



January 21, 2005

SENATE BILL No. 77

DIGEST OF SB 77 (Updated January 19, 2005 10:20 am - DI 106)

Citations Affected: IC 9-22; IC 32-33.

Synopsis: Mechanic's liens on towed vehicles. Allows an unpaid provider of towing services to obtain a mechanic's lien on a towed vehicle and sell the vehicle. Makes conforming changes.

Effective: July 1, 2005.

Young R Michael, Lanane

January 4, 2005, read first time and referred to Committee on Judiciary.
January 20, 2005, reported favorably — Do Pass.

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SB 77—LS 6360/DI 96+



January 21, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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SENATE BILL No. 77



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

1 SECTION 1. IC 9-22-5-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) An individual,
3 a firm, a limited liability company, or a corporation that performs labor,
4 furnishes materials or storage, or does repair work on a motor vehicle,
5 trailer, semitrailer, or recreational vehicle at the request of the person
6 who owns the ~~motor~~ vehicle has a lien on the vehicle to the reasonable
7 value of the charges for the labor, materials, storage, or repairs.

8 (b) **An individual, a firm, a partnership, a limited liability**
9 **company, or a corporation that provides towing services for a**
10 **motor vehicle, trailer, semitrailer, or recreational vehicle at the**
11 **request of:**

12 (1) **the person who owns the motor vehicle, trailer,**
13 **semitrailer, or recreational vehicle; or**

14 (2) **an individual, a firm, a partnership, a limited liability**
15 **company, or a corporation on whose property an abandoned**
16 **motor vehicle, trailer, semitrailer, or recreational vehicle is**
17 **located;**

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1 **has a lien on the vehicle for the reasonable value of the charges for**
2 **the towing services and other related costs. An individual, a firm,**
3 **a partnership, a limited liability company, or a corporation that**
4 **obtains a lien for an abandoned vehicle under subdivision (2) must**
5 **comply with IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.**

6 ~~(b)~~ (c) If:

- 7 (1) the charges made under subsection (a) **or (b)** are not paid; and
- 8 (2) the motor vehicle, trailer, semitrailer, or recreational vehicle
- 9 is not claimed;

10 within thirty (30) days from the date on which the ~~motor~~ vehicle was
11 left in **or came into** the possession of the individual, firm, limited
12 liability company, or corporation for repairs, storage, **towing**, or the
13 furnishing of materials, the individual, firm, limited liability company,
14 or corporation may advertise the vehicle for sale. The vehicle may not
15 be sold before fifteen (15) days after the date the advertisement
16 required by subsection ~~(c)~~ **(d)** has been placed or after notice required
17 by subsection ~~(d)~~ **(e)** has been sent, whichever is later.

18 ~~(c)~~ **(d)** Before a vehicle may be sold under subsection ~~(b)~~; **(c)**, an
19 advertisement must be placed in a newspaper of general circulation
20 printed in the English language in the city or town in which the
21 lienholder's place of business is located. The advertisement must
22 contain at least the following information:

- 23 (1) A description of the vehicle, including make, type, and
- 24 manufacturer's identification number.
- 25 (2) The amount of the unpaid charges.
- 26 (3) The time, place, and date of the sale.

27 ~~(d)~~ **(e)** In addition to the advertisement required under subsection
28 ~~(c)~~; **(d)**, the person who holds the mechanic's lien must:

- 29 (1) notify the person who owns the ~~motor~~ vehicle and any other
- 30 person who holds a lien of record at the person's last known
- 31 address by certified mail, return receipt requested; **or**
- 32 (2) **if the vehicle is an abandoned motor vehicle, provide**
- 33 **notice as required under subdivision (1) if the location of the**
- 34 **owner of the motor vehicle or a lienholder of record is**
- 35 **determined by the bureau in a search under IC 9-22-1-20;**

36 that the vehicle will be sold at public auction on a specified date to
37 satisfy the lien imposed by this section.

38 ~~(e)~~ **(f)** A person who holds a lien of record on a vehicle subject to
39 sale under this section may pay the storage, repair, **towing**, or service
40 charges due. If the person who holds the lien of record elects to pay the
41 charges due, the person is entitled to possession of the vehicle and
42 becomes the holder of the mechanic's lien imposed by this section.

