

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 98

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-80.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 80.1. "Initial hearing", for purposes of IC 9-30-16-1, means an initial hearing described in IC 35-33-7.**

SECTION 2. IC 9-30-16-1, AS AMENDED BY P.L.256-2017, SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. (a) Except as provided in subsection (b), the following are ineligible for specialized driving privileges under this chapter:

- (1) A person who has never been an Indiana resident.
- (2) A person seeking specialized driving privileges with respect to a suspension based on the person's refusal to submit to a chemical test offered under IC 9-30-6 or IC 9-30-7.
- (3) A person whose driving privileges have been suspended or revoked under IC 9-24-10-7(b)(2)(A).

(b) This chapter applies to the following:

- (1) A person who held an operator's, a commercial driver's, a public passenger chauffeur's, or a chauffeur's license at the time of:
 - (A) the criminal conviction for which the operation of a motor vehicle is an element of the offense;
 - (B) any criminal conviction for an offense under IC 9-30-5,

SEA 98 — Concur



IC 35-46-9, or IC 14-15-8 (before its repeal); or

(C) committing the infraction of exceeding a worksite speed limit for the second time in one (1) year under IC 9-21-5-11(f).

(2) A person who:

(A) has never held a valid Indiana driver's license or does not currently hold a valid Indiana learner's permit; and

(B) was an Indiana resident when the driving privileges for which the person is seeking specialized driving privileges were suspended.

(c) Except as specifically provided in this chapter, a court may suspend the driving privileges of a person convicted of any of the following offenses for a period up to the maximum allowable period of incarceration under the penalty for the offense:

(1) Any criminal conviction in which the operation of a motor vehicle is an element of the offense.

(2) Any criminal conviction for an offense under IC 9-30-5, **IC 35-46-9, or IC 14-15-8 (before its repeal).**

(3) Any offense under IC 35-42-1, IC 35-42-2, or IC 35-44.1-3-1 that involves the use of a vehicle.

(d) Except as provided in section 3.5 of this chapter, a suspension of driving privileges under this chapter may begin before the conviction. Multiple suspensions of driving privileges ordered by a court that are part of the same episode of criminal conduct shall be served concurrently. A court may grant credit time for any suspension that began before the conviction, except as prohibited by section 6(a)(2) of this chapter.

(e) If a person has had an ignition interlock device installed as a condition of specialized driving privileges or under IC 9-30-6-8(d), the period of the installation shall be credited as part of the suspension of driving privileges.

(f) This subsection applies to a person described in subsection (b)(2). A court shall, as a condition of granting specialized driving privileges to the person, require the person to apply for and obtain an Indiana driver's license.

(g) If a person indicates to the court at an initial hearing (as described in IC 35-33-7) that the person intends to file a petition for a specialized driving privileges hearing with that court under section 3 or 4 of this chapter, the following apply:

(1) The court shall:

(A) stay the suspension of the person's driving privileges at the initial hearing and shall not submit the probable cause affidavit related to the person's offense to the bureau; and



(B) set the matter for a specialized driving privileges hearing not later than thirty (30) days after the initial hearing.

(2) If the person does not file a petition for a specialized driving privileges hearing not later than ten (10) days after the date of the initial hearing, the court shall lift the stay of the suspension of the person's driving privileges and shall submit the probable cause affidavit related to the person's offense to the bureau for automatic suspension.

(3) If the person files a petition for a specialized driving privileges hearing not later than ten (10) days after the initial hearing, the stay of the suspension of the person's driving privileges continues until the matter is heard and a determination is made by the court at the specialized driving privileges hearing.

(4) If the specialized driving privileges hearing is continued due to:

(A) a congestion of the court calendar;

(B) the prosecuting attorney's motion for a continuance; or

(C) the person's motion for a continuance with no objection by the prosecuting attorney;

the stay of the suspension of the person's driving privileges continues until addressed at the next hearing.

(5) If the person moves for a continuance of the specialized driving privileges hearing and the court grants the continuance over the prosecuting attorney's objection, the court shall lift the stay of the suspension of the person's driving privileges and shall submit the probable cause affidavit related to the person's offense to the bureau for automatic suspension.

SECTION 3. IC 9-30-16-3, AS AMENDED BY P.L.120-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) This section does not apply to specialized driving privileges granted in accordance with section 3.5 of this chapter. If a court orders a suspension of driving privileges under this chapter, or imposes a suspension of driving privileges under IC 9-30-6-9(c), the court may stay the suspension and grant a specialized driving privilege as set forth in this section.

(b) An individual who seeks specialized driving privileges must file a petition for specialized driving privileges in each court that has ordered or imposed a suspension of the individual's driving privileges. Each petition must:



- (1) be verified by the petitioner;
- (2) state the petitioner's age, date of birth, and address;
- (3) state the grounds for relief and the relief sought;
- (4) be filed in a ~~circuit or superior court~~; **the court that ordered or imposed the suspension**; and
- (5) be served on the bureau and the prosecuting attorney.

A prosecuting attorney shall appear on behalf of the bureau to respond to a petition filed under this subsection.

(c) **Except as provided in subsection (h)**, regardless of the underlying offense, specialized driving privileges granted under this section shall be granted for:

- (1) at least one hundred eighty (180) days; and
- (2) not more than two and one-half ~~(2.5)~~ **(2 1/2)** years.

(d) The terms of specialized driving privileges must be determined by a court.

(e) A stay of a suspension and specialized driving privileges may not be granted to an individual who:

- (1) has previously been granted specialized driving privileges; and
- (2) has more than one (1) conviction under section 5 of this chapter.

(f) An individual who has been granted specialized driving privileges shall:

- (1) maintain proof of future financial responsibility insurance during the period of specialized driving privileges;
- (2) carry a copy of the order granting specialized driving privileges or have the order in the vehicle being operated by the individual;
- (3) produce the copy of the order granting specialized driving privileges upon the request of a police officer; and
- (4) carry a validly issued state identification card or driver's license.

(g) An individual who holds a commercial driver's license and has been granted specialized driving privileges under this chapter may not, for the duration of the suspension for which the specialized driving privileges are sought, operate any vehicle that requires the individual to hold a commercial driver's license to operate the vehicle.

(h) Whenever a suspension of an individual's driving privileges under this chapter is terminated because:

- (1) the underlying conviction, judgment, or finding that forms the basis of the suspension is reversed, vacated, or dismissed;**
- or**



(2) the individual is acquitted of, found not liable for, or otherwise found not to have committed the underlying act or offense that forms the basis of the suspension; the individual's specialized driving privileges expire at the time the suspension of the individual's driving privileges is terminated.

(i) The court shall inform the bureau of a termination of a suspension and expiration of specialized driving privileges as described under subsection (h) in a format designated by the bureau.

SECTION 4. IC 9-30-16-3.5, AS AMENDED BY P.L.85-2017, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3.5. (a) If a court imposes a suspension of driving privileges under IC 9-21-5-11(f), the court may stay the suspension and grant a specialized driving privilege as set forth in this section.

(b) Except as provided in subsection (g), specialized driving privileges granted under this section shall be granted for sixty (60) days, or the remainder of the sixty (60) day period of suspension as set forth in IC 9-30-13-9(b)(2) if a petition for specialized driving privileges is filed in the manner set forth under ~~section 3(b) of this chapter.~~ subsection (f).

(c) Specialized driving privileges granted under this section:

- (1) must be determined by a court; and
- (2) are limited to restricting the individual to being allowed to operate a motor vehicle between the place of employment of the individual and the individual's residence.

(d) An individual who has been granted specialized driving privileges under this section shall:

- (1) maintain proof of future financial responsibility insurance during the period of specialized driving privileges;
- (2) carry a copy of the order granting specialized driving privileges or have the order in the vehicle being operated by the individual;
- (3) produce the copy of the order granting specialized driving privileges upon the request of a police officer; and
- (4) carry a validly issued driver's license.

(e) An individual who holds a commercial driver's license and has been granted specialized driving privileges under this chapter may not, for the duration of the suspension for which the specialized driving privileges are sought, operate a motor vehicle that requires the individual to hold a commercial driver's license to operate the motor vehicle.

(f) An individual who seeks specialized driving privileges must file



a petition for specialized driving privileges in each court that has ordered or imposed a suspension of the individual's driving privileges. Each petition must:

- (1) be verified by the petitioner;
- (2) state the petitioner's age, date of birth, and address;
- (3) state the grounds for relief and the relief sought;
- (4) be filed in a ~~circuit or superior court~~; **the court that ordered or imposed the suspension**; and
- (5) be served on the bureau and the prosecuting attorney.

A prosecuting attorney shall appear on behalf of the bureau to respond to a petition filed under this subsection.

(g) Whenever a suspension of an individual's driving privileges under this chapter is terminated because:

- (1) the underlying conviction, judgment, or finding that forms the basis of the suspension is reversed, vacated, or dismissed;**
- or**
- (2) the individual is acquitted of, found not liable for, or otherwise found not to have committed the underlying act or offense that forms the basis of the suspension;**

the individual's specialized driving privileges expire at the time the suspension of the individual's driving privileges is terminated.

(h) The court shall inform the bureau of a termination of a suspension of driving privileges and expiration of specialized driving privileges as described under subsection (g) in a format designated by the bureau.

SECTION 5. IC 35-31.5-2-309.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: **Sec. 309.5. "Specialized driving privileges hearing", for purposes of IC 35-33-7-5, means a hearing in response to a petition filed under IC 9-30-16-3 or IC 9-30-16-4.**

SECTION 6. IC 35-33-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: **Sec. 5.** At the initial hearing of a person, the judicial officer shall inform ~~him~~ **the person** orally or in writing:

- (1) that ~~he~~ **the person** has a right to retain counsel and if ~~he~~ **the person** intends to retain counsel ~~he~~ **the person** must do so within:
 - (A) twenty (20) days if the person is charged with a felony; or
 - (B) ten (10) days if the person is charged only with one (1) or more misdemeanors;

after this initial hearing because there are deadlines for filing motions and raising defenses, and if those deadlines are missed, the legal issues and defenses that could have been raised will be



waived;

(2) that ~~he~~ **the person** has a right to assigned counsel at no expense to ~~him~~ **the person** if ~~he~~ **the person** is indigent;

(3) that ~~he~~ **the person** has a right to a speedy trial;

(4) of the amount and conditions of bail;

(5) of ~~his~~ **the person's** privilege against self-incrimination;

(6) of the nature of the charge against ~~him~~; **and the person**;

(7) that a preliminary plea of not guilty is being entered for ~~him~~ **the person** and the preliminary plea of not guilty will become a formal plea of not guilty:

(A) twenty (20) days after the completion of the initial hearing; or

(B) ten (10) days after the completion of the initial hearing if the person is charged only with one (1) or more misdemeanors;

unless the defendant enters a different plea; **and**

(8) that the person may request to petition for a specialized driving privileges hearing if the person is charged with:

(A) any offense in which the operation of a motor vehicle is an element of the offense;

(B) any offense under IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal); or

(C) any offense under IC 35-42-1, IC 35-42-2, or IC 35-44.1-3-1 that involves the use of a vehicle.

In addition, the judge shall direct the prosecuting attorney to give the defendant or ~~his~~ **the defendant's** attorney a copy of any formal felony charges filed or ready to be filed. The judge shall, upon request of the defendant, direct the prosecuting attorney to give the defendant or ~~his~~ **the defendant's** attorney a copy of any formal misdemeanor charges filed or ready to be filed.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 98 — Concur

