



January 20, 2022

HOUSE BILL No. 1035

DIGEST OF HB 1035 (Updated January 19, 2022 10:45 am - DI 139)

Citations Affected: IC 8-23; IC 9-21.

Synopsis: Highway work zone speed enforcement pilot program. Authorizes the state police department and the Indiana department of transportation to establish the automated work zone speed enforcement pilot program (pilot program) to enforce highway work zone speed limits. Creates the automated work zone speed enforcement pilot program fund to deposit fines collected by the pilot program.

Effective: July 1, 2022.

**Pressel, Soliday, Karickhoff,
Moseley**

January 4, 2022, read first time and referred to Committee on Roads and Transportation.
January 20, 2022, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1035—LS 6301/DI 139



January 20, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1035

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

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

- 1 SECTION 1. IC 8-23-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:
4 **Chapter 5.5. Automated Work Zone Speed Enforcement Pilot**
5 **Program**
6 **Sec. 1. As used in this chapter, "highway work zone" has the**
7 **meaning set forth in IC 8-23-2-15.**
8 **Sec. 2. (a) As used in this chapter, "owner" means:**
9 **(1) the registered owner of a motor vehicle; or**
10 **(2) a person leasing a motor vehicle under a lease agreement**
11 **for a period of at least six (6) months.**
12 **(b) The term does not include a motor vehicle rental or leasing**
13 **company.**
14 **Sec. 3. As used in this chapter, "pilot program" means the**
15 **automated work zone speed enforcement pilot program established**
16 **under section 8 of this chapter.**
17 **Sec. 4. As used in this chapter, "recorded image" means an**

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1 image recorded by a work zone speed control system that:

2 (1) is retained on:

3 (A) a photograph;

4 (B) a microphotograph;

5 (C) an electronic image;

6 (D) a videotape; or

7 (E) any other medium;

8 (2) shows:

9 (A) the rear of a motor vehicle; and

10 (B) at least two (2) time stamped images of the motor
11 vehicle that include the same stationary object near the
12 motor vehicle; and

13 (3) clearly and legibly identifies the entire license plate of the
14 motor vehicle.

15 Sec. 5. As used in this chapter, "work zone speed control
16 system" means a device having one (1) or more sensors connected
17 to a camera system that is capable of recording the speed of a
18 motor vehicle in a highway work zone.

19 Sec. 6. As used in this chapter, "work zone speed control system
20 operator" means an individual who is:

21 (1) trained and certified to operate a work zone speed control
22 system; and

23 (2) an employee of the department or a police officer
24 employed by the state police department.

25 Sec. 7. As used in this chapter, "work zone speed limit" means
26 a speed limit that is established under IC 9-21-5-11.

27 Sec. 8. The department and the state police department shall
28 jointly establish the automated work zone speed enforcement pilot
29 program for the purpose of enforcing work zone speed limits.

30 Sec. 9. (a) Not more than four (4) work zone speed control
31 systems may be deployed at one (1) time under the pilot program.

32 (b) A work zone speed control system may be used to record an
33 image of a motor vehicle traveling on a highway if all of the
34 following apply:

35 (1) The work zone speed control system is deployed in a
36 highway work zone.

37 (2) The highway work zone is located on a freeway,
38 expressway, or controlled access highway that has a speed
39 limit of at least forty-five (45) miles per hour when there is not
40 a highway work zone.

41 (3) Workers are present in the highway work zone.

42 (4) The work zone speed control system is operated by a work



1 zone speed control system operator.

2 (5) Before the beginning of the highway work zone, a sign is
3 placed alerting drivers to the presence of the work zone speed
4 control system to enforce the work zone speed limit in
5 accordance with national traffic safety guidelines.

6 (c) The department and the state police department may enter
7 into an agreement to share information to implement this chapter.

8 (d) The department and the state police department may enter
9 into an agreement with a third party vendor to assist in the
10 administration of this chapter.

11 Sec. 10. (a) An individual who wishes to become a work zone
12 speed control system operator must complete training by the
13 manufacturer of the work zone speed control system in the
14 procedures for:

- 15 (1) deploying;
- 16 (2) testing; and
- 17 (3) operating;

18 a work zone speed control system.

19 (b) The manufacturer of the work zone speed control system
20 shall issue a certificate of training to the individual upon the
21 individual's completion of the training required by subsection (a).

