

IC 9-30-7

Chapter 7. Implied Consent in Accidents Involving Serious Injury or Death

IC 9-30-7-0.5

Inapplicability to operator of personal assistive mobility device

Sec. 0.5. This chapter does not apply to the operator of an electric personal assistive mobility device.

As added by P.L.143-2002, SEC.9.

IC 9-30-7-1

Definitions

Sec. 1. (a) As used in this chapter, "portable breath test" means a hand held apparatus that measures the alcohol concentration in a breath sample delivered by a person into the mouthpiece of the apparatus.

(b) As used in this chapter, "fatal accident" means an accident, a collision, or other occurrence that involves at least one (1) vehicle and that results in:

- (1) death; or
- (2) bodily injury that gives a law enforcement officer reason to believe that the death of at least one (1) person is imminent.

As added by P.L.2-1991, SEC.18. Amended by P.L.275-2001, SEC.1.

IC 9-30-7-2

Implied consent to portable breath test or chemical test

Sec. 2. A person who operates a vehicle impliedly consents to submit to the portable breath test or chemical test under this chapter as a condition of operating a vehicle in Indiana. A person must submit to each portable breath test or chemical test offered by a law enforcement officer under this chapter to comply with this chapter.

As added by P.L.2-1991, SEC.18. Amended by P.L.275-2001, SEC.2.

IC 9-30-7-3

Offer of test; administration of test

Sec. 3. (a) A law enforcement officer shall offer a portable breath test or chemical test to any person who the officer has reason to believe operated a vehicle 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.2-1991, SEC.18. Amended by P.L.275-2001, SEC.3.

IC 9-30-7-4

Breath analysis; blood, urine, or other bodily substance; testing requirements

Sec. 4. (a) If a chemical test conducted under this chapter involves an analysis of breath, the test must comply with the requirements under IC 9-30-6-5.

(b) IC 9-30-6-6 applies if a physician or a person trained in obtaining bodily substance samples who is acting under the direction of or under a protocol prepared by a physician or who has been engaged to obtain bodily substance samples:

(1) obtains a blood, urine, or other bodily substance sample from a person at the request of a law enforcement officer who acts under this section; or

(2) performs a chemical test on blood, urine, or another bodily substance obtained from a person under this section.

As added by P.L.2-1991, SEC.18.

IC 9-30-7-5

Refusal to submit; penalties; suspension; proof of future financial responsibility

Sec. 5. (a) A person who refuses to submit to a portable breath test or chemical test offered under this chapter commits a Class C infraction. However, the person commits a Class A infraction if the person has at least one (1) previous conviction for operating while intoxicated.

(b) In addition to any other penalty imposed, the court shall suspend the person's driving privileges:

(1) for one (1) year; or

(2) if the person has at least one (1) previous conviction for operating while intoxicated, for two (2) years.

(c) During the three (3) years following the termination of the suspension, the person's driving privileges remain suspended until the person provides proof of future financial responsibility in force under IC 9-25.

As added by P.L.2-1991, SEC.18. Amended by P.L.275-2001, SEC.4; P.L.94-2006, SEC.9; P.L.85-2013, SEC.98.