested. Interest that
16 accrues from these investments shall be deposited in the fund.

17 (h) Money in the fund at the end of a state fiscal year does not
18 revert to the state general fund.

19 (i) Money in the fund is continually appropriated to the division
20 for the purposes of subsection (c).

21 SECTION 7. IC 34-28-5-5, AS AMENDED BY P.L.106-2010,
22 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2013]: Sec. 5. (a) A defendant against whom a judgment is
24 entered is liable for costs. Costs are part of the judgment and may not
25 be suspended except under IC 9-30-3-12. Whenever a judgment is
26 entered against a person for the commission of two (2) or more civil
27 violations (infractions or ordinance violations), the court may waive the
28 person's liability for costs for all but one (1) of the violations. This
29 subsection does not apply to judgments entered for violations
30 constituting:

31 (1) Class D infractions; or

32 (2) Class C infractions for unlawfully parking in a space reserved
33 for a person with a physical disability under IC 5-16-9-5 or
34 IC 5-16-9-8.

35 (b) If a judgment is entered:

36 (1) for a violation constituting:

37 (A) a Class D infraction; or

38 (B) a Class C infraction for unlawfully parking in a space
39 reserved for a person with a physical disability under
40 IC 5-16-9-5 or IC 5-16-9-8; or

41 (2) in favor of the defendant in any case;

42 the defendant is not liable for costs.

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1 (c) Except for costs, and except as provided in subsection (e),
2 **IC 5-16-9-5, IC 5-16-9-8,** and IC 9-21-5-11(e), the funds collected as
3 judgments for violations of statutes defining infractions shall be
4 deposited in the state general fund.

5 (d) A judgment may be entered against a defendant under this
6 section or section 4 of this chapter upon a finding by the court that the
7 defendant:

8 (1) violated:

9 (A) a statute defining an infraction; or

10 (B) an ordinance; or

11 (2) consents to entry of judgment for the plaintiff upon a pleading
12 of nolo contendere for a moving traffic violation.

13 (e) The funds collected for an infraction judgment described in
14 section 4(h) of this chapter shall be transferred to a dedicated county
15 fund. The money in the dedicated county fund does not revert to the
16 county general fund or state general fund and may be used, after
17 appropriation by the county fiscal body, only for the following
18 purposes:

19 (1) To pay compensation of commissioners appointed under
20 IC 33-33-49.

21 (2) To pay costs of the county's guardian ad litem program.

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