

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 7114
BILL NUMBER: SB 251

NOTE PREPARED: Jan 26, 2026
BILL AMENDED: Jan 22, 2026

SUBJECT: Penalties for Prior OWI Convictions.

FIRST AUTHOR: Sen. Freeman
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
 X DEDICATED
 X FEDERAL

IMPACT: State & Local

Summary of Legislation: *Minimum Imprisonment for OWI* - This bill provides that if a person has one prior OWI conviction, the court shall order that the person be imprisoned for at least 10 days (instead of 5) or perform community service, and if a person has two prior OWI convictions, the court shall order that the person be imprisoned for at least 20 days (instead of 10) or perform community service. It also provides (1) that a person does receive good time credit while serving a sentence imposed under this statute and (2) this statute does not increase the maximum sentence for the offense as provided by either IC 35-50-2 or IC 35-50-3.

Operating Motorboat While Intoxicated - The bill specifies that "vehicle", for purposes of the crime of operating while intoxicated, includes a watercraft, and repeals the separate crime of operating a motorboat while intoxicated.

License Suspension and Specialized Driving Privileges - The bill provides that an initial hearing may be waived and allows a person to apply for a specialized driving privilege after an initial hearing. It also specifies that ignition interlock devices may only be used when the underlying offense is operating while intoxicated resulting from the use of alcohol. The bill also removes provisions concerning (1) pretrial administrative suspension of driving privileges and (2) license suspension for refusing to submit to a chemical test.

Habitual Traffic Violator - It also adds operating while intoxicated due to use of a controlled substance to the habitual traffic violator statute. The bill authorizes the use of a roadside chemical test under certain circumstances. It also specifies that ignition interlock devices may only be used when the underlying offense is operating while intoxicated resulting from the use of alcohol.

Federal Highway Administration (FHWA) Funds - The bill provides that the State Budget Director shall review and determine before December 31, 2026, whether FHWA funding to the state will or will not be reduced due to the removal of provisions concerning administrative suspension of driving privileges. It also requires the Budget Director to notify the State Budget Committee of the determination and those provisions may not be implemented until after Budget Committee review.

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary:* The bill could potentially increase the number of felony convictions for operating a vehicle while deemed a habitual traffic violator, and possibly for OWI motorboat offenses, now under other OWI statutes. This could increase expenditures if there is any increase to the number of people committed to the Department of Correction (DOC). Any impact may be minimal.

The BMV reports the provisions of the bill would require one-time computer system updates, which are estimated to cost approximately \$88,000 at the end of FY 2025 to have updated systems in place for the effective date of the bill. These costs would come from the BMV Technology and/or BMV Commission Fund.

The bill would increase the workload of the State Budget Director to determine if the changes in the bill concerning administrative license suspensions for OWI offenses would impact Federal Highway Administration (FHWA) funds the state receives. Increases in workload are expected to be accomplished within existing resource and funding levels.

Additional Information -

Habitual Traffic Violator (HTV): HTV status is given based on the number of judgments (two, three, or ten) accumulated within a 10-year span from three categories of offenses, based on their seriousness. Persons with HTV status have their driving privileges suspended for a period of five years, ten years, or life. The bill adds operating a vehicle with a controlled substance in the blood to the HTV statute.

Misdemeanor convictions that involve operating a vehicle with the *presence* of a controlled substance in the blood (about 300 convictions each year) currently count in the least-serious category that requires 10 judgments in a 10-year span. The categories that require two or three judgments require intoxication, specified blood-alcohol levels, a felony conviction, or OWI resulting in death. This provision could increase the number of people with HTV status, and potentially increase the number of convictions for operating a vehicle under HTV status, a Level 6 felony (currently about 880 convictions each year, with 6.4% of those committed to the DOC).

The advisory sentence for a Level 6 felony is 1 year; for a Level 5 felony is 3 years; and for a Level 4 felony is 6 years. The incremental cost to house an adult offender is \$4,825 annually (or \$13.22 daily) for medical care, food, and clothing. The incremental cost for juvenile facilities was \$8,986 annually (or \$24.62 daily).

Consolidation of OWI Motorboat Offenses: The bill may impact the class of misdemeanor or level of felony charged for OWI motorboat offenses. These convictions will also now be counted as prior OWI convictions for sentencing. However, on average, there are less than 40 total misdemeanor or felony convictions for OWI motorboat offenses, including cases in which the conviction is not the highest convicted charge. Therefore, the bill's impact may be minimal.

Administrative Suspensions of Driving Privileges: The bill would only affect pretrial administration suspensions for driving privileges. Individuals who proceed through the criminal justice system for motor vehicle violations that carry the possibility of driving privilege suspensions will be unaffected by the changes in the bill.

Explanation of State Revenues: *Summary -* This bill could impact Federal Highway Administration funds

the state receives. Any reduction in federal revenue would depend on state and federal determinations concerning the state's compliance with driving privilege suspensions from OWI offenses.

The bill could also impact revenue the state receives from court fees, fines, and judgments. Any impact on state revenue from these sources is expected to be minimal.

Additional Information -

Administrative Suspensions of Driving Privileges: Approximately 6% of federal funds could be withheld, depending on state and federal administrative decisions. For FY 2025, Indiana was apportioned to receive approximately \$1.33 B in Federal Highway Administration Funds. Any decrease in this amount (an estimated \$79.8 M) would rely on state and federal decisions concerning Indiana's compliance with federal guidelines.

Consolidation of OWI Motorboat Offenses: Aligning OWI motorboat penalties with other OWI penalties would raise certain misdemeanors from Class C to Class A and certain felonies from Level 5 to Level 4. Conversely, it would lower certain Level 6 felonies to Class A misdemeanors. Other misdemeanors or infractions may also be imposed. However, any impact should be minimal.

Court Fees and Criminal Fines: Revenue to the Common School Fund may also increase if more, or larger, fines are collected. The maximum fine for a Class C misdemeanor is \$500, for a Class B misdemeanor is \$1,000, for a Class A misdemeanor is \$5,000, and for all felony levels is \$10,000.

The bill could increase court fee revenue if there are more HTV violations or OWI motorboat offenses. Court fee revenue to the state General Fund is \$113 for cases filed in a municipal court and \$138 for cases filed in a court of record. A misdemeanor may be filed in a court of record or a municipal court, but a felony must be filed in court of record. Alcohol- and drug-related fees could also minimally increase as they could now be imposed for OWI motorboat convictions. [The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases](#).]

Explanation of Local Expenditures: *Minimum Imprisonment for OWI:* The bill could have a very minor, but indeterminate, impact on sentence lengths (by up to 5 to 10 days) and, therefore, on expenditures for local jails or community corrections. These mandatory days of incarceration would now also apply to OWI motorboat convictions.

[The Gateway reports show that in CY 2023, housing offenders in 33 Indiana county jails cost an average of \$56 to \$79 per day.]

Specialized Driving Privileges: The bill would reduce local court workload to notify the BMV concerning administrative driving privilege suspensions.

Roadside Chemical Test: The bill authorizes the use of a roadside chemical test by a law enforcement officer under the Implied Consent Law when an accident involves a fatality or serious bodily injury. If this authorization prompts local decisions to purchase this equipment, expenditures could increase.

Additional Information -

Roadside Chemical Test: Some law enforcement agencies use a roadside chemical device called the SoToxa Mobile Test System which uses an oral fluid swab to detect the presence of six kinds of drugs: cocaine,

methamphetamine, opiates, cannabis (THC), amphetamine and benzodiazepines. These units are approximately \$4,500 to \$5,000, with test cartridges costing around \$30 each.

Minimum Imprisonment for OWI: Under current law, a court must order a person convicted of a subsequent OWI offense to be incarcerated for a minimum number of days (or perform a certain number of community service hours). These days may not be suspended. The bill increases the number of mandatory days of incarceration from 5 days to 10 days for a person with one prior OWI conviction and from 10 days to 20 days for a person with two or more prior OWI convictions (no change to the number of community service hours as an option).

The bill also specifies that the mandatory days cannot increase a maximum sentence for the offense.

Explanation of Local Revenues: The bill could increase court fee revenue to local units if there are more HTV violations or OWI motorboat charges. A misdemeanor may be filed in a court of record or a municipal court, but a felony must be filed in court of record.

If the case is filed in a municipal court, the county receives \$30, and the municipality will receive \$46. If the case is filed in a court of record, the county general fund will receive \$47.40 and qualifying municipalities will receive a share of \$3.60. Alcohol- and drug-related fees could also minimally increase as they could now be imposed for OWI motorboat convictions. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of Correction, BMV.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Department of Correction;
Indiana Sheriffs' Association, Indiana Supreme Court, Indiana Trial Court Fee Manual;
Indiana Gateway for Government Units, 2023 Annual Financial Reports,
<https://gateway.ifionline.org/public/download.aspx>;
Bureau of Justice Statistics, 2023 Annual Survey of Jails Data Series,
<https://www.icpsr.umich.edu/web/NACJD/series/7>.
[https://events.in.gov/event/police agencies using new tool to combat drug-impaired driving](https://events.in.gov/event/police_agencies_using_new_tool_to_combat_drug-impaired_driving)
<https://www.in.gov/cji/traffic-safety/impaired-driving/>
<https://rules.incourts.gov/Content/criminal/rule2-3/current.htm>
<https://www.in.gov/courts/files/order-rules-2023-0623-crim-proc.pdf>
<https://www.in.gov/idoc/files/community-corrections/2025-procedural-bulletins/2025-Grant-Funded-Entities.pdf>
FFY 2025 Federal Highway Administration state apportionment table;
<https://www.federalregister.gov/documents/2022/02/18/2022-03172/drug-offenders-drivers-license-suspension>
23 USC subsection 163, <https://www.law.cornell.edu/uscode/text/23/163>
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