

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 6905

BILL NUMBER: HB 1119

NOTE PREPARED: Dec 27, 2024

BILL AMENDED:

SUBJECT: Operating a Motor Vehicle While Intoxicated.

FIRST AUTHOR: Rep. McNamara

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a person who operates a vehicle with at least five nanograms of tetrahydrocannabinol (THC) in the person's saliva, as identified by a qualified test, commits the offense of operating a motor vehicle while intoxicated. (Current law provides that a person commits the offense if the person has any measurable amount of THC in the person's blood.) The bill defines "qualified test".

The bill also removes the metabolite of a controlled substance listed in schedule I or II as an element from the offense of operating a motor vehicle while intoxicated.

Effective Date: July 1, 2025.

Explanation of State Expenditures: *Summary* - The bill establishes a minimum allowable amount of THC that would result in a penalty for operating while intoxicated. A threshold of 5 nanograms [a nanogram is one billionth of a gram] for determining intoxication could reduce the number of persons who are convicted and sentenced for operating a motor vehicle while intoxicated. Actual decreases in OWI convictions resulting from this bill are indeterminable.

Additional Information - This change will more likely affect persons who are found guilty of a Class C misdemeanor and is less likely to affect the few persons who are charged with OWI causing injury, serious bodily injury or death. Currently there are no allowable amounts of THC in a person's saliva to warrant operating while intoxicated penalties or penalty enhancements in current law.

Marijuana is one of over 250 schedule I and II drugs that could be included in the schedule drugs that these persons may have in their body when a qualified test is performed. In these cases, other evidence of intoxication may be found during investigations. There are few felony cases in which persons have been convicted and sentenced for OWI causing either serious bodily injury or death in which a controlled substance or a metabolite has been found in the person's blood.

The frequency of these offenses are shown in the following table based on the Odyssey Case Management

System and the Abstracts of Judgment maintained by the Indiana Supreme Court.

Number of OWI Offenses in which a Controlled Substance or Metabolite is Found in the Person's Body					
	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
IC 9-30-5-1 OWI as a Class C misdemeanor with metabolite (Odyssey data)	440	329	260	221	368
IC 9-30-5-4 OWI causing bodily injury as Level 6	11	9	N/R	N/R	N/R
IC 9-30-5-4 OWI causing serious bodily injury as a Level 5 or Class C felony	N/R	11	21	23	25
IC 9-30-5-4 OWI causing serious bodily injury with a prior conviction of OWI as a Level 4 felony	N/R	N/R	N/R	N/R	N/R
IC 9-30-5-5(b) OWI causing death of a law enforcement animal as a Level 6 felony	N/R	N/R	N/R	N/R	N/R
IC 9-30-5-5(a) OWI causing death of another person as a Level 4 felony	N/R	13	16	20	23
N/R = five or fewer individuals, count not reportable.					

Penalty Provision: A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of 1 year. A Level 5 felony is punishable by a prison term ranging from 1 to 6 years, with an advisory sentence of 3 years. A Level 4 felony is punishable by a prison term ranging from 2 to 12 years, with an advisory sentence of 6 years.

The sentence depends on mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,719 annually, or \$12.93 daily, per prisoner. However, any reduction in expenditures are likely to be small.

Explanation of State Revenues: *Penalty Provision:* For decreases in court cases, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would decrease. However, the effect on revenues being deposited into either fund would likely be minimal.

The maximum fine for a Class C misdemeanor is \$500 and for a Level 6, Level 5, and Level 4 felony is \$10,000.

Total fee revenue per case ranges between \$113 and \$138. Court fee amounts vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: *Penalty Provision:* Persons who are charged with OWI with at least 5 nanograms of THC will commit a Class C misdemeanor. The number of persons who would be below this threshold are unknown and cannot be estimated.

[If less defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may decrease. A Class C misdemeanor is punishable by up to 60 days in jail. However, any

reduction in expenditures would likely be small.]

Explanation of Local Revenues: There would be a minor loss of revenue from fees deposited into county funds if fewer persons are convicted of OWI as a Class C misdemeanor.

Penalty Provision: If a reduction in court actions occur, less revenue will be collected by certain local units. For cases filed in a court of record, the county general fund receives \$47.40 and qualifying municipalities receive a share of \$3.60. For cases filed in a municipal court, the county receives \$30, and the municipality receives \$46. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of Correction; Bureau of Motor Vehicles; Indiana State Police.

Local Agencies Affected: County sheriffs; prosecuting attorneys; trial courts, local law enforcement agencies.

Information Sources: Abstracts of Judgment; Indiana Supreme Court, Indiana Trial Court Fee Manual, BMV Motor Vehicle Offense Data, FY 2023.

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