

## **IC 14-15-8**

### Chapter 8. Operating a Motorboat While Intoxicated

#### **IC 14-15-8-1**

##### **"Chemical test" defined**

Sec. 1. As used in this chapter, "chemical test" means an analysis of an individual's:

- (1) blood;
- (2) breath;
- (3) urine; or
- (4) other bodily substance;

for the determination of the presence of alcohol or a controlled substance.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-2**

##### **"Controlled substance" defined**

Sec. 2. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-3**

##### **"Intoxicated" defined**

Sec. 3. As used in this chapter, "intoxicated" means under the influence of:

- (1) alcohol;
- (2) a controlled substance;
- (3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or a controlled substance; or
- (4) any combination of alcohol, controlled substances, or drugs;

so that there is an impaired condition of thought and action and the loss of normal control of an individual's faculties.

*As added by P.L.1-1995, SEC.8. Amended by P.L.33-1997, SEC.16; P.L.69-2009, SEC.4.*

#### **IC 14-15-8-4**

##### **"Law enforcement officer" defined**

Sec. 4. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1. The term includes conservation officers employed by the department.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-5**

##### **"Prima facie evidence of intoxication" defined**

Sec. 5. As used in this chapter, "prima facie evidence of intoxication" includes evidence that at the time of an alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or

(2) two hundred ten (210) liters of the person's breath.  
*As added by P.L.1-1995, SEC.8. Amended by P.L.33-1997, SEC.17; P.L.1-2000, SEC.15; P.L.175-2001, SEC.14.*

#### **IC 14-15-8-6**

##### **"Relevant evidence" defined**

Sec. 6. As used in this chapter, "relevant evidence" includes evidence that at the time of the alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least five-hundredths (0.05) gram and less than eight-hundredths (0.08) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

*As added by P.L.1-1995, SEC.8. Amended by P.L.33-1997, SEC.18; P.L.1-2000, SEC.16; P.L.175-2001, SEC.15.*

#### **IC 14-15-8-7**

##### **"Serious bodily injury" defined**

Sec. 7. As used in this chapter, "serious bodily injury" has the meaning set forth in IC 35-41-1.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-8**

##### **Operation of motorboat while intoxicated**

Sec. 8. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat:

- (1) with an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol per:

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath; or

- (2) while intoxicated;

commits a Class C misdemeanor.

(b) The offense is a Class D felony if:

- (1) the person has a previous conviction under:

- (A) IC 14-1-5 (repealed); or
- (B) this chapter; or

- (2) the offense results in serious bodily injury to another person.

(c) The offense is a Class C felony if the offense results in the death of another person.

*As added by P.L.1-1995, SEC.8. Amended by P.L.33-1997, SEC.19; P.L.1-2000, SEC.17; P.L.175-2001, SEC.16.*

#### **IC 14-15-8-9**

##### **Operation of motorboat in violation of order**

Sec. 9. A person who operates a motorboat after the person has been ordered not to operate a motorboat under:

- (1) IC 14-1-5 (repealed); or
- (2) this chapter;

commits a Class A misdemeanor.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-10**

##### **Orders not to operate motorboat**

Sec. 10. (a) In addition to any criminal penalties imposed for a misdemeanor under this chapter, the court shall order the person to not operate a motorboat for at least one (1) year.

(b) In addition to any criminal penalty imposed for a felony under this chapter, the court shall order the person to not operate a motorboat for at least two (2) years.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-11**

##### **Implied consent; refusal to submit to test; use of test results**

Sec. 11. (a) A person who operates a motorboat in water over which Indiana has jurisdiction impliedly consents to submit to the chemical test provisions of this chapter as a condition of operating a motorboat in Indiana.

(b) If a person refuses to submit to a chemical test after having been advised that the refusal will result in the suspension of operating privileges or submits to a chemical test that results in prima facie evidence of intoxication, the arresting law enforcement officer shall do the following:

(1) Obtain the person's driver's license or permit if the person is in possession of the document and issue a receipt valid until the initial hearing of the matter is held under IC 35-33-7-1.

