

HOUSE BILL No. 1455

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30; IC 35-46-9-6.

Synopsis: Operating while intoxicated. Provides that a person who operates a vehicle or a motorboat with at least 10 nanograms of delta-9-tetrahydrocannabinol (THC) per milliliter of the person's blood commits the offense of operating while intoxicated. (Current law provides that a person commits the offense of operating while intoxicated if the person has any measurable amount of THC in the person's blood.) Removes the metabolite of a controlled substance listed in schedule I or II as an element from the offense of operating a vehicle while intoxicated. Makes conforming amendments.

Effective: July 1, 2019.

Young J

January 15, 2019, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1455

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 9-30-5-1, AS AMENDED BY P.L.63-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. (a) A person who operates a vehicle with an
4 alcohol concentration equivalent to at least eight-hundredths (0.08)
5 gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol
6 per:
7 (1) one hundred (100) milliliters of the person's blood; or
8 (2) two hundred ten (210) liters of the person's breath;
9 commits a Class C misdemeanor.
10 (b) A person who operates a vehicle with an alcohol concentration
11 equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:
12 (1) one hundred (100) milliliters of the person's blood; or
13 (2) two hundred ten (210) liters of the person's breath;
14 commits a Class A misdemeanor.
15 (c) **Except as provided in subsection (d)**, a person who operates a
16 vehicle with a controlled substance listed in schedule I or II of
17 IC 35-48-2 ~~or its metabolite~~ in the person's body commits a Class C



1 misdemeanor.

2 **(d) A person who operates a vehicle with at least ten (10)**
 3 **nanograms of delta-9-tetrahydrocannabinol (THC) per milliliter**
 4 **of the person's blood commits a Class C misdemeanor.**

5 ~~(e)~~ (e) It is a defense to ~~subsection~~ subsections (c) and (d) that the
 6 accused person consumed the controlled substance in accordance with
 7 a valid prescription **(as defined in IC 16-42-19-7)** or drug order **(as**
 8 **defined in IC 16-42-19-3)** of a practitioner (as defined in IC 35-48-1)
 9 who acted in the course of the practitioner's professional practice.

10 SECTION 2. IC 9-30-5-4, AS AMENDED BY P.L.63-2018,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2019]: Sec. 4. (a) A person who causes serious bodily injury
 13 to another person when operating a vehicle:

14 (1) with an alcohol concentration equivalent to at least
 15 eight-hundredths (0.08) gram of alcohol per:

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

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

18 (2) **except as provided in subdivision (3)**, with a controlled
 19 substance listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~
 20 in the person's body; ~~or~~

21 **(3) with at least ten (10) nanograms of**
 22 **delta-9-tetrahydrocannabinol (THC) per milliliter of the**
 23 **person's blood; or**

24 ~~(3)~~ (4) while intoxicated;

25 commits a Level 6 felony. However, the offense is a Level 5 felony if
 26 the person has a previous conviction of operating while intoxicated
 27 within the five (5) years preceding the commission of the offense.

28 (b) A person who violates subsection (a) commits a separate offense
 29 for each person whose serious bodily injury is caused by the violation
 30 of subsection (a).

31 (c) It is a defense under subsection (a)(2) **and (a)(3)** that the
 32 accused person consumed the controlled substance in accordance with
 33 a valid prescription **(as defined in IC 16-42-19-7)** or drug order **(as**
 34 **defined in IC 16-42-19-3)** of a practitioner (as defined in IC 35-48-1)
 35 who acted in the course of the practitioner's professional practice.

36 SECTION 3. IC 9-30-5-5, AS AMENDED BY P.L.63-2018,
 37 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2019]: Sec. 5. (a) A person who causes the death of another
 39 person when operating a vehicle:

40 (1) with an alcohol concentration equivalent to at least
 41 eight-hundredths (0.08) gram of alcohol per:

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



- 1 (B) two hundred ten (210) liters of the person's breath;
 2 (2) **except as provided in subdivision (3)**, with a controlled
 3 substance listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~
 4 in the person's blood; ~~or~~
 5 (3) **with at least ten (10) nanograms of**
 6 **delta-9-tetrahydrocannabinol (THC) per milliliter of the**
 7 **person's blood; or**
 8 ~~(4)~~ (4) while intoxicated;
 9 commits a Level 5 felony, except as provided in subsection (b).
- 10 (b) A person who causes the death of another person when operating
 11 a vehicle under the conditions set forth in subsection (a)(1), (a)(2), ~~or~~
 12 (a)(3), **or (a)(4)** commits a Level 4 felony if:
 13 (1) the person operating the vehicle has a previous conviction of
 14 operating while intoxicated within the ten (10) years preceding
 15 the commission of the offense;
 16 (2) the person operating the vehicle knows that the person's
 17 driver's license, driving privilege, or permit is suspended or
 18 revoked for a previous conviction for operating a vehicle while
 19 intoxicated; or
 20 (3) the driving privileges of the person operating the vehicle are
 21 suspended under IC 9-30-10 because the person is a habitual
 22 traffic violator.
- 23 (c) A person who causes the death of another person when operating
 24 a vehicle:
 25 (1) with an alcohol concentration equivalent to at least
 26 fifteen-hundredths (0.15) gram of alcohol per:
 27 (A) one hundred (100) milliliters of the person's blood; or
 28 (B) two hundred ten (210) liters of the person's breath; or
 29 (2) **except as provided in subdivision (3)**, with a controlled
 30 substance listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~
 31 in the person's blood; ~~or~~
 32 (3) **with at least twenty (20) nanograms of**
 33 **delta-9-tetrahydrocannabinol (THC) per milliliter of the**
 34 **person's blood;**
 35 commits a Level 4 felony.
- 36 (d) A person who causes the death of a law enforcement animal (as
 37 defined in IC 35-46-3-4.5) when operating a vehicle:
 38 (1) with an alcohol concentration equivalent to at least
 39 eight-hundredths (0.08) gram of alcohol per:
 40 (A) one hundred (100) milliliters of the person's blood; or
 41 (B) two hundred ten (210) liters of the person's breath; ~~or~~
 42 (2) **except as provided in subdivision (3)**, with a controlled



1 substance listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~
 2 in the person's blood; **or**

3 **(3) with at least ten (10) nanograms of**
 4 **delta-9-tetrahydrocannabinol (THC) per milliliter of the**
 5 **person's blood;**

6 commits a Level 6 felony.

7 (e) A person who commits an offense under subsection (a), (b), (c),
 8 or (d) commits a separate offense for each person or law enforcement
 9 animal whose death is caused by the violation of subsection (a), (b),
 10 (c), or (d).

11 (f) It is a defense under subsection (a), (b), (c), or (d) that the person
 12 accused of causing the death of another person or a law enforcement
 13 animal when operating a vehicle with a controlled substance listed in
 14 schedule I or II of IC 35-48-2 ~~or its metabolite~~ in the person's blood
 15 consumed the controlled substance in accordance with a valid
 16 prescription **(as defined in IC 16-42-19-7)** or **drug order (as defined**
 17 **in IC 16-42-19-3)** of a practitioner (as defined in IC 35-48-1) who
 18 acted in the course of the practitioner's professional practice.

19 SECTION 4. IC 9-30-15.5-1, AS AMENDED BY P.L.198-2016,
 20 SECTION 606, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2019]: Sec. 1. As used in this chapter,
 22 "vehicular substance offense" means any misdemeanor or felony in
 23 which operation of a vehicle while intoxicated, operation of a vehicle
 24 in excess of the statutory limit for alcohol, or operation of a vehicle
 25 with a controlled substance or **(before July 1, 2019)** its metabolite in
 26 the person's body, is a material element. The term includes an offense
 27 under IC 9-30-5, IC 9-24-6-15 (before its repeal), IC 9-24-6.1-7, and
 28 IC 9-11-2 (before its repeal).

29 SECTION 5. IC 35-46-9-6, AS AMENDED BY P.L.63-2018,
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 6. (a) Except as provided in subsections (b) and
 32 (c), a person who operates a motorboat while:

33 (1) having an alcohol concentration equivalent (as defined in
 34 IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol
 35 per:

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

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

38 (2) **except as provided in subdivision (3)**, having a controlled
 39 substance listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~
 40 in the person's body; ~~or~~

41 **(3) having at least ten (10) nanograms of**
 42 **delta-9-tetrahydrocannabinol (THC) per milliliter of the**



1 **person's blood; or**
2 ~~(3)~~ **(4)** intoxicated;
3 commits a Class C misdemeanor.
4 (b) The offense is a Level 6 felony if:
5 (1) the person has a previous conviction under:
6 (A) IC 14-1-5 (repealed);
7 (B) IC 14-15-8-8 (repealed); or
8 (C) this chapter; or
9 (2) the offense results in serious bodily injury to another person.
10 (c) The offense is a Level 5 felony if the offense results in the death
11 of another person.
12 (d) It is a defense to a prosecution under subsection (a)(2) **and**
13 **(a)(3)** that the accused person consumed the controlled substance in
14 accordance with a valid prescription **(as defined in IC 16-42-19-7)** or
15 **drug order (as defined in IC 16-42-19-3)** of a practitioner (as defined
16 in IC 35-48-1-24) who acted in the course of the practitioner's
17 professional practice.

