

IC 9-30-10

Chapter 10. Habitual Violator of Traffic Laws

IC 9-30-10-0.3

P.L.107-1985 does not affect rights, liabilities, penalties, proceedings; enforcement under prior law; effect on suspension of driving privileges; imposition and enforcement of probation

Sec. 0.3. (a) Except for the provisions pertaining to the granting of probation in IC 9-4-13-10 (before its repeal), the repeal of IC 9-4-13 by P.L.107-1985 does not affect any:

- (1) rights or liabilities accrued;
- (2) penalties incurred; or
- (3) proceedings begun;

before April 1, 1984. Such rights, liabilities, and proceedings are continued, and punishments, penalties, or forfeitures shall be imposed and enforced under IC 9-4-13 as if P.L.107-1985 had not been enacted.

(b) All crimes committed before April 1, 1984, under IC 9-4-13 shall be prosecuted and, except for the provisions pertaining to the granting of probation in IC 9-4-13-10, shall remain punishable under IC 9-4-13 as if P.L.107-1985 had not been enacted.

(c) Notwithstanding subsections (a) and (b), any period of suspension of a person's driving privileges that is imposed under IC 9-12 (as added by P.L.107-1985, before its repeal, now codified in this chapter) shall be construed to supersede any period of suspension that is imposed under IC 9-4-13 and shall not be added to that period.

(d) Any probation originally imposed under IC 9-4-13 before April 1, 1984, shall be imposed and enforced under the provisions of IC 9-12 (as added by P.L.107-1985, before its repeal, now codified in this chapter).

As added by P.L.220-2011, SEC.232.

IC 9-30-10-1

"Judgment"

Sec. 1. As used in this chapter, "judgment" means:

- (1) a judgment of conviction against the defendant in a felony or misdemeanor case; or
- (2) a civil judgment against the defendant in an infraction or ordinance proceeding.

As added by P.L.2-1991, SEC.18.

IC 9-30-10-2

"License"

Sec. 2. As used in this chapter, "license" includes any type of license or permit issued by the bureau to operate the type of vehicle being driven.

As added by P.L.2-1991, SEC.18. Amended by P.L.125-2012,

SEC.348.

IC 9-30-10-3

"Violation"

Sec. 3. As used in this chapter, "violation" means:

- (1) a felony, a misdemeanor, or an infraction under the Indiana Code; or
- (2) a violation of an ordinance of an Indiana political subdivision.

As added by P.L.2-1991, SEC.18.

IC 9-30-10-4

Habitual violators

Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, and not arising out of the same incident, is a habitual violator:

- (1) Reckless homicide resulting from the operation of a motor vehicle.
- (2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.
- (3) Failure of the operator of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.
- (4) Operation of a vehicle while intoxicated resulting in death.
- (5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.
- (6) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath;resulting in death.
- (7) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath;resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, and not arising out of the same incident, is a habitual violator:

- (1) Operation of a vehicle while intoxicated.
- (2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(4) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(5) Reckless driving.

(6) Criminal recklessness as a felony involving the operation of a motor vehicle.

(7) Drag racing or engaging in a speed contest in violation of law.

(8) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1) (repealed January 1, 2015), IC 9-26-1-1(2) (repealed January 1, 2015), IC 9-26-1-2(1) (repealed January 1, 2015), IC 9-26-1-2(2) (repealed January 1, 2015), IC 9-26-1-3 (repealed January 1, 2015), IC 9-26-1-4 (repealed January 1, 2015), or IC 9-26-1-1.1.

(9) Resisting law enforcement under IC 35-44.1-3-1(b)(1)(A), IC 35-44.1-3-1(b)(2), IC 35-44.1-3-1(b)(3), or IC 35-44.1-3-1(b)(4).

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

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

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

(1) a violation enumerated in subsection (a);

(2) a violation enumerated in subsection (b);

(3) operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or IC 9-24-19-3; or

(4) operating a motor vehicle without ever having obtained a license to do so.

