IC 9-30-2

Chapter 2. Arrests

IC 9-30-2-1

Application of chapter

Sec. 1. Sections 2 and 3 of this chapter do not apply to the following:

(1) Officers or members of the state militia when on active duty.

(2) Officers of the United States government.

As added by P.L.2-1991, SEC.18.

IC 9-30-2-2

Uniform and badge; marked police vehicle

Sec. 2. A law enforcement officer may not arrest or issue a traffic information and summons to a person for a violation of an Indiana law regulating the use and operation of a motor vehicle on an Indiana highway or an ordinance of a city or town regulating the use and operation of a motor vehicle on an Indiana highway unless at the time of the arrest the officer is:

(1) wearing a distinctive uniform and a badge of authority; or

(2) operating a motor vehicle that is clearly marked as a police vehicle;

that will clearly show the officer or the officer's vehicle to casual observations to be an officer or a police vehicle. This section does not apply to an officer making an arrest when there is a uniformed officer present at the time of the arrest.

As added by P.L.2-1991, SEC.18.

IC 9-30-2-3

Reward or other compensation for making arrests; prohibition

Sec. 3. (a) This section does not apply to the fixed salary of an officer.

(b) A peace officer, even though wearing a distinctive uniform and badge at the time of making an arrest, may not receive and there may not be taxed for the officer's benefit against a defendant a fee, mileage, pay, charge, compensation, or reward that, except for this chapter, the officer might be otherwise entitled to receive for the arrest or upon the conviction of a defendant.

As added by P.L.2-1991, SEC.18.

IC 9-30-2-4

Misdemeanor offenders required to appear before court immediately

Sec. 4. (a) This section does not apply to a person arrested for a misdemeanor under IC 9-30-5 (operating a vehicle while intoxicated).

(b) If a person is arrested for a misdemeanor under this title, the arrested person shall be immediately taken before a court within the county in which the offense charged is alleged to have been committed and that has jurisdiction of the offense and is nearest or

most accessible to the place where the arrest is made in any of the following cases:

(1) When the person demands an immediate appearance before a court.

(2) When the person is charged with an offense causing or contributing to an accident resulting in injury to or death of a person.

(3) When the person is charged with failure to stop for an accident causing death, personal injuries, or damage to property.

(4) When the person refuses to give the person's written promise to appear in court.

(5) When the person is charged with driving while the person's license is suspended or revoked.

As added by P.L.2-1991, SEC.18. Amended by P.L.99-1996, SEC.1.

IC 9-30-2-5

Misdemeanor offenders not appearing before court immediately; release from custody; written promise to appear; security deposit; contents of security agreement and written promise; nonresident requirements; refusal of security deposit

Sec. 5. (a) If a person who is an Indiana resident:

(1) is arrested for a misdemeanor regulating the use and operation of motor vehicles, other than the misdemeanor of operating a vehicle while intoxicated; and

(2) is not immediately taken to court as provided in section 4 of this chapter;

the person shall be released from custody by the arresting officer upon signing a written promise to appear in the proper court at a time and date indicated on the promise. The resident shall be given a copy of the promise.

(b) Except as provided in IC 9-28-1 and IC 9-28-2, if a person who is not an Indiana resident is arrested for a violation of a traffic ordinance or a statute punishable as an infraction or a misdemeanor that regulates the use and operation of a motor vehicle and is not immediately taken to court as provided in section 4 of this chapter, the person shall be released upon the deposit of a security. The security shall be:

(1) the amount of the fine and costs for the violation in the form of cash, a money order, or a traveler's check made payable to the clerk of the court; or

(2) a valid motor club card of a motor club that, by written plan approved by the secretary of state as provided in section 8 of this chapter, guarantees the nonresident's deposit in the amount of the fine and costs.

The proper court shall provide a list of security deposits, which must be equal to the fine and costs for the violation, and a security deposit agreement that acts as a receipt for the deposit. A nonresident who does not choose to deposit a security shall be taken to the proper court.

(c) The agreement for the security deposit and the written promise or notice to appear in court must contain the following:

(1) A citation of the violation.

(2) The name and address of the person accused of committing the violation.

(3) The number of the person's license to operate a motor vehicle.

(4) The registration number of the person's vehicle, if any.

(5) The time and place the person must appear in court.

If the violation is a misdemeanor, the time specified for appearance must be at least five (5) days after the arrest unless the arrested person demands an earlier hearing. The place specified for appearance must be in the proper court within the county where the person was arrested or given a notice to appear in the case of an infraction or ordinance. The nonresident shall be properly informed of the consequences of a guilty plea or an agreed judgment. The agreement for the security must also contain a provision in which the nonresident agrees that the court shall take permanent possession of the deposit, and if the nonresident fails to appear in court or is not represented in court, a guilty plea or an offer of judgment shall be entered on the court's record on behalf of the nonresident. Upon proper appearance or representation, the security shall be returned to the nonresident.

(d) A nonresident licensed by a jurisdiction that has entered into an agreement with Indiana under IC 9-28-2 may deposit the nonresident's license to operate a motor vehicle with the law enforcement officer as security for release. A nonresident shall, by the date required on the security deposit agreement, do one (1) of the following:

(1) Appear in court.

(2) Be represented in court.

(3) Deliver to the court by mail or courier the amount of the fine and costs prescribed for the violation.

The license to operate a motor vehicle shall be returned to the nonresident upon payment of the fine and costs and entry of a guilty plea or upon other judgment of the court. Until a judgment has been entered upon the court's records, the nonresident's copy of the security deposit agreement acts as a temporary license to operate a motor vehicle. Upon failure to appear or to be represented, the nonresident's license to operate a motor vehicle and a copy of the judgment shall be sent by the court to the bureau, which shall notify the appropriate agency in accordance with IC 9-30-3-8.

