

# HOUSE BILL No. 1866

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5; IC 6-3-2.5; IC 6-8-11-2; IC 6-8.1; IC 8-2.1; IC 9-18-26-10.

**Synopsis:** Department of state revenue provisions. Extends the use tax exemption for tangible personal property that is destined out of state to property that is delivered from within Indiana. (Current law provides that only the use of property delivered into Indiana is exempt.) Changes the definition of qualifying child for the earned income tax deduction. Changes the definition of dependent for the medical care savings account deduction. Permits set offs of income tax refunds for the Internal Revenue Service. Requires the department of state revenue to compile business income data. Allows the department of state revenue to enter into an agreement with the Secretary of the Treasury to offset federal tax refunds for Indiana income taxes owed. Requires state gross retail and use taxes to be paid monthly but reports to be filed quarterly, (Continued next page)

**Effective:** January 1, 1999 (retroactive); July 1, 1999; January 1, 2000.

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**Bauer**

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January 26, 1999, read first time and referred to Committee on Ways and Means.

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Digest Continued

except under certain circumstances. Combines the motor carrier certification process for property and passenger carriers under the property carrier law. Removes vehicle registration information from the income tax return. Eliminates the requirement that voter registration forms be included in income tax returns that are mailed. Corrects internal references.

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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.

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## HOUSE BILL No. 1866



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-2.5-3-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) An excise tax,  
 3 known as the use tax, is imposed on the storage, use, or consumption  
 4 of tangible personal property in Indiana if the property was acquired in  
 5 a retail transaction, regardless of the location of that transaction or of  
 6 the retail merchant making that transaction.  
 7 (b) The use tax is also imposed on the storage, use, or consumption  
 8 of a vehicle, an aircraft, or a watercraft if the vehicle, aircraft, or  
 9 watercraft:  
 10 (1) is acquired in a transaction that is an isolated or occasional  
 11 sale; and  
 12 (2) is required to be titled, licensed, or registered by this state for  
 13 use in Indiana.  
 14 (c) The use tax is imposed on the addition of tangible personal  
 15 property to a structure or facility if, after its addition, the property



1 becomes part of the real estate on which the structure or facility is  
 2 located. However, the use tax does not apply to additions of tangible  
 3 personal property described in this subsection if:

- 4 (1) the state gross retail or use tax has been previously imposed  
 5 on the sale or use of that property or  
 6 (2) the ultimate purchaser or recipient of that property would have  
 7 been exempt from the state gross retail and use taxes if that  
 8 purchaser or recipient had directly purchased the property from  
 9 the supplier for addition to the structure or facility.

10 (d) Notwithstanding any other provision of this section, the use tax  
 11 is not imposed on the keeping, retaining, or exercising of any right or  
 12 power over tangible personal property if:

- 13 (1) the property is delivered ~~into~~ **from within or outside** Indiana  
 14 by or for the purchaser of the property;  
 15 (2) the property is delivered ~~in~~ **from within or outside** Indiana  
 16 for the sole purpose of being processed, printed, fabricated, or  
 17 manufactured into, attached to, or incorporated into other tangible  
 18 personal property; and  
 19 (3) the property is subsequently transported out of state for use  
 20 solely outside Indiana.

21 SECTION 2. IC 6-2.5-6-1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Each person  
 23 liable for collecting the state gross retail or use tax shall ~~file a return for~~  
 24 ~~each calendar month and~~ pay the state gross retail and use taxes that the  
 25 person collects during ~~that each calendar month. The payment shall~~  
 26 ~~be made not later than twenty (20) days after the end of the~~  
 27 ~~following month.~~ A person shall file the person's return for a particular  
 28 month with the department and make the person's tax payment for that  
 29 month to the department not more than thirty (30) days after the end of  
 30 that month; if that person's average monthly liability for collections of  
 31 state gross retail and use taxes under this section as determined by the  
 32 department for the preceding calendar year did not exceed one  
 33 thousand dollars (\$1,000); If a person's average monthly liability for  
 34 collections of state gross retail and use taxes under this section as  
 35 determined by the department for the preceding calendar year exceeded  
 36 one thousand dollars (\$1,000); that person shall file the person's return  
 37 for a particular month and make the person's tax payment for that  
 38 month to the department not more than twenty (20) days after the end  
 39 of that month: **for each calendar quarter. The return shall be filed**  
 40 **not later than thirty (30) days after the end of each quarter.**

