



April 12, 2023

ENGROSSED HOUSE BILL No. 1156

DIGEST OF HB 1156 (Updated April 11, 2023 11:01 am - DI 151)

Citations Affected: IC 9-30; IC 35-31.5; IC 35-46.

Synopsis: Motor vehicle matters. Provides for the process for suspending the Indiana driving privileges of a minor who is an Indiana resident for failing to appear or answer a traffic summons. Changes the term "portable breath test" to "portable test" and amends the definition of "portable test".

Effective: July 1, 2023.

Criswell, Pierce K, McNamara

(SENATE SPONSOR — RAATZ)

January 10, 2023, read first time and referred to Committee on Roads and Transportation.
January 24, 2023, reported — Do Pass.
January 26, 2023, read second time, ordered engrossed.
January 27, 2023, engrossed.
January 30, 2023, read third time, passed. Yeas 95, nays 1.

SENATE ACTION

February 27, 2023, read first time and referred to Committee on Homeland Security and Transportation.
April 11, 2023, amended, reported favorably — Do Pass.

EH 1156—LS 6922/DI 139



April 12, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1156

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

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

1 SECTION 1. IC 9-30-3-8, AS AMENDED BY P.L.86-2021,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 8. (a) **Except as provided in subsection (b)**, the
4 court may issue a warrant for the arrest of a defendant who is an
5 Indiana resident who:
6 (1) fails to appear or answer a traffic information and summons
7 for a misdemeanor or felony; or
8 (2) fails to appear or answer a complaint and summons for a
9 misdemeanor or felony served upon the defendant.
10 If the warrant is not executed within thirty (30) days after issue, the
11 court shall promptly forward the court copy of the traffic information
12 and summons or complaint and summons to the bureau indicating that
13 the defendant failed to appear in court as ordered. The court shall then
14 mark the case as failure to appear on the court's records.
15 (b) If a defendant who is not an Indiana resident **or a minor who is**
16 **an Indiana resident** fails to appear or answer a traffic summons served
17 upon the defendant **or minor** and upon which the information or

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1 complaint has been filed thirty (30) days after the return date of the
 2 information and summons or complaint and summons, the court shall
 3 promptly forward the court copy of the traffic information and
 4 summons or complaint and summons to the bureau. **If the defendant**
 5 **is a nonresident**, the bureau shall notify the motor vehicle commission
 6 of the state of the nonresident defendant of the defendant's failure to
 7 appear and also of any action taken by the bureau relative to the
 8 Indiana driving privileges of the defendant. If the defendant **or minor**
 9 fails to appear or otherwise answer within thirty (30) days, the court
 10 shall mark the case as failure to appear on the court's records.

11 (c) The court may suspend the driving privileges of a defendant who
 12 fails to satisfy a judgment entered against the defendant for:

13 (1) commission of a moving traffic offense as defined by
 14 IC 9-13-2-110; or

15 (2) commission of a traffic infraction listed in 140 IAC 1-4.5-10;
 16 for a period of three (3) years from the date set by the court under
 17 IC 34-28-5-6. The court shall forward notice to the bureau indicating
 18 that the defendant failed to pay as ordered.

19 (d) If the bureau receives a copy of the traffic information and
 20 summons or complaint under subsection (a) or a notice of failure to pay
 21 under subsection (c), either on a form prescribed by the bureau or in an
 22 electronic format prescribed by the office of judicial administration, the
 23 bureau shall suspend the driving privileges of the defendant until:

24 (1) the defendant appears in court;

25 (2) the case has been disposed of;

26 (3) payment is received by the court; or

27 (4) three (3) years from a date set by the court under subsection
 28 (c).

29 The order of suspension may be served upon the defendant by mailing
 30 the order by first class mail to the defendant at the last address shown
 31 for the defendant in the records of the bureau. A suspension under this
 32 section begins thirty (30) days after the date the notice of suspension
 33 is mailed by the bureau to the defendant.