22 Sec. 11. A work zone speed control system operator shall
23 complete a daily log for the work zone speed control system that
24 contains the following information:

- 25 (1) The date, time, and location the work zone speed control
26 system is deployed.
- 27 (2) A statement that the work zone speed control system
28 operator successfully performed, and the device passed, the
29 tests of the work zone speed control system specified by the
30 manufacturer before producing a recorded image.
- 31 (3) The signature of the work zone speed control system
32 operator.

33 Sec. 12. (a) A work zone speed control system must undergo an
34 annual calibration check performed by an independent calibration
35 laboratory.

36 (b) The independent calibration laboratory performing the
37 annual calibration check required by subsection (a) shall issue a
38 certificate of calibration to the department for the work zone speed
39 control system as proof the annual calibration check was
40 performed.

41 Sec. 13. (a) A work zone speed control system operator shall
42 issue a citation to the owner of a motor vehicle that was involved



1 in an alleged violation of a work zone speed limit under this
2 chapter.

3 (b) A citation issued under subsection (a) must include the
4 following information:

5 (1) The name and address of the registered owner of the
6 motor vehicle.

7 (2) The registration number of the motor vehicle.

8 (3) A statement that the owner of the motor vehicle is being
9 charged with an alleged violation of a work zone speed limit.

10 (4) The location of the alleged violation of the work zone speed
11 limit.

12 (5) The date and time of the alleged violation of the work zone
13 speed limit.

14 (6) At least one (1) recorded image of the motor vehicle with
15 a data bar imprinted on the image that includes the:

16 (A) speed of the motor vehicle; and

17 (B) date and time that the image was recorded.

18 (7) A statement that the fine for violating a work zone speed
19 limit is seventy-five dollars (\$75).

20 (8) The date by which the fine must be paid.

21 (9) A signed statement by a police officer employed by the
22 state police department that the police officer has:

23 (A) reviewed the recorded images; and

24 (B) determined that the motor vehicle was traveling at
25 least twelve (12) miles per hour in excess of the work zone
26 speed limit.

27 (10) A statement that the recorded images obtained through
28 a work zone speed control system are prima facie evidence of
29 a violation of a work zone speed limit.

30 (11) A statement advising the owner of the motor vehicle of
31 the procedure to contest liability in the appropriate circuit,
32 superior, or traffic court.

33 (c) A citation issued under this section must be mailed:

34 (1) for a motor vehicle that is registered in Indiana, not later
35 than fourteen (14) days; and

36 (2) for a motor vehicle that is registered in a jurisdiction other
37 than Indiana, not later than thirty (30) days;

38 after the alleged violation of a work zone speed limit occurred.

39 (d) The owner of a motor vehicle who receives a citation issued
40 under this section may:

41 (1) pay the fine imposed prior to the deadline specified by the
42 citation; or



1 (2) contest the liability alleged by the citation in the manner
 2 specified by the citation in the appropriate circuit, superior,
 3 or traffic court.

4 **Sec. 14. (a) A certificate:**

5 (1) alleging that a violation of a work zone speed limit
 6 occurred and was detected by a work zone speed control
 7 system;

8 (2) stating that the work zone speed control system was
 9 deployed and operated in the manner required by this
 10 chapter;

11 (3) stating that a work zone speed control system operator has
 12 reviewed the recorded images obtained by the work zone
 13 speed control system to determine that a violation of a work
 14 zone speed limit occurred; and

15 (4) signed and affirmed by the work zone speed control system
 16 operator described in subdivision (3);

17 is prima facie evidence of the facts contained in the certificate.

18 (b) A certificate issued under subsection (a) is admissible in a
 19 proceeding under this chapter without requiring the presence or
 20 testimony of the work zone speed control system operator.

21 (c) If the owner of a motor vehicle who receives a citation under
 22 section 13 of this chapter:

23 (1) contests the liability alleged in the citation; and

24 (2) wants to require a work zone speed control system
 25 operator to testify in the proceeding;

26 the owner must notify the court and the state police department at
 27 least twenty (20) days before the date of the hearing to contest the
 28 liability alleged in the citation.

29 (d) The following are admissible in a proceeding conducted
 30 under this chapter:

31 (1) A certificate of training issued to a work zone speed
 32 control system operator under section 10 of this chapter.

33 (2) A daily log entry completed under section 11 of this
 34 chapter.

35 (3) A certificate of calibration issued under section 12 of this
 36 chapter.