41 (b) If a person files a combined sales and withholding tax report and  
 42 either this section or IC 6-3-4-8.1 requires sales or withholding tax

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1 reports to be filed and remittances to be made within twenty (20) days  
 2 after the end of each month, then the person shall file the combined  
 3 report and remit the sales and withholding taxes due within twenty (20)  
 4 days after the end of each month.

5 ~~(b) Instead of twelve (12) monthly reporting periods required under~~  
 6 ~~subsection (a), the department may permit a person to divide a year into~~  
 7 ~~a different number of reporting periods. Each return and payment for~~  
 8 ~~those reporting periods is due not more than thirty (30) days after the~~  
 9 ~~end of the respective period.~~

10 (c) Instead of the reporting periods required under subsection (a),  
 11 the department may permit a retail merchant to report and pay the  
 12 merchant's state gross retail and use taxes for a period covering:

13 (1) a calendar year, if the retail merchant's average monthly state  
 14 gross retail and use tax liability in the previous calendar year does  
 15 not exceed ten dollars (\$10); **or**

16 (2) a calendar half year, if the retail merchant's average monthly  
 17 state gross retail and use tax liability in the previous calendar year  
 18 does not exceed twenty-five dollars (\$25). ~~or~~

19 ~~(3) a calendar quarter, if the retail merchant's average monthly~~  
 20 ~~state gross retail and use tax liability in the previous calendar year~~  
 21 ~~does not exceed seventy-five dollars (\$75).~~

22 A retail merchant using a reporting period allowed under this  
 23 subsection must file the merchant's return and pay the merchant's tax  
 24 for a reporting period no later than ~~the last day of the month~~  
 25 **immediately twenty (20) days** following the close of that reporting  
 26 period.

27 (d) If a retail merchant reports the merchant's gross income tax, or  
 28 the tax the merchant pays in place of the gross income tax, over a fiscal  
 29 year or fiscal quarter not corresponding to the calendar year or calendar  
 30 quarter, the merchant may, without prior departmental approval, report  
 31 and pay the merchant's state gross retail and use taxes over the  
 32 merchant's fiscal period that corresponds to the calendar period the  
 33 merchant is permitted to use under subsection (c). However, the  
 34 department may, at any time, require the retail merchant to stop using  
 35 the fiscal reporting period.

36 (e) If a retail merchant files a combined sales and withholding tax  
 37 report, the reporting period for the combined report is the shortest  
 38 period required under:

39 (1) this section;

40 (2) IC 6-3-4-8; or

41 (3) IC 6-3-4-8.1.

42 (f) If the department determines that a person's:

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1 (1) estimated monthly gross retail and use tax liability for the  
2 current year; or

3 (2) average monthly gross retail and use tax liability for the  
4 preceding year;

5 exceeds, **before January 1, 2000**, ten thousand dollars (\$10,000) **or**,  
6 **after December 31, 1999, five thousand dollars (\$5,000)**, the person  
7 shall pay the monthly gross retail and use taxes due by electronic fund  
8 transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by  
9 overnight courier a payment by cashier's check, certified check, or  
10 money order to the department. The transfer or payment shall be made  
11 on or before the date the tax is due.

12 (g) If a person's gross retail and use tax payment is made by  
13 electronic fund transfer, the taxpayer is not required to file a monthly  
14 gross retail and use tax return. However, the person shall file a  
15 quarterly gross retail and use tax return before the twentieth day  
16 following the end of each calendar quarter.

