



January 23, 2009

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## HOUSE BILL No. 1417

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DIGEST OF HB 1417 (Updated January 21, 2009 12:46 pm - DI 96)

**Citations Affected:** IC 8-2.1.

**Synopsis:** Intrastate motor carriers. Exempts certain intrastate private carriers of persons or property, or both, from the requirement of certain markings on the motor vehicle. Repeals and relocates language concerning regulation of certain motor carriers and private carriers of property. Makes corresponding changes. Removes outdated language.

**Effective:** Upon passage.

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**Pierce, Wolkins, Davis**

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January 13, 2009, read first time and referred to Committee on Roads and Transportation.  
January 22, 2009, reported — Do Pass.

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HB 1417—LS 7338/DI 96+



January 23, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1417

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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 8-2.1-24-1, AS AMENDED BY P.L.42-2007,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 1. **(a) Except as provided in subsection (b),**  
4 this chapter applies to the certification of a motor carrier providing  
5 intrastate transportation by motor vehicle of property or passengers for  
6 compensation.

7 **(b) Section 18 of this chapter applies to the regulation of the**  
8 **following persons:**

9 **(1) A motor carrier described in subsection (a).**

10 **(2) A private carrier of persons or property, or both.**

11 SECTION 2. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007,  
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382  
14 through 387, 390 through 393, and 395 through 398 are incorporated  
15 into Indiana law by reference, and, except as provided in subsections  
16 (d), (e), (f), and (g), must be complied with by an interstate and  
17 intrastate motor carrier of persons or property throughout Indiana.

HB 1417—LS 7338/DI 96+



1 Intrastate motor carriers subject to compliance reviews under 49 CFR  
2 385 shall be selected according to criteria determined by the  
3 superintendent which must include but are not limited to factors such  
4 as previous history of violations found in roadside compliance checks  
5 and other recorded violations. However, the provisions of 49 CFR 395  
6 that regulate the hours of service of drivers, including requirements for  
7 the maintenance of logs, do not apply to a driver of a truck that is  
8 registered by the bureau of motor vehicles and used as a farm truck  
9 under IC 9-18, or a vehicle operated in intrastate construction or  
10 construction related service, or the restoration of public utility services  
11 interrupted by an emergency. Except as provided in subsection (i):

12 (1) intrastate motor carriers not operating under authority issued  
13 by the United States Department of Transportation shall comply  
14 with the requirements of 49 CFR 390.21(b)(3) by registering with  
15 the department of state revenue as an intrastate motor carrier and  
16 displaying the certification number issued by the department of  
17 state revenue preceded by the letters "IN"; ~~Except as provided in~~  
18 ~~subsection (i); and~~

19 (2) all other requirements of 49 CFR 390.21 apply equally to  
20 interstate and intrastate motor carriers.

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

- 24 (1) private carrier;
- 25 (2) common carrier;
- 26 (3) contract carrier;
- 27 (4) motor carrier of property, intrastate;
- 28 (5) hazardous material shipper; and
- 29 (6) carrier otherwise exempt under section 3 of this chapter;

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

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

- 35 (1) The maximum capacity of the vehicle is less than three  
36 thousand five hundred (3,500) gallons.
- 37 (2) The shipment of goods is limited to intrastate commerce.
- 38 (3) The vehicle is used only for the purpose of transporting fuel  
39 oil, kerosene, diesel fuel, gasoline, gasohol, or any combination  
40 of these substances.

41 ~~All additional federal standards for the safe transportation of hazardous~~  
42 ~~materials apply until July 1, 2000. After June 30, 2000, the~~

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1 Maintenance, inspection, and marking requirements of 49 CFR 173.8  
2 and Part 180 are applicable. In accordance with federal hazardous  
3 materials regulations, new or additional nonspecification cargo tank  
4 motor vehicles may not be placed in service under this subsection. ~~after~~  
5 ~~June 30, 1998.~~

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

7 (1) a state police officer or state police motor carrier inspector  
8 who:

9 (A) has successfully completed a course of instruction  
10 approved by the United States Department of Transportation;  
11 and

12 (B) maintains an acceptable competency level as established  
13 by the state police department; or

14 (2) an employee of a law enforcement agency who:

15 (A) before January 1, 1991, has successfully completed a  
16 course of instruction approved by the United States  
17 Department of Transportation; and

18 (B) maintains an acceptable competency level as established  
19 by the state police department;

20 on the enforcement of 49 CFR, may, upon demand, inspect the  
21 books, accounts, papers, records, memoranda, equipment, and  
22 premises of any carrier, including a carrier exempt under section  
23 3 of this chapter.

24 (e) A person hired before September 1, 1985, who operates a motor  
25 vehicle intrastate incidentally to the person's normal employment duties  
26 and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a))  
27 is exempt from 49 CFR 391 as incorporated by this section.