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

(d) For purposes of this section, a judgment includes a judgment

in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of the offenses described in subsections (a), (b), and (c).

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

As added by P.L.2-1991, SEC.18. Amended by P.L.1-1992, SEC.62; P.L.1-1993, SEC.61; P.L.33-1997, SEC.13; P.L.1-2000, SEC.13; P.L.32-2000, SEC.3; P.L.175-2001, SEC.12; P.L.28-2010, SEC.5; P.L.125-2012, SEC.349; P.L.85-2013, SEC.100; P.L.217-2014, SEC.133; P.L.221-2014, SEC.79; P.L.5-2015, SEC.29; P.L.188-2015, SEC.113.

IC 9-30-10-5

Notice of suspension; term; relief for judicial review

Sec. 5. (a) If it appears from the records maintained by the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter and a court has not already found the person to be a habitual violator under section 6.5 of this chapter based on the same underlying violations, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

- (1) except as provided in subdivision (2), ten (10) years if the person is a habitual violator under section 4(a) of this chapter;
- (2) life if the person is a habitual violator under section 4(a) of this chapter and has at least two (2) violations under section 4(a)(4) through 4(a)(7) of this chapter;
- (3) ten (10) years if the person is a habitual violator under section 4(b) of this chapter; or
- (4) five (5) years if the person is a habitual violator under section 4(c) of this chapter.

(c) The notice must inform the person that the person may be entitled to relief under IC 9-33-2.

(d) Notwithstanding subsection (b), if the bureau does not discover that a person's driving record makes the person a habitual violator under section 4 of this chapter for more than two (2) years after the bureau receives the person's final qualifying conviction, the bureau shall not suspend the person's driving privileges for any period.

As added by P.L.2-1991, SEC.18. Amended by P.L.82-2004, SEC.3; P.L.85-2013, SEC.101; P.L.217-2014, SEC.134; P.L.149-2015, SEC.106; P.L.188-2015, SEC.114.

IC 9-30-10-6

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.125-2012, SEC.350. Repealed by P.L.149-2015, SEC.107.)

IC 9-30-10-6.5

Court finding of habitual traffic violator

Sec. 6.5. (a) If the defendant requests, a court may find by a preponderance of the evidence that the person is a habitual traffic violator under IC 9-30-10-4. If the court finds a person to be a habitual traffic violator under this section, the court:

(1) shall order:

(A) that the person is a habitual traffic violator; and

(B) the bureau to suspend the person's driving license; and

(2) may order that the person is eligible for specialized driving privileges under IC 9-30-16.

(b) A defendant may file a petition in an independent proceeding to be found a habitual traffic violator following the procedure in subsection (a).

(c) A petition filed under this section must be filed in the court that entered the latest moving violation judgment against the person. The petition must use the same cause number as in the action in which the moving violation judgment was entered.

(d) A prosecuting attorney shall appear on behalf of the bureau to respond to a petition filed under this section.

(e) A filing fee shall not be imposed for a petition filed under this section.

As added by P.L.217-2014, SEC.135. Amended by P.L.188-2015, SEC.115.

IC 9-30-10-7

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.106-2010, SEC.3. Repealed by P.L.149-2015, SEC.108.)

IC 9-30-10-8

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.125-2012, SEC.351; P.L.217-2014, SEC.136. Repealed by P.L.149-2015, SEC.109.)

IC 9-30-10-9

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.2-1992, SEC.93; P.L.40-1994, SEC.5; P.L.101-1997, SEC.1; P.L.33-1997, SEC.14; P.L.1-1999, SEC.32; P.L.10-2000, SEC.2; P.L.215-2001, SEC.18; P.L.175-2001, SEC.13; P.L.219-2003, SEC.9; P.L.28-2010, SEC.6; P.L.109-2011, SEC.37; P.L.125-2012, SEC.352; P.L.85-2013, SEC.102. Repealed by P.L.217-2014, SEC.137.)

