

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 37

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-30-6-5, AS AMENDED BY P.L.158-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The director of the state department of toxicology shall adopt rules under IC 4-22-2 concerning the following:

(1) Standards and regulations for the:

(A) selection;

(B) training; and

(C) certification;

of breath test operators.

(2) Standards and regulations for the:

(A) selection; and

(B) certification;

of breath test equipment and chemicals.

(3) The certification of the proper technique for administering a breath test.

(b) ~~Certificates issued~~ **A certification** in accordance with rules adopted under subsection (a) shall be:

(1) sent **in writing** to the clerk of the circuit court in each county where the breath test operator, equipment, or chemicals are used to administer breath tests; **or**

(2) **published on the Internet web site of the department of**

SEA 37



toxicology.

However, failure to send a ~~certificate~~ or **publish a certification as required by this subsection** does not invalidate any test.

(c) ~~Certified copies of certificates~~ **A certification** issued in accordance with rules adopted under subsection (a) **that is sent in writing under subsection (b)(1) or published on the Internet web site of the department under subsection (b)(2) and obtained from the department as an electronic record bearing an electronic signature:**

(1) ~~are~~ **is** admissible in a proceeding under this chapter, IC 9-30-5, IC 9-30-9, or IC 9-30-15;

(2) ~~constitute~~ **constitutes** prima facie evidence that the equipment or chemical:

(A) was inspected and approved by the state department of toxicology on the date specified on the ~~certificate copy;~~ **writing or electronic record;** and

(B) was in proper working condition on the date the breath test was administered if the date of approval is not more than one hundred eighty (180) days before the date of the breath test;

(3) ~~constitute~~ **constitutes** prima facie evidence of the approved technique for administering a breath test; and

(4) ~~constitute~~ **constitutes** prima facie evidence that the breath test operator was certified by the state department of toxicology on the date specified on the ~~certificate.~~ **writing or electronic record.**

(d) Results of chemical tests that involve an analysis of a person's breath are not admissible in a proceeding under this chapter, IC 9-30-5, IC 9-30-9, or IC 9-30-15 if:

(1) the test operator;

(2) the test equipment;

(3) the chemicals used in the test, if any; or

(4) the techniques used in the test;

have not been approved in accordance with the rules adopted under subsection (a).



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 37

