

# SENATE BILL No. 522

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Commercial driver's license. Exempts an individual who held a commercial driver's license before April 1, 1992, and who is engaged only in intrastate commerce from federal requirements for minimum distant binocular visual acuity.

**Effective:** July 1, 1999.

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January 19, 1999, read first time and referred to Committee on Transportation and Interstate Cooperation.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## SENATE BILL No. 522

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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 8-2.1-24-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) 49 CFR Parts  
3 382, 385 through 387, 390 through 393, and 395 through 398 is  
4 incorporated into Indiana law by reference, and, except as provided in  
5 subsections (d), (e), (f), and (g), must be complied with by an interstate  
6 and intrastate motor carrier of persons or property throughout Indiana.  
7 Intrastate motor carriers subject to compliance reviews under 49 CFR  
8 385 shall be selected according to criteria determined by the  
9 superintendent which must include but is not limited to factors such as  
10 previous history of violations found in roadside compliance checks and  
11 other recorded violations. However, the provisions of 49 CFR 395 that  
12 regulate the hours of service of drivers, including requirements for the  
13 maintenance of logs, do not apply to a driver of a truck that is  
14 registered by the bureau of motor vehicles and used as a farm truck  
15 under IC 9-18, or a vehicle operated in intrastate construction or  
16 construction related service, or the restoration of public utility services  
17 interrupted by an emergency. Intrastate motor carriers not operating

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1 under authority issued by the United States Department of  
 2 Transportation shall comply with the requirements of 49 CFR  
 3 390.21(b)(3) by registering with the department of state revenue as an  
 4 intrastate motor carrier and displaying the certification number issued  
 5 by the department of state revenue preceded by the letters "IN". All  
 6 other requirements of 49 CFR 390.21 apply equally to interstate and  
 7 intrastate motor carriers.

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

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

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

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

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

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

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

- 36 (1) a state police officer or state police motor carrier inspector  
 37 who:
  - 38 (A) has successfully completed a course of instruction  
 39 approved by the Federal Highway Administration; and
  - 40 (B) maintains an acceptable competency level as established  
 41 by the state police department; or
- 42 (2) an employee of a law enforcement agency who:



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1 (A) before January 1, 1991, has successfully completed a  
 2 course of instruction approved by the Federal Highway  
 3 Administration; and

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

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

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

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

18 (g) Notwithstanding subsection (b), the following provisions of 49  
 19 CFR do not apply to private carriers of property operated only in  
 20 intrastate commerce or any carriers of property operated only in  
 21 intrastate commerce while employed in construction or construction  
 22 related service:

23 (1) Subpart 391.41 as it applies to physical qualifications of  
 24 drivers hired before September 1, 1985.

25 (2) Subpart 391.41(b)(3) as it applies to physical qualifications of  
 26 a driver who has held a commercial driver's license (as defined in  
 27 IC 9-13-2-29) before April 1, 1992, diagnosed as an insulin  
 28 dependent diabetic, if the driver has filed an annual statement  
 29 with the bureau of motor vehicles completed, and signed by a  
 30 certified endocrinologist attesting that the driver:

31 (A) is otherwise physically qualified under Subpart 391.41 to  
 32 operate a motor vehicle and is not likely to suffer any  
 33 diminution in driving ability due to the driver's diabetic  
 34 condition;

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

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

40 (D) has agreed to and, to the endocrinologist's knowledge, has  
 41 carried a source of rapidly absorbable glucose at all times  
 42 while driving a motor vehicle, has self monitored blood

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1 glucose levels one (1) hour before driving and at least once  
 2 every four (4) hours while driving or on duty before driving  
 3 using a portable glucose monitoring device equipped with a  
 4 computerized memory; and

5 (E) has submitted the blood glucose logs from the monitoring  
 6 device to the endocrinologist at the time of the annual medical  
 7 examination.

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

16 **(3) Subpart 391.41(b)(10) as it applies to physical**  
 17 **qualifications of a driver who has held a commercial driver's**  
 18 **license (as defined in IC 9-13-2-29) before April 1, 1992, who**  
 19 **does not meet the requirement established for distant**  
 20 **binocular acuity in both eyes.**

21 ~~(3)~~ (4) Subpart 396.9 as it applies to inspection of vehicles  
 22 carrying or loaded with a perishable product. However, this  
 23 exemption does not prohibit a law enforcement officer from  
 24 stopping these vehicles for an obvious violation that poses an  
 25 imminent threat of an accident or incident. The exemption is not  
 26 intended to include refrigerated vehicles loaded with perishables  
 27 when the refrigeration unit is working.

28 ~~(4)~~ (5) Subpart 396.11 as it applies to driver vehicle inspection  
 29 reports.

30 ~~(5)~~ (6) Subpart 396.13 as it applies to driver inspection.

31 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting  
 32 season" refers to the period between January 1 and December 31 of  
 33 each year. The intrastate commerce exception set forth in 49 CFR  
 34 395.1(l), as it applies to the transportation of agricultural commodities  
 35 and farm supplies, is restricted to single vehicles and cargo tank motor  
 36 vehicles with a capacity of not more than five thousand four hundred  
 37 (5,400) gallons.

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

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