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1 ~~(f)~~ (g) If the person who owns a vehicle subject to sale under this
2 section does not claim the vehicle and satisfy the lien on the vehicle,
3 the vehicle may be sold at public auction to the highest and best bidder
4 for cash. A person who holds a mechanic's lien under this section may
5 purchase a ~~motor~~ vehicle subject to sale under this section.

6 ~~(g)~~ (h) A person who holds a mechanic's lien under this section may
7 deduct and retain the amount of the lien and the cost of the
8 advertisement required under subsection ~~(c)~~ (d) from the purchase
9 price received for a ~~motor~~ vehicle sold under this section. After
10 deducting from the purchase price the amount of the lien and the cost
11 of the advertisement, the person shall pay the surplus of the purchase
12 price to the person who owns the ~~motor~~ vehicle if the person's address
13 or whereabouts is known. If the address or whereabouts of the person
14 who owns the vehicle is not known, the surplus of the purchase price
15 shall be paid over to the clerk of the circuit court of the county in which
16 the person who holds the mechanic's lien has a place of business for the
17 use and benefit of the person who owns the vehicle.

18 ~~(h)~~ (i) A person who holds a mechanic's lien under this section shall
19 execute and deliver to the purchaser of a vehicle under this section a
20 sales certificate in the form designated by the bureau, setting forth the
21 following information:

- 22 (1) The facts of the sale.
- 23 (2) The vehicle identification number.
- 24 (3) The certificate of title if available.
- 25 (4) A certificate from the newspaper showing that the
26 advertisement was made as required under subsection ~~(c)~~ (d).

27 Whenever the bureau receives from the purchaser an application for
28 certificate of title accompanied by these items, the bureau shall issue
29 a certificate of title for the vehicle under IC 9-17.

30 SECTION 2. IC 32-33-10-5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A person engaged in:

- 32 (1) **towing**, repairing, storing, servicing, or furnishing supplies or
33 accessories for motor vehicles, airplanes, construction machinery
34 and equipment, and farm machinery; or
- 35 (2) maintaining a motor vehicle garage, an airport or repair shop
36 for airplanes, or a repair shop or servicing facilities for
37 construction machinery and equipment and farm machinery;

38 has a lien on any motor vehicle or airplane or any unit of construction
39 machinery and equipment or farm machinery **towed**, stored, repaired,
40 serviced, or maintained for the person's reasonable charges for the
41 **towing**, repair work, storage, or service, including reasonable charges
42 for labor, for the use of tools, machinery, and equipment, and for all

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1 accessories, materials, gasoline, oils, lubricants, and other supplies
2 furnished in connection with the **towing**, repair, storage, servicing, or
3 maintenance of the motor vehicle, airplane, unit of construction
4 machinery and equipment, or farm machinery.

5 SECTION 3. IC 32-33-10-6 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person seeking
7 to acquire a lien upon a motor vehicle, an airplane, a unit of
8 construction machinery and equipment, or farm machinery, whether the
9 claim to be secured by the lien is then due or not, must file in the
10 recorder's office of the county where:

11 (1) the **towing**, repair, service, or maintenance work was
12 performed; or

13 (2) the storage, supplies, or accessories were furnished;
14 a notice in writing of the intention to hold the lien upon the motor
15 vehicle, airplane, unit of construction machinery and equipment, or
16 farm machinery for the amount of the person's claim.

17 (b) A notice filed under subsection (a) must specifically state the
18 amount claimed and give a substantial description of the motor vehicle,
19 airplane, unit of construction machinery and equipment, or farm
20 machinery upon which the lien is asserted.

21 (c) Any description in a notice of intention to hold a lien filed under
22 subsection (a) is sufficient if by the description the motor vehicle,
23 airplane, unit of construction machinery and equipment, or farm
24 machinery can be identified.

25 (d) A notice under subsection (a) must be filed in the recorder's
26 office not later than sixty (60) days after the:

- 27 (1) performance of the **towing or** work; or ~~the~~
28 (2) furnishing of the storage, supplies, accessories, or materials.

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SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Senate Bill 77.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 77, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 77 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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