



# POLICE / PROSECUTOR UPDATE

Issue No. 163

June 2005

This issue will look briefly at **new legislation**. All legislation summarized in this issue becomes effective July 1, 2005.

P.L. 187-2005 creates a procedure to seize weapons from a dangerous individual. A new statute, **IC 35-47-13-1**, defines "dangerous." The search warrant statute, **IC 35-33-5-1**, is amended to permit a search for "a firearm possessed by a person who is dangerous." **IC 35-47-13-2** (new) prescribes the procedure for obtaining the search warrant. **IC 35-47-13-3** (new) covers several matters: procedures immediately after a warrantless seizure; post-seizure procedures (under warrant or warrantless); hearing procedures; and burden of proof.

P.L. 151-2005 increases speed limits under **IC 9-21-5-2**. The new limit is 70 m.p.h. on interstates outside of an urbanized area and on the Indiana toll road; for vehicles with a gross weight over 26,000 pounds (except for buses), the limit will be 65 m.p.h. The limit will be 65 m.p.h. on portions of U.S. 20 in Elkhart and St. Joseph counties and on U.S. 31 in St. Joseph county. And on certain multilane, divided highways, the limit will be 60 m.p.h.

P.L. 209-2005 amended the open container law, **IC 9-30-15-3**. The .04 BAC requirement for the driver is eliminated. The law applies when a motor vehicle is in operation and also while a motor vehicle is located on the right-of-way of a public highway. The law applies to a person in the passenger compartment who possesses an open container. The law will *not* apply to: (1) a container possessed by a person in the "passenger compartment of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; (2) the living quarters of a house coach or house trailer; (3) "a container located in a fixed center console or other similar fixed compartment that is locked;" or (4) a container located behind the last upright seat, or an area not normally occupied by a person, in a motor vehicle that is not equipped with a trunk.

P.L. 171-2005 added 2 new laws. **IC 35-43-5-18** creates the Class B misdemeanor of possession of a device or substance used to interfere with a drug or alcohol screening test. **IC 35-43-5-19** creates the Class B misdemeanor of interfering with a drug or alcohol screening test. "Drug or alcohol screening test" is defined in **IC 35-43-5-1(g)**.

P.L. 192-2005 deals with methamphetamine. **IC 35-48-4-14.7** (new) is a complex law dealing with medications containing ephedrine or pseudoephedrine. It establishes rules governing the sale of the products by retailers and pharmacists, record keeping, video surveillance, reporting of thefts, and more. Noncompliance is a Class C misdemeanor or a Class A misdemeanor for subsequent unrelated violations. **IC 35-48-4-14.5(a)** was amended to more than double the list of chemical reagents or precursors. **IC 35-48-4-14.5(b)** (Possession of more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine) was amended to replace the "salts or isomers" language with "pure or adulterated." It creates a class of children termed "drug endangered children," and establishes a notification requirement for law enforcement agencies. It creates a meth lab reporting requirement for law enforcement agencies.

P.L. 143-2005 amended the criminal conversion statute, **IC 35-43-4-3**, to make it a Class D felony if the property involved is a motor vehicle and is taken with the intent to use it in the commission of a crime. It is a Class C felony if the motor vehicle is actually used in the commission of a felony. **IC 35-43-4-2.7** (new) creates the offense of unauthorized entry of a motor vehicle: a person with no contractual interest enters the vehicle, knowing the person does not have the permission of the owner, lessee, or authorized operator to enter the vehicle. It is a Class B misdemeanor. It is a Class A misdemeanor if the vehicle has visible steering column damage or ignition switch alteration as a result of entry, and a Class D felony if a person occupies a motor vehicle while it is used to further the commission of a crime, if the person knew or should have known that a person intended to use the motor vehicle in the commission of a crime.

This is a publication of the Clark County Prosecuting Attorney, covering various topics of interest to law enforcement officers. It is directed solely toward issues of evidence, criminal law and procedure. Please consult your city, town, or county attorney for legal advice relating to civil liability. Please direct any suggestions you may have for future issues to Steve Stewart at 285-6264.