



Reprinted
January 28, 2020

SENATE BILL No. 443

DIGEST OF SB 443 (Updated January 27, 2020 3:34 pm - DI 106)

Citations Affected: IC 9-21; IC 9-30; IC 34-28.

Synopsis: Traffic control. Establishes that the following are Class A infractions: (1) Failure to stop at a traffic control signal resulting in bodily injury. (2) Failure to stop at an entrance to a through highway resulting in bodily injury. (3) Failure to stop at an intersection resulting in bodily injury. Makes an individual less than 18 years of age eligible for a deferral program (under current law, individuals under the age of 18 are not eligible for deferral). Permits a court to suspend the driving privileges of a person adjudicated to have committed certain Class A and Class B infractions relating to the operation of a motor vehicle. Makes conforming changes.

Effective: July 1, 2020.

Zay, Bohacek, Mishler

January 15, 2020, read first time and referred to Committee on Corrections and Criminal Law.
January 23, 2020, amended, reported favorably — Do Pass.
January 27, 2020, read second time, amended, ordered engrossed.

SB 443—LS 7060/DI 132



Reprinted
January 28, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 443

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 9-21-3-7, AS AMENDED BY P.L.149-2015,
2 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 7. (a) Whenever traffic is controlled by traffic
4 control signals exhibiting different colored lights or colored lighted
5 arrows successively, one (1) at a time or in combination, only the
6 colors green, red, or yellow may be used, except for special pedestrian
7 signals under IC 9-21-18.
8 (b) The lights indicate and apply to drivers of vehicles and
9 pedestrians as follows:
10 (1) Green indication means the following:
11 (A) Vehicular traffic facing a circular green signal may
12 proceed straight through or turn right or left, unless a sign at
13 the place prohibits either turn.
14 (B) Vehicular traffic, including vehicles turning right or left,
15 shall yield the right-of-way to other vehicles and to pedestrians
16 lawfully within the intersection or an adjacent sidewalk at the
17 time the signal is exhibited.

SB 443—LS 7060/DI 132



- 1 (C) Vehicular traffic facing a green arrow signal, shown alone
 2 or in combination with another indication, may cautiously
 3 enter the intersection only to make the movement indicated by
 4 the green arrow or other movement permitted by other
 5 indications shown at the same time.
- 6 (D) Vehicular traffic shall yield the right-of-way to pedestrians
 7 lawfully within an adjacent crosswalk and to other traffic
 8 lawfully using the intersection.
- 9 (E) Unless otherwise directed by a pedestrian control signal,
 10 pedestrians facing a green signal, except when the sole green
 11 signal is a turn arrow, may proceed across the roadway within
 12 a marked or unmarked crosswalk.
- 13 (2) Steady yellow indication means the following:
- 14 (A) Vehicular traffic facing a steady circular yellow or yellow
 15 arrow signal is warned that the related green movement is
 16 being terminated and that a red indication will be exhibited
 17 immediately thereafter.
- 18 (B) A pedestrian facing a steady circular yellow or yellow
 19 arrow signal, unless otherwise directed by a pedestrian control
 20 signal, is advised that there is insufficient time to cross the
 21 roadway before a red indication is shown, and a pedestrian
 22 may not start to cross the roadway at that time.
- 23 (3) Steady red indication means the following:
- 24 (A) Except as provided in clauses (B) and (D), vehicular
 25 traffic facing a steady circular red or red arrow signal shall
 26 stop at a clearly marked stop line. However, if there is no
 27 clearly marked stop line, vehicular traffic shall stop before
 28 entering the crosswalk on the near side of the intersection. If
 29 there is no crosswalk, vehicular traffic shall stop before
 30 entering the intersection and shall remain standing until an
 31 indication to proceed is shown.
- 32 (B) Except when a sign is in place prohibiting a turn described
 33 in this subdivision, vehicular traffic facing a steady red signal,
 34 after coming to a complete stop, may cautiously enter the
 35 intersection to do the following:
- 36 (i) Make a right turn.
- 37 (ii) Make a left turn if turning from the left lane of a
 38 one-way street into another one-way street with the flow of
 39 traffic.
- 40 Vehicular traffic making a turn described in this subdivision
 41 shall yield the right-of-way to pedestrians lawfully within an
 42 adjacent crosswalk and to other traffic using the intersection.



