

MEMO

To: All Law Enforcement

From: Deborah Reasoner, Traffic Safety Resource Prosecutor
Indiana Prosecuting Attorneys Council

Re: New Seatbelt Law

CC: Ryan Klitsch, ICJI, Dan Jeffries, ICJI, LELs

Indiana's new seatbelt law takes effect on July 1, 2007. Attached for review and training purposes is a copy of the House Enrolled Act 1237. Please be advised that the new seatbelt law will change seatbelt enforcement methods in Indiana.

Effective July 1, 2007, I.C. 9-19-10-2 requires "that each occupant of a motor vehicle equipped with a safety belt that is standard equipment installed by the manufacturer" wear a seatbelt. The pickup truck exemption has been eliminated by the new law. Thus, occupants in most motor vehicles, including occupants in the passenger compartment of pickup trucks and all occupants of SUVs, must "buckle up" regardless of how a vehicle is plated or registered. As of July 1, 2007, any occupant in a motor vehicle who is not wearing a seatbelt can be issued a ticket for seatbelt violation. The exceptions to the seatbelt requirement are listed at I.C. 9-19-10-1.

Also effective July 1, 2007 is I.C. 9-19-10-3.1 which provides for **primary enforcement** of the seatbelt law and **outlaws** the use of a "**checkpoints**" by law enforcement to detect and issue citations for seatbelt violations. Under the new law enforcement **may stop** a vehicle **to determine compliance** with the seatbelt law. However, a vehicle, the contents of a vehicle, the driver of a vehicle, or a passenger in a vehicle may not be inspected, searched or detained solely because of a violation of this chapter. Law enforcement **may not** use a **checkpoint** to detect and issue citations for failure to comply with the seatbelt law. Examples of some do's and don'ts are as follows:

DO: Write seatbelt citations to occupants of pickup trucks and SUVs. No need to check the registration of the vehicle first.

DON'T: Write seatbelt citations to riders in the beds of pickup trucks or riders in cargo areas of vans.

CAVEAT: Since all occupants in pickup trucks and SUVs are required to wear seatbelts, there are potentially more seatbelt citations to be written effective July 1, 2007. Although there are no specific exceptions for occupants in the beds of pickup trucks or cargo areas of vans and trailers, a thorough review of the newly added exceptions and of prior legislation outlawing riders in truck beds which was rejected indicates that seatbelt citations in these situations are not appropriate and would not be viewed well in the Courts. My concern is that a more significant case arising out of a simple seatbelt stop could be lost because the seatbelt traffic stop was ruled to be "unreasonable" under the 4th Amendment because the stop for seatbelt violation was not a valid stop under the seatbelt law.

DO: Make traffic stops for observed violations of the seatbelt law and issue citations to occupants in the same manner as making stops for speeding and other traffic violations.

DON'T: Make a traffic stop for seatbelt violation unless there is a reasonable suspicion that the driver or a passenger in the vehicle is not wearing a seatbelt as required by law.

CAVEAT: Language identical to the language of the new law, “may be stopped to determine compliance with this chapter” was considered by the Indiana Supreme Court in *Baldwin v. Reagan*, 715 N.E.2d 332 (Ind. 1999). The Supreme Court held that for the stop to be constitutional under the Indiana Constitution, a police officer could not stop a vehicle for a possible seatbelt violation “unless the officer reasonably suspected that the driver or a passenger in the vehicle [was] not wearing a seatbelt as required by law. This reasonable suspicion exists where the officer observes the driver or passenger under circumstances (e.g. bodily movement, distance, angle, lighting, weather) that would cause an ordinary prudent person to believe that the driver or passenger is not wearing a seatbelt as required by law.” 715 N.E. 2d at 337. It is likely that the same language in the new seatbelt law will be interpreted in the same way and will not necessarily mean literally what it says. **CAVEAT:** there is also language in Baldwin regarding consent searches during seatbelt stops which will probably also still be good law.

DO: Keep the stop as brief as possible.

DON'T: Inspect, search, or detain the vehicle, its driver, passenger(s) or contents or otherwise prolong the traffic solely because of an observed seatbelt violation, unless observations and interactions lead to “reasonable, particularly suspicion that criminal activity is afoot” making a Terry stop under the 4th Amendment justifiable and necessary. Always document!

DO: Actively watch for seatbelt violation and issue citations.

DON'T: Use checkpoints, “seatbelt enforcement zone” or other warning signs.

DON'T: Funnel or block or impede traffic while stopping and issuing seatbelt citations.

CAVEAT: The legislature has specifically outlawed the use of checkpoints. Although the term “seatbelt enforcement zone” is not used in the statute, the use of the term “checkpoint” makes clear the legislative intent that random pullovers and funneling of traffic and traffic backup in order to check for seatbelt compliance and ticket offenders be eliminated. If it looks like a “checkpoint”, it probably is a “checkpoint” whether or not it is called a “checkpoint” or “seatbelt enforcement zone”. Therefore, all law enforcement is cautioned to be aware and to be careful to avoid the appearances of a checkpoint when doing seatbelt enforcement. An argument over the semantics of “checkpoint” versus “seatbelt enforcement zone” probably would not turn out well for law enforcement. Again, my concern is that a more significant case arising out of a simple seatbelt stop could be lost because the seatbelt traffic stop was ruled to be “unreasonable” under the 4th Amendment because the stop for seatbelt violation was not a valid stop under the seatbelt law.

This list of do's and don'ts is not an exhaustive list and probably doesn't cover all the possible scenarios that may apply and is meant for illustrative use and for training purposes. Any further questions or concerns can be directed through LELs to:

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