
HOUSE BILL No. 1289

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-21.

Synopsis: Automated traffic control systems. Authorizes the state police department to install an automated traffic control system in a construction or maintenance zone where the Indiana department of transportation or the Indiana finance authority has established temporary maximum speed limits. Provides: (1) for issuance of a citation for a violation of the temporary maximum speed limit by an electronic traffic ticket; and (2) that if the operator of the motor vehicle cannot be identified by means of the photograph or recorded image generated by an automated traffic control system, an electronic traffic ticket may not be mailed or given to the owner or operator of the motor vehicle.

Effective: July 1, 2010.

Friend, VanDenburgh

January 12, 2010, read first time and referred to Committee on Courts and Criminal Code.

C
o
p
y



Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

C
O
P
Y

HOUSE BILL No. 1289



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 9-13-2-6.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2010]: **Sec. 6.1. "Automated traffic control system" means:**
4 (1) a photographic device;
5 (2) a radar device;
6 (3) a laser device; or
7 (4) another electrical or mechanical device;
8 **designed to record the speed of a motor vehicle and obtain a clear**
9 **photograph or other recorded image of the motor vehicle, the**
10 **operator of the motor vehicle, and the vehicle registration number**
11 **of the license plate of the motor vehicle.**
12 SECTION 2. IC 9-13-2-34.4 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2010]: **Sec. 34.4. "Construction or maintenance zone" means an**
15 **area in which the Indiana department of transportation or the**
16 **Indiana finance authority has established a lower speed limit in**
17 **accordance with IC 9-21-5-11(a).**



1 SECTION 3. IC 9-13-2-121 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 121. (a) "Owner"
3 means, except as otherwise provided in this section, when used in
4 reference to a motor vehicle:

- 5 (1) a person who holds the legal title of a motor vehicle;
- 6 (2) a person renting or leasing a motor vehicle and having
7 exclusive use of the motor vehicle for more than thirty (30) days;
- 8 or
- 9 (3) if a motor vehicle is the subject of an agreement for the
10 conditional sale or lease vested in the conditional vendee or
11 lessee, or in the event the mortgagor, with the right of purchase
12 upon the performance of the conditions stated in the agreement
13 and with an immediate right of possession of a vehicle is entitled
14 to possession, the conditional vendee or lessee or mortgagor.

15 (b) "Owner", **except as provided in subsection (e)**, for purposes of
16 IC 9-21 and IC 9-25, means, when used in reference to a motor vehicle,
17 a person who holds the legal title of a motor vehicle, or if a:

- 18 (1) motor vehicle is the subject of an agreement for the
19 conditional sale or lease of the motor vehicle with the right of
20 purchase upon performance of the conditions stated in the
21 agreement and with an immediate right of possession vested in
22 the conditional vendee or lessee; or
- 23 (2) mortgagor of a motor vehicle is entitled to possession;

24 the conditional vendee or lessee or mortgagor is considered to be the
25 owner for the purpose of IC 9-21 and IC 9-25.

26 (c) "Owner", for purposes of IC 9-22-1, means the last known record
27 titleholder of a vehicle according to the records of the bureau under
28 IC 9-17.

29 (d) "Owner", for purposes of IC 9-31, means a person, other than a
30 lienholder, having the property in or title to a motorboat. The term
31 includes a person entitled to the use or possession of a motorboat
32 subject to an interest in another person reserved or created by
33 agreement and securing payment or performance of an obligation. The
34 term excludes a lessee under a lease not intended as security.

35 (e) "Owner", **for purposes of IC 9-21-3.5 and IC 9-21-5-15, has**
36 **the meaning set forth in IC 9-21-3.5-5.**

37 SECTION 4. IC 9-21-4-20, AS ADDED BY P.L.40-2007,
38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2010]: Sec. 20. (a) For purposes of this section, "highway
40 work zone" has the meaning set forth in IC 8-23-2-15.

41 (b) The Indiana department of transportation shall design and
42 manufacture or have manufactured signs that inform vehicle operators

C
o
p
y



- 1 of the offenses and penalties under:
- 2 (1) IC 9-21-5-11; and
- 3 (2) IC 9-21-8-56.
- 4 (c) A sign described in subsection (b) shall be posted at a reasonable
- 5 distance before a highway work zone by:
- 6 (1) the Indiana department of transportation;
- 7 (2) a political subdivision; or
- 8 (3) a contractor of the:
- 9 (A) Indiana department of transportation; or
- 10 (B) political subdivision;
- 11 that is working at the highway work zone.