34 (e) For nonresidents of Indiana **or a minor resident of Indiana**
 35 **under subsection (b)**, the order of suspension shall be mailed to the
 36 defendant at the address given to the arresting officer or the clerk of
 37 court by the defendant **or minor** as shown by the traffic information or
 38 complaint. A copy of the order shall also be sent to the motor vehicle
 39 bureau of the state of the nonresident defendant **and the bureau**. If:

40 (1) the defendant's **or minor's** failure to appear in court has been
 41 certified to the bureau under this chapter; and

42 (2) the defendant **or minor** subsequently appears in court to



1 answer the charges against the defendant **or minor**;
 2 the court shall proceed to hear and determine the case in the same
 3 manner as other cases pending in the court. Upon final determination
 4 of the case, the court shall notify the bureau of the determination either
 5 in an electronic format or upon forms prescribed by the bureau. The
 6 notification shall be made by the court within ten (10) days after the
 7 final determination of the case, and information from the original copy
 8 of the traffic information and summons or complaint and summons
 9 must accompany the notification.

10 (f) If the bureau receives notice that a defendant **or minor** failed to
 11 appear under subsection (b), the bureau shall suspend the defendant's
 12 **or minor's** Indiana driving privileges until either:

13 (1) the defendant **or minor** appears in court to answer for the
 14 charges against the defendant **or minor**; or

15 (2) the case is disposed of.

16 (g) This section does not preclude preliminary proceedings under
 17 IC 35-33.

18 SECTION 2. IC 9-30-6-2 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) A law enforcement officer
 20 who has probable cause to believe that a person has committed an
 21 offense under this chapter, ~~IC 9-30-5~~, **IC 9-30-5-2**, or IC 9-30-9, or a
 22 violation under IC 9-30-15 shall offer the person the opportunity to
 23 submit to a chemical test.

24 (b) A law enforcement officer:

25 (1) is not required to offer a chemical test to an unconscious
 26 person; and

27 (2) may offer a person more than one (1) chemical test under this
 28 chapter.

29 (c) A test administered under this chapter must be administered
 30 within three (3) hours after the law enforcement officer had probable
 31 cause to believe the person committed an offense under ~~IC 9-30-5~~
 32 **IC 9-30-5-2** or a violation under IC 9-30-15.

33 (d) A person must submit to each chemical test offered by a law
 34 enforcement officer in order to comply with the implied consent
 35 provisions of this chapter.

36 SECTION 3. IC 9-30-6-15 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) At any
 38 proceeding concerning an offense under IC 9-30-5 or a violation under
 39 IC 9-30-15, evidence of the alcohol concentration that was in the blood
 40 of the person charged with the offense:

41 (1) at the time of the alleged violation; or

42 (2) within the time allowed for testing under section 2 of this



- 1 chapter;
 2 as shown by an analysis of the person's breath, blood, urine, or other
 3 bodily substance is admissible.
- 4 (b) If, in a prosecution for an offense under IC 9-30-5, evidence
 5 establishes that:
- 6 (1) a chemical test was performed on a test sample taken from the
 7 person charged with the offense within the period of time allowed
 8 for testing under section 2 of this chapter; and
 9 (2) the person charged with the offense had an alcohol
 10 concentration equivalent to at least eight-hundredths (0.08) gram
 11 of alcohol per:
- 12 (A) one hundred (100) milliliters of the person's blood at the
 13 time the test sample was taken; or
 14 (B) two hundred ten (210) liters of the person's breath;
- 15 the trier of fact shall presume that the person charged with the offense
 16 had an alcohol concentration equivalent to at least eight-hundredths
 17 (0.08) gram of alcohol per one hundred (100) milliliters of the person's
 18 blood or per two hundred ten (210) liters of the person's breath at the
 19 time the person operated the vehicle. However, this presumption is
 20 rebuttable.
- 21 (c) If evidence in an action for a violation under IC 9-30-5-8.5
 22 establishes that:
- 23 (1) a chemical test was performed on a test sample taken from the
 24 person charged with the violation within the time allowed for
 25 testing under section 2 of this chapter; and
 26 (2) the person charged with the violation:
- 27 (A) was less than twenty-one (21) years of age at the time of
 28 the alleged violation; and
 29 (B) had an alcohol concentration equivalent to at least
 30 two-hundredths (0.02) gram of alcohol per:
- 31 (i) one hundred (100) milliliters of the person's blood; or
 32 (ii) two hundred ten (210) liters of the person's breath;
- 33 at the time the test sample was taken;
- 34 the trier of fact shall presume that the person charged with the violation
 35 had an alcohol concentration equivalent to at least two-hundredths
 36 (0.02) gram of alcohol per one hundred (100) milliliters of the person's
 37 blood or per two hundred ten (210) liters of the person's breath at the
 38 time the person operated the vehicle. However, the presumption is
 39 rebuttable.
- 40 (d) If, in an action for a violation under IC 9-30-15 **or**
 41 **IC 9-24-6.1-6**, evidence establishes that:
- 42 (1) a chemical test was performed on a test sample taken from the



