

SENATE BILL No. 74

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-24-6.

Synopsis: Federal regulation of commercial driver's license. Makes various changes to the motor vehicle law pertaining to commercial driver's licenses to conform to the Code of Federal Regulations.

Effective: July 1, 2010.

Wyss, Rogers

January 5, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 74



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 9-13-2-2.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2010]: **Sec. 2.2. "Alcohol", for purposes of IC 9-24-6, has the**
4 **meaning set forth in IC 9-24-6-0.3.**

5 SECTION 2. IC 9-13-2-29 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. "Commercial
7 driver's license" means a license issued by the state to an individual
8 that authorizes the individual to operate a class of commercial motor
9 vehicles: **has the meaning set forth in 49 CFR 383.5 as in effect July**
10 **1, 2010.**

11 SECTION 3. IC 9-13-2-35 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 35. **(a) Except as**
13 **provided in subsection (b), "controlled substance" has the meaning set**
14 **forth in IC 35-48-1.**

15 **(b) For purposes of IC 9-24-6, "controlled substance" has the**
16 **meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.**

17 SECTION 4. IC 9-13-2-38 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38. (a) **Except as**
 2 **provided in subsection (b),** "conviction" includes the following:
 3 (1) A conviction or judgment upon a plea of guilty or nolo
 4 contendere.
 5 (2) A determination of guilt by a jury or a court, even if:
 6 (A) no sentence is imposed; or
 7 (B) a sentence is suspended.
 8 (3) A forfeiture of bail, bond, or collateral deposited to secure the
 9 defendant's appearance for trial, unless the forfeiture is vacated.
 10 (4) A payment of money as a penalty or as costs in accordance
 11 with an agreement between a moving traffic violator and a traffic
 12 violations bureau.

13 **(b) "Conviction", for purposes of IC 9-24-6, has the meaning set**
 14 **forth in 49 CFR 383.5 as in effect July 1, 2010.**

15 SECTION 5. IC 9-13-2-105, AS AMENDED BY P.L.191-2007,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2010]: Sec. 105. (a) "Motor vehicle" means, except as
 18 otherwise provided in this section, a vehicle that is self-propelled. The
 19 term does not include a farm tractor, an implement of agriculture
 20 designed to be operated primarily in a farm field or on farm premises,
 21 or an electric personal assistive mobility device.

22 (b) "Motor vehicle", for purposes of IC 9-21, means:
 23 (1) a vehicle except a motorized bicycle that is self-propelled; or
 24 (2) a vehicle that is propelled by electric power obtained from
 25 overhead trolley wires, but not operated upon rails.

26 (c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25,
 27 means a vehicle that is self-propelled upon a highway in Indiana. The
 28 term does not include a farm tractor.

29 (d) "Motor vehicle", for purposes of IC 9-30-10, does not include a
 30 motorized bicycle.

31 (e) "Motor vehicle", for purposes of IC 9-23-2 and IC 9-23-3,
 32 includes a semitrailer.

33 **(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning**
 34 **set forth in 49 CFR 383.5 as in effect July 1, 2010.**

35 SECTION 6. IC 9-13-2-173, AS AMENDED BY P.L.2-2007,
 36 SECTION 141, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2010]: Sec. 173. (a) "State" means, except as
 38 otherwise provided by this section and unless by the context some other
 39 state or territory or federal district of the United States is meant or
 40 intended, the state of Indiana.

41 (b) "State", for purposes of IC 9-27-1, means the state of Indiana,
 42 the governor of Indiana, an agency of the state of Indiana designated by

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1 the governor to receive federal aid, and any officer, board, bureau,
2 commission, division, or department, any public body corporate and
3 politic created by the state of Indiana for public purposes, or any state
4 educational institution.

5 (c) "State", for purposes of IC 9-25, means any state in the United
6 States, the District of Columbia, or any Province of the Dominion of
7 Canada.

8 (d) "State", for purposes of section 120.5 of this chapter **and**
9 **IC 9-24-6**, means any state in the United States or the District of
10 Columbia.

11 SECTION 7. IC 9-13-2-196, AS AMENDED BY P.L.41-2006,
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2010]: Sec. 196. (a) "Vehicle" means, except as otherwise
14 provided in this section, a device in, upon, or by which a person or
15 property is, or may be, transported or drawn upon a highway.