12 A sign that is posted before a highway work zone must be posted in
 13 accordance with the Indiana Manual on Uniform Traffic Control
 14 Devices or the Indiana Work Site Traffic Control Manual.

15 **(d) If a highway work zone includes a construction or**
 16 **maintenance zone enforced by means of an automated traffic**
 17 **control system, the state police department shall post a sign in**
 18 **accordance with IC 9-21-5-15(e).**

19 SECTION 5. IC 9-21-5-11, AS AMENDED BY P.L.40-2007,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2010]: Sec. 11. (a) Subject to subsection (b), the Indiana
 22 department of transportation, the Indiana finance authority, or a local
 23 authority may establish temporary maximum speed limits in their
 24 respective jurisdictions and in the vicinity of a worksite without
 25 conducting an engineering study and investigation required under this
 26 article. The establishing authority shall post signs notifying the
 27 traveling public of the temporary maximum speed limits established
 28 under this section. **A local authority that establishes a temporary**
 29 **maximum speed limit under this subsection shall maintain a record**
 30 **that indicates:**

- 31 (1) the location of the worksite zone;
- 32 (2) the temporary maximum speed limit set and posted for the
- 33 worksite zone; and
- 34 (3) the dates when the temporary maximum speed limit was
- 35 in effect.

36 (b) Worksite speed limits set under this section must be ten (10)
 37 miles below the maximum established speed limit. A worksite speed
 38 limit may not exceed forty-five (45) miles per hour in any location.

39 (c) A worksite speed limit set under this section may be enforced
 40 only if:

- 41 (1) workers are present in the immediate vicinity of the worksite;
- 42 or

C
O
P
Y



1 (2) if workers are not present in the immediate vicinity of the
2 worksite, the establishing authority determines that the safety of
3 the traveling public requires enforcement of the worksite speed
4 limit.

5 (d) Notwithstanding IC 34-28-5-4(b), a judgment for the infraction
6 of violating a speed limit set under this section must be entered as
7 follows:

8 (1) If the person has not previously committed the infraction of
9 violating a speed limit set under this section, a judgment of at
10 least three hundred dollars (\$300).

11 (2) If the person has committed one (1) infraction of violating a
12 speed limit set under this section in the previous three (3) years,
13 a judgment of at least five hundred dollars (\$500).

14 (3) If the person has committed two (2) or more infractions of
15 violating a speed limit set under this section in the previous three
16 (3) years, a judgment of one thousand dollars (\$1,000).

17 (e) Notwithstanding IC 34-28-5-5(c), the funds collected as
18 judgments for the infraction of violating a speed limit set under this
19 section shall be transferred to the Indiana department of transportation
20 to pay the costs of hiring off duty police officers to perform the duties
21 described in IC 8-23-2-15(b).

22 **(f) A violation of a speed limit set by the Indiana department of**
23 **transportation or the Indiana finance authority under subsection**
24 **(a) may be enforced under section 15 of this chapter.**

25 SECTION 6. IC 9-21-5-15 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2010]: **Sec. 15. (a) As used in this section, "owner" has the**
28 **meaning set forth in IC 9-21-3.5-5.**

29 **(b) The state police department may install an automated traffic**
30 **control system in a construction or maintenance zone on a highway**
31 **under the jurisdiction of the Indiana department of transportation**
32 **or the Indiana finance authority.**

33 **(c) Before the installation of an automated traffic control**
34 **system, the state police department must conduct a public**
35 **information campaign to inform operators of motor vehicles**
36 **concerning the use of automated traffic control systems in**
37 **construction or maintenance zones.**

38 **(d) An automated traffic control system:**
39 **(1) may be installed only in an area where road construction**
40 **is occurring; and**
41 **(2) may operate only during periods when workers are**
42 **present in the construction or maintenance zone.**

C
o
p
y



1 (e) Before an automated traffic control system installed in a
2 construction or maintenance zone under subsection (b) is used, the
3 state police department shall post signs in the construction or
4 maintenance zone in accordance with the Indiana Manual on
5 Uniform Traffic Control Devices. The signs must clearly indicate
6 that an automated traffic control system is in use in the area in
7 which the signs are posted.