17 SECTION 3. IC 6-3-2.5-3 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. As used in this  
19 chapter, "Indiana total income" means the sum of the following for an  
20 individual taxpayer, and if the individual taxpayer files a joint return,  
21 the individual taxpayer's spouse, for a taxable year:

22 (1) Adjusted gross income (as defined in Section 62 of the  
23 Internal Revenue Code).

24 (2) Taxes deducted on a federal income tax return, as described  
25 in IC 6-3-1-3.5(a)(2).

26 (3) Any net operating loss carried forward from a prior year and  
27 reported on the taxpayer's federal income tax return for the  
28 taxable year.

29 (4) The total ordinary income portion of a lump sum distribution  
30 described in ~~IC 6-3-1-3.5(a)(6)~~: **IC 6-3-1-3.5(a)(7)**.

31 (5) Any other taxable income not described in subdivision (1).

32 SECTION 4. IC 6-3-2.5-4 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
34 Sec. 4. As used in this chapter, "qualifying child" means an individual  
35 who:

36 (1) is the child, stepchild, or foster child of the individual  
37 taxpayer;

38 (2) resides in Indiana with the individual taxpayer, including the  
39 individual taxpayer's spouse in the case of a joint return, for more  
40 than one-half (1/2) of the taxable year;

41 (3) is dependent on the individual taxpayer, including the  
42 individual taxpayer's spouse in the case of a joint return, for more

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1 than one-half (1/2) of the individual's support;  
 2 (4) is less than nineteen (19) years of age on the last day of the  
 3 taxable year; and  
 4 (5) is not married on the last day of the taxable year.

5 **for whom the taxpayer is entitled to an exemption under Section**  
 6 **151(c)(1)(B) of the Internal Revenue Code.**

7 SECTION 5. IC 6-8-11-2 IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 2. As used  
 9 in this chapter, "dependent" means any of the following:

- 10 (1) The spouse of an employee.  
 11 (2) An employee's child who is one (1) of the following:  
 12 (A) Less than nineteen (19) years of age;  
 13 (B) Less than twenty-three (23) years of age and enrolled as a  
 14 full-time student at an accredited college or university;  
 15 (C) Legally entitled to the provision by the employee of proper  
 16 or necessary subsistence; education; medical care; or other  
 17 care necessary for the child's health; guidance; or well-being;  
 18 and not otherwise emancipated; self-supporting; married; or a  
 19 member of the armed forces of the United States;  
 20 (D) Mentally or physically incapacitated to the extent that the  
 21 child is not self-sufficient. **for whom the taxpayer is entitled**  
 22 **to an exemption under Section 151(c)(1)(B) of the Internal**  
 23 **Revenue Code.**

24 SECTION 6. IC 6-8.1-3-19 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 19. The  
 26 department shall print and include a voter registration form designed  
 27 by the Indiana election commission under IC 3-7-23 in **each any** state  
 28 adjusted gross income tax booklet that is **not** mailed to a taxpayer.  
 29 using a preprinted mailing label with an Indiana address:

30 SECTION 7. IC 6-8.1-6-5 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 5. (a) The  
 32 department shall request from each taxpayer

- 33 (1) ~~vehicle identification information for vehicles owned by the~~  
 34 ~~taxpayer; and~~  
 35 (2) the amount of the taxpayer's gross income (as defined in  
 36 Section 61 of the Internal Revenue Code) derived from sources  
 37 within or outside Indiana using the provisions applicable to  
 38 determining the source of adjusted gross income that are set forth  
 39 in IC 6-3-2-2. The taxpayer shall itemize the amount of gross  
 40 income derived from each source.

41 (b) The department shall send a list to the bureau of motor vehicles  
 42 showing by taxpayer the vehicle identification information obtained by



1 the department. However, the name, tax identification number, and the  
 2 corresponding information sent to the bureau may not include income  
 3 tax information.

4 SECTION 8. IC 6-8.1-7-2 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The department  
 6 may compile statistical studies from information derived from state tax  
 7 returns and may disclose the results of those studies. In addition, the  
 8 department may disclose statistical information from the state tax  
 9 returns to the governor, the general assembly, or another state agency,  
 10 for the purpose of allowing those governmental entities to conduct their  
 11 own statistical studies. **The department shall compile data on  
 12 business income, including income reported on an individual tax  
 13 return. The data shall be organized in a manner that allows the  
 14 data to be selected by type of business activity, federal tax status,  
 15 and category of income regardless of the return used to report the  
 16 income. The department shall make the data available to the  
 17 legislative services agency and the budget agency in electronic  
 18 database format for their use in doing studies of business income  
 19 taxation.**

20 (b) Notwithstanding subsection (a), the department may not disclose  
 21 the results of any study and may not disclose any statistical information  
 22 if, as a result of that disclosure:

- 23 (1) the identity of a taxpayer who filed a return would be  
 24 disclosed;  
 25 (2) the identity of a taxpayer could reasonably be associated with  
 26 any of the information which was derived from his return for use  
 27 in a statistical study; or  
 28 (3) the ability of the department to obtain information from  
 29 federal tax returns would, in the department's judgment, be  
 30 jeopardized in any manner.

31 (c) Subject to the rules and regulations of the department, a person  
 32 may request information as to whether an individual filed an income  
 33 tax return pursuant to the Indiana income tax laws for a particular  
 34 taxable year. However, the department may not disclose that  
 35 information with respect to any taxable year until the close of the  
 36 calendar year following the year in which the return should have been  
 37 filed. As soon as practicable after the close of that calendar year, the  
 38 department shall inform the person making the request whether the  
 39 return was filed.

40 SECTION 9. IC 6-8.1-9.5-14 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 1999]: **Sec. 14. (a) The department may enter**



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1 into an agreement with the Secretary of the Treasury of the United  
 2 States under Section 6402 of the Internal Revenue Code to recover  
 3 past due, legally enforceable state income tax obligations owed to  
 4 Indiana.

5 (b) The department may enter into an agreement with the  
 6 Secretary of the Treasury of the United States to set off refunds to  
 7 recover past due, legally enforceable federal income tax obligations  
 8 owed by Indiana residents. Only section 12 of this chapter applies  
 9 to an agreement under this subsection.

10 SECTION 10. IC 6-8.1-10-1 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) If a person  
 12 fails to file a return for any of the listed taxes, fails to pay the full  
 13 amount of tax shown on his return by the due date for the return or the  
 14 payment, or incurs a deficiency upon a determination by the  
 15 department, the person is subject to interest on the nonpayment.

16 (b) The interest for a failure described in subsection (a) is the  
 17 adjusted rate established by the commissioner under subsection (c),  
 18 from the due date for payment. The interest applies to:

- 19 (1) the full amount of the unpaid tax due if the person failed to  
 20 file the return;  
 21 (2) the amount of the tax that is not paid, if the person filed the  
 22 return but failed to pay the full amount of tax shown on the return;  
 23 or  
 24 (3) the amount of the deficiency.

25 (c) The commissioner shall establish an adjusted rate of interest for  
 26 a failure described in subsection (a) and for an excess tax payment on  
 27 or before November 1 of each year. For purposes of subsection (b), the  
 28 adjusted rate of interest shall be the percentage rounded to the nearest  
 29 whole number that equals two (2) percentage points above the average  
 30 investment yield on state money for the state's previous fiscal year,  
 31 excluding pension fund investments, as published in the auditor of  
 32 state's comprehensive annual financial report. For purposes of  
 33 IC 6-8.1-9-2(c), the adjusted rate of interest for an excess tax payment  
 34 is the percentage rounded to the nearest whole number that equals the  
 35 average investment yield on state money for the state's previous fiscal  
 36 year, excluding pension fund investments, as published in the auditor  
 37 of state's comprehensive annual financial report. The adjusted rates of  
 38 interest established under this subsection shall take effect on January  
 39 1 of the immediately succeeding year.

40 (d) For purposes of this section, the filing of a substantially blank or  
 41 unsigned return does not constitute a return.

42 (e) Except as provided by IC 6-8.1-5-2(e)(2), The department may



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1 not waive the interest imposed under this section.

