
SENATE BILL No. 367

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-2.1-24-18.

Synopsis: Financial responsibility for carriers of property. Requires an interstate and intrastate carrier of nonhazardous property to have not less than \$1,000,000 in financial responsibility in effect in order to operate in Indiana.

Effective: July 1, 2008.

Skinner

January 14, 2008, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 367



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

1 SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through
4 387, 390 through 393, and 395 through 398 are incorporated into
5 Indiana law by reference, and, except as provided in subsections (d),
6 (e), (f), ~~and~~ (g), **and (k)**, must be complied with by an interstate and
7 intrastate motor carrier of persons or property throughout Indiana.
8 Intrastate motor carriers subject to compliance reviews under 49 CFR
9 385 shall be selected according to criteria determined by the
10 superintendent which must include but are not limited to factors such
11 as previous history of violations found in roadside compliance checks
12 and other recorded violations. However, the provisions of 49 CFR 395
13 that regulate the hours of service of drivers, including requirements for
14 the maintenance of logs, do not apply to a driver of a truck that is
15 registered by the bureau of motor vehicles and used as a farm truck
16 under IC 9-18, or a vehicle operated in intrastate construction or
17 construction related service, or the restoration of public utility services



1 interrupted by an emergency. Except as provided in subsection (i),
 2 intrastate motor carriers not operating under authority issued by the
 3 United States Department of Transportation shall comply with the
 4 requirements of 49 CFR 390.21(b)(3) by registering with the
 5 department of state revenue as an intrastate motor carrier and
 6 displaying the certification number issued by the department of state
 7 revenue preceded by the letters "IN". Except as provided in subsection
 8 (i), all other requirements of 49 CFR 390.21 apply equally to interstate
 9 and intrastate motor carriers.

10 (b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177
 11 through 178, and 180, are incorporated into Indiana law by reference,
 12 and every:

- 13 (1) private carrier;
- 14 (2) common carrier;
- 15 (3) contract carrier;
- 16 (4) motor carrier of property, intrastate;
- 17 (5) hazardous material shipper; and
- 18 (6) carrier otherwise exempt under section 3 of this chapter;

19 must comply with the federal regulations incorporated under this
 20 subsection, whether engaged in interstate or intrastate commerce.

21 (c) Notwithstanding subsection (b), nonspecification bulk and
 22 nonbulk packaging, including cargo tank motor vehicles, may be used
 23 only if all the following conditions exist:

- 24 (1) The maximum capacity of the vehicle is less than three
 25 thousand five hundred (3,500) gallons.
- 26 (2) The shipment of goods is limited to intrastate commerce.
- 27 (3) The vehicle is used only for the purpose of transporting fuel
 28 oil, kerosene, diesel fuel, gasoline, gasohol, or any combination
 29 of these substances.

30 All additional federal standards for the safe transportation of hazardous
 31 materials apply until July 1, 2000. After June 30, 2000, the
 32 maintenance, inspection, and marking requirements of 49 CFR 173.8
 33 and Part 180 are applicable. In accordance with federal hazardous
 34 materials regulations, new or additional nonspecification cargo tank
 35 motor vehicles may not be placed in service under this subsection after
 36 June 30, 1998.

37 (d) For the purpose of enforcing this section, only:

- 38 (1) a state police officer or state police motor carrier inspector
 39 who:
 40 (A) has successfully completed a course of instruction
 41 approved by the United States Department of Transportation;
 42 and

