

# Police Prosecutor Update

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This issue we will take a quick look at some new legislation. All take effect July 1, 2009.

**IC 35-44-3-5** was amended to include removal of a GPS tracking device in the crime of escape.

There were several amendments to the animal cruelty statutes. **IC 35-46-3-7** (abandonment or neglect) was elevated from a Class B to a Class A misdemeanor. It would be a Class D felony if the person has a prior conviction for a crime under IC 35-46-3. **IC 35-46-3-10** (fighting contest) was amended to make the offense a Class D felony if the person has a prior conviction for a crime under IC 35-46-3. **IC 35-46-3-12** (beat, torture, mutilate, or kill) was amended to make the torture or mutilation of a vertebrate animal a Class D felony. Also, the new offense of killing a domestic animal without the consent of the owner is a Class D felony.

**IC 35-44-2-5** is a new law that makes the manufacture and sale, or the manufacture and offer for sale, of an official badge or replica of an official badge used by a law enforcement agency or a fire department, or a document that purports to be an official employment identification used by a law enforcement agency or fire department, a Class A misdemeanor. The offense is a Class D felony if it is committed with the knowledge or intent that the badge or identification will be used to further the commission of an offense under IC 35-44-2-3 (impersonation of a public servant). The offense is a Class B felony if committed with the knowledge or intent that the badge or identification will be used to further the commission of an offense under IC 35-47-12 (terrorism offenses). There are also statutory defenses established.

**IC 36-8-4-4.5** is a new statute. It provides that a political subdivision shall provide an active member of the law enforcement department of the political subdivision with body armor for the torso. The body armor shall be replaced according to the replacement period recommended by the manufacturer. The active officer shall not be required to pay for the maintenance of the body armor from any annual cash allowance received as provided by law.

**IC 26-2-10** is a new law dealing with repossession of motor vehicles or watercraft. A repossession agent must provide certain information to the sheriff's department of the county where the motor vehicle or watercraft is believed to be located. This information must be provided before the repossession occurs or within two hours after it occurs. Violation by the repossession agent is a Class C infraction.

Feticide, **IC 35-42-1-6**, is elevated from a Class C to a Class B felony. Also, **IC 35-50-2-16**, a new statute, provides that a person who commits or attempts to commit murder that results in the termination of a human pregnancy may be sentenced to an additional fixed term of imprisonment of not less than 6 or more than 20 years.

The computer trespass statute, **IC 35-43-2-3**, was amended to add the new crimes of computer merchandise hoarding and unlawful distribution of a hoarding program, both Class A misdemeanors.

A new law, **IC 9-24-11-3.3**, establishes a new graduated driver licensing (GDL) system. We'll only look at the provisions which apply to probationary licenses issued after June 30, 2009. A license issued to a person less than 18 years old is a probationary license. Nighttime driving is generally prohibited. For the first 180 days, the person may not operate a motor vehicle between 10 p.m. and 5 a.m. Then, until age 18, the person may not drive from 11 p.m. to 5 a.m. Sunday through Thursday and 1 a.m. to 5 a.m. Friday and Saturday. The law provides an exemption for employment, school, or religious activities, or if the driver is accompanied by a licensed driver at least 25 years old. Generally, there can be no passengers for the first 180 days. Finally, until age 18, the person may not use any type of telecommunication device while driving except to make a 911 emergency call.

Briefly, the theft statute, **IC 35-43-4-2**, was amended to make theft of a valuable metal a Class C felony. **IC 35-44-3-9** was amended to make it a Class A misdemeanor trafficking with an inmate to possess in or carry into a penal facility or a juvenile facility a controlled substance or a deadly weapon. Also, it is a Class C felony to deliver or carry into the facility a cellular telephone or other wireless or cellular communications device with intent to deliver to an inmate. A new law, **IC 35-43-5-3.8**, creates "synthetic identity deception," a Class D felony. "Synthetic identifying information" is information that identifies a false or fictitious person or a person other than the person using the information or a combination of both.