2 (f) Subsections (a) through (c) do not apply to a motor carrier fuel  
3 tax return.

4 SECTION 11. IC 8-2.1-24-1 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. This chapter  
6 applies to the certification of a motor carrier providing intrastate  
7 transportation by motor vehicle of property **or passengers** for  
8 compensation.

9 SECTION 12. IC 8-2.1-24-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. Section 18 of  
11 this chapter applies to the regulation of the following persons:

12 (1) A motor carrier described in section 1 of this chapter.

13 (2) A private carrier of property **or passengers**.

14 SECTION 13. IC 8-2.1-24-3 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. Except as  
16 provided in section 18 of this chapter, this chapter does not apply to the  
17 following:

18 (1) Motor vehicles used exclusively for carrying United States  
19 mail.

20 (2) Motor vehicles while being used or operated under the  
21 control, direction, and supervision of:

22 (A) the United States government, the state, or a political  
23 subdivision; or

24 (B) the board of trustees of a state institution.

25 (3) Motor vehicles while transporting supplies, livestock feed  
26 ingredients, fertilizer, or fertilizing materials that are in transit to  
27 or from farms.

28 (4) Motor vehicles:

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

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

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

40 (i) other property;

41 (ii) agricultural commodities; or

42 (iii) passengers;

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1 for compensation; or

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

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

10 (5) The casual, occasional, or reciprocal transportation of  
11 household effects or furniture for compensation, not including the  
12 transportation for hire of new household effects or furniture to or  
13 from a factory, warehouse, or store, by a person who does not  
14 otherwise engage in the type of transportation for compensation  
15 or who is not required by this chapter to hold a certificate or  
16 permit to engage in the transportation or operation for hire who  
17 does not profess to engage in the business of transporting  
18 household effects or furniture for hire.

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

25 (7) Trucks with a declared gross weight of not more than  
26 forty-eight thousand (48,000) pounds, transporting nonliquid bulk  
27 or bag fertilizers.

28 (8) Motor vehicles while being used to transport chemicals that  
29 are used to melt ice and packed snow on roads and streets if the  
30 chemicals are owned by and being delivered to the state or a  
31 political subdivision for use on roads and streets.

32 (9) Trucks with a declared gross weight of not more than forty-six  
33 thousand (46,000) pounds transporting aggregate materials  
34 (mineral or rock fragments) in bulk when the person providing the  
35 transportation owns or leases not more than one (1) truck for  
36 those purposes.

37 ~~(10) Motor vehicles used for the transportation of household~~  
38 ~~goods.~~

39 SECTION 14. IC 8-2.1-24-4 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. The department  
41 may:

42 (1) certify a motor carrier providing transportation of property **or**



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**passengers** for compensation; ~~and~~  
(2) regulate and supervise safety, insurance, methods, and hours of operation of a motor carrier providing transportation of property **or passengers**; **and**  
(3) **impose a uniform fee on all carriers for establishing and administering the certification process created under this chapter.**

SECTION 15. IC 8-2.1-24-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. A motor carrier may not operate a motor vehicle in the transportation of property **or passengers** upon a public highway in intrastate commerce until the motor carrier has:

- (1) submitted forms approved by the department to be a properly certified motor carrier; and
- (2) been issued an acknowledgment by the department.

An acknowledgment issued under subdivision (2) remains in effect until December 31 of the year in which the acknowledgment is issued.

SECTION 16. IC 8-2.1-24-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. (a) A person may not operate a motor vehicle for the transportation of property **or passengers** upon a public highway, and a motor carrier may not be certified, unless the motor carrier complies with the rules adopted by the department governing the filing and approval of surety bonds, policies of insurance, qualifications of a self-insurer, or other securities or agreements.

(b) A surety bond, policy of insurance, self-insurance, or security or other agreement approved under this section must be of a reasonable amount and conditioned to pay, within the amount of the surety bond, policy of insurance, self-insurance, or security or other agreement, a final judgment recovered against the motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of the motor carrier's registered motor vehicle, or for loss or damage to property of others.