16 (b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not
17 include the following:

- 18 (1) A device moved by human power.
- 19 (2) A vehicle that runs only on rails or tracks.
- 20 (3) A vehicle propelled by electric power obtained from overhead
21 trolley wires but not operated upon rails or tracks.
- 22 (4) A firetruck and apparatus owned by a person or municipal
23 division of the state and used for fire protection.
- 24 (5) A municipally owned ambulance.
- 25 (6) A police patrol wagon.
- 26 (7) A vehicle not designed for or employed in general highway
27 transportation of persons or property and occasionally operated or
28 moved over the highway, including the following:
 - 29 (A) Road construction or maintenance machinery.
 - 30 (B) A movable device designed, used, or maintained to alert
31 motorists of hazardous conditions on highways.
 - 32 (C) Construction dust control machinery.
 - 33 (D) Well boring apparatus.
 - 34 (E) Ditch digging apparatus.
 - 35 (F) An implement of agriculture designed to be operated
36 primarily in a farm field or on farm premises.
 - 37 (G) An invalid chair.
 - 38 (H) A yard tractor.
- 39 (8) An electric personal assistive mobility device.

40 (c) For purposes of IC 9-20 and IC 9-21, the term does not include
41 devices moved by human power or used exclusively upon stationary
42 rails or tracks.

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1 (d) For purposes of IC 9-22, the term refers to an automobile, a
2 motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school
3 bus, a recreational vehicle, a trailer or semitrailer used in the
4 transportation of watercraft, or a motorized bicycle.

5 (e) For purposes of IC 9-24-6, the term has the meaning set
6 forth in 49 CFR 383.5 as in effect July 1, 2010.

7 (f) For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and
8 IC 9-30-9, the term means a device for transportation by land or air.
9 The term does not include an electric personal assistive mobility
10 device.

11 SECTION 8. IC 9-24-6-0.3 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2010]: **Sec. 0.3. As used in this chapter, "alcohol" has the
14 meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.**

15 SECTION 9. IC 9-24-6-2, AS AMENDED BY P.L.76-2009,
16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2010]: Sec. 2. (a) The bureau shall adopt rules under
18 IC 4-22-2 to regulate persons required to hold a commercial driver's
19 license.

20 (b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49
21 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49
22 CFR 383 through 384, and may not be more restrictive than the federal
23 Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law
24 106-159, 113 Stat. 1748).

- 25 (c) Rules adopted under this section must include the following:
- 26 (1) Establishment of classes and periods of validation of
27 commercial driver's licenses, including the period set forth in
28 IC 9-24-12-6(e).
 - 29 (2) Standards for commercial driver's licenses, including
30 suspension and revocation procedures.
 - 31 (3) Requirements for documentation of eligibility for legal
32 employment, as set forth in 8 CFR 274a.2, and proof of Indiana
33 residence.
 - 34 (4) Development of written or oral tests, driving tests, and fitness
35 requirements.
 - 36 (5) Defining the commercial driver's licenses by classification and
37 the information to be contained on the licenses, including a
38 unique identifier of the holder.
 - 39 (6) Establishing fees for the issuance of commercial driver's
40 licenses, including fees for testing and examination.
 - 41 (7) Procedures for the notification by the holder of a commercial
42 driver's license to the bureau and the driver's employer of

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pointable traffic offense convictions.

(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued. **The rules must carry out 49 CFR 383.71(b) with respect to an applicant for a commercial driver's license for a holder of a commercial driver's license in another state who seeks a transfer of the commercial driver's license to Indiana.**

(9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 through 384 are adopted as Indiana law.

SECTION 10. IC 9-24-6-6, AS AMENDED BY P.L.1-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The following, if committed while driving a commercial motor vehicle **or while holding any class of commercial driver's license**, are serious traffic violations:

- (1) Operating a vehicle at least fifteen (15) miles per hour above the posted speed limit in violation of IC 9-21-5, IC 9-21-6, or IC 9-21-5-14.
- (2) Operating a vehicle recklessly as provided in IC 9-21-8-50 and IC 9-21-8-52.
- (3) Improper or erratic traffic lane changes in violation of IC 9-21-8-2 through IC 9-21-8-13 and IC 9-21-8-17 through IC 9-21-8-18.
- (4) Following a vehicle too closely in violation of IC 9-21-8-14 through IC 9-21-8-16.
- (5) In connection with a fatal accident, violating any statute, ordinance, or rule concerning motor vehicle traffic control other than parking statutes, ordinances, or rules.
- (6) Operating a vehicle while disqualified under this chapter.
- (7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:
 - (A) Slow down and determine that the railroad tracks are clear of an approaching train, in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.
 - (B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train, in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.
- (8) For all drivers, whether or not they are required to always stop at a railroad crossing, to do any of the following:
 - (A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.

