

SENATE BILL No. 223

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-21-8-1; IC 9-30; IC 35-44.1-3-1; IC 35-47-1-7.

Synopsis: Resisting law enforcement. Specifies that a person who recklessly, knowingly, or intentionally fails to comply with the lawful order of a law enforcement officer with authority to direct traffic commits a Class C infraction. (Under current law, a person commits the infraction only if the failure to comply is done "knowingly".) Provides that a person who knowingly or intentionally refuses to comply with the lawful order of a law enforcement officer after having been detained based on: (1) probable cause; (2) reasonable suspicion; (3) a warrant; or (4) another court order; commits resisting law enforcement as a Class C misdemeanor. Makes conforming amendments.

Effective: July 1, 2017.

Bray

January 9, 2017, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 223

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 9-21-8-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2017]: Sec. 1. It is unlawful for a person to
3 **recklessly**, knowingly, **or intentionally** fail to comply with a lawful
4 order or direction of a law enforcement officer invested by law with
5 authority to direct, control, or regulate traffic.

6 SECTION 2. IC 9-30-10-4, AS AMENDED BY P.L.188-2015,
7 SECTION 113, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A person who has
9 accumulated at least two (2) judgments within a ten (10) year period
10 for any of the following violations, singularly or in combination, and
11 not arising out of the same incident, is a habitual violator:

- 12 (1) Reckless homicide resulting from the operation of a motor
13 vehicle.
- 14 (2) Voluntary or involuntary manslaughter resulting from the
15 operation of a motor vehicle.
- 16 (3) Failure of the operator of a motor vehicle involved in an
17 accident resulting in death or injury to any person to stop at the



- 1 scene of the accident and give the required information and
 2 assistance.
- 3 (4) Operation of a vehicle while intoxicated resulting in death.
- 4 (5) Before July 1, 1997, operation of a vehicle with at least
 5 ten-hundredths percent (0.10%) alcohol in the blood resulting in
 6 death.
- 7 (6) After June 30, 1997, and before July 1, 2001, operation of a
 8 vehicle with an alcohol concentration equivalent to at least
 9 ten-hundredths (0.10) gram of alcohol per:
- 10 (A) one hundred (100) milliliters of the blood; or
 11 (B) two hundred ten (210) liters of the breath;
 12 resulting in death.
- 13 (7) After June 30, 2001, operation of a vehicle with an alcohol
 14 concentration equivalent to at least eight-hundredths (0.08) gram
 15 of alcohol per:
- 16 (A) one hundred (100) milliliters of the blood; or
 17 (B) two hundred ten (210) liters of the breath;
 18 resulting in death.
- 19 (b) A person who has accumulated at least three (3) judgments
 20 within a ten (10) year period for any of the following violations,
 21 singularly or in combination, and not arising out of the same incident,
 22 is a habitual violator:
- 23 (1) Operation of a vehicle while intoxicated.
- 24 (2) Before July 1, 1997, operation of a vehicle with at least
 25 ten-hundredths percent (0.10%) alcohol in the blood.
- 26 (3) After June 30, 1997, and before July 1, 2001, operation of a
 27 vehicle with an alcohol concentration equivalent to at least
 28 ten-hundredths (0.10) gram of alcohol per:
- 29 (A) one hundred (100) milliliters of the blood; or
 30 (B) two hundred ten (210) liters of the breath.
- 31 (4) After June 30, 2001, operation of a vehicle with an alcohol
 32 concentration equivalent to at least eight-hundredths (0.08) gram
 33 of alcohol per:
- 34 (A) one hundred (100) milliliters of the blood; or
 35 (B) two hundred ten (210) liters of the breath.
- 36 (5) Reckless driving.
- 37 (6) Criminal recklessness as a felony involving the operation of
 38 a motor vehicle.
- 39 (7) Drag racing or engaging in a speed contest in violation of law.
- 40 (8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46
 41 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1,
 42 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1)



1 (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1,
2 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4
3 (repealed January 1, 2015), or IC 9-26-1-1.1.

4 (9) Resisting law enforcement under ~~IC 35-44.1-3-1(b)(1)(A);~~
5 ~~IC 35-44.1-3-1(b)(2); IC 35-44.1-3-1(b)(3); or~~
6 ~~IC 35-44.1-3-1(b)(4).~~ **IC 35-44.1-3-1(c)(1)(A),**
7 **IC 35-44.1-3-1(c)(2), IC 35-44.1-3-1(c)(3), or**
8 **IC 35-44.1-3-1(c)(4).**

9 (10) Any felony under this title or any felony in which the
10 operation of a motor vehicle is an element of the offense.

11 A judgment for a violation enumerated in subsection (a) shall be added
12 to the violations described in this subsection for the purposes of this
13 subsection.

14 (c) A person who has accumulated at least ten (10) judgments
15 within a ten (10) year period for any traffic violation, except a parking
16 or an equipment violation, of the type required to be reported to the
17 bureau, singularly or in combination, and not arising out of the same
18 incident, is a habitual violator. However, at least one (1) of the
19 judgments must be for:

- 20 (1) a violation enumerated in subsection (a);
21 (2) a violation enumerated in subsection (b);
22 (3) operating a motor vehicle while the person's license to do so
23 has been suspended or revoked as a result of the person's
24 conviction of an offense under IC 9-1-4-52 (repealed July 1,
25 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or
26 IC 9-24-19-3; or
27 (4) operating a motor vehicle without ever having obtained a
28 license to do so.