- 1 (C) Unless otherwise directed by a pedestrian control signal
 2 pedestrians facing a steady circular red or red arrow signal
 3 may not enter the roadway.
- 4 (D) This clause does not apply to the operation of a
 5 autocycle. If the operator of a motorcycle, motor driven cycle,
 6 or bicycle approaches an intersection that is controlled by a
 7 traffic control signal, the operator may proceed through the
 8 intersection on a steady red signal only if the operator:
- 9 (i) comes to a complete stop at the intersection for at least
 10 one hundred twenty (120) seconds; and
- 11 (ii) exercises due caution as provided by law, otherwise
 12 treats the traffic control signal as a stop sign, and determines
 13 that it is safe to proceed.
- 14 (4) No indication or conflicting indications means the following:
- 15 (A) Except as provided in clause (C), vehicular traffic facing
 16 an intersection having a signal that displays no indication or
 17 conflicting indications, where no other control is present, shall
 18 stop before entering the intersection.
- 19 (B) After stopping, vehicular traffic may proceed with caution
 20 through the intersection and shall yield the right-of-way to
 21 traffic within the intersection or approaching so closely as to
 22 constitute an immediate hazard.
- 23 (C) Vehicular traffic entering an intersection or crosswalk
 24 facing a pedestrian hybrid beacon may proceed without
 25 stopping if no indication is displayed on the pedestrian hybrid
 26 beacon.
- 27 (5) This section applies to traffic control signals located at a place
 28 other than an intersection. A stop required under this subdivision
 29 must be made at the signal, except when the signal is
 30 supplemented by a sign or pavement marking indicating where
 31 the stop must be made.
- 32 **(c) A person who violates this section commits a Class C**
 33 **infraction. However, a failure to stop under subsection (b)(3) that**
 34 **results in bodily injury to a person is a Class A infraction.**
- 35 SECTION 2. IC 9-21-3-8, AS AMENDED BY P.L.43-2011,
 36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2020]: Sec. 8. (a) This section does not apply at railroad grade
 38 crossings.
- 39 (b) Whenever an illuminated flashing red or yellow light is used in
 40 a traffic signal or with a traffic sign, vehicular traffic shall obey the
 41 signal in the following manner:
- 42 (1) Flashing red (stop signal) means the following:



- 1 (A) When a red lens is illuminated by rapid intermittent
 2 flashes, a person who drives a vehicle shall stop at a clearly
 3 marked stop line before entering the crosswalk on the near
 4 side of the intersection.
- 5 (B) If no line exists, the person shall stop at the point nearest
 6 the intersecting roadway where the person has a view of
 7 approaching traffic on the intersecting roadway before
 8 entering the roadway.
- 9 (C) The right to proceed is subject to the rules applicable after
 10 making a stop at a stop sign.
- 11 (2) Except as provided in subdivision (3), flashing yellow (caution
 12 signal) means that when a yellow lens is illuminated with rapid
 13 intermittent flashes, a person who drives a vehicle may proceed
 14 through the intersection or past the signal only with caution.
- 15 (3) When a yellow lens with an arrow is illuminated with rapid
 16 intermittent flashes, a person who operates a vehicle may turn
 17 only after yielding to oncoming traffic.
- 18 **(c) A person who violates this section commits a Class C**
 19 **infraction. However, a failure to stop under subsection (b)(1) that**
 20 **results in bodily injury to a person is a Class A infraction.**
- 21 SECTION 3. IC 9-21-3-11, AS AMENDED BY P.L.217-2014,
 22 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2020]: Sec. 11. A person who violates section 7, 8, or 9 of this
 24 chapter commits a Class C infraction.
- 25 SECTION 4. IC 9-21-8-31 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 31. (a) A person who
 27 drives a vehicle shall do the following:
- 28 (1) Stop as required under this article at the entrance to a through
 29 highway.
- 30 (2) Yield the right-of-way to other vehicles that have entered the
 31 intersection from the through highway or that are approaching so
 32 closely on the through highway as to constitute an immediate
 33 hazard.
- 34 (b) After yielding as described in subsection (a)(2), the person who
 35 drives a vehicle may proceed and persons who drive other vehicles
 36 approaching the intersection on the through highway shall yield the
 37 right-of-way to the vehicle proceeding into or across the through
 38 highway.
- 39 **(c) A person who violates this section commits a Class C**
 40 **infraction. However, a failure to stop under subsection (a)(1) that**
 41 **results in bodily injury to a person is a Class A infraction.**
- 42 SECTION 5. IC 9-21-8-32 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 32. (a) A person who
 2 drives a vehicle shall stop at an intersection where a stop sign is erected
 3 at one (1) or more entrances to a through highway that are not a part of
 4 the through highway and proceed cautiously, yielding to vehicles that
 5 are not required to stop.

6 **(b) A person who violates this section commits a Class C**
 7 **infraction. However, a failure to stop under this section that results**
 8 **in bodily injury to a person is a Class A infraction.**

9 SECTION 6. IC 9-21-8-49, AS AMENDED BY P.L.188-2015,
 10 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2020]: Sec. 49. Except as provided in sections 31, 32, 35, 50,
 12 51, 52, 55, 56, and 58 of this chapter, a person who violates this
 13 chapter commits a Class C infraction.

14 SECTION 7. IC 9-30-13-0.5, AS AMENDED BY P.L.198-2016,
 15 SECTION 604, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2020]: Sec. 0.5. (a) A court shall forward to the
 17 bureau a certified abstract of the record of the conviction of a person
 18 in the court for a violation of a law relating to motor vehicles.

19 (b) If in the opinion of the court a defendant should be deprived of
 20 the privilege to operate a motor vehicle upon a public highway, the
 21 court may recommend the suspension of the convicted person's driving
 22 privileges for a period that does not exceed:

23 **(1) the maximum period of incarceration for the offense of which**
 24 **the person was convicted; or**

25 **(2) one hundred eighty (180) days, if the person was**
 26 **adjudicated to have committed a Class A or Class B infraction**
 27 **under IC 9-21-8.**

28 (c) The bureau shall comply with the court's recommendation.

29 (d) At the time of a conviction referred to in subsection (a) or under
 30 IC 9-30-5-7, the court may obtain and destroy the defendant's current
 31 driver's license.

32 (e) An abstract required by this section must be in the form
 33 prescribed by the bureau and, when certified, shall be accepted by an
 34 administrative agency or a court as prima facie evidence of the
 35 conviction and all other action stated in the abstract.

36 SECTION 8. IC 9-30-16-3, AS AMENDED BY P.L.161-2018,
 37 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2020]: Sec. 3. (a) This section does not apply to specialized
 39 driving privileges granted in accordance with section 3.5 of this
 40 chapter. If a court orders a suspension of driving privileges under this
 41 chapter, or imposes a suspension of driving privileges under
 42 IC 9-30-6-9(c) or IC 9-30-13-0.5, the court may stay the suspension



1 and grant a specialized driving privilege as set forth in this section.

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

5 Each petition must:

- 6 (1) be verified by the petitioner;
7 (2) state the petitioner's age, date of birth, and address;
8 (3) state the grounds for relief and the relief sought;
9 (4) be filed in the court case that resulted in the order of
10 suspension; and
11 (5) be served on the bureau and the prosecuting attorney.

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

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

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

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

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

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

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

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

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



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

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

5 (2) the individual is acquitted of, found not liable for, or otherwise
6 found not to have committed the underlying act or offense that
7 forms the basis of the suspension;

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

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

13 SECTION 9. IC 34-28-5-1, AS AMENDED BY P.L.198-2016,
14 SECTION 667, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An action to enforce a statute
16 defining an infraction shall be brought in the name of the state of
17 Indiana by the prosecuting attorney for the judicial circuit in which the
18 infraction allegedly took place. However, if the infraction allegedly
19 took place on a public highway (as defined in IC 9-25-2-4) that runs on
20 and along a common boundary shared by two (2) or more judicial
21 circuits, a prosecuting attorney for any judicial circuit sharing the
22 common boundary may bring the action.

23 (b) An action to enforce an ordinance shall be brought in the name
24 of the municipal corporation. The municipal corporation need not
25 prove that it or the ordinance is valid unless validity is controverted by
26 affidavit.

27 (c) Actions under this chapter (or IC 34-4-32 before its repeal):

28 (1) shall be conducted in accordance with the Indiana Rules of
29 Trial Procedure; and

30 (2) must be brought within two (2) years after the alleged conduct
31 or violation occurred.