37 **Sec. 15. (a) A violation under this chapter occurs if a work zone**
 38 **speed control system records an image of a motor vehicle traveling**
 39 **at least twelve (12) miles per hour above the posted work zone**
 40 **speed limit.**

41 (b) Except as provided in subsection (a), use of a recorded image
 42 for the purpose of enforcing a traffic offense (as defined in



- 1 IC 9-13-2-183) is prohibited.
- 2 (c) Unless a defense under section 16 of this chapter applies, the
- 3 owner of a motor vehicle involved in the alleged violation of a work
- 4 zone speed limit under this chapter is subject to the following:
- 5 (1) A written warning for the first violation.
- 6 (2) A fine of seventy-five dollars (\$75) for the second and all
- 7 subsequent violations.
- 8 (d) If the owner of a motor vehicle is relieved from liability
- 9 under section 16 of this chapter, the individual who was operating
- 10 the motor vehicle at the time of the violation of the work zone
- 11 speed limit under this chapter is subject to the following:
- 12 (1) A written warning for the first violation.
- 13 (2) A fine of seventy-five dollars (\$75) for the second and all
- 14 subsequent violations.
- 15 Sec. 16. (a) A circuit, superior, or traffic court conducting a
- 16 proceeding under this chapter shall determine a person's liability
- 17 for an alleged violation of a work zone speed limit based on the
- 18 preponderance of the evidence.
- 19 (b) A circuit, superior, or traffic court conducting a proceeding
- 20 under this chapter may consider any of the following as a defense
- 21 to an alleged violation of a work zone speed limit:
- 22 (1) That the:
- 23 (A) motor vehicle; or
- 24 (B) license plate;
- 25 of the motor vehicle detected by the work zone speed control
- 26 system had been stolen before the violation occurred and was
- 27 not under the custody or control of the owner of the motor
- 28 vehicle at the time of the alleged violation.
- 29 (2) That the owner of a motor vehicle is not liable for the fine
- 30 imposed by this chapter if the owner does the following:
- 31 (A) Responds to the notice of violation not more than thirty
- 32 (30) days after receiving the notice of violation.
- 33 (B) Submits to the court an affidavit stating that a person
- 34 other than the owner of the motor vehicle had custody and
- 35 control of the motor vehicle at the time of the alleged
- 36 violation.
- 37 (C) Provides the name and address of the individual who
- 38 had custody and control of the motor vehicle at the time of
- 39 the alleged violation.
- 40 (3) Any other relevant information presented to the court.
- 41 (c) Subject to the requirements of subsection (b)(2), if the court
- 42 finds by a preponderance of the evidence that a person other than



1 the owner of the motor vehicle was operating the motor vehicle at
2 the time that the violation of a work zone speed limit occurred, the
3 court shall issue a traffic information and summons to the person
4 alleged to have operated the motor vehicle at the time of the alleged
5 violation.

6 (d) If the court:

7 (1) finds that the owner of the motor vehicle was not
8 operating the motor vehicle at the time of the alleged violation
9 of the work zone speed limit; and

10 (2) receives evidence identifying the operator of the motor
11 vehicle at the time of the alleged violation;

12 the court shall provide to the state police department the evidence
13 substantiating the identity of the operator of the motor vehicle at
14 the time of the alleged violation.

15 (e) If the court receives evidence identifying the operator of the
16 motor vehicle at the time of the alleged violation, the state police
17 department may issue a citation to the operator containing the
18 following information:

19 (1) The name and address of the individual identified as the
20 operator of the motor vehicle at the time of the alleged
21 violation.

22 (2) A description of the motor vehicle used in the alleged
23 violation, including the name of the owner of the motor
24 vehicle.

25 (3) A statement that the individual is being charged with an
26 alleged violation of a work zone speed limit as the operator of
27 the motor vehicle.

28 (4) The location of the alleged violation of the work zone speed
29 limit.

30 (5) The date and time of the alleged violation of the work zone
31 speed limit.

32 (6) At least one (1) recorded image of the motor vehicle with
33 a data bar imprinted on the image that includes the:

34 (A) speed of the vehicle; and

35 (B) date and time that the image was recorded.

36 (7) A statement that the fine for violating the work zone speed
37 limit is seventy-five dollars (\$75).

38 (8) The date by which the fine must be paid.