IC 9-30-10-10

Repealed

(As added by P.L.2-1991, SEC.18. Repealed by P.L.125-2012, SEC.353.)

IC 9-30-10-11

Repealed

(As added by P.L.2-1991, SEC.18. Repealed by P.L.217-2014, SEC.138.)

IC 9-30-10-12

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.125-2012, SEC.354. Repealed by P.L.217-2014, SEC.139.)

IC 9-30-10-13

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.28-2010, SEC.7; P.L.109-2011, SEC.38; P.L.6-2012, SEC.72; P.L.125-2012, SEC.355; P.L.85-2013, SEC.103. Repealed by P.L.217-2014, SEC.140.)

IC 9-30-10-14

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.101-1997, SEC.2; P.L.125-2012, SEC.356; P.L.85-2013, SEC.104. Repealed by P.L.217-2014, SEC.141.)

IC 9-30-10-14.1

Petition for rescission of lifetime suspension of driving privileges; contents; service

Sec. 14.1. (a) This section does not apply to any person who has the person's driving privileges suspended for life under:

- (1) section 5(b)(2) of this chapter; or
- (2) section 17(b) of this chapter for an offense that occurred after December 31, 2014.

(b) Except as provided in subsection (f), a person whose driving privileges have been suspended for life may petition a court in a civil action for a rescission of the suspension order and reinstatement of driving privileges if the following conditions exist:

- (1) Ten (10) years have elapsed since the date on which an order for the lifetime suspension of the person's driving privileges was issued.
- (2) The person has never been convicted of a violation described in section 4(a) of this chapter.

(c) A petition for rescission and reinstatement under this section must meet the following conditions:

- (1) Be verified by the petitioner.
- (2) State the petitioner's age, date of birth, and place of residence.
- (3) Describe the circumstances leading up to the lifetime suspension of the petitioner's driving privileges.
- (4) Aver a substantial change in the petitioner's circumstances of the following:
 - (A) That indicates the petitioner would no longer pose a risk to the safety of others if the petitioner's driving privileges are reinstated.
 - (B) That makes the lifetime suspension of the petitioner's driving privileges unreasonable.
 - (C) That indicates it is in the best interests of society for the petitioner's driving privileges to be reinstated.
- (5) Aver that the requisite amount of time has elapsed since the date on which the order for the lifetime suspension of the person's driving privileges was issued as required under subsections (b) and (f).
- (6) Aver that the petitioner has never been convicted of a violation described in section 4(a) of this chapter.
- (7) Be filed in a circuit or superior court having jurisdiction in the county where the petitioner resides. If the petitioner resides in a state other than Indiana, the petition must be filed in the county in which the most recent Indiana moving violation conviction occurred.
- (8) If the petition is being filed under subsection (f), aver the existence of the conditions listed in subsection (f)(1) through (f)(3).

(d) The petitioner shall serve the prosecuting attorney of the county in which the petition is filed and the bureau with a copy of the petition described in subsection (b). A responsive pleading is not required.

(e) The prosecuting attorney of the county in which the petition is filed shall represent the state in the matter.

(f) A person whose driving privileges have been suspended for life may petition a court in a civil action for a rescission of the suspension order and reinstatement of driving privileges if all of the following conditions exist:

- (1) Three (3) years have elapsed since the date on which the order for lifetime suspension of the petitioner's driving privileges was issued.
- (2) The petitioner's lifetime suspension was the result of a conviction for operating a motor vehicle while the person's driving privileges were suspended because the person is a habitual violator.
- (3) The petitioner has never been convicted of a violation described in section 4(a) or 4(b) of this chapter other than a judgment or conviction for operating a motor vehicle while the

person's driver's license or driving privileges were revoked or suspended as a result of a conviction of an offense under IC 9-1-4-52 (repealed July 1, 1992), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-2, or IC 9-24-19-3.

