



January 28, 2000

HOUSE BILL No. 1034

DIGEST OF HB 1034 (Updated January 27, 2000 1:29 PM - DI 96)

Citations Affected: IC 9-24; IC 29-2.

Synopsis: Organ donor notation on driver's license. Requires the bureau of motor vehicles to ask an applicant for a driver's license or an identification card whether the applicant wishes to make an anatomical gift. Requires the bureau of motor vehicles to indicate upon an application for a driver's license or identification card which specified organs are not intended to be a part of an anatomical gift, if the applicant desires to make an anatomical gift. Makes conforming amendments.

Effective: July 1, 2000; January 1, 2001.

**Goeglein, Grubb, Scholer,
GiaQuinta**

November 23, 1999, read first time and referred to Committee on Roads and Transportation.
January 27, 2000, amended, reported — Do Pass.

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HB 1034—LS 6390/DI 96+



January 28, 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.

HOUSE BILL No. 1034

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 9-24-17-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. A
3 ~~nonprobationary~~ driver's license **and an identification card issued**
4 **under IC 9-24-16** must contain a form by which the applicant may
5 make an anatomical gift under IC 29-2-16.

6 SECTION 2. IC 9-24-17-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) The bureau
8 shall verbally ask every individual who applies for a ~~nonprobationary~~
9 driver's license **or an identification card issued under IC 9-24-16**
10 whether the individual desires to make an anatomical gift.

11 (b) If the individual does **desire to make an anatomical gift**, the
12 bureau shall:

13 (1) assist the individual in completing the form by which the
14 individual makes the gift; **and**

15 (2) **indicate upon the license or identification card which**
16 **specified organs are not intended to be a part of the gift.**

17 SECTION 3. IC 9-24-17-7 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) ~~Upon~~
 2 ~~request the bureau shall make available to an individual who is less~~
 3 ~~than eighteen (18) years of age an anatomical gift card that identifies~~
 4 ~~the individual as an organ donor. Before issuing an individual who is~~
 5 **less than eighteen (18) years of age may make** an anatomical gift,
 6 ~~card;~~ the bureau must obtain and document the consent required under
 7 section 8 of this chapter and the consent of the individual's parent or
 8 guardian.

9 (b) The bureau may charge a fee to an individual ~~obtaining making~~
 10 ~~an anatomical gift card under subsection (a)~~ **section 1 of this chapter.**
 11 The fee must equal an amount necessary to cover the cost of making
 12 available ~~the anatomical a document that acknowledges the making~~
 13 **of the gift. card.**

14 SECTION 4. IC 9-24-17-8 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 8. (a) Each
 16 anatomical gift made under this chapter must be signed by the donor.
 17 If the donor cannot sign, the document may be signed for the donor:

- 18 (1) at the donor's direction and in the donor's presence; and
- 19 (2) in the presence of two (2) witnesses who must sign the
 20 document in the donor's and each other's presence.

21 (b) The card must state that the document was signed in accordance
 22 with this section.

23 (c) If a document of gift is attached to or imprinted on a donor's
 24 motor vehicle ~~operator's or chauffeur's driver's~~ **license or**
 25 **identification card issued under IC 9-24-16**, the document of gift
 26 must comply with this section. Revocation, suspension, ~~expiration,~~ or
 27 cancellation of the license **or expiration of the license or**
 28 **identification card** does not invalidate the anatomical gift.

29 SECTION 5. IC 29-2-16-2 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Any
 31 individual:

- 32 (1) of sound mind and eighteen (18) years of age or more; or
- 33 (2) less than eighteen (18) years of age who obtains ~~an anatomical~~
 34 **gift card the consent of the individual's parent or guardian as**
 35 **required** under IC 9-24-17-7;

36 may give all or any part of the individual's body for any purpose
 37 specified in section 3 of this chapter, the gift to take effect upon death.
 38 An individual may limit a gift made under this chapter or IC 9-24-17
 39 to one (1) of the purposes specified in section 3 of this chapter. An
 40 individual may refuse to make a gift of all or part of the individual's
 41 body.

42 (b) Any of the following individuals, in order of priority stated when



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1 individuals in prior classes are not available at the time of death, and
 2 in the absence of actual notice of contrary indications by the decedent
 3 or actual notice of opposition by a member of the same or a prior class,
 4 may give all or any part of the decedent's body for any purpose
 5 specified in section 3 of this chapter:

- 6 (1) the spouse;
 7 (2) a son or daughter, at least eighteen (18) years of age;
 8 (3) either parent;
 9 (4) a grandparent;
 10 (5) a brother or sister, at least eighteen (18) years of age; or
 11 (6) a guardian of the person of the decedent at the time of his
 12 death.

13 A gift made by an individual under this subsection may be revoked by
 14 an individual in the same or prior class as the individual making the
 15 gift, if the individual doing the removal of an organ receives notice of
 16 the revocation before the organ is removed. A failure to make a gift
 17 under this subsection is not an objection to the making of a gift, and an
 18 individual in a subsequent class may make a gift under this subsection.

19 (c) If the donee has actual notice of contrary indications by the
 20 decedent or that a gift by a member of a class is opposed by a member
 21 of the same or a prior class, the donee shall not accept the gift. The
 22 individuals authorized by subsection (b) may make the gift after or
 23 immediately before death.

24 (d) A gift of all or part of a body authorizes any examination
 25 necessary to assure medical acceptability of the gift for the purposes
 26 intended.

27 (e) The rