

PROPOSED AMENDMENT

SB 251 # 5

DIGEST

Judicial discretion. Gives a court discretion to suspend a driver's license pretrial. Makes conforming amendments. Makes technical corrections.

- 1 Page 1, line 10, delete "federal highway administration" and insert
2 **"Federal Highway Administration"**.
- 3 Page 1, delete lines 13 through 17, begin a new line block indented
4 and insert:
5 **"(2) IC 9-30-16-1.**
6 **(3) IC 12-23-5-5."**
- 7 Page 2, delete lines 1 through 9.
- 8 Page 7, delete lines 18 through 42, begin a new paragraph and
9 insert:
10 "SECTION 7. IC 9-30-6-8, AS AMENDED BY P.L.111-2021,
11 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2026]: Sec. 8. (a) Except as provided in IC 9-30-16-1(g),
13 whenever a judicial officer has determined that there was probable
14 cause to believe that a person has violated IC 9-30-5, IC 35-46-9
15 **(before its repeal)**, or IC 14-15-8 (before its repeal), the clerk of the
16 court shall forward, in a form and manner prescribed by the bureau:
17 (1) a paper copy of the affidavit, or an electronic substitute; or
18 (2) a bureau certificate as described in section 16 of this chapter;
19 to the bureau at the conclusion of the initial hearing **held** under
20 subsection (c), **IC 35-33-7-1, or if the initial hearing was waived,**
21 **upon notice of waiver of the initial hearing.**
22 (b) The probable cause affidavit required under section 7(b)(2) of
23 this chapter must do the following:
24 (1) Set forth the grounds for the arresting officer's belief that there
25 was probable cause that the arrested person was operating a
26 vehicle in violation of IC 9-30-5 or a motorboat in violation of
27 IC 35-46-9 **(before its repeal)** or IC 14-15-8 (before its repeal).

- 1 (2) State that the person was arrested for a violation of IC 9-30-5
 2 or operating a motorboat in violation of IC 35-46-9 **(before its**
 3 **repeal)** or IC 14-15-8 (before its repeal).
- 4 (3) State whether the person:
 5 (A) refused to submit to a chemical test when offered; or
 6 (B) submitted to a chemical test that resulted in prima facie
 7 evidence that the person was intoxicated.
- 8 (4) Be sworn to by the arresting officer.
- 9 (c) Except as provided in subsection (d), if it is determined under
 10 subsection (a) that there was probable cause to believe that a person
 11 has violated IC 9-30-5, IC 35-46-9, or IC 14-15-8 (before its repeal), at
 12 the initial hearing of the matter held under IC 35-33-7-1 the court ~~shall~~
 13 **may** recommend immediate suspension of the person's driving
 14 privileges to take effect on the date the order is entered, and forward to
 15 the bureau a copy of the order recommending immediate suspension of
 16 driving privileges.
- 17 (d) If it is determined under subsection (a) that there is probable
 18 cause to believe that a person violated ~~IC 9-30-5~~ **IC 9-30-5-1(a) or**
 19 **IC 9-30-5-1(b)**, the court may as an alternative to any suspension of the
 20 person's driving privileges under subsection (c), issue an order
 21 recommending that the person be prohibited from operating a motor
 22 vehicle unless the motor vehicle is equipped with a functioning
 23 certified ignition interlock device under IC 9-30-8. This subsection
 24 applies even if the probable cause affidavit in subsection (b) states that
 25 the person:
 26 (1) refused to submit to a chemical test; ~~or~~
 27 (2) submitted to a chemical test that resulted in prima facie
 28 evidence that the person was intoxicated; **or**
 29 **(3) was also charged under IC 9-30-5-2.**
- 30 The order remains in effect until the bureau is notified by a court that
 31 the criminal charges against the person have been resolved. When the
 32 court issues an order under this subsection, no administrative
 33 suspension is imposed by the bureau and no suspension is noted on the
 34 person's driving record.
- 35 (e) A person commits a Class B infraction if the person:
 36 (1) operates a motor vehicle without a functioning certified
 37 ignition interlock device; and
 38 (2) is prohibited from operating a motor vehicle unless the motor
 39 vehicle is equipped with a functioning certified ignition interlock
 40 device under subsection (d).

- 1 (f) A person commits a Class B misdemeanor if the person:
- 2 (1) operates a motor vehicle without a functioning certified
- 3 ignition interlock device; and
- 4 (2) knows the person is prohibited from operating a motor vehicle
- 5 unless the motor vehicle is equipped with a functioning certified
- 6 ignition interlock device under subsection (d)."
- 7 Delete pages 8 through 11.
- 8 Page 12, delete lines 1 through 3.
- 9 Page 13, delete lines 10 through 42.
- 10 Page 14, delete lines 1 through 21.
- 11 Page 17, line 41, after "conviction" insert ",".
- 12 Page 18, line 2, reset in roman "IC 9-30-6-8(d)".
- 13 Page 18, line 3, delete "IC 9-30-6-8(c)".
- 14 Page 19, delete lines 5 through 42.
- 15 Delete page 20.
- 16 Page 21, delete lines 1 through 39, begin a new paragraph and
- 17 insert:
- 18 "SECTION 24. IC 12-23-5-5 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) Subject to
- 20 subsection (b), if a court enters an order conditionally deferring charges
- 21 that involve a violation of IC 9-30-5, the court ~~shall~~ **may** do the
- 22 following:
- 23 (1) Suspend the defendant's driving privileges for at least ninety
- 24 (90) days but not more than two (2) years.
- 25 (2) Impose other appropriate conditions.
- 26 (b) A defendant may be granted probationary driving privileges only
- 27 after the defendant's license has been suspended for at least thirty (30)
- 28 days under IC 9-30-6-9.
- 29 (c) If a defendant has at least one (1) conviction for an offense under
- 30 IC 9-30-5, the order granting probationary driving privileges under
- 31 subsection (b) must, in a county that provides for the installation of an
- 32 ignition interlock device under IC 9-30-8, prohibit the defendant from
- 33 operating a motor vehicle unless the motor vehicle is equipped with a
- 34 functioning certified ignition interlock device under IC 9-30-8.
- 35 (d) If a defendant does not have a prior conviction for an offense
- 36 under IC 9-30-5, the court may, as an alternative to a license
- 37 suspension under subsection (a)(1), issue an order prohibiting the
- 38 defendant from operating a motor vehicle unless the motor vehicle is
- 39 equipped with a functioning certified ignition interlock device under
- 40 IC 9-30-8. An order requiring an ignition interlock device must remain

- 1 in effect for at least two (2) years but not more than four (4) years.".
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 251 as printed January 23, 2026.)