1 person charged with the offense within the time allowed for
2 testing under section 2 of this chapter; and

3 (2) the person charged with the offense had an alcohol
4 concentration equivalent to at least four-hundredths (0.04) gram
5 of alcohol per:

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

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

8 at the time the test sample was taken;

9 the trier of fact shall presume that the person charged with the offense
10 had an alcohol concentration equivalent to at least four-hundredths
11 (0.04) gram of alcohol by weight in grams per one hundred (100)
12 milliliters of the person's blood or per two hundred ten (210) liters of
13 the person's breath at the time the person operated the vehicle.
14 However, this presumption is rebuttable.

15 SECTION 4. IC 9-30-7-1 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) As used in this chapter,
17 "portable ~~breath~~ test" means a ~~hand held~~ **mobile** apparatus that
18 measures ~~the for~~ alcohol concentration **or the presence of alcohol, a**
19 **controlled substance or its metabolite, or a drug or its metabolite**
20 in a breath **or oral fluid** sample. ~~delivered by a person into the~~
21 ~~mouthpiece of the apparatus.~~

22 (b) As used in this chapter, "fatal accident" means an accident, a
23 collision, or other occurrence that involves at least one (1) vehicle and
24 that results in:

25 (1) death; or

26 (2) bodily injury that gives a law enforcement officer reason to
27 believe that the death of at least one (1) person is imminent.

28 SECTION 5. IC 9-30-7-2 IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2023]: Sec. 2. A person who operates a vehicle
30 impliedly consents to submit to the portable ~~breath~~ test or chemical test
31 under this chapter as a condition of operating a vehicle in Indiana. A
32 person must submit to each portable ~~breath~~ test or chemical test offered
33 by a law enforcement officer under this chapter to comply with this
34 chapter.

35 SECTION 6. IC 9-30-7-3 IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A law enforcement officer
37 shall offer a portable ~~breath~~ test or chemical test to any person who the
38 officer has reason to believe operated a vehicle that was involved in a
39 fatal accident or an accident involving serious bodily injury. If:

40 (1) the results of a portable ~~breath~~ test indicate the presence of
41 alcohol, **a controlled substance or its metabolite, or a drug or**
42 **its metabolite;**



1 (2) the results of a portable ~~breath~~ test do not indicate the
 2 presence of alcohol but the law enforcement officer has probable
 3 cause to believe the person is under the influence of a controlled
 4 substance or another drug; or

5 (3) the person refuses to submit to a portable ~~breath~~ test;
 6 the law enforcement officer shall offer a chemical test to the person.

7 (b) A law enforcement officer may offer a person more than one (1)
 8 portable ~~breath~~ test or chemical test under this section. However, all
 9 chemical tests must be administered within three (3) hours after the
 10 fatal accident or the accident involving serious bodily injury.

11 (c) It is not necessary for a law enforcement officer to offer a
 12 portable ~~breath~~ test or chemical test to an unconscious person.