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1 (B) maintains an acceptable competency level as established
 2 by the state police department; or
 3 (2) an employee of a law enforcement agency who:
 4 (A) before January 1, 1991, has successfully completed a
 5 course of instruction approved by the United States
 6 Department of Transportation; and
 7 (B) maintains an acceptable competency level as established
 8 by the state police department;
 9 on the enforcement of 49 CFR, may, upon demand, inspect the
 10 books, accounts, papers, records, memoranda, equipment, and
 11 premises of any carrier, including a carrier exempt under section
 12 3 of this chapter.
 13 (e) A person hired before September 1, 1985, who operates a motor
 14 vehicle intrastate incidentally to the person's normal employment duties
 15 and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a))
 16 is exempt from 49 CFR 391 as incorporated by this section.
 17 (f) Notwithstanding any provision of 49 CFR 391 to the contrary, a
 18 person at least eighteen (18) years of age and less than twenty-one (21)
 19 years of age may be employed as a driver to operate a commercial
 20 motor vehicle intrastate. However, a person employed under this
 21 subsection is not exempt from any other provision of 49 CFR 391.
 22 (g) Notwithstanding subsection (a) or (b), the following provisions
 23 of 49 CFR do not apply to private carriers of property operated only in
 24 intrastate commerce or any carriers of property operated only in
 25 intrastate commerce while employed in construction or construction
 26 related service:
 27 (1) Subpart 391.41(b)(3) as it applies to physical qualifications of
 28 a driver who has been diagnosed as an insulin dependent diabetic,
 29 if the driver has applied for and been granted an intrastate
 30 medical waiver by the bureau of motor vehicles pursuant to this
 31 subsection. The same standards and the following procedures
 32 shall apply for this waiver whether or not the driver is required to
 33 hold a commercial driver's license. An application for the waiver
 34 shall be submitted by the driver and completed and signed by a
 35 certified endocrinologist or the driver's treating physician
 36 attesting that the driver:
 37 (A) is not otherwise physically disqualified under Subpart
 38 391.41 to operate a motor vehicle, whether or not any
 39 additional disqualifying condition results from the diabetic
 40 condition, and is not likely to suffer any diminution in driving
 41 ability due to the driver's diabetic condition;
 42 (B) is free of severe hypoglycemia or hypoglycemia

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1 unawareness and has had less than one (1) documented,
 2 symptomatic hypoglycemic reaction per month;
 3 (C) has demonstrated the ability and willingness to properly
 4 monitor and manage the driver's diabetic condition;
 5 (D) has agreed to and, to the endocrinologist's or treating
 6 physician's knowledge, has carried a source of rapidly
 7 absorbable glucose at all times while driving a motor vehicle,
 8 has self monitored blood glucose levels one (1) hour before
 9 driving and at least once every four (4) hours while driving or
 10 on duty before driving using a portable glucose monitoring
 11 device equipped with a computerized memory; and
 12 (E) has submitted the blood glucose logs from the monitoring
 13 device to the endocrinologist or treating physician at the time
 14 of the annual medical examination.

15 A copy of the blood glucose logs shall be filed along with the
 16 annual statement from the endocrinologist or treating physician
 17 with the bureau of motor vehicles for review by the driver
 18 licensing medical advisory board established under IC 9-14-4. A
 19 copy of the annual statement shall also be provided to the driver's
 20 employer for retention in the driver's qualification file, and a copy
 21 shall be retained and held by the driver while driving for
 22 presentation to an authorized federal, state, or local law
 23 enforcement official. Notwithstanding the requirements of this
 24 subdivision, the endocrinologist, the treating physician, the
 25 advisory board of the bureau of motor vehicles, or the bureau of
 26 motor vehicles may, where medical indications warrant, establish
 27 a short period for the medical examinations required under this
 28 subdivision.

29 (2) Subpart 396.9 as it applies to inspection of vehicles carrying
 30 or loaded with a perishable product. However, this exemption
 31 does not prohibit a law enforcement officer from stopping these
 32 vehicles for an obvious violation that poses an imminent threat of
 33 an accident or incident. The exemption is not intended to include
 34 refrigerated vehicles loaded with perishables when the
 35 refrigeration unit is working.

36 (3) Subpart 396.11 as it applies to driver vehicle inspection
 37 reports.

38 (4) Subpart 396.13 as it applies to driver inspection.

39 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting
 40 season" refers to the period between January 1 and December 31 of
 41 each year. The intrastate commerce exception set forth in 49 CFR
 42 395.1(l), as it applies to the transportation of agricultural commodities

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1 and farm supplies, is restricted to single vehicles and cargo tank motor
2 vehicles with a capacity of not more than five thousand four hundred
3 (5,400) gallons.

4 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate
5 carrier or a guest operator not engaged in interstate commerce and
6 operating a motor vehicle as a farm vehicle in connection with
7 agricultural pursuits usual and normal to the user's farming operation
8 or for personal purposes unless the vehicle is operated either part time
9 or incidentally in the conduct of a commercial enterprise.

10 (j) The superintendent of state police may adopt rules under
11 IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by
12 reference under this section.

13 (k) **49 CFR 387.9 concerning minimum levels of financial**
14 **responsibility for motor vehicles transporting commodities is**
15 **adopted as Indiana law, except for the provision in 49 CFR 387.9**
16 **establishing the minimum level of financial responsibility for a**
17 **for-hire motor vehicle that has a gross vehicle weight rating of**
18 **10,0001 or more pounds and that transports nonhazardous**
19 **property. The minimum level of financial responsibility for a**
20 **for-hire motor vehicle described in this subsection is one million**
21 **dollars (\$1,000,000).**

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