



January 16, 2013

SENATE BILL No. 119

DIGEST OF SB 119 (Updated January 15, 2013 12:25 pm - DI 106)

Citations Affected: IC 9-30; IC 35-42.

Synopsis: Vehicular manslaughter. Makes involuntary manslaughter committed with a vehicle a Class C felony. Transfers a provision concerning operating while intoxicated resulting in the death of a fetus from the involuntary manslaughter statute to the operating while intoxicated statute.

Effective: July 1, 2013.

**Buck, Young R Michael, Steele,
Randolph**

January 7, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 15, 2013, amended, reported favorably — Do Pass.

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SB 119—LS 6284/DI 106+



January 16, 2013

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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SENATE BILL No. 119

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 9-30-5-5, AS AMENDED BY P.L.125-2012,
2 SECTION 336, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) A person who causes the
4 death of another person **or a fetus (as defined in IC 35-42-1-4(b))**
5 when operating a vehicle:
6 (1) with an alcohol concentration equivalent to at least
7 eight-hundredths (0.08) gram of alcohol per:
8 (A) one hundred (100) milliliters of the person's blood; or
9 (B) two hundred ten (210) liters of the person's breath;
10 (2) with a controlled substance listed in schedule I or II of
11 IC 35-48-2 or its metabolite in the person's blood; or
12 (3) while intoxicated;
13 commits a Class C felony. However, the offense is a Class B felony if
14 the person has a previous conviction of operating while intoxicated
15 within the five (5) years preceding the commission of the offense, or if
16 the person operated the vehicle when the person knew that the person's
17 driver's license, driving privilege, or permit is suspended or revoked for

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1 a previous conviction for operating a vehicle while intoxicated.

2 (b) A person at least twenty-one (21) years of age who causes the
3 death of another person **or a fetus (as defined in IC 35-42-1-4(b))**
4 when operating a vehicle:

5 (1) with an alcohol concentration equivalent to at least
6 fifteen-hundredths (0.15) gram of alcohol per:

7 (A) one hundred (100) milliliters of the person's blood; or

8 (B) two hundred ten (210) liters of the person's breath; or

9 (2) with a controlled substance listed in schedule I or II of
10 IC 35-48-2 or its metabolite in the person's blood;

11 commits a Class B felony.

12 (c) A person who causes the death of a law enforcement animal (as
13 defined in IC 35-46-3-4.5) when operating a vehicle:

14 (1) with an alcohol concentration equivalent to at least
15 eight-hundredths (0.08) gram of alcohol per:

16 (A) one hundred (100) milliliters of the person's blood; or

17 (B) two hundred ten (210) liters of the person's breath; or

18 (2) with a controlled substance listed in schedule I or II of
19 IC 35-48-2 or its metabolite in the person's blood;

20 commits a Class D felony.

21 (d) A person who violates subsection (a), (b), or (c) commits a
22 separate offense for each person, **fetus**, or law enforcement animal
23 whose death is caused by the violation of subsection (a), (b), or (c).

24 (e) It is a defense under subsection (a)(2), (b)(2), or (c)(2) that the
25 accused person consumed the controlled substance under a valid
26 prescription or order of a practitioner (as defined in IC 35-48-1) who
27 acted in the course of the practitioner's professional practice.

28 SECTION 2. IC 35-42-1-4, AS AMENDED BY P.L.7-2010,
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2013]: Sec. 4. (a) As used in this section, "child care provider"
31 means a person who provides child care in or on behalf of:

32 (1) a child care center (as defined in IC 12-7-2-28.4); or

33 (2) a child care home (as defined in IC 12-7-2-28.6);

34 regardless of whether the child care center or child care home is
35 licensed.

36 (b) As used in this section, "fetus" means a fetus that has attained
37 viability (as defined in IC 16-18-2-365).

38 (c) A person who kills another human being while committing or
39 attempting to commit:

40 (1) a Class C or Class D felony that inherently poses a risk of
41 serious bodily injury;

42 (2) a Class A misdemeanor that inherently poses a risk of serious

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1 bodily injury; or
 2 (3) battery;
 3 commits involuntary manslaughter, a Class C felony. ~~However, if the~~
 4 ~~killing results from the operation of a vehicle, the offense is a Class D~~
 5 ~~felony.~~
 6 (d) A person who kills a fetus while committing or attempting to
 7 commit:
 8 (1) a Class C or Class D felony that inherently poses a risk of
 9 serious bodily injury;
 10 (2) a Class A misdemeanor that inherently poses a risk of serious
 11 bodily injury; **or**
 12 (3) battery; **or**
 13 ~~(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a~~
 14 ~~vehicle while intoxicated);~~
 15 commits involuntary manslaughter, a Class C felony. ~~However, if the~~
 16 ~~killing results from the operation of a vehicle, the offense is a Class D~~
 17 ~~felony.~~
 18 (e) If:
 19 (1) a child care provider recklessly supervises a child; and
 20 (2) the child dies as a result of the child care provider's reckless
 21 supervision;
 22 the child care provider commits involuntary manslaughter, a Class D
 23 felony.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 119, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-30-5-5, AS AMENDED BY P.L.125-2012, SECTION 336, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) A person who causes the death of another person **or a fetus (as defined in IC 35-42-1-4(b))** when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or
- (3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the death of another person **or a fetus (as defined in IC 35-42-1-4(b))** when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath; or
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who causes the death of a law enforcement animal (as defined in IC 35-46-3-4.5) when operating a vehicle:

- (1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or

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(B) two hundred ten (210) liters of the person's breath; or
(2) with a controlled substance listed in schedule I or II of
IC 35-48-2 or its metabolite in the person's blood;
commits a Class D felony.

(d) A person who violates subsection (a), (b), or (c) commits a
separate offense for each person, **fetus**, or law enforcement animal
whose death is caused by the violation of subsection (a), (b), or (c).

(e) It is a defense under subsection (a)(2), (b)(2), or (c)(2) that the
accused person consumed the controlled substance under a valid
prescription or order of a practitioner (as defined in IC 35-48-1) who
acted in the course of the practitioner's professional practice."

Page 2, line 9, after "injury;" insert "**or**".

Page 2, line 10, strike "or".

Page 2, strike lines 11 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 119 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 7, Nays 1.

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