

SENATE BILL No. 79

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-21-8; IC 9-24-11-3.3.

Synopsis: Use of telecommunications devices while driving. Provides that a person who is at least 21 years of age who uses a telecommunications device to perform any function available on the telecommunications device other than to: (1) place or receive a telephone call; (2) use a geolocation information service; or (3) use an application software designed to locate retailers of gasoline or motor fuel; while operating a moving motor vehicle commits a Class C infraction. Revises the term "telecommunications device" for purposes related to motor vehicle operation. Defines "geolocation information service" for purposes related to motor vehicle operation. Repeals the term "text message" for purposes of the motor vehicle code.

Effective: July 1, 2016.

Miller Pete

January 5, 2016, read first time and referred to Committee on Homeland Security & Transportation.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 79

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 9-13-2-69.6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2016]: **Sec. 69.6. "Geolocation information service", for purposes**
- 4 **of IC 9-21-8, has the meaning set forth in IC 9-21-8-0.2.**
- 5 SECTION 2. IC 9-13-2-177.3, AS AMENDED BY P.L.59-2013,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2016]: Sec. 177.3. (a) "Telecommunications device", for
- 8 purposes of IC 9-21-8, IC 9-25-4-7, and IC 9-24-11-3.3, means an
- 9 electronic or digital telecommunications device. The term includes a:
- 10 (1) wireless telephone;
- 11 (2) personal digital assistant;
- 12 (3) pager; ~~or~~
- 13 (4) text messaging device; **or**
- 14 **(5) functional equivalent or successor to a device listed in**
- 15 **subdivisions (1) through (4).**
- 16 (b) The term does not include:
- 17 (1) amateur radio equipment that is being operated by a person



1 licensed as an amateur radio operator by the Federal
2 Communications Commission under 47 CFR Part 97; or

3 (2) a communications system installed in a commercial motor
4 vehicle weighing more than ten thousand (10,000) pounds.

5 SECTION 3. IC 9-13-2-177.4 IS REPEALED [EFFECTIVE JULY
6 1, 2016]. ~~Sec. 177.4. "Text message", for purposes of IC 9-21-8, has the
7 meaning set forth in IC 9-21-8-0.5.~~

8 SECTION 4. IC 9-21-8-0.2 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2016]: **Sec. 0.2. As used in this chapter, "geolocation information
11 service" means a person that offers or provides GPS service or
12 other mapping, locational, or directional services to the public by
13 means of a wireless or cellular telephone.**

14 SECTION 5. IC 9-21-8-0.5 IS REPEALED [EFFECTIVE JULY 1,
15 2016]. ~~Sec. 0.5. As used in this chapter, "text message" means a
16 communication in the form of electronic text sent from a
17 telecommunications device.~~

18 SECTION 6. IC 9-21-8-59, AS AMENDED BY P.L.191-2014,
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2016]: Sec. 59. (a) A person may not use a
21 telecommunications device to **perform any function available on the
22 telecommunications device other than to:**

- 23 (1) type a text message or an electronic mail message;
- 24 (2) transmit a text message or an electronic mail message; or
- 25 (3) read a text message or an electronic mail message;
- 26 **(1) place or receive a telephone call;**
- 27 **(2) use a geolocation information service; or**
- 28 **(3) use an application software designed to locate retailers of
29 gasoline or motor fuel;**

30 while operating a moving motor vehicle. ~~unless the device is used in
31 conjunction with hands free or voice operated technology, or unless the
32 device is used to call 911 to report a bona fide emergency.~~
33 **IC 9-24-11-3.3(b)(4) applies to the use of a telecommunications
34 device by the holder of a probationary license.**

- 35 (b) A police officer may not, without the consent of the person:
 - 36 (1) confiscate a telecommunications device for the purpose of
37 determining compliance with this section;
 - 38 (2) confiscate a telecommunications device and retain it as
39 evidence pending trial for a violation of this section; or
 - 40 (3) extract or otherwise download information from a
41 telecommunications device for a violation of this section unless:
 - 42 (A) the police officer has probable cause to believe that the



- 1 telecommunications device has been used in the commission
 2 of a crime;
- 3 (B) the information is extracted or otherwise downloaded
 4 under a valid search warrant; or
- 5 (C) otherwise authorized by law.
- 6 SECTION 7. IC 9-24-11-3.3, AS AMENDED BY P.L.150-2015,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 3.3. (a) This section applies to a probationary
 9 operator's license issued after June 30, 2009.
- 10 (b) A license issued to or held by an individual less than twenty-one
 11 (21) years of age is a probationary license. An individual holds a
 12 probationary license subject to the following conditions:
- 13 (1) Except as provided in subdivision (3), the individual may not
 14 operate a motor vehicle from 10 p.m. until 5 a.m. of the following
 15 morning during the first one hundred eighty (180) days after
 16 issuance of the probationary license.
- 17 (2) Except as provided in subdivision (3), after one hundred
 18 eighty (180) days after issuance of the probationary license, and
 19 until the individual becomes eighteen (18) years of age, an
 20 individual may not operate a motor vehicle:
- 21 (A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;
- 22 (B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday,
 23 or Thursday; or
- 24 (C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday,
 25 or Friday.
- 26 (3) The individual may operate a motor vehicle during the periods
 27 described in subdivisions (1) and (2) if the individual operates the
 28 motor vehicle while:
- 29 (A) participating in, going to, or returning from:
- 30 (i) lawful employment;
- 31 (ii) a school sanctioned activity; or
- 32 (iii) a religious event; or
- 33 (B) accompanied in the front seat of the motor vehicle by a
 34 licensed driver with valid driving privileges who is:
- 35 (i) at least twenty-five (25) years of age; or
- 36 (ii) if the licensed driver is the individual's spouse, at least
 37 twenty-one (21) years of age.
- 38 (4) The individual may not operate a motor vehicle while using a
 39 telecommunications device until the individual becomes
 40 twenty-one (21) years of age unless the telecommunications
 41 device is being used to make a 911 emergency call. **IC 9-21-8-59**
 42 **applies to the use of a telecommunications device while**



- 1 **operating a moving motor vehicle by an individual who is at**
 2 **least twenty-one (21) years of age.**
 3 (5) Except as provided in subdivision (6), during the one hundred
 4 eighty (180) days after the issuance of the probationary license,
 5 the individual may not operate a motor vehicle in which there are
 6 passengers until the individual becomes twenty-one (21) years of
 7 age unless accompanied in the front seat of the motor vehicle by:
 8 (A) a certified driver education instructor; or
 9 (B) a licensed driver with valid driving privileges who is:
 10 (i) at least twenty-five (25) years of age; or
 11 (ii) if the licensed driver is the individual's spouse, at least
 12 twenty-one (21) years of age.
 13 (6) The individual may operate a motor vehicle and transport:
 14 (A) a child or stepchild of the individual;
 15 (B) a sibling of the individual, including step or half siblings;
 16 (C) the spouse of the individual; or
 17 (D) any combination of individuals described in clauses (A)
 18 through (C);
 19 without another accompanying individual present in the motor
 20 vehicle.
 21 (7) The individual may operate a motor vehicle only if the
 22 individual and each occupant of the motor vehicle are:
 23 (A) properly restrained by a properly fastened safety belt; or
 24 (B) if the occupant is a child, restrained in a properly fastened
 25 child restraint system according to the manufacturer's
 26 instructions under IC 9-19-11;
 27 properly fastened about the occupant's body at all times when the
 28 motor vehicle is in motion.
 29 (c) An individual who holds a probationary license issued under this
 30 section for at least one hundred eighty (180) days may be eligible to
 31 receive an operator's license, a chauffeur's license, a public passenger
 32 chauffeur's license, or a commercial driver's license when the
 33 individual is at least eighteen (18) years of age.
 34 (d) Except as provided in IC 9-24-12-1(d), a probationary license
 35 issued under this section:
 36 (1) expires at midnight of the date thirty (30) days after the
 37 twenty-first birthday of the holder; and
 38 (2) may not be renewed.
 39 (e) Nothing in this section limits the authority of a court to require
 40 an individual who holds a probationary license to attend and complete:
 41 (1) a driver safety program under IC 9-30-3-12; or
 42 (2) a driver improvement or safety course under IC 9-30-3-16;



- 1 if the individual is otherwise eligible or required to attend the program
- 2 or course.