29 A judgment for a violation enumerated in subsection (a) or (b) shall be
30 added to the judgments described in this subsection for the purposes of
31 this subsection.

32 (d) For purposes of this section, a judgment includes a judgment in
33 any other jurisdiction in which the elements of the offense for which
34 the conviction was entered are substantially similar to the elements of
35 the offenses described in subsections (a), (b), and (c).

36 (e) For purposes of this section, the offense date is used when
37 determining the number of judgments accumulated within a ten (10)
38 year period.

39 SECTION 3. IC 9-30-16-1, AS AMENDED BY P.L.198-2016,
40 SECTION 607, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Except as provided in
42 subsection (b), the following are ineligible for specialized driving



- 1 privileges under this chapter:
- 2 (1) A person who has never been an Indiana resident.
- 3 (2) A person seeking specialized driving privileges with respect
- 4 to a suspension based on the person's refusal to submit to a
- 5 chemical test offered under IC 9-30-6 or IC 9-30-7.
- 6 (b) This chapter applies to the following:
- 7 (1) A person who held an operator's, a commercial driver's, a
- 8 public passenger chauffeur's, or a chauffeur's license at the time
- 9 of:
- 10 (A) the criminal conviction for which the operation of a motor
- 11 vehicle is an element of the offense;
- 12 (B) any criminal conviction for an offense under IC 9-30-5; or
- 13 (C) committing the infraction of exceeding a worksite speed
- 14 limit for the second time in one (1) year under IC 9-21-5-11(f).
- 15 (2) A person who:
- 16 (A) has never held a valid Indiana driver's license or does not
- 17 currently hold a valid Indiana learner's permit; and
- 18 (B) was an Indiana resident when the driving privileges for
- 19 which the person is seeking specialized driving privileges
- 20 were suspended.
- 21 (c) Except as specifically provided in this chapter, a court may
- 22 suspend the driving privileges of a person convicted of any of the
- 23 following offenses for a period up to the maximum allowable period of
- 24 incarceration under the penalty for the offense:
- 25 (1) Any criminal conviction in which the operation of a motor
- 26 vehicle is an element of the offense.
- 27 (2) Any criminal conviction for an offense under IC 9-30-5.
- 28 (3) Any offense under:
- 29 (A) IC 35-42-1;
- 30 (B) IC 35-42-2; or
- 31 (C) IC 35-44.1-3-1 **that is a felony or Class A misdemeanor;**
- 32 that involves the use of a vehicle.
- 33 (d) Except as provided in section 3.5 of this chapter, a suspension
- 34 of driving privileges under this chapter may begin before the
- 35 conviction. Multiple suspensions of driving privileges ordered by a
- 36 court that are part of the same episode of criminal conduct shall be
- 37 served concurrently. A court may grant credit time for any suspension
- 38 that began before the conviction, except as prohibited by section
- 39 6(a)(2) of this chapter.
- 40 (e) If a person has had an ignition interlock device installed as a
- 41 condition of specialized driving privileges or under IC 9-30-6-8(d), the
- 42 period of the installation shall be credited as part of the suspension of



1 driving privileges.

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

6 SECTION 4. IC 35-44.1-3-1, AS AMENDED BY P.L.198-2016,
7 SECTION 673, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: Sec. 1. **(a) This subsection applies only**
9 **to a person who has been lawfully detained by a law enforcement**
10 **officer based on:**

- 11 **(1) probable cause;**
12 **(2) reasonable suspicion;**
13 **(3) a warrant; or**
14 **(4) another court order.**

15 **A person to whom this subsection applies who knowingly or**
16 **intentionally fails to comply with the lawful order of a law**
17 **enforcement officer while the officer is engaged in the officer's**
18 **official duties commits resisting law enforcement, a Class C**
19 **misdemeanor.**

20 **(a) (b)** A person who knowingly or intentionally:

- 21 (1) forcibly resists, obstructs, or interferes with a law enforcement
22 officer or a person assisting the officer while the officer is
23 lawfully engaged in the execution of the officer's duties;
24 (2) forcibly resists, obstructs, or interferes with the authorized
25 service or execution of a civil or criminal process or order of a
26 court; or
27 (3) flees from a law enforcement officer after the officer has, by
28 visible or audible means, including operation of the law
29 enforcement officer's siren or emergency lights, identified himself
30 or herself and ordered the person to stop;

31 commits resisting law enforcement, a Class A misdemeanor, except as
32 provided in subsection ~~(b)~~: **(c)**.

33 ~~(b)~~ **(c)** The offense under ~~subsection (a)~~ **subsection (b)** is a:

- 34 (1) Level 6 felony if:
35 (A) the offense is described in ~~subsection (a)(3)~~ **subsection**
36 **(b)(3)** and the person uses a vehicle to commit the offense; or
37 (B) while committing any offense described in ~~subsection (a)~~;
38 **subsection (b)**, the person draws or uses a deadly weapon,
39 inflicts bodily injury on or otherwise causes bodily injury to
40 another person, or operates a vehicle in a manner that creates
41 a substantial risk of bodily injury to another person;
42 (2) Level 5 felony if, while committing any offense described in



1 ~~subsection (a); subsection (b)~~, the person operates a vehicle in a
 2 manner that causes serious bodily injury to another person;

3 (3) Level 3 felony if, while committing any offense described in
 4 ~~subsection (a); subsection (b)~~, the person operates a vehicle in a
 5 manner that causes the death of another person; and

6 (4) Level 2 felony if, while committing any offense described in
 7 ~~subsection (a); subsection (b)~~, the person operates a vehicle in a
 8 manner that causes the death of a law enforcement officer while
 9 the law enforcement officer is engaged in the officer's official
 10 duties.

11 ~~(e)~~ (d) If a person uses a vehicle to commit a felony offense under
 12 ~~subsection (b)(1)(B); (b)(2); (b)(3); or (b)(4); subsection (c)(1)(B),~~
 13 ~~(c)(2), (c)(3), or (c)(4)~~, as part of the criminal penalty imposed for the
 14 offense, the court shall impose a minimum executed sentence of at
 15 least:

16 (1) thirty (30) days, if the person does not have a prior unrelated
 17 conviction under this section;

18 (2) one hundred eighty (180) days, if the person has one (1) prior
 19 unrelated conviction under this section; or

20 (3) one (1) year, if the person has two (2) or more prior unrelated
 21 convictions under this section.

22 ~~(d)~~ (e) Notwithstanding IC 35-50-2-2.2 and IC 35-50-3-1, the
 23 mandatory minimum sentence imposed under ~~subsection (e)~~
 24 ~~subsection (d)~~ may not be suspended.

25 ~~(e)~~ (f) If a person is convicted of an offense involving the use of a
 26 motor vehicle under:

27 (1) ~~subsection (b)(1)(A); subsection (c)(1)(A)~~, if the person
 28 exceeded the speed limit by at least twenty (20) miles per hour
 29 while committing the offense;

30 (2) ~~subsection (b)(2); subsection (c)(2);~~ or

31 (3) ~~subsection (b)(3); subsection (c)(3);~~

32 the court may notify the bureau of motor vehicles to suspend or revoke
 33 the person's driver's license and all certificates of registration and
 34 license plates issued or registered in the person's name in accordance
 35 with IC 9-30-4-6.1(b)(3) for the period described in IC 9-30-4-6.1(d)(1)
 36 or IC 9-30-4-6.1(d)(2). The court shall inform the bureau whether the
 37 person has been sentenced to a term of incarceration. At the time of
 38 conviction, the court may obtain the person's current driver's license
 39 and return the license to the bureau of motor vehicles.

40 ~~(f)~~ (g) A person may not be charged or convicted of a crime under
 41 ~~subsection (a)(3) subsection (a) or subsection (b)(3)~~ if the law
 42 enforcement officer is a school resource officer acting in the officer's



1 capacity as a school resource officer.

2 SECTION 5. IC 35-47-1-7, AS AMENDED BY P.L.126-2012,
3 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2017]: Sec. 7. "Proper person" means a person who:

5 (1) does not have a conviction for resisting law enforcement as a
6 **felony or Class A misdemeanor** under IC 35-44.1-3-1 within
7 five (5) years before the person applies for a license or permit
8 under this chapter;

9 (2) does not have a conviction for a crime for which the person
10 could have been sentenced for more than one (1) year;

11 (3) does not have a conviction for a crime of domestic violence
12 (as defined in IC 35-31.5-2-78), unless a court has restored the
13 person's right to possess a firearm under IC 35-47-4-7;

14 (4) is not prohibited by a court order from possessing a handgun;

15 (5) does not have a record of being an alcohol or drug abuser as
16 defined in this chapter;

17 (6) does not have documented evidence which would give rise to
18 a reasonable belief that the person has a propensity for violent or
19 emotionally unstable conduct;

20 (7) does not make a false statement of material fact on the
21 person's application;

22 (8) does not have a conviction for any crime involving an inability
23 to safely handle a handgun;

24 (9) does not have a conviction for violation of the provisions of
25 this article within five (5) years of the person's application;

26 (10) does not have an adjudication as a delinquent child for an act
27 that would be a felony if committed by an adult, if the person
28 applying for a license or permit under this chapter is less than
29 twenty-three (23) years of age;

30 (11) has not been involuntarily committed, other than a temporary
31 commitment for observation or evaluation, to a mental institution
32 by a court, board, commission, or other lawful authority;

33 (12) has not been the subject of a:

34 (A) ninety (90) day commitment as a result of proceeding
35 under IC 12-26-6; or

36 (B) regular commitment under IC 12-26-7; or

37 (13) has not been found by a court to be mentally incompetent,
38 including being found:

39 (A) not guilty by reason of insanity;

40 (B) guilty but mentally ill; or

41 (C) incompetent to stand trial.