As added by P.L.188-2015, SEC.116. Amended by P.L.198-2016, SEC.602.

IC 9-30-10-14.2

Petition filed after June 30, 2016; burden of proof; terms and conditions; reinstatement order

Sec. 14.2. (a) Upon receiving a petition filed after June 30, 2016, under section 14.1 of this chapter, a court shall set a date for hearing the matter and direct the clerk of the court to provide notice of the hearing date to the following parties:

- (1) The petitioner.
- (2) The prosecuting attorney of the county where the petitioner resides.
- (3) The bureau.

(b) At a hearing described in subsection (a), the petitioner must prove the following by a preponderance of the evidence:

- (1) The petitioner has no prior convictions for a violation described in section 4(a) of this chapter.
- (2) The petitioner no longer presents a safety risk to others while operating a motor vehicle.
- (3) The ongoing suspension of the petitioner's driving privileges is unreasonable.
- (4) The reinstatement of the petitioner's driving privileges serves the best interests of society.
- (5) If the petitioner is seeking reinstatement under section 14.1(b) of this chapter, at least ten (10) years have elapsed since the suspension of the petitioner's driving privileges.
- (6) If the petitioner is seeking reinstatement under section 14.1(f) of this chapter, at least three (3) years have elapsed since the suspension of the petitioner's driving privileges.

(c) If the court finds that a petitioner meets all applicable requirements in subsection (b), the court may do the following:

- (1) Rescind the order requiring the suspension of the petitioner's driving privileges.
- (2) Order the bureau to reinstate the petitioner's driving privileges.

(d) In an order for reinstatement of driving privileges issued under this section, the court may require the bureau to grant the petitioner specialized driving privileges:

- (1) for a specified period; and
- (2) subject to additional conditions imposed by the court.

(e) Additional terms and conditions imposed by the court may include one (1) or more of the following:

- (1) Specified hours during which the petitioner may operate a

motor vehicle.

(2) An order prohibiting the petitioner from operating a motor vehicle:

(A) with an alcohol concentration equivalent to at least two hundredths (0.02) of a gram of alcohol per:

- (i) one hundred (100) milliliters of the person's blood; or
- (ii) two hundred ten (210) liters of the person's breath; or

(B) while intoxicated (as defined under IC 9-13-2-86).

(3) Electronic monitoring to determine the petitioner's compliance with subdivision (2).

(4) Use of a vehicle equipped with an ignition interlock device.

(5) Submission to a chemical breath test as part of a lawful traffic stop conducted by a law enforcement officer.

(6) Use of an electronic monitoring device that detects and records the petitioner's use of alcohol.

(f) The court shall specify the conditions under which the petitioner may be issued driving privileges to operate a motor vehicle.

(g) After the expiration date of the specialized driving privileges ordered by the court under subsection (d) and the petitioner's fulfillment of any imposed conditions specified by the court, the bureau shall reinstate the petitioner's driving privileges.

(h) If the bureau receives a judicial order granting rescission of a suspension order under subsection (c) for an individual who, according to the records of the bureau, does not qualify for the rescission of a suspension order, the bureau shall do the following:

(1) Process the judicial order and notify the prosecuting attorney of the county from which the order was received that the individual is not eligible for the rescission of the suspension order and reinstatement of driving privileges.

(2) Send a certified copy of the individual's driving record to the prosecuting attorney described in subdivision (1).

Upon receiving a certified copy under subdivision (2), the prosecuting attorney shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order. If the bureau does not receive a corrected order within sixty (60) days of sending the petitioner's driving record to the prosecuting attorney described in subdivision (1), the bureau shall notify the attorney general, who shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order within sixty (60) days of receiving notice from the bureau.

(i) An order reinstating a petitioner's driving privileges is a final order that may be appealed by any party to the action.