13 SECTION 7. IC 9-30-7-5, AS AMENDED BY P.L.85-2013,
 14 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2023]: Sec. 5. (a) A person who refuses to submit to a portable
 16 ~~breath~~ test or chemical test offered under this chapter commits a Class
 17 C infraction. However, the person commits a Class A infraction if the
 18 person has at least one (1) previous conviction for operating while
 19 intoxicated.

20 (b) In addition to any other penalty imposed, the court shall suspend
 21 the person's driving privileges:

22 (1) for one (1) year; or

23 (2) if the person has at least one (1) previous conviction for
 24 operating while intoxicated, for two (2) years.

25 (c) During the three (3) years following the termination of the
 26 suspension, the person's driving privileges remain suspended until the
 27 person provides proof of future financial responsibility in force under
 28 IC 9-25.

29 SECTION 8. IC 35-31.5-2-239.5 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2023]: **Sec. 239.5. "Portable test", for**
 32 **purposes of IC 35-46-9-10, has the meaning set forth in IC 9-30-7-**
 33 **1.**

34 SECTION 9. IC 35-46-9-10, AS ADDED BY P.L.40-2012,
 35 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2023]: Sec. 10. (a) A law enforcement officer shall offer a
 37 portable ~~breath~~ test or chemical test to any person if the officer has
 38 reason to believe the person operated a motorboat that was involved in
 39 a fatal accident or an accident involving serious bodily injury. If:

40 (1) the results of a portable ~~breath~~ test indicate the presence of
 41 alcohol;

42 (2) the results of a portable ~~breath~~ test do not indicate the



1 presence of alcohol but the law enforcement officer has probable
2 cause to believe the person is under the influence of a controlled
3 substance or another drug; or
4 (3) the person refuses to submit to a portable ~~breath~~ test;
5 the law enforcement officer shall offer a chemical test to the person.
6 (b) A law enforcement officer may offer a person more than one (1)
7 portable ~~breath~~ test or chemical test under this section. However, all
8 chemical tests must be administered within three (3) hours after the
9 fatal accident or the accident involving serious bodily injury.
10 (c) It is not necessary for a law enforcement officer to offer a
11 portable ~~breath~~ test or chemical test to an unconscious person.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1156, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1156 as introduced.)

PRESSEL

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred House Bill No. 1156, 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 3, after line 17, begin a new paragraph and insert:

"SECTION 2. IC 9-30-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) A law enforcement officer who has probable cause to believe that a person has committed an offense under this chapter, ~~IC 9-30-5~~, **IC 9-30-5-2**, or IC 9-30-9, or a violation under IC 9-30-15 shall offer the person the opportunity to submit to a chemical test.

(b) A law enforcement officer:

- (1) is not required to offer a chemical test to an unconscious person; and
- (2) may offer a person more than one (1) chemical test under this chapter.

(c) A test administered under this chapter must be administered within three (3) hours after the law enforcement officer had probable cause to believe the person committed an offense under ~~IC 9-30-5~~ **IC 9-30-5-2** or a violation under IC 9-30-15.

(d) A person must submit to each chemical test offered by a law enforcement officer in order to comply with the implied consent provisions of this chapter.

SECTION 3. IC 9-30-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) At any proceeding concerning an offense under IC 9-30-5 or a violation under IC 9-30-15, evidence of the alcohol concentration that was in the blood

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of the person charged with the offense:

- (1) at the time of the alleged violation; or
- (2) within the time allowed for testing under section 2 of this chapter;

as shown by an analysis of the person's breath, blood, urine, or other bodily substance is admissible.

(b) If, in a prosecution for an offense under IC 9-30-5, evidence establishes that:

- (1) a chemical test was performed on a test sample taken from the person charged with the offense within the period of time allowed for testing under section 2 of this chapter; and
- (2) the person charged with the offense had 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 at the time the test sample was taken; or

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

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, this presumption is rebuttable.