8 (f) In order for a photograph or other recorded image made by
9 an automated traffic control system to be introduced as evidence
10 in an action or a proceeding against an individual alleged to have
11 violated a temporary maximum speed limit established under
12 section 11(a) of this chapter:

- 13 (1) the motor vehicle allegedly operated in a construction or
- 14 maintenance zone at a speed violating the temporary
- 15 maximum speed limit;
- 16 (2) the operator of the motor vehicle;
- 17 (3) the vehicle registration number of a license plate of the
- 18 motor vehicle;
- 19 (4) the speed of the motor vehicle;
- 20 (5) the date of the violation;
- 21 (6) the time of the violation; and
- 22 (7) the location of the violation;

23 must be clearly shown on the photograph or recorded image made
24 by the automated traffic control system.

25 (g) A photograph or other recorded image made by an
26 automated traffic control system may be introduced as evidence in
27 an action or proceeding against an individual alleged to have
28 violated a temporary maximum speed limit established under
29 section 11(a) of this chapter even if a law enforcement officer is not
30 present to witness the alleged speed limit violation detected by the
31 automated traffic control system.

32 (h) A photograph or other recorded image made by an
33 automated traffic control system may not be introduced as
34 evidence in an action or proceeding against an individual alleged
35 to have violated a speed limit unless the violation is alleged to have
36 occurred in a construction or maintenance zone. The photograph
37 or recorded image is confidential and may be released only to:

- 38 (1) the owner of the motor vehicle that allegedly appears in
- 39 the photograph or other recorded image and the attorney of
- 40 the owner;
- 41 (2) the alleged violator if the alleged violator is not the owner
- 42 of the motor vehicle and the attorney of the alleged violator;

C
O
P
Y



- 1 **(3) the prosecuting attorney of the county in which the alleged**
- 2 **violation occurred;**
- 3 **(4) the court (as defined in IC 9-30-3-2); and**
- 4 **(5) a law enforcement officer of the jurisdiction in which the**
- 5 **offense occurred.**

6 **(i) An electronic traffic ticket shall be mailed or given to the**
 7 **owner or operator of a motor vehicle that, according to a**
 8 **photograph or other image made by an automated traffic control**
 9 **system, allegedly was operated in violation of a temporary**
 10 **maximum speed limit established under section 11(a) of this**
 11 **chapter. If mailed, the electronic ticket must be sent by means of**
 12 **certified mail, return receipt requested, not later than six (6)**
 13 **business days after the day of the alleged violation. If the operator**
 14 **of the motor vehicle cannot be identified by means of the**
 15 **photograph or recorded image, an electronic traffic ticket based on**
 16 **the alleged violation may not be mailed or given to the owner or**
 17 **operator of the motor vehicle.**

18 **(j) In an action or a proceeding against a person alleged to have**
 19 **violated a temporary maximum speed limit established under**
 20 **section 11(a) of this chapter based on a photograph or other**
 21 **recorded image made by an automated traffic control system, it is**
 22 **a defense if the owner of the motor vehicle:**

- 23 **(1) proves that at the time of the alleged violation the owner**
 24 **was engaged in the business of renting or leasing vehicles**
 25 **under written agreements;**
- 26 **(2) proves that at the time of the alleged violation the motor**
 27 **vehicle was in the care, custody, or control of a person other**
 28 **than the owner or an employee of the owner under a written**
 29 **agreement for the rental or lease of the vehicle for a period of**
 30 **not more than sixty (60) days; and**
- 31 **(3) provides to the traffic violations bureau or court that has**
 32 **jurisdiction, not later than thirty (30) days after the owner**
 33 **receives notice of the alleged violation, the name and address**
 34 **of the person who was renting or leasing the vehicle at the**
 35 **time of the alleged violation.**

36 **Not later than six (6) days after receipt of the information provided**
 37 **by a motor vehicle owner under subdivision (3), an electronic ticket**
 38 **must be sent by means of certified mail, return receipt requested,**
 39 **to the person who is identified in the information provided under**
 40 **subdivision (3) as having rented or leased the motor vehicle at the**
 41 **time of the alleged violation.**

**C
O
P
Y**