As added by P.L.198-2016, SEC.603.

IC 9-30-10-15

Repealed

(As added by P.L.2-1991, SEC.18. Amended by P.L.101-1997,

SEC.3; P.L.28-2010, SEC.8; P.L.125-2012, SEC.357; P.L.85-2013, SEC.105. Repealed by P.L.217-2014, SEC.142.)

IC 9-30-10-16

Operating a motor vehicle while privileges are suspended; Level 6 felony

Sec. 16. (a) A person who operates a motor vehicle:

(1) while the person's driving privileges are validly suspended under this chapter or IC 9-12-2 (repealed July 1, 1991) and the person knows that the person's driving privileges are suspended; or

(2) in violation of restrictions imposed under this chapter or IC 9-12-2 (repealed July 1, 1991) and who knows of the existence of the restrictions;

commits a Level 6 felony.

(b) Service by the bureau of notice of the suspension or restriction of a person's driving privileges under subsection (a)(1) or (a)(2):

(1) in compliance with section 5 of this chapter; and

(2) by first class mail to the person at the last address shown for the person in the bureau's records;

establishes a rebuttable presumption that the person knows that the person's driving privileges are suspended or restricted.

As added by P.L.2-1991, SEC.18. Amended by P.L.1-1993, SEC.62; P.L.1-1994, SEC.41; P.L.120-2000, SEC.2; P.L.1-2001, SEC.9; P.L.158-2013, SEC.162; P.L.188-2015, SEC.117.

IC 9-30-10-17

Operating motor vehicle while privileges are forfeited for life; habitual traffic violator who causes bodily injury or death; Level 5 felony

Sec. 17. (a) A person who:

(1) operates a motor vehicle after the person's driving privileges are forfeited for life under section 16 of this chapter, IC 9-4-13-14 (repealed April 1, 1984), or IC 9-12-3-1 (repealed July 1, 1991); or

(2) is a habitual traffic violator under this chapter and commits an offense involving the person's operation of a motor vehicle, which offense causes serious bodily injury or death;

commits a Level 5 felony.

(b) In addition to any criminal penalties imposed for a conviction of an offense described in subsection (a), if the new offense caused death, the bureau shall suspend the person's driving privileges for the life of the person.

As added by P.L.2-1991, SEC.18. Amended by P.L.1-1993, SEC.63; P.L.85-2013, SEC.106; P.L.158-2013, SEC.163; P.L.217-2014, SEC.143.

IC 9-30-10-17.5

Repealed

(As added by P.L.28-2010, SEC.9. Amended by P.L.125-2012, SEC.358. Repealed by P.L.217-2014, SEC.144.)

IC 9-30-10-18

Defenses; extreme emergency; burden of proof

Sec. 18. (a) In a criminal action brought under section 16 or 17 of this chapter, it is a defense that the operation of a motor vehicle was necessary to save life or limb in an extreme emergency. The defendant must bear the burden of proof by a preponderance of the evidence to establish this defense.

(b) In an action brought under section 16 or 17 of this chapter, it is a defense that the defendant was operating a Class B motor driven cycle, unless the defendant was operating the Class B motor driven cycle in violation of IC 9-21-11-12. The defendant must bear the burden of proof by a preponderance of the evidence to establish this defense.

As added by P.L.2-1991, SEC.18. Amended by P.L.28-2010, SEC.10; P.L.217-2014, SEC.145; P.L.221-2014, SEC.84; P.L.216-2014, SEC.156.

IC 9-30-10-19

Eligibility for specialized driving privileges

Sec. 19. (a) This section does not apply to a suspension or forfeiture of driving privileges imposed under section 5(b)(2) or 17(b) of this chapter for an offense committed after June 30, 2015.

(b) A person whose driving privileges are suspended or forfeited for a determined period or for life under this chapter is eligible for specialized driving privileges under IC 9-30-16.

As added by P.L.188-2015, SEC.118.