SECTION 17. IC 8-2.1-24-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. (a) 49 CFR Parts 382, 385 through 387, 390 through 393, and 395 through 398 ~~is~~ **are** incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), 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 is not limited to factors such as

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1 previous history of violations found in roadside compliance checks and  
 2 other recorded violations. However, the provisions of 49 CFR 395 that  
 3 regulate the hours of service of drivers, including requirements for the  
 4 maintenance of logs, do not apply to a driver of a truck that is  
 5 registered by the bureau of motor vehicles and used as a farm truck  
 6 under IC 9-18, or a vehicle operated in intrastate construction or  
 7 construction related service, or the restoration of public utility services  
 8 interrupted by an emergency. Intrastate motor carriers not operating  
 9 under authority issued by the United States Department of  
 10 Transportation shall comply with the requirements of 49 CFR  
 11 390.21(b)(3) by registering with the department of state revenue as an  
 12 intrastate motor carrier and displaying the certification number issued  
 13 by the department of state revenue preceded by the letters "IN". All  
 14 other requirements of 49 CFR 390.21 apply equally to interstate and  
 15 intrastate motor carriers.

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

- 19 (1) private carrier;
- 20 (2) common carrier;
- 21 (3) contract carrier;
- 22 (4) motor carrier of property **or passengers**, intrastate;
- 23 (5) hazardous material shipper; and
- 24 (6) carrier otherwise exempt under section 3 of this chapter;

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

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

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

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



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- 1 (d) For the purpose of enforcing this section, only:  
 2 (1) a state police officer or state police motor carrier inspector  
 3 who:  
 4 (A) has successfully completed a course of instruction  
 5 approved by the Federal Highway Administration; and  
 6 (B) maintains an acceptable competency level as established  
 7 by the state police department; or  
 8 (2) an employee of a law enforcement agency who:  
 9 (A) before January 1, 1991, has successfully completed a  
 10 course of instruction approved by the Federal Highway  
 11 Administration; and  
 12 (B) maintains an acceptable competency level as established  
 13 by the state police department;  
 14 on the enforcement of 49 CFR, may, upon demand, inspect the books,  
 15 accounts, papers, records, memoranda, equipment, and premises of any  
 16 carrier, including a carrier exempt under section 3 of this chapter.  
 17 (e) A person hired before September 1, 1985, who operates a motor  
 18 vehicle intrastate incidentally to the person's normal employment duties  
 19 and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a))  
 20 is exempt from 49 CFR 391 as incorporated by this section.  
 21 (f) Notwithstanding any provision of 49 CFR 391 to the contrary, a  
 22 person at least eighteen (18) years of age and less than twenty-one (21)  
 23 years of age may be employed as a driver to operate a commercial  
 24 motor vehicle intrastate. However, a person employed under this  
 25 subsection is not exempt from any other provision of 49 CFR 391.  
 26 (g) Notwithstanding subsection (b), the following provisions of 49  
 27 CFR do not apply to private carriers of property **or passengers**  
 28 operated only in intrastate commerce or any carriers of property **or**  
 29 **passengers** operated only in intrastate commerce while employed in  
 30 construction or construction related service:  
 31 (1) Subpart 391.41 as it applies to physical qualifications of  
 32 drivers hired before September 1, 1985.  
 33 (2) Subpart 391.41(b)(3) as it applies to physical qualifications of  
 34 a driver who has held a commercial driver's license (as defined in  
 35 IC 9-13-2-29) before April 1, 1992, diagnosed as an insulin  
 36 dependent diabetic, if the driver has filed an annual statement  
 37 with the bureau of motor vehicles completed, and signed by a  
 38 certified endocrinologist attesting that the driver:  
 39 (A) is otherwise physically qualified under Subpart 391.41 to  
 40 operate a motor vehicle and is not likely to suffer any  
 41 diminution in driving ability due to the driver's diabetic  
 42 condition;



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

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

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

31 (4) Subpart 396.11 as it applies to driver vehicle inspection  
 32 reports.

33 (5) Subpart 396.13 as it applies to driver inspection.

34 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting  
 35 season" refers to the period between January 1 and December 31 of  
 36 each year. The intrastate commerce exception set forth in 49 CFR  
 37 395.1(l), as it applies to the transportation of agricultural commodities  
 38 and farm supplies, is restricted to single vehicles and cargo tank motor  
 39 vehicles with a capacity of not more than five thousand four hundred  
 40 (5,400) gallons.

41 (i) The superintendent of state police may adopt rules under  
 42 IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by

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1 reference under this section.

2 SECTION 18. IC 8-2.1-24-20 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 20. Before a  
4 motor carrier engaged in the transportation of property for  
5 compensation may operate a motor vehicle upon a public highway  
6 providing intrastate transportation, the motor carrier must be properly  
7 registered as required under the single state registration system in  
8 accordance with rules adopted by the department under IC 4-22-2. This  
9 section does not apply to a person exclusively engaged in the private  
10 transportation of property **or passengers**.

11 SECTION 19. IC 8-2.1-24-25 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 25. (a) The  
13 department or the state police department may impound a motor  
14 vehicle operated for hire if:

- 15 (1) the motor carrier of property **or passengers** has not obtained  
16 the required certification from the department; and  
17 (2) the vehicle is being operated on an Indiana highway.

18 (b) To obtain possession of a motor vehicle impounded under  
19 subsection (a), the motor carrier that operates the motor vehicle must  
20 either:

- 21 (1) obtain the required certification from the department; or  
22 (2) remove from the vehicle all cargo for which the required  
23 certification has not been obtained.

24 (c) If the motor carrier that operates a motor vehicle impounded  
25 under subsection (a) is not the owner of the vehicle, the department or  
26 the state police department shall release the motor vehicle to the owner  
27 unless the owner was aware that the motor vehicle was being operated  
28 without the required certification.

29 (d) Cargo held in a motor vehicle impounded under subsection (a)  
30 must be released if the cargo is loaded into a motor vehicle operated in  
31 compliance with this chapter.

32 SECTION 20. IC 9-18-26-10 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) The  
34 bureau may issue an interim license plate to a dealer or manufacturer  
35 who is licensed and has been issued a license plate under section 1 of  
36 this chapter.

37 (b) The bureau shall prescribe the form of an interim license plate  
38 issued under this section. However, a plate must bear the assigned  
39 registration number and provide sufficient space for the expiration date  
40 as provided in subsection (c).

41 (c) Whenever a dealer or manufacturer sells a motor vehicle, the  
42 dealer or manufacturer may provide the buyer with an interim license

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1 plate. The dealer shall, in the manner provided by the bureau, affix on  
 2 the plate in numerals and letters at least three (3) inches high the date  
 3 on which the interim license plate expires.

4 (d) An interim license plate authorizes a motor vehicle owner to  
 5 operate the vehicle for a maximum period of thirty-one (31) days after  
 6 the date of delivery of the vehicle to the vehicle's owner or until a  
 7 regular license plate is issued, whichever occurs first.

8 (e) A motor vehicle that is required by law to display license plates  
 9 on the front and rear of the vehicle is only required to display a single  
 10 interim plate.

11 (f) **A dealer, manufacturer, or employee of a dealer or**  
 12 **manufacturer may not sell or loan an interim license plate to**  
 13 **another dealer, manufacturer, or employee of a dealer or**  
 14 **manufacturer.**

15 SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 16 JANUARY 1, 2000]: IC 6-8.1-10-11; IC 8-2.1-22.

17 SECTION 22. [EFFECTIVE JANUARY 1, 1999  
 18 (RETROACTIVE)] **IC 6-3-2.5-4 and IC 6-8-11-2, both as amended**  
 19 **by this act, and IC 6-8.1-9.5-14, as added by this act, apply to**  
 20 **taxable years beginning after December 31, 1998.**

21 SECTION 23. **An emergency is declared for this act.**

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