(2) Submit a probable cause affidavit to the prosecuting attorney of the county in which the alleged offense occurred.

(3) Send a copy of the probable cause affidavit submitted under subdivision (2) to the bureau of motor vehicles.

*As added by P.L.1-1995, SEC.8. Amended by P.L.165-2011, SEC.4.*

#### **IC 14-15-8-12**

##### **Offer of chemical test**

Sec. 12. (a) A law enforcement officer who has probable cause to believe that a person has committed an offense under this chapter shall offer the person the opportunity to submit to a chemical test. It is not necessary for the law enforcement officer to offer a chemical test to an unconscious person.

(b) A law enforcement officer may offer a person more than one (1) chemical test under this chapter. However, all tests must be administered within three (3) hours after the officer had probable cause to believe the person violated this chapter.

(c) A person must submit to each chemical test offered by a law enforcement officer to comply with the implied consent provisions of this chapter.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-12.5**

##### **Offer of test; exception**

Sec. 12.5. (a) A law enforcement officer shall offer a portable breath test or chemical test to any person if the officer has reason to believe the person operated a motorboat that was involved in a fatal accident or an accident involving serious bodily injury. If:

(1) the results of a portable breath test indicate the presence of alcohol;

(2) the results of a portable breath test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or

(3) the person refuses to submit to a portable breath test;

the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable breath test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable breath test or chemical test to an unconscious person.

*As added by P.L.165-2011, SEC.5.*

#### **IC 14-15-8-13**

##### **Arrests; refusal to submit to chemical test**

Sec. 13. (a) If a chemical test results in relevant evidence that the person is intoxicated, the person may be arrested for an offense under this chapter.

(b) If a chemical test results in prima facie evidence that the person is intoxicated, the person shall be arrested for an offense under this chapter.

(c) A person who refuses to submit to a chemical test may be arrested for an offense under this chapter.

(d) At a proceeding under this chapter, a person's refusal to submit to a chemical test is admissible into evidence.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-14**

##### **Applicability of IC 9-30-6-5 and IC 9-30-6-6**

Sec. 14. (a) The provisions of IC 9-30-6-5 concerning the certification and use of chemical breath tests apply to the use of chemical breath tests in a prosecution under this chapter.

(b) IC 9-30-6-6 applies to chemical tests performed under this chapter.

*As added by P.L.1-1995, SEC.8.*

#### **IC 14-15-8-15**

##### **Information provided upon refusal to submit to chemical test**

Sec. 15. If a person refuses to submit to a chemical test under this chapter, the law enforcement officer shall inform the person that the person's refusal will result in the suspension of the person's motorboat and motor vehicle operation privileges.

*As added by P.L.1-1995, SEC.8. Amended by P.L.165-2011, SEC.6.*

**IC 14-15-8-16****Prosecuting attorney to represent state**

Sec. 16. The prosecuting attorney of the county in which an alleged violation of this chapter occurs shall represent the state in a proceeding under this chapter.

*As added by P.L.1-1995, SEC.8.*

**IC 14-15-8-17****Admissibility of evidence; chemical tests**

Sec. 17. (a) At a proceeding concerning an offense under this chapter, evidence of the alcohol concentration that was in the blood of the person charged with the offense;

- (1) at the time of the alleged violation; or
- (2) within the time allowed for testing under section 12 of this chapter;

as shown by an analysis of the person's breath, blood, urine, or other bodily substance is admissible.

(b) If, in a prosecution for an offense under this chapter, evidence establishes that:

- (1) a chemical test was performed on a test sample taken from the person charged with the offense within the period of time allowed for testing under section 12 of this chapter; and
- (2) the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

the trier of fact shall presume that the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath at the time the person operated the motorboat. However, this presumption is rebuttable.

*As added by P.L.1-1995, SEC.8. Amended by P.L.33-1997, SEC.20; P.L.69-2009, SEC.5.*