

2011 Traffic Safety Legal & Ethical Update



**INDIANAPOLIS MARRIOTT DOWNTOWN
JUNE 24, 2011**

LEGAL UPDATE

**DEBBIE REASONER
TRAFFIC SAFETY RESOURCE PROSECUTOR
INDIANA PROSECUTING ATTORNEYS COUNCIL**

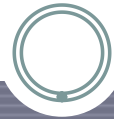
Department of Toxicology



Senate Bill 431

- Creates the Department of Toxicology as a state agency. (Currently, the Department of Toxicology is part of Indiana University.)
- Repeals the law pertaining to the Department of Toxicology that is part of Indiana University.
- July 1, 2011 the State Department of Toxicology falls under the executive branch.
- Governor Daniels announced the formation of a three-member panel to oversee the transition of the Department of Toxicology.

Department of Toxicology- Advisory Board



- Judge Linda Chezem- is a retired judge who served on the trial and appellate benches. Chezem is nationally recognized for her work with impaired driving with NHTSA. She is an authority on legal issues dealing with impaired driving, toxicology and forensics.
- Dr. James Klaunig- served as the professor and director of toxicology and the state toxicologist from 1991 until retiring in 2003. He is a fellow in the Academy of Toxicological Sciences. He is currently a professor and chair of the Department of Environmental Health at Indiana University Bloomington.
- Mr. Michael Medler- began his career in law enforcement as a trooper with the Indiana State Police from 1976 until 2005. While assigned to the Fort Wayne regional crime lab, Medler managed the field support section of the forensic laboratory and was in charge of the Indiana State Police satellite regional labs. He currently serves as the Director of the Indianapolis-Marion County Forensic Services Agency.



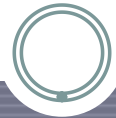
Spice, Salvia, and Bath Salts



- **HEA 1102 & SEA 57**
- **I.C. 35-41-1-24.2**
 - Defines salvia to mean salvia divinorum, i.e. Salvinorin A
 - Term does not include any other species in the genus salvia
- **IC 35-41-1-26.3**
 - Defines "synthetic cannabinoid" and makes possessing, dealing in, manufacturing, or delivering a synthetic cannabinoid equivalent to possessing, dealing in, manufacturing, or delivering marijuana, hash oil, or hashish.
 - Also makes "spice" "synthetic cannabinoid" a schedule I controlled substance.
- **IC 35-41-1-26.3**
 - Definitions include those cathinone substances that are commonly known and sold as "bath salts"
- **Effective July 1, 2011**



Texting Ban H.E.A. 1129



- **New offense IC 9-21-8-59**



- A person may not use a telecommunications device to type, transmit, or read a text message or electronic mail message while operating a moving motor vehicle.
 - Allows a person to use hands free or voice operated technology to transmit a text message or electronic mail message while operating a moving motor vehicle.
 - Allows use of the device to call 911 to report “bona fide emergency”
- Penalty: Class C Infraction

Effective July 1, 2011



Texting Ban H.E.A. 1129



- Repeals current definition of “telecommunications device” and replaces it:
 - “telecommunications device” means an electronic or digital communications device and includes 1) wireless telephone, 2) personal digital assistant; 3) pager; or 4) text messaging device;
 - Certain amateur radio equipment or communications equipment in commercial vehicles are excluded;

• IC 9-21-8-0.5 defines “text message:

○ **text message**” means a communication in the form of electronic text sent from a telecommunications device.

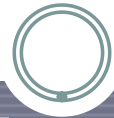


Texting Ban H.E.A. 1129



- Police officer may not confiscate a telecommunications device for the purpose of determining compliance or retain it as evidence pending trial for the violation.

Facts about Texting and Driving



- There are three main types of distraction: Visual, Manual and Cognitive.
- While all distractions can endanger the safety of drivers, texting is by far, the most alarming because it involves all three types.
- Research has shown that drivers who use hand-held devices are four times more likely to be involved in a collision serious enough to cause injury.
- Driver distractions accounted for more than 7,800 collisions on Indiana roadways in 2009. In fact, distracted driving crashes cost Indiana more than \$250 million dollars in 2009.
- On a national level, 20 percent of the motor vehicle crashes that resulted in injury involved reports of distracted driving.



Work Zone Safety

S.E.A. 338

- Work zone speed limits must be at least 10 mph below the maximum speed limit (current law)
- Provision in IC 9-21-5-11(b) which states that a worksite speed limit may not exceed 45 mph is repealed
- Increases penalty to Class B infraction for acts of aggressive driving in I.C. 9-21-8-55 when committed in the immediate vicinity of a highway work zone when workers are present:
 - ✦ Following too closely, IC 9-21-8-14
 - ✦ Unsafe operation IC 9-21-8-24
 - ✦ Unsafe stopping or slowing IC 9-21-8-26
 - ✦ Unnecessary sounding of horn IC 9-19-5-2
 - ✦ Failure to yield IC 9-21-8-29 to IC 9-21-8-34



Drunk Boating



- **S.E.A. 532**

- **Refusal of Chemical Test**

- Drunk boating equivalent to IC 9-30-6-7
- Adds new IC 14-15-8-11 that provides that if a person refuses to take a chemical test after implied consent, the officer shall:
 - ✦ Obtain driver's license or permit and issue receipt valid until initial hearing;
 - ✦ Submit PC affidavit to prosecutor
 - ✦ Send PC affidavit to BMV
- Removes the provision from IC 14-5-8-11 prohibiting a person from operating a motorboat for 1 year (however, provision is contained in IC 14-5-8-10)





- **Implied Consent Fatal or SBI Boating Accident**
- **Drunk Boating Equivalent to IC 9-30-7-3 Fatal Serious Bodily Injury Implied consent**
- Officer shall offer a PBT or chemical test to a person who he has reason to believe operated a motorboat that was involved in an SBI or Fatal accident
- If PBT indicates the “presence of alcohol” or if officer has PC to believe operator is under the influence of drugs or person refuses a PBT:
 - Officer shall offer a chemical test
 - May offer more than one chemical test
 - All chemical tests must be administered within 3 hours of the accident
 - Need not offer a chemical test to an unconscious person

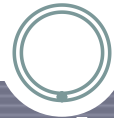
Drunk Boating-S.E.A. 532

S.E.A. 532

- **Refusal Penalty**
- Amends I.C. 14-15-8-15 to provide that the refusal to submit to a chemical test will result in suspension of person's motor vehicle operation privileges, as well as the person's motorboat privileges



Motorboats and Water sports S.E.A. 532



- **NEW IC 14-15-13** dealing with motorboat water sports
- A person may not Operate a motorboat inboard or have inboard engine run idle while an individual is holding onto a swim platform, swim deck swim step, swim ladder or any part of the exterior transom while “motorboat is underway at any speed”
- A person may not operate a motorboat while an individual is holding onto swim platform, etc. while motorboat is underway at any speed or while swimming or “floating on or in the wake directly behind the boat or float on a board in the wake using the wake as a means of propulsion;
- An individual may not operate a motorboat (inboard or outboard) with number of riders on a towed device that exceeds the listed capacity of the towed device or owners manual;
- Violation of any or all is a class C infraction



Contact Information:



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