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- 1 (B) Failing to obey a traffic control device or failing to obey
- 2 the directions of a law enforcement officer at a railroad
- 3 crossing, in violation of IC 9-21-8-1 or any similar statute.
- 4 (C) Stopping in a railroad crossing because of insufficient
- 5 undercarriage clearance, in violation of IC 35-42-2-4,
- 6 IC 9-21-8-50, or any similar statute.
- 7 **(9) Operating a commercial motor vehicle without having**
- 8 **ever obtained a commercial driver's license.**
- 9 **(10) Operating a commercial motor vehicle without a**
- 10 **commercial driver's license in the possession of the individual.**
- 11 **(11) Operating a commercial motor vehicle without holding**
- 12 **the proper class or endorsement of a commercial driver's**
- 13 **license for the operation of the class of the commercial motor**
- 14 **vehicle.**

15 (b) Subsection (a)(1) and (a)(8) is intended to comply with the
 16 provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under
 17 that statute.

18 SECTION 11. IC 9-24-6-8 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The following, if
 20 committed while driving a commercial motor vehicle **or while holding**
 21 **any class of commercial driver's license**, are disqualifying offenses:

- 22 (1) Operating a vehicle while under the influence of alcohol in
- 23 violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this
- 24 chapter.
- 25 (2) Operating a vehicle while under the influence of a controlled
- 26 substance in violation of IC 9-30-5-1(c).
- 27 (3) Leaving the scene of an accident involving the driver's
- 28 commercial motor vehicle in violation of IC 9-26-1.
- 29 (4) Conviction of a felony involving the use of a commercial
- 30 motor vehicle other than a felony described in subdivision (5).
- 31 (5) Use of a commercial motor vehicle in the commission of a
- 32 felony under IC 35-48 involving manufacturing, distributing, or
- 33 dispensing of a controlled substance.
- 34 (6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving
- 35 operating a vehicle while intoxicated.
- 36 (7) Refusing to undergo testing for the enforcement of
- 37 IC 9-30-5-1 or section 15 of this chapter.

38 SECTION 12. IC 9-24-6-17 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. A person who
 40 knowingly allows, requires, permits, or authorizes another person ~~who~~
 41 ~~is disqualified under this article from driving to drive~~ a commercial
 42 motor vehicle ~~to drive~~ **during a period in which:**

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- 1 **(1) the other person is disqualified under this article from**
- 2 **driving a commercial motor vehicle; or**
- 3 **(2) the driver, the commercial motor vehicle that the other**
- 4 **person is driving, or the motor carrier operation is subject to**
- 5 **an out-of-service order;**

6 commits a Class C misdemeanor.

7 SECTION 13. IC 9-24-6-19 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) It is unlawful for
9 a person to violate or fail to comply with an out-of-service order.

10 (b) If a person operates a vehicle in violation of an out-of-service
11 order, in addition to any other penalty imposed for violation of an
12 out-of-service order under this chapter, the court shall impose a civil
13 penalty ~~of one thousand dollars (\$1,000)~~. **in accordance with 49 CFR**
14 **383.53 as in effect July 1, 2010.**

15 (c) If an employer violates an out-of-service order, or knowingly
16 requires or permits a driver to violate or fail to comply with an
17 out-of-service order, in addition to any other penalty imposed for
18 violation of an out-of-service order under this chapter, the court shall
19 impose a civil penalty on the employer ~~of two thousand five hundred~~
20 ~~dollars (\$2,500)~~. **in accordance with 49 CFR 383.53 as in effect July**
21 **1, 2010.**

22 (d) All civil penalties assessed under this section must be collected
23 and transferred by the clerk of the court to the bureau. The bureau shall
24 deposit the money in the motor vehicle highway account established by
25 IC 8-14-1.

26 (e) A civil penalty assessed under this section is a judgment subject
27 to proceedings supplemental by the bureau.

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