



POLICE / PROSECUTOR UPDATE

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2004 Legislation Short Summaries

P.L. 82-2004 amended IC 9-30-5-3, making it a Class D felony if the operator is at least age 21, commits operating with at least .15 BAC or **OWI** (endangerment), and there is at least one passenger under age 18 in the vehicle.

Both P.L. 82-2004 and P.L. 76-2004 amended IC 9-30-5-5 (**OWI Causing Death**). They created two new Class B felonies. The first is committed if the person knowingly operated the motor vehicle with a driver's license that was suspended or revoked for a previous conviction for OWI under IC 9-30-5. The second is committed if the person is at least age 21 and has a BAC of at least .15 or has a schedule I or II controlled substance or its metabolite in his or her blood.

P.L. 48-2004 amended IC 9-24-7-4 to specify that a **learner's permit** holder who is less than age 18 and holds a validated permit, or who is enrolled in approved driver's education course, may drive a vehicle when the seat beside the driver's seat is occupied by a stepparent who holds a valid driver's license.

P.L. 76-2004 dealt in part with **ignition interlock devices**. It increases the opportunities for courts to require such devices. It amends IC 9-30-5-8 to make knowing or intentional tampering with such device a Class B misdemeanor (it is currently a Class B infraction without the knowing or intentional element). It creates new offenses for persons operating a motor vehicle without a functioning ignition interlock device when such person is prohibited from operating a motor vehicle without such a device. It is a Class B infraction but is a Class B misdemeanor if the person *knows* of the ignition interlock requirement. Also, the BMV is supposed to place ignition interlock restrictions on a person's driving record so that when an officer runs a check, it will show the requirement.

It should be noted that the new **child booster seat law** does not take effect until July 1, 2005. And the legislature did *not* fix the pick-up/SUV **safety belt loophole**, so if a SUV has a truck plate, it is a truck for purposes of the seatbelt law.

P.L. 30-2004 amended IC 35-44-3-9 elevating the penalty for **Trafficking With an Inmate**, making it a Class C felony if the article is a controlled substance or a deadly weapon.

P.L. 46-2004 amended the **Neglect of a Dependent** Statute, IC 35-46-1-4. If the neglect results in the death of a dependent less than age 14 and is committed by a person at least age 18, the offense is now a Class A felony. Also amended was IC 35-46-1-8, making **Contributing to Delinquency** a Class C felony if committed by a person at least age 21 who knowingly or intentionally furnishes (1) alcohol to a person less than age 18 when he reasonably should know that the person was less than age 18, or (2) a drug in violation of Indiana law, *and* use of alcohol or drug is the proximate cause of the death of any person.

P.L. 85-2004 requires **training** in interacting with persons with **mental illness**, addictive disorders, mental retardation, and developmental disabilities for law enforcement personnel, jail officers, probation officers, and correctional officers. This public law also amended **Battery by Body Waste**, IC 35-42-2-6, to include within the definition of "corrections officer" a court employee.

P.L. 87-2004 amended the **Curfew Law**, IC 31-37-3-2, -3, to provide that a law enforcement officer may not detain a child or take a child into custody for a curfew violation unless the officer "after making a reasonable determination and considering the surrounding facts and circumstances reasonably believes" the child has violated the curfew law *and* there is no legal defense to the violation. This is effective now.