32 (d) The plaintiff in an action under this chapter must prove the
33 commission of an infraction or ordinance violation by a preponderance
34 of the evidence.

35 (e) The complaint and summons described in IC 9-30-3-6 may be
36 used for any infraction or ordinance violation.

37 (f) Subsection (g) does not apply to an individual who is alleged to
38 have committed an infraction under any of the following when the
39 individual was less than eighteen (18) years of age at the time of the
40 alleged offense:

41 ~~IC 9-19~~

42 ~~IC 9-21~~



1 ~~IC 9-24~~
 2 ~~IC 9-25~~
 3 ~~IC 9-26~~
 4 ~~IC 9-30-5~~
 5 ~~IC 9-30-10~~
 6 ~~IC 9-30-15.~~

7 ~~(g)~~ **(f)** This subsection does not apply to an offense or violation
 8 under IC 9-24-6 (before its repeal) or IC 9-24-6.1 involving the
 9 operation of a commercial motor vehicle. The prosecuting attorney or
 10 the attorney for a municipal corporation may establish a deferral
 11 program for deferring actions brought under this section. Actions may
 12 be deferred under this section if:

13 (1) the defendant in the action agrees to conditions of a deferral
 14 program offered by the prosecuting attorney or the attorney for a
 15 municipal corporation;

16 (2) the defendant in the action agrees to pay to the clerk of the
 17 court an initial user's fee and monthly user's fee set by the
 18 prosecuting attorney or the attorney for the municipal corporation
 19 in accordance with IC 33-37-4-2(e);

20 (3) the terms of the agreement are recorded in an instrument
 21 signed by the defendant and the prosecuting attorney or the
 22 attorney for the municipal corporation;

23 (4) the defendant in the action agrees to pay a fee of seventy
 24 dollars (\$70) to the clerk of court if the action involves a moving
 25 traffic offense (as defined in IC 9-13-2-110);

26 (5) the agreement is filed in the court in which the action is
 27 brought; and

28 (6) if the deferral program is offered by the prosecuting attorney,
 29 the prosecuting attorney electronically transmits information
 30 required by the prosecuting attorneys council concerning the
 31 withheld prosecution to the prosecuting attorneys council, in a
 32 manner and format designated by the prosecuting attorneys
 33 council.

34 When a defendant complies with the terms of an agreement filed under
 35 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
 36 attorney or the attorney for the municipal corporation shall request the
 37 court to dismiss the action. Upon receipt of a request to dismiss an
 38 action under this subsection, the court shall dismiss the action. An
 39 action dismissed under this subsection (or IC 34-4-32-1(f) before its
 40 repeal) may not be refiled.

41 ~~(h)~~ **(g)** If a judgment is entered against a defendant in an action to
 42 enforce an ordinance, the defendant may perform community



1 restitution or service (as defined in IC 35-31.5-2-50) instead of paying
 2 a monetary judgment for the ordinance violation as described in section
 3 4(e) of this chapter if:

4 (1) the:

5 (A) defendant; and

6 (B) attorney for the municipal corporation;

7 agree to the defendant's performance of community restitution or
 8 service instead of the payment of a monetary judgment;

9 (2) the terms of the agreement described in subdivision (1):

10 (A) include the amount of the judgment the municipal
 11 corporation requests that the defendant pay under section 4(e)
 12 of this chapter for the ordinance violation if the defendant fails
 13 to perform the community restitution or service provided for
 14 in the agreement as approved by the court; and

15 (B) are recorded in a written instrument signed by the
 16 defendant and the attorney for the municipal corporation;

17 (3) the agreement is filed in the court where the judgment was
 18 entered; and

19 (4) the court approves the agreement.

20 If a defendant fails to comply with an agreement approved by a court
 21 under this subsection, the court shall require the defendant to pay up to
 22 the amount of the judgment requested in the action under section 4(e)
 23 of this chapter as if the defendant had not entered into an agreement
 24 under this subsection.

25 SECTION 10. IC 34-28-5-4, AS AMENDED BY P.L.146-2016,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 4. (a) A judgment of up to ten thousand dollars
 28 (\$10,000) may be entered for a violation constituting a Class A
 29 infraction.

30 (b) A judgment of up to one thousand dollars (\$1,000) may be
 31 entered for a violation constituting a Class B infraction.