(c) If evidence in an action for a violation under IC 9-30-5-8.5 establishes that:

- (1) a chemical test was performed on a test sample taken from the person charged with the violation within the time allowed for testing under section 2 of this chapter; and
- (2) the person charged with the violation:

(A) was less than twenty-one (21) years of age at the time of the alleged violation; and

(B) had an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

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

(ii) two hundred ten (210) liters of the person's breath;

at the time the test sample was taken;

the trier of fact shall presume that the person charged with the violation had an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, the presumption is rebuttable.



(d) If, in an action for a violation under IC 9-30-15 or IC 9-24-6.1-6, evidence establishes that:

(1) a chemical test was performed on a test sample taken from the person charged with the offense within the time allowed for testing under section 2 of this chapter; and

(2) the person charged with the offense had an alcohol concentration equivalent to at least four-hundredths (0.04) 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;

at the time the test sample was taken;

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least four-hundredths (0.04) gram of alcohol by weight in grams per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, this presumption is rebuttable.

SECTION 4. IC 9-30-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) As used in this chapter, "portable ~~breath~~ test" means a ~~hand held~~ **mobile** apparatus that measures ~~the for~~ alcohol concentration **or the presence of alcohol, a controlled substance or its metabolite, or a drug or its metabolite** in a ~~breath or oral fluid~~ sample. ~~delivered by a person into the mouthpiece of the apparatus.~~

(b) As used in this chapter, "fatal accident" means an accident, a collision, or other occurrence that involves at least one (1) vehicle and that results in:

(1) death; or

(2) bodily injury that gives a law enforcement officer reason to believe that the death of at least one (1) person is imminent.

SECTION 5. IC 9-30-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A person who operates a vehicle impliedly consents to submit to the portable ~~breath~~ test or chemical test under this chapter as a condition of operating a vehicle in Indiana. A person must submit to each portable ~~breath~~ test or chemical test offered by a law enforcement officer under this chapter to comply with this chapter.

SECTION 6. IC 9-30-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A law enforcement officer shall offer a portable ~~breath~~ test or chemical test to any person who the officer has reason to believe operated a vehicle that was involved in a fatal accident or an accident involving serious bodily injury. If:



(1) the results of a portable **breath** test indicate the presence of alcohol, **a controlled substance or its metabolite, or a drug or its metabolite;**

(2) the results of a portable **breath** test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or

(3) the person refuses to submit to a portable **breath** test;

the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable **breath** test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable **breath** test or chemical test to an unconscious person.

SECTION 7. IC 9-30-7-5, AS AMENDED BY P.L.85-2013, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) A person who refuses to submit to a portable **breath** test or chemical test offered under this chapter commits a Class C infraction. However, the person commits a Class A infraction if the person has at least one (1) previous conviction for operating while intoxicated.

(b) In addition to any other penalty imposed, the court shall suspend the person's driving privileges:

(1) for one (1) year; or

(2) if the person has at least one (1) previous conviction for operating while intoxicated, for two (2) years.

(c) During the three (3) years following the termination of the suspension, the person's driving privileges remain suspended until the person provides proof of future financial responsibility in force under IC 9-25.

SECTION 8. IC 35-31.5-2-239.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 239.5. "Portable test", for purposes of IC 35-46-9-10, has the meaning set forth in IC 9-30-7-1.**

SECTION 9. IC 35-46-9-10, AS ADDED BY P.L.40-2012, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) A law enforcement officer shall offer a portable **breath** test or chemical test to any person if the officer has reason to believe the person operated a motorboat that was involved in a fatal accident or an accident involving serious bodily injury. If:



(1) the results of a portable ~~breath~~ test indicate the presence of alcohol;

(2) the results of a portable ~~breath~~ test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or

(3) the person refuses to submit to a portable ~~breath~~ test; the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable ~~breath~~ test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable ~~breath~~ test or chemical test to an unconscious person."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1156 as printed January 24, 2023.)

CRIDER, Chairperson

Committee Vote: Yeas 8, Nays 0.