(e) A nonresident who requests to deposit a security in the amount of the fine and costs shall be accompanied to the nearest United States mail receptacle and instructed by the law enforcement officer to place:

(1) the amount of the fine and costs; and

(2) one (1) signed copy of the security deposit agreement;

into a stamped, addressed envelope, which the proper court shall supply to the officer for the nonresident. The officer shall observe

this transaction and shall observe the nonresident deposit the envelope in the mail receptacle. The nonresident shall then be released and given a copy of the security deposit agreement. If the nonresident does not appear in court or is not represented in court at the time and date specified on the receipt, a guilty plea or judgment against the nonresident shall be entered and the security deposit shall be used to satisfy the amount of the fine and costs prescribed for the violation.

(f) A nonresident motorist may deposit with the law enforcement officer a valid motor club card as a guarantee of security if the motor club or its affiliated clubs have a written plan approved by the secretary of state that guarantees the payment of the security in the amount of the fine and costs if the motorist:

(1) does not appear in court; or

(2) is not represented in court on the date and time specified in the security agreement.

(g) The recipient court may refuse acceptance of a security deposit agreement for a second moving traffic charge within a twelve (12) month period. The court may send notice requiring a personal court appearance on a date specified. Upon failure to appear the court shall take the appropriate action as described in this section.

As added by P.L.2-1991, SEC.18. Amended by P.L.99-1996, SEC.2.

IC 9-30-2-6

Warrantless arrests; violations; procedure

Sec. 6. A law enforcement officer may, without a warrant, arrest a person in case of violations of:

(1) IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4; and

(2) IC 9-30-5 if the violation of IC 9-30-5 is coupled with an accident;

when the law enforcement officer has reasonable cause to believe that the violation was committed by the person. The procedure prescribed in this section is not the only method prescribed by law for the arrest and prosecution of a person for an offense of similar grade.

As added by P.L.2-1991, SEC.18. Amended by P.L.1-1992, SEC.61.

IC 9-30-2-7

Report of arrests to bureau; contents; filing; retention

Sec. 7. (a) The:

(1) superintendent of the state police department;

(2) police chief of each city or the police chief's designee;

(3) sheriff of each county; and

(4) the town marshal or police chief of each town;

shall report to the bureau immediately the arrest of a person for a violation of an Indiana law or a city ordinance relating to the operation of motor vehicles upon the highways.

(b) The report must state the following:

(1) The offense with which the operator or driver is charged.

(2) The court in which pending.
(3) The names of all available witnesses to the violation.
(4) The name and address of the operator.
(5) If the operator is the holder of a license, the following:
(A) The kind of license and license number.
(B) The license plate number of the vehicle operated by the operator.

(c) The bureau shall cause the report:
(1) to be filed in the bureau; and
(2) retained for at least two (2) years.

(d) The bureau shall prescribe and the bureau shall furnish the form of the report required by this section.

As added by P.L.2-1991, SEC.18.

IC 9-30-2-8

Motor club card plans; guarantee to pay security in amount of fines and costs; fees; renewal; termination; distribution of lists of acceptable cards

Sec. 8. (a) A motor club that is a domestic corporation or a foreign corporation qualified to transact business in Indiana under IC 23-1 or IC 23-7-1.1, or otherwise duly qualified to transact business in Indiana under Indiana corporation law, may guarantee as security the club's motor club card or any card of a motor club affiliated with the motor club, if the motor club files a plan guaranteeing to pay the security in the amount of the fine and costs. The ability to pay the security in the amount of the fine and costs must be demonstrated by evidence of the motor club's financial responsibility that must be:

(1) a balance sheet certified by a certified public accountant at the end of the club's last available fiscal year showing net assets of the motor club in excess of five hundred thousand dollars ($500,000); or

(2) a deposit by a surety company qualified to transact business in Indiana of an annual bond in the amount of twenty-five thousand dollars ($25,000) payable to the state guaranteeing, in the amount of fines and costs, the motor club cards covered by the plan when used as a security deposit.

(b) A motor club that is a foreign corporation not qualified to transact business in Indiana under IC 23-1, IC 23-7-1.1, or any other Indiana corporation law shall demonstrate the club's ability to guarantee payment of the club's card or cards of an affiliated member as a security deposit upon the filing of a plan with the secretary of state guaranteeing payment of the fines and costs of the security and a deposit, by a surety company qualified to transact business in Indiana, of an annual bond in the amount of twenty-five thousand dollars ($25,000) payable to the state, guaranteeing, in the amount of fines and costs, the motor club's cards covered by the plan when used as a security deposit.

(c) A motor club must, upon filing a plan with the secretary of state, pay a filing fee of fifty dollars ($50).

(d) A motor club must annually renew the club's motor card plan.

Renewal must be made by filing before May 1 of each year a new certified balance sheet or surety bond together with a renewal fee of fifty dollars ($50) with the secretary of state.

(e) An approved plan may be terminated by the motor club sixty (60) days after written notice or termination has been delivered to the secretary of state. Upon failure of a motor club to guarantee a security deposit, the motor club plan may be terminated by the secretary of state under IC 4-21.5-3.

(f) Termination by the secretary of state does not relieve a motor club of the club's obligation to pay judgments on cards covered by the club's plan and accepted as security as provided in this chapter. The attorney general may bring an action for the state in an Indiana court against a motor club to enforce an obligation.

(g) The secretary of state shall, by June 1 of each year and at other times necessary for the administration of this section, prepare and distribute to all courts having jurisdiction over minor traffic violations and to the superintendent of the state police department lists of motor club cards that may be accepted as a security deposit. *As added by P.L.2-1991, SEC.18.*