

Traffic Safety Division—Legislative Summary
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LEGISLATIVE SUMMARY

In FY 2008 there were no major legislative initiatives that directly affect traffic safety in Indiana. There were, however, a number of enhancements to the criminal code that strengthened current laws for traffic offenders.

Driver Responsibilities in Crashes Involving Serious Bodily Injury, Death or Entrapment of a Person in a Vehicle

I.C. 9-26-1-1: Driver of a vehicle involved in an accident that results in injury or death of a person or the entrapment of a person is required to make arrangements for “the removal of each entrapped person from the vehicle in which the person is entrapped”. The driver’s responsibilities switch to any occupants who are at least 15 years old and hold a learner’s permit or driver’s license issued under I.C. 9-24-11 or are 18 years old and “capable of determining need and rendering assistance where the driver is physically incapable of determining need or rendering assistance to any injured or entrapped person. Occupant also required to give notification to authorities.

- **I.C. 9-26-1-1.5:** Defense if more than one occupant might have a duty that the occupant reasonably believed other occupant determined need for and rendered assistance or reasonably believed other occupant gave notice.

- **I.C. 9-13-2-49.7:** “Entrapment” for purposes of I.C. 9-26-1-1 defined as “a confining circumstance from which escape or relief is difficult or impossible”.

Addition of Mens Rea Element

I.C. 9-26-1-8: Intent elements added to the leaving the scene or failure to stop after accident offenses.

- **I.C. 9-26-1-8:** A person who “knowingly or intentionally” fails to stop and comply commits an offense.

- **I.C. 9-26-1-9:** A person who “intentionally, knowingly or recklessly” fails to comply with duties to determine need and render assistance to entrapped person(s) or who fails to comply with duties and responsibilities after a property damage accident commits a Class C misdemeanor.

Enhanced Penalties for Offense of Leaving the Scene of a Serious Bodily Injury or Fatal Crash

I.C. 9-26-1-8: A person who knowingly or intentionally fails to stop and comply with the notification and removal of entrapped person(s) requirements of I.C. 9-26-1-1 faces enhanced criminal penalties under certain circumstances.

- Offense is a Class D Felony if the accident involves serious bodily injury to a person or if in the 5 years prior to the offense, the person was convicted of reckless

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homicide with a vehicle, voluntary or involuntary manslaughter resulting from the operation of a vehicle, failure of driver to stop after accident resulting in serious bodily injury or death to a person, and OWI causing death.

- Offense is a Class C Felony if accident involves death to a person.
- Offense is a Class B Felony if the person who knowingly or intentionally fails to stop and comply after committing OWI causing serious bodily injury.

Enhanced Criminal Penalties for Repeat OWI Offenders

I.C. 9-30-5-3: A person who commits OWI and within the previous five (5) years has a prior conviction for OWI commits a Class C felony if the previous OWI conviction was an OWI Causing Death or Serious Bodily Injury.

- A person who commits OWI or .08 Per Se offense is at least 21 years old and operated a vehicle in which at least one passenger was less than 18 years old commits a Class D felony.

Court Discretion to Determine When OWI Driver's License Suspension is Imposed

I.C. 9-30-5-10: The Court may require that a period of license suspension recommended be imposed before a period of incarceration or after a period of incarceration or both before and after a period of incarceration.

OWI and Felony Resisting Law Enforcement Added to Definition of "Crime of Violence"

I.C.35-50-1-2: OWI causing death, OWI causing serious bodily injury and felony Resisting Law enforcement defined as a "crime of violence" for sentencing purposes.

- Permits Court to "stack" sentences for each victim and to sentence consecutively.

Hardship Licenses Must Be Filed Where Current Case Pending Occurred

I.C. 9-24-15-4: Requires Petition for Hardship License in OWI cases to be filed in Circuit or Superior Court where case pending or where defendant was previously convicted.

Alcoholic Beverages

I.C. 7.1-5-7-1: It is a Class C misdemeanor for a minor to "recklessly, knowingly, or intentionally make a false statement of the minor's age, or to present or offer false or fraudulent evidence of majority or identity to a permittee for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure an alcoholic beverage. "

- **Mandatory driver's license suspension:** A minor who uses false or altered driver's license or the driver's license of another person as evidence or majority or who is convicted or purchasing or procuring an alcoholic beverage with or without

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using a false or altered driver's license shall have a **mandatory driver's license suspension of one (1) year.**

Increased Penalties for Furnishing Alcoholic Beverage to a Minor

I.C. 7.1-5-7-8: It is a Class B misdemeanor for a person to “recklessly, knowingly or intentionally sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor.

- Offense is a Class A misdemeanor if person has a prior unrelated conviction.
- Offense is a Class D felony if consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.
- No imposition of civil liability upon any postsecondary education institution, including public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barter,

Juvenile Court Jurisdiction over OWI and Traffic Offenses Committed by Juveniles

I.C. 31-30-1-2: Previous provision that stated the juvenile court did not have jurisdiction over child 16 or over who committed misdemeanor violation of “traffic law” unless it was an offense under I.C. 9-30-5 was removed from the statute. Therefore, juvenile courts have jurisdiction over all misdemeanor and felony OWI and Traffic Related Offenses.