HOUSE BILL No. 1579

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30.

Synopsis: Open container laws. Increases the number of hours of community restitution or service that a person convicted of operating a vehicle while intoxicated must perform. Specifies that, for purposes of open container laws, the exemption for a person who is in the passenger compartment of a vehicle used to transport passengers for compensation or the living quarters of a house coach or trailer does not apply to the operator of the vehicle.

Effective: July 1, 2013.

Smaltz, Soliday

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

C o p y

Introduced

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.

C o p y

HOUSE BILL No. 1579

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

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

SECTION 1. IC 9-30-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least ~~one hundred eighty (180)~~ **two hundred forty (240)** hours of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under

this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least ~~three hundred sixty (360)~~ **four hundred eighty (480)** hours of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 2. IC 9-30-15-3, AS AMENDED BY P.L.209-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) This section does not apply to the following:

(1) A container possessed by a person, **other than the operator of the motor vehicle,** who is in the:

(A) passenger compartment of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) living quarters of a house coach or house trailer.

(2) A container located in a fixed center console or other similar fixed compartment that is locked.

(3) A container located:

(A) behind the last upright seat; or

(B) in an area not normally occupied by a person;

in a motor vehicle that is not equipped with a trunk.

(b) A person in a motor vehicle who, while the motor vehicle is in operation or while the motor vehicle is located on the right-of-way of a public highway, possesses a container:

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(1) that has been opened;
(2) that has a broken seal; or
(3) from which some of the contents have been removed;

in the passenger compartment of the motor vehicle commits a Class C infraction.

(c) A violation of this section is not considered a moving traffic violation:

(1) for purposes of IC 9-14-3; and
(2) for which points are assessed by the bureau under the point system.

C o p y