

PROPOSED AMENDMENT

SB 240 # 9

DIGEST

Ignition interlock. Specifies that if a person requests an ignition interlock after the initial hearing, the trial court may, with the consent of the prosecutor, stay any suspension and permit the person to operate a vehicle with an ignition interlock device. Provides that a person may petition for specialized driving privileges at any time before the resolution of the case. Specifies that, if: (1) the BMV was required to suspend a person's driving privileges on a certain date; (2) the BMV failed to suspend the person's driving privileges on that date, but suspended them on a later date; and (3) the person did not drive beginning with the period on which the person's license was supposed to be suspended; the person may receive driving suspension credit time from the date on which the suspension was supposed to begin to the date that the suspension was actually imposed.

- 1 Page 4, between lines 2 and 3, begin a new paragraph and insert:
2 "SECTION 4. IC 9-30-6-8, AS AMENDED BY P.L.111-2021,
3 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 8. (a) Except as provided in IC 9-30-16-1(g),
5 whenever a judicial officer has determined that there was probable
6 cause to believe that a person has violated IC 9-30-5, IC 35-46-9, or
7 IC 14-15-8 (before its repeal), the clerk of the court shall forward, in a
8 form and manner prescribed by the bureau:
9 (1) a paper copy of the affidavit, or an electronic substitute; or
10 (2) a bureau certificate as described in section 16 of this chapter;
11 to the bureau at the conclusion of the initial hearing under subsection
12 (c).
13 (b) The probable cause affidavit required under section 7(b)(2) of
14 this chapter must do the following:
15 (1) Set forth the grounds for the arresting officer's belief that there
16 was probable cause that the arrested person was operating a
17 vehicle in violation of IC 9-30-5 or a motorboat in violation of
18 IC 35-46-9 or IC 14-15-8 (before its repeal).
19 (2) State that the person was arrested for a violation of IC 9-30-5
20 or operating a motorboat in violation of IC 35-46-9 or IC 14-15-8
21 (before its repeal).
22 (3) State whether the person:

1 (A) refused to submit to a chemical test when offered; or
 2 (B) submitted to a chemical test that resulted in prima facie
 3 evidence that the person was intoxicated.

4 (4) Be sworn to by the arresting officer.

5 (c) Except as provided in subsection (d), if it is determined under
 6 subsection (a) that there was probable cause to believe that a person
 7 has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), at
 8 the initial hearing of the matter held under IC 35-33-7-1 the court shall
 9 recommend immediate suspension of the person's driving privileges to
 10 take effect on the date the order is entered, and forward to the bureau
 11 a copy of the order recommending immediate suspension of driving
 12 privileges.

13 (d) If it is determined under subsection (a) that there is probable
 14 cause to believe that a person violated IC 9-30-5, the court may, as an
 15 alternative to any suspension of the person's driving privileges under
 16 subsection (c), issue an order recommending that the person be
 17 prohibited from operating a motor vehicle unless the motor vehicle is
 18 equipped with a functioning certified ignition interlock device under
 19 IC 9-30-8. This subsection applies even if the probable cause affidavit
 20 in subsection (b) states that the person:

21 (1) refused to submit to a chemical test; or

22 (2) submitted to a chemical test that resulted in prima facie
 23 evidence that the person was intoxicated.

24 The order remains in effect until the bureau is notified by a court that
 25 the criminal charges against the person have been resolved. When the
 26 court issues an order under this subsection, no administrative
 27 suspension is imposed by the bureau and no suspension is noted on the
 28 person's driving record. **However, if a person does not request the**
 29 **ability to operate a vehicle with a certified ignition interlock device**
 30 **at the initial hearing, the trial court may, before the resolution of**
 31 **the case and with the consent of the prosecuting attorney, stay any**
 32 **order suspending the person's driving privileges due to the**
 33 **person's refusal to submit to a chemical test, and enter an order**
 34 **recommending that the person be prohibited from operating a**
 35 **motor vehicle without a functioning certified ignition interlock**
 36 **device under IC 9-30-8.**

37 (e) A person commits a Class B infraction if the person:

38 (1) operates a motor vehicle without a functioning certified
 39 ignition interlock device; and

40 (2) is prohibited from operating a motor vehicle unless the motor

1 vehicle is equipped with a functioning certified ignition interlock
2 device under subsection (d).

3 (f) A person commits a Class B misdemeanor if the person:

4 (1) operates a motor vehicle without a functioning certified
5 ignition interlock device; and

6 (2) knows the person is prohibited from operating a motor vehicle
7 unless the motor vehicle is equipped with a functioning certified
8 ignition interlock device under subsection (d)."

9 Page 6, between lines 9 and 10, begin a new paragraph and insert:

10 **"(h) Nothing in this section prohibits a person from petitioning**
11 **for specialized driving privileges at any time before the resolution**
12 **of the case.**

13 SECTION 5. IC 9-30-16-6, AS AMENDED BY P.L.110-2020,
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2024]: Sec. 6. (a) A person whose driving privileges are
16 suspended under section 1(c) of this chapter:

17 (1) is entitled to credit for any days during which the license was
18 suspended under IC 9-30-6-9(c); and

19 (2) may not receive any credit for days during which the person's
20 driving privileges were suspended under IC 9-30-6-9(b).

21 (b) A period of suspension of driving privileges imposed under
22 section 1(c) of this chapter must be consecutive to any period of
23 suspension imposed under IC 9-30-6-9(b). However, if the state and
24 defendant agree pursuant to a term in an accepted plea agreement, or
25 if the court finds at sentencing that it is in the best interest of society,
26 the court shall terminate all or any part of the remaining suspension
27 under IC 9-30-6-9(b) and shall enter this finding in its sentencing
28 order.

29 (c) The bureau shall designate a period of suspension of driving
30 privileges imposed under section 1(c) of this chapter as consecutive to
31 any period of suspension imposed under IC 9-30-6-9(b) unless the
32 sentencing order of the court under subsection (b) terminates all or part
33 of the remaining suspension under IC 9-30-6-9(b).

34 **(d) In addition to any credit awarded under subsection (a)(1),**
35 **the court may, after the sentencing hearing, award a person whose**
36 **license was required to be suspended by the bureau credit for days**
37 **during which the person's license was required to be suspended by**
38 **the bureau, but was not suspended by the bureau:**

39 **(1) if the court finds that the person did not operate a vehicle**
40 **after being advised of the license suspension; or**

1 **(2) according to the terms of a plea agreement.**
2 **However, a court may not grant credit for any day during which**
3 **a person's license was suspended under IC 9-30-6-9(b), and credit**
4 **granted under this subsection may not exceed the number of days**
5 **between the finding of probable cause and the date the bureau**
6 **actually suspended the person's driving privileges.".**

7 Renumber all SECTIONS consecutively.
 (Reference is to SB 240 as reprinted February 6, 2024.)