32 (c) Except as provided in subsection (f), a judgment of up to five
 33 hundred dollars (\$500) may be entered for a violation constituting a
 34 Class C infraction.

35 (d) A judgment of up to twenty-five dollars (\$25) may be entered for
 36 a violation constituting a Class D infraction.

37 (e) Subject to section ~~4(f)~~ **1(g)** of this chapter, a judgment:

38 (1) up to the amount requested in the complaint; and

39 (2) not exceeding any limitation under IC 36-1-3-8;

40 may be entered for an ordinance violation.

41 (f) Except as provided in subsections (g) and (h), a person who has
 42 admitted to a moving violation constituting a Class C infraction,



1 pleaded nolo contendere to a moving violation constituting a Class C
 2 infraction, or has been found by a court to have committed a moving
 3 violation constituting a Class C infraction may not be required to pay
 4 more than the following amounts for the violation:

5 (1) If, before the appearance date specified in the summons and
 6 complaint, the person mails or delivers an admission of the
 7 moving violation or a plea of nolo contendere to the moving
 8 violation, the person may not be required to pay any amount,
 9 except court costs and a judgment that does not exceed thirty-five
 10 dollars and fifty cents (\$35.50).

11 (2) If the person admits the moving violation or enters a plea of
 12 nolo contendere to the moving violation on the appearance date
 13 specified in the summons and complaint, the person may not be
 14 required to pay any amount, except court costs and a judgment
 15 that does not exceed thirty-five dollars and fifty cents (\$35.50).

16 (3) If the person contests the moving violation in court and is
 17 found to have committed the moving violation, the person may
 18 not be required to pay any amount, except:

19 (A) court costs and a judgment that does not exceed thirty-five
 20 dollars and fifty cents (\$35.50) if, in the five (5) years before
 21 the appearance date specified in the summons and complaint,
 22 the person was not found by a court in the county to have
 23 committed a moving violation;

24 (B) court costs and a judgment that does not exceed two
 25 hundred fifty dollars and fifty cents (\$250.50) if, in the five (5)
 26 years before the appearance date specified in the summons and
 27 complaint, the person was found by a court in the county to
 28 have committed one (1) moving violation; and

29 (C) court costs and a judgment that does not exceed five
 30 hundred dollars (\$500) if, in the five (5) years before the
 31 appearance date specified in the summons and complaint, the
 32 person was found by a court in the county to have committed
 33 two (2) or more moving violations.

34 In a proceeding under subdivision (3), the court may require the person
 35 to submit an affidavit or sworn testimony concerning whether, in the
 36 five (5) years before the appearance date specified in the summons and
 37 complaint, the person has been found by a court to have committed one
 38 (1) or more moving violations.

39 (g) The amounts described in subsection (f) are in addition to any
 40 amount that a person may be required to pay for attending a defensive
 41 driving school program.

42 (h) This subsection applies only to infraction judgments imposed in



1 Marion County for traffic violations after December 31, 2010.
2 Subsection (f) applies to an infraction judgment described in this
3 subsection. However, a court shall impose a judgment of not less than
4 thirty-five dollars (\$35) for an infraction judgment that is entered in
5 Marion County. These funds shall be transferred to a dedicated fund in
6 accordance with section 5 of this chapter.

7 (i) This subsection applies only to infraction judgments imposed in
8 Clark County for toll violations after January 1, 2017. Subsection (f)
9 applies to an infraction judgment described in this subsection.
10 However, a court shall impose a judgment of not less than thirty-five
11 dollars (\$35) for an infraction judgment that is entered in Clark County.
12 These funds shall be transferred to a dedicated fund in accordance with
13 section 5(f) of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 443, 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, line 34, delete "Class B" and insert "**Class A**".

Page 3, delete lines 35 through 42.

Page 4, delete lines 1 through 9.

Page 4, line 37, delete "Class B" and insert "**Class A**".

Page 4, delete lines 38 through 42.

Page 5, delete lines 1 through 12.

Page 5, line 33, delete "Class B" and insert "**Class A**".

Page 5, delete lines 34 through 42.

Page 6, delete lines 1 through 8.

Page 6, line 17, delete "Class B" and insert "**Class A**".

Page 6, delete lines 18 through 34.

Page 6, delete lines 40 through 42.