39 (9) A signed statement by a police officer employed by the
40 state police department that the police officer has:

41 (A) reviewed the recorded images; and

42 (B) determined that the motor vehicle was traveling at



- 1 least twelve (12) miles per hour in excess of the work zone
2 speed limit.
- 3 **(10) A statement that the recorded images obtained through**
4 **a work zone speed control system are prima facie evidence of**
5 **a violation of a work zone speed limit.**
- 6 **(11) A statement advising the individual of the manner and**
7 **time in which the liability alleged in the citation may be**
8 **contested in the appropriate circuit, superior, or traffic court.**
- 9 **(f) A citation issued under subsection (e) must be mailed not**
10 **later than thirty (30) days after the date that the state police**
11 **department receives the information described in subsection (b)(2)**
12 **from the court.**
- 13 **(g) The operator of a motor vehicle who receives a citation**
14 **issued under this section may:**
- 15 **(1) pay the fine imposed before the deadline specified by the**
16 **citation; or**
- 17 **(2) contest the liability alleged by the citation in the manner**
18 **specified by the citation in the appropriate circuit, superior,**
19 **or traffic court.**
- 20 **(h) A circuit, superior, or traffic court conducting a proceeding**
21 **under subsection (e) may consider the following as a defense to an**
22 **alleged violation of a work zone speed limit:**
- 23 **(1) That the individual was not operating the motor vehicle at**
24 **the time of the alleged violation.**
- 25 **(2) Any other relevant information presented to the court.**
- 26 **(i) To establish a defense the individual shall submit to the court**
27 **a sworn affidavit stating that the person was not operating the**
28 **motor vehicle at the time of the alleged violation of the work zone**
29 **speed limit.**
- 30 **(j) The individual must include in the sworn affidavit in**
31 **subsection (i) any corroborating evidence that the individual was**
32 **not operating the motor vehicle at the time of the alleged violation**
33 **and any relevant evidence identifying the operator of the motor**
34 **vehicle at the time of the alleged violation.**
- 35 **Sec. 17. Before September 1, 2024, the department shall submit**
36 **a report to the legislative council in an electronic format under**
37 **IC 5-14-6 detailing the:**
- 38 **(1) costs incurred under the pilot program;**
39 **(2) amount of fines collected under the pilot program; and**
40 **(3) impact of the pilot program on highway work zone safety.**
- 41 **Sec. 18. (a) The automated work zone speed enforcement pilot**
42 **program fund is established for the purpose of promoting work**



1 zone safety and providing funds for the pilot program.

2 (b) The fund consists of all fines collected under this chapter and
3 must be distributed as follows:

4 (1) Forty percent (40%) to the state police department, with:

5 (A) fifty percent (50%) allocated for recruiting, training,
6 or equipping cadets; and

7 (B) fifty percent (50%) allocated for increased law
8 enforcement presence in highway work zones.

9 (2) Forty percent (40%) to the department for hiring off-duty
10 law enforcement officers to function as work zone speed
11 control system operators.

12 (3) Twenty percent (20%) to the department to improve
13 safety in highway work zones.

14 (c) The fund shall be administered by the department.

15 (d) The expenses of administering the fund must be paid from
16 money in the fund.

17 (e) Money in the fund at the end of a state fiscal year does not
18 revert to the state general fund.

19 (f) The money in the fund is continually appropriated to the
20 department to fund the purposes specified by this chapter.

21 SECTION 2. IC 9-21-5-11, AS AMENDED BY P.L.41-2016,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2022]: Sec. 11. (a) Subject to subsection (b), the Indiana
24 department of transportation, the Indiana finance authority, or a local
25 authority may establish temporary maximum speed limits in their
26 respective jurisdictions and in the vicinity of a worksite without
27 conducting an engineering study and investigation required under this
28 article. The establishing authority shall post signs notifying the
29 traveling public of the temporary maximum speed limits established
30 under this section.

31 (b) Worksite speed limits set under this section must be at least ten
32 (10) miles per hour below the maximum established speed limit.

33 (c) A worksite speed limit set under this section may be enforced
34 ~~only if:~~ as follows:

35 (1) If workers are present in the immediate vicinity of the
36 worksite. ~~or~~

37 (2) If workers are not present in the immediate vicinity of the
38 worksite, the establishing authority determines that the safety of
39 the traveling public requires enforcement of the worksite speed
40 limit.