28 (f) Notwithstanding any provision of 49 CFR 391 to the contrary, a  
29 person at least eighteen (18) years of age and less than twenty-one (21)  
30 years of age may be employed as a driver to operate a commercial  
31 motor vehicle intrastate. However, a person employed under this  
32 subsection is not exempt from any other provision of 49 CFR 391.

33 (g) Notwithstanding subsection (a) or (b), the following provisions  
34 of 49 CFR do not apply to private carriers of property operated only in  
35 intrastate commerce or any carriers of property operated only in  
36 intrastate commerce while employed in construction or construction  
37 related service:

38 (1) Subpart 391.41(b)(3) as it applies to physical qualifications of  
39 a driver who has been diagnosed as an insulin dependent diabetic,  
40 if the driver has applied for and been granted an intrastate  
41 medical waiver by the bureau of motor vehicles pursuant to this  
42 subsection. The same standards and the following procedures

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1 shall apply for this waiver whether or not the driver is required to  
2 hold a commercial driver's license. An application for the waiver  
3 shall be submitted by the driver and completed and signed by a  
4 certified endocrinologist or the driver's treating physician  
5 attesting that the driver:

6 (A) is not otherwise physically disqualified under Subpart  
7 391.41 to operate a motor vehicle, whether or not any  
8 additional disqualifying condition results from the diabetic  
9 condition, and is not likely to suffer any diminution in driving  
10 ability due to the driver's diabetic condition;

11 (B) is free of severe hypoglycemia or hypoglycemia  
12 unawareness and has had less than one (1) documented,  
13 symptomatic hypoglycemic reaction per month;

14 (C) has demonstrated the ability and willingness to properly  
15 monitor and manage the driver's diabetic condition;

16 (D) has agreed to and, to the endocrinologist's or treating  
17 physician's knowledge, has carried a source of rapidly  
18 absorbable glucose at all times while driving a motor vehicle,  
19 has self monitored blood glucose levels one (1) hour before  
20 driving and at least once every four (4) hours while driving or  
21 on duty before driving using a portable glucose monitoring  
22 device equipped with a computerized memory; and

23 (E) has submitted the blood glucose logs from the monitoring  
24 device to the endocrinologist or treating physician at the time  
25 of the annual medical examination.

26 A copy of the blood glucose logs shall be filed along with the  
27 annual statement from the endocrinologist or treating physician  
28 with the bureau of motor vehicles for review by the driver  
29 licensing medical advisory board established under IC 9-14-4. A  
30 copy of the annual statement shall also be provided to the driver's  
31 employer for retention in the driver's qualification file, and a copy  
32 shall be retained and held by the driver while driving for  
33 presentation to an authorized federal, state, or local law  
34 enforcement official. Notwithstanding the requirements of this  
35 subdivision, the endocrinologist, the treating physician, the  
36 advisory board of the bureau of motor vehicles, or the bureau of  
37 motor vehicles may, where medical indications warrant, establish  
38 a short period for the medical examinations required under this  
39 subdivision.

40 (2) Subpart 396.9 as it applies to inspection of vehicles carrying  
41 or loaded with a perishable product. However, this exemption  
42 does not prohibit a law enforcement officer from stopping these

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1 vehicles for an obvious violation that poses an imminent threat of  
2 an accident or incident. The exemption is not intended to include  
3 refrigerated vehicles loaded with perishables when the  
4 refrigeration unit is working.

5 (3) Subpart 396.11 as it applies to driver vehicle inspection  
6 reports.

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

8 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting  
9 season" refers to the period between January 1 and December 31 of  
10 each year. The intrastate commerce exception set forth in 49 CFR  
11 395.1(l), as it applies to the transportation of agricultural commodities  
12 and farm supplies, is restricted to single vehicles and cargo tank motor  
13 vehicles with a capacity of not more than five thousand four hundred  
14 (5,400) gallons.

15 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate  
16 **motor carrier:**

17 (1) or a guest operator not engaged in interstate commerce and  
18 operating a motor vehicle as a farm vehicle in connection with  
19 agricultural pursuits usual and normal to the user's farming  
20 operation or for personal purposes unless the vehicle is operated  
21 either part time or incidentally in the conduct of a commercial  
22 enterprise; **or**

23 (2) **operating a motor vehicle with a gross combination weight**  
24 **rating of less than twenty-six thousand one (26,001) pounds,**  
25 **when the motor vehicle is:**

26 (A) **not hauling property or passengers, or both, for hire;**  
27 **and**

28 (B) **being used exclusively in intrastate commerce.**

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

32 SECTION 3. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON  
33 PASSAGE].

34 SECTION 4. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1417, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AUSTIN, Chair

Committee Vote: yeas 11, nays 0.

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