Delete pages 7 through 13, begin a new paragraph and insert:

"SECTION 7. IC 34-28-5-1, AS AMENDED BY P.L.198-2016, SECTION 667, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

SB 443—LS 7060/DI 132



(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) Subsection (g) does not apply to an individual who is alleged to have committed an infraction under any of the following when the individual was less than eighteen (18) years of age at the time of the alleged offense:

~~IC 9-19~~
~~IC 9-21~~
~~IC 9-24~~
~~IC 9-25~~
~~IC 9-26~~
~~IC 9-30-5~~
~~IC 9-30-10~~
~~IC 9-30-15.~~

(g) (f) This subsection does not apply to an offense or violation under IC 9-24-6 (before its repeal) or IC 9-24-6.1 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-37-4-2(e);
- (3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;
- (4) the defendant in the action agrees to pay a fee of seventy dollars (\$70) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110);
- (5) the agreement is filed in the court in which the action is brought; and
- (6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

When a defendant complies with the terms of an agreement filed under



this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

~~(h)~~ (g) If a judgment is entered against a defendant in an action to enforce an ordinance, the defendant may perform community restitution or service (as defined in IC 35-31.5-2-50) instead of paying a monetary judgment for the ordinance violation as described in section 4(e) of this chapter if:

(1) the:

(A) defendant; and

(B) attorney for the municipal corporation;

agree to the defendant's performance of community restitution or service instead of the payment of a monetary judgment;

(2) the terms of the agreement described in subdivision (1):

(A) include the amount of the judgment the municipal corporation requests that the defendant pay under section 4(e) of this chapter for the ordinance violation if the defendant fails to perform the community restitution or service provided for in the agreement as approved by the court; and

(B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;

(3) the agreement is filed in the court where the judgment was entered; and

(4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 13. IC 34-28-5-4, AS AMENDED BY P.L.146-2016, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) Except as provided in subsection (f), a judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.



(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section ~~1(i)~~ **1(g)** of this chapter, a judgment:

- (1) up to the amount requested in the complaint; and
- (2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) Except as provided in subsections (g) and (h), a person who has admitted to a moving violation constituting a Class C infraction, pleaded nolo contendere to a moving violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction may not be required to pay more than the following amounts for the violation:

(1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

(2) If the person admits the moving violation or enters a plea of nolo contendere to the moving violation on the appearance date specified in the summons and complaint, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50).

(3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except:

(A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation;

(B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents (\$250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and

(C) court costs and a judgment that does not exceed five hundred dollars (\$500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations.

In a proceeding under subdivision (3), the court may require the person



to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations.

(g) The amounts described in subsection (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program.

(h) This subsection applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with section 5 of this chapter.

(i) This subsection applies only to infraction judgments imposed in Clark County for toll violations after January 1, 2017. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Clark County. These funds shall be transferred to a dedicated fund in accordance with section 5(f) of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 443 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 443 be amended to read as follows:

Page 5, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 7. IC 9-30-13-0.5, AS AMENDED BY P.L.198-2016, SECTION 604, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 0.5. (a) A court shall forward to the bureau a certified abstract of the record of the conviction of a person in the court for a violation of a law relating to motor vehicles.

(b) If in the opinion of the court a defendant should be deprived of

SB 443—LS 7060/DI 132



the privilege to operate a motor vehicle upon a public highway, the court may recommend the suspension of the convicted person's driving privileges for a period that does not exceed:

(1) the maximum period of incarceration for the offense of which the person was convicted; or

(2) **one hundred eighty (180) days, if the person was adjudicated to have committed a Class A or Class B infraction under IC 9-21-8.**

(c) The bureau shall comply with the court's recommendation.

(d) At the time of a conviction referred to in subsection (a) or under IC 9-30-5-7, the court may obtain and destroy the defendant's current driver's license.

(e) An abstract required by this section must be in the form prescribed by the bureau and, when certified, shall be accepted by an administrative agency or a court as prima facie evidence of the conviction and all other action stated in the abstract.

SECTION 8. IC 9-30-16-3, AS AMENDED BY P.L.161-2018, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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) or **IC 9-30-13-0.5**, 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 the court case that resulted in the order of 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 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."

Renumber all SECTIONS consecutively.

(Reference is to SB 443 as printed January 24, 2020.)

BOHACEK

