



February 17, 2000

**ENGROSSED
SENATE BILL No. 470**

DIGEST OF SB 470 (Updated February 15, 2000 12:17 PM - DI 22)

Citations Affected: IC 8-2.1.

Synopsis: Identifying information on farm trucks. Provides that the commercial vehicle marking requirements of the code of federal regulations that are incorporated by reference to apply to intrastate carriers do not apply to motor vehicles operated by intrastate carriers or guest users as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes. (Current law exempts such users from the requirement of marking the vehicle with an Indiana department of transportation number.)

Effective: July 1, 2000.

Ford

(HOUSE SPONSORS — LEUCK, CHERRY)

January 10, 2000, read first time and referred to Committee on Agriculture and Small Business.

January 27, 2000, reported favorably — Do Pass.

January 31, 2000, read second time, ordered engrossed.

February 1, 2000, engrossed.

February 7, 2000, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 2000, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

February 16, 2000, amended, reported — Do Pass.

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ES 470—LS 6433/DI 92+



February 17, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

ENGROSSED SENATE BILL No. 470

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, AS AMENDED BY P.L.98-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2000]: Sec. 18. (a) 49 CFR Parts 382, 385 through 387, 390
4 through 393, and 395 through 398 is incorporated into Indiana law by
5 reference, and, except as provided in subsections (d), (e), (f), and (g),
6 must be complied with by an interstate and intrastate motor carrier of
7 persons or property throughout Indiana. Intrastate motor carriers
8 subject to compliance reviews under 49 CFR 385 shall be selected
9 according to criteria determined by the superintendent which must
10 include but is not limited to factors such as previous history of
11 violations found in roadside compliance checks and other recorded
12 violations. However, the provisions of 49 CFR 395 that regulate the
13 hours of service of drivers, including requirements for the maintenance
14 of logs, do not apply to a driver of a truck that is registered by the
15 bureau of motor vehicles and used as a farm truck under IC 9-18, or a
16 vehicle operated in intrastate construction or construction related
17 service, or the restoration of public utility services interrupted by an

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1 emergency. Except for a carrier or a guest operator operating a motor
 2 vehicle as a farm vehicle in connection with agricultural pursuits usual
 3 and normal to the user's farming operation or for personal purposes, but
 4 not operated either part time or incidentally in the conduct of a
 5 commercial enterprise, as provided in subsection (i), intrastate motor
 6 carriers not operating under authority issued by the United States
 7 Department of Transportation shall comply with the requirements of 49
 8 CFR 390.21(b)(3) by registering with the department of state revenue
 9 as an intrastate motor carrier and displaying the certification number
 10 issued by the department of state revenue preceded by the letters "IN".
 11 **Except as provided in subsection (i)**, all other requirements of 49
 12 CFR 390.21 apply equally to interstate and intrastate motor carriers.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (5) 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 requirements of 49 CFR 390.21 do not apply to an**
39 **intrastate carrier or a guest operator not engaged in interstate**
40 **commerce and operating a motor vehicle as a farm vehicle in**
41 **connection with agricultural pursuits usual and normal to the**
42 **user's farming operation or for personal purposes unless the**

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1 **vehicle is operated either part time or incidentally in the conduct**
2 **of a commercial enterprise.**

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

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COMMITTEE REPORT

Mr. President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill No. 470, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 470 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 470, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 39, after "operator" insert "**not engaged in interstate commerce and**".

and when so amended that said bill do pass.

(Reference is to SB 470 as printed January 28, 2000.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

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