



February 21, 2014

ENGROSSED

HOUSE BILL No. 1384

DIGEST OF HB 1384 (Updated February 18, 2014 11:02 am - DI 84)

Citations Affected: IC 9-21; IC 34-28.

Synopsis: Downloading of cellular telephone information by police. Prohibits a police officer from extracting or otherwise downloading information from a telecommunications device without the owner's consent for a violation of the law concerning typing, transmitting, or reading a text message while operating a motor vehicle unless: (1) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime; (2) the information is extracted or otherwise downloaded under a valid search warrant; or (3) otherwise authorized by law. Provides that if a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not, without the person's consent, extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless: (1) the law enforcement officer has probable cause to believe that the cellular telephone or other wireless or cellular communications device has been used in the commission of a crime; (2) the information is extracted or otherwise downloaded under a valid search warrant; or (3) otherwise authorized by law.

Effective: July 1, 2014.

Speedy, McMillin, Frye R

(SENATE SPONSORS — WALTZ, RANDOLPH)

January 21, 2014, read first time and referred to Committee on Courts and Criminal Code.
January 27, 2014, reported — Do Pass.
January 29, 2014, read second time, ordered engrossed. Engrossed.
January 30, 2014, read third time, passed. Yeas 87, nays 3.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Corrections & Criminal Law.
February 20, 2014, reported favorably — Do Pass.

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February 21, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1384

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

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

- 1 SECTION 1. IC 9-21-8-59, AS ADDED BY P.L.185-2011,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 59. (a) A person may not use a
4 telecommunications device to:
5 (1) type a text message or an electronic mail message;
6 (2) transmit a text message or an electronic mail message; or
7 (3) read a text message or an electronic mail message;
8 while operating a moving motor vehicle unless the device is used in
9 conjunction with hands free or voice operated technology, or unless the
10 device is used to call 911 to report a bona fide emergency.
11 (b) A police officer may not, **without the consent of the person:**
12 (1) confiscate a telecommunications device for the purpose of
13 determining compliance with this section; **or**
14 (2) confiscate a telecommunications device and retain it as
15 evidence pending trial for a violation of this section; **or**
16 (3) **extract or otherwise download information from a**

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- 1 **telecommunications device for a violation of this section**
 2 **unless:**
 3 **(A) the police officer has probable cause to believe that the**
 4 **telecommunications device has been used in the**
 5 **commission of a crime;**
 6 **(B) the information is extracted or otherwise downloaded**
 7 **under a valid search warrant; or**
 8 **(C) otherwise authorized by law.**
- 9 SECTION 2. IC 34-28-5-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. **(a)** Whenever a law
 11 enforcement officer believes in good faith that a person has committed
 12 an infraction or ordinance violation, the law enforcement officer may
 13 detain that person for a time sufficient to:
 14 (1) inform the person of the allegation;
 15 (2) obtain the person's:
 16 (A) name, address, and date of birth; or
 17 (B) driver's license, if in the person's possession; and
 18 (3) allow the person to execute a notice to appear.
- 19 **(b) If a law enforcement officer detains a person because the law**
 20 **enforcement officer believes the person has committed an**
 21 **infraction or ordinance violation, the law enforcement officer may**
 22 **not, without the consent of the person, extract or otherwise**
 23 **download information from a cellular telephone or another**
 24 **wireless or cellular communications device possessed by the person**
 25 **at the time the person is detained unless:**
 26 **(1) the law enforcement officer has probable cause to believe**
 27 **that the:**
 28 **(A) cellular telephone; or**
 29 **(B) other wireless or cellular communications device;**
 30 **has been used in the commission of a crime;**
 31 **(2) the information is extracted or otherwise downloaded**
 32 **under a valid search warrant; or**
 33 **(3) otherwise authorized by law.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1384, 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 1384 as introduced.)

Committee Vote: Yeas 6, Nays 2

Representative McMillin

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred House Bill No. 1384, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1384 as printed January 27, 2014.)

Committee Vote: Yeas 10, Nays 0

Senator Young R Michael, Chairperson