41 (3) In the case of a work zone speed limit enforced by a work
42 zone speed control system under IC 8-23-5.5, if:



1 **(A) workers are present in the highway work zone; and**
 2 **(B) a work zone speed control system indicates that the**
 3 **operator of a motor vehicle has exceeded the work zone**
 4 **speed limit established by this section by at least twelve**
 5 **(12) miles per hour.**

6 **(d) This subsection does not apply to a person who violates a**
 7 **work zone speed limit under IC 8-23-5.5.** Notwithstanding
 8 IC 34-28-5-4(b), a judgment for the infraction of violating a speed limit
 9 set under this section must be entered as follows:

10 (1) If the person has not previously committed the infraction of
 11 violating a speed limit set under this section, a judgment for a
 12 Class B infraction and a fine of at least three hundred dollars
 13 (\$300) shall be imposed.

14 (2) If the person has committed one (1) infraction of violating a
 15 speed limit set under this section in the previous three (3) years,
 16 a judgment for a Class B infraction and a fine of at least five
 17 hundred dollars (\$500) shall be imposed.

18 (3) If the person has committed two (2) or more infractions of
 19 violating a speed limit set under this section in the previous three
 20 (3) years, a judgment for a Class B infraction and a fine of one
 21 thousand dollars (\$1,000) shall be imposed.

22 **(e) This subsection does not apply to a person who violates a**
 23 **work zone speed limit under IC 8-23-5.5.** Notwithstanding
 24 IC 34-28-5-5(c), the funds collected as judgments for the infraction of
 25 violating a speed limit set under this section shall be transferred to the
 26 Indiana department of transportation to pay the costs of hiring off duty
 27 police officers to perform the duties described in IC 8-23-2-15(b).

28 **(f) This subsection does not apply to a person who violates a**
 29 **work zone speed limit under IC 8-23-5.5.** If judgment has been
 30 imposed for committing two (2) infractions under this section within
 31 one (1) year, an additional penalty of the suspension of the driving
 32 privileges of the person who committed the infractions may be imposed
 33 by the court imposing the sentence for the second violation. If the court
 34 suspends a person's driving privileges under this subsection, the court
 35 shall issue an order to the bureau:

36 (1) stating that judgment against the person has been entered for
 37 committing the infraction of exceeding a worksite speed limit
 38 under this section for the second time in one (1) year; and

39 (2) ordering the suspension of the person's driving privileges by
 40 the bureau under IC 9-30-13-9.

41 The suspension of a person's driving privileges under this section is in
 42 addition to any other penalties imposed under this section and any fee



1 imposed under IC 33-37-5-14.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1035, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 11, delete "police officer employed by the state police".

Page 5, line 12, delete "department" and insert "**work zone speed control system operator**".

Page 5, line 15, delete "police officer employed by the".

Page 5, line 16, delete "state police department" and insert "**work zone speed control system operator**".

Page 6, line 29, delete "Subject to subsection (c), that the owner of the motor" and insert "**That the owner of a motor vehicle is not liable for the fine imposed by this chapter if the owner does the following:**

(A) Responds to the notice of violation not more than thirty (30) days after receiving the notice of violation.

(B) Submits to the court an affidavit stating that a person other than the owner of the motor vehicle had custody and control of the motor vehicle at the time of the alleged violation.

(C) Provides the name and address of the individual who had custody and control of the motor vehicle at the time of the alleged violation."

Page 6, delete lines 30 through 32.

Page 6, line 34, delete "To establish a defense described in subsection (b)(2), the" and insert "**Subject to the requirements of subsection (b)(2), if the court finds by a preponderance of the evidence that a person other than the owner of the motor vehicle was operating the motor vehicle at the time that the violation of a work zone speed limit occurred, the court shall issue a traffic information and summons to the person alleged to have operated the motor vehicle at the time of the alleged violation."**

Page 6, delete lines 35 through 42.

Page 7, delete line 1.

Page 7, line 2, delete "(e)" and insert "**(d)**".

Page 7, line 11, delete "(f)" and insert "**(e)**".

Page 8, line 5, delete "(g)" and insert "**(f)**".

Page 8, line 5, after "subsection" delete "(f)" and insert "**(e)**".

Page 8, line 7, delete "(d)" and insert "**(b)(2)**".

Page 8, line 9, delete "(h)" and insert "**(g)**".



Page 8, line 16, delete "(i)" and insert "**(h)**".

Page 8, line 17, delete "(f)" and insert "**(e)**".

Page 8, line 22, delete "(j)" and insert "**(i)**".

Page 8, line 26, delete "(k)" and insert "**(j)**".

Page 8, line 27, delete "(j)" and insert "**(i)**".

and when so amended that said bill do pass.

(Reference is to HB 1035 as introduced.)

PRESSEL

Committee Vote: yeas 10, nays 2.

