

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.

SENATE ENROLLED ACT No. 74

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 8-2.1-24-1, AS AMENDED BY P.L.42-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** This chapter applies to the certification of a motor carrier providing intrastate transportation by motor vehicle of property or passengers for compensation.

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

- (1) A motor carrier described in subsection (a).**
- (2) Except as provided in section 18(j) of this chapter, a private carrier of persons or property, or both.**

SECTION 2. IC 8-2.1-24-3, AS AMENDED BY P.L.42-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in section 18 of this chapter, this chapter does not apply to the following:

- (1) Motor vehicles used exclusively for carrying United States mail.
- (2) Motor vehicles while being used or operated under the control, direction, and supervision of:
 - (A) the United States government, the state, or a political subdivision; or
 - (B) the board of trustees of a state institution.
- (3) Motor vehicles while transporting supplies, livestock feed

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ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.

(4) Motor vehicles:

(A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;

(B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);

(C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:

- (i) other property;
- (ii) agricultural commodities; or
- (iii) passengers;

for compensation; or

(D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

(5) Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

(6) Motor vehicles operating exclusively in intrastate commerce that have a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating equal to or less than twenty-six thousand (26,000) pounds. However, the motor vehicle may not be:

- (A) used to provide for-hire transport;**
- (B) designed or used to transport sixteen (16) or more passengers, including the driver; or**
- (C) used to transport hazardous material in amounts**

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requiring a placard.

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

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

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

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

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

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used

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only if all the following conditions exist:

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

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

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

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

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

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

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

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

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

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

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

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

(g) Notwithstanding subsection (a) or (b), the following provisions

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of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

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

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

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

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

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

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law

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enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

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

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

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

(h) For purposes of ~~49 CFR 395.1(f)~~, **49 CFR 395.1(k)(2)**, "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in ~~49 CFR 395.1(f)~~, **49 CFR 395.1(k)**, as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

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

(j) **This section does not apply to private carriers that operate using only the type of motor vehicles specified in IC 8-2.1-24-3(6).**

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

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

SECTION 5. IC 9-13-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 29. "Commercial driver's license" means a license issued by the state to an individual that authorizes the individual to operate a class of commercial motor**

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~~vehicles~~ has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 6. IC 9-13-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 35. (a) **Except as provided in subsection (b),** "controlled substance" has the meaning set forth in IC 35-48-1.

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

SECTION 7. IC 9-13-2-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38. (a) **Except as provided in subsection (b),** "conviction" includes the following:

- (1) A conviction or judgment upon a plea of guilty or nolo contendere.
- (2) A determination of guilt by a jury or a court, even if:
 - (A) no sentence is imposed; or
 - (B) a sentence is suspended.
- (3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.
- (4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

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

SECTION 8. IC 9-13-2-105, AS AMENDED BY P.L.191-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

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

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

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

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning

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set forth in 49 CFR 383.5 as in effect July 1, 2010.

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

(b) "State", for purposes of IC 9-27-1, means the state of Indiana, the governor of Indiana, an agency of the state of Indiana designated by the governor to receive federal aid, and any officer, board, bureau, commission, division, or department, any public body corporate and politic created by the state of Indiana for public purposes, or any state educational institution.

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

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

SECTION 10. IC 9-13-2-196, AS AMENDED BY P.L.41-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

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

- (1) A device moved by human power.
- (2) A vehicle that runs only on rails or tracks.
- (3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.
- (4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.
- (5) A municipally owned ambulance.
- (6) A police patrol wagon.
- (7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:
 - (A) Road construction or maintenance machinery.
 - (B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.
 - (C) Construction dust control machinery.
 - (D) Well boring apparatus.

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- (E) Ditch digging apparatus.
- (F) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.
- (G) An invalid chair.
- (H) A yard tractor.

(8) An electric personal assistive mobility device.

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

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

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

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

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

SECTION 12. IC 9-24-6-6, AS AMENDED BY SEA 73-2010, SECTION 9, 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.

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(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 or other on-track equipment, 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 or other on-track equipment, 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.

(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.

(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.

(9) Operating a commercial motor vehicle without having ever obtained a commercial driver's license.

(10) Operating a commercial motor vehicle without a commercial driver's license in the possession of the individual.

(11) Operating a commercial motor vehicle without holding the proper class or endorsement of a commercial driver's license for the operation of the class of the commercial motor vehicle.

(b) Subsection (a)(1) ~~and (a)(8)~~ **is through (a)(11) are** intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under that statute.

SECTION 13. IC 9-24-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The following, if committed while driving a commercial motor vehicle **or while holding any class of commercial driver's license**, are disqualifying offenses:

(1) Operating a vehicle while under the influence of alcohol in violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this chapter.

(2) Operating a vehicle while under the influence of a controlled substance in violation of IC 9-30-5-1(c).

(3) Leaving the scene of an accident involving the driver's commercial motor vehicle in violation of IC 9-26-1.

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- (4) Conviction of a felony involving the use of a commercial motor vehicle other than a felony described in subdivision (5).
- (5) Use of a commercial motor vehicle in the commission of a felony under IC 35-48 involving manufacturing, distributing, or dispensing of a controlled substance.
- (6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving operating a vehicle while intoxicated.
- (7) Refusing to undergo testing for the enforcement of IC 9-30-5-1 or section 15 of this chapter.

SECTION 14. IC 9-24-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. A person who knowingly allows, requires, permits, or authorizes another person ~~who is disqualified under this article from driving to drive~~ a commercial motor vehicle ~~to drive during a period in which:~~

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

commits a Class C misdemeanor.

SECTION 15. IC 9-24-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) It is unlawful for a person to violate or fail to comply with an out-of-service order.

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

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

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

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

SECTION 16. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON

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SECTION 17. **An emergency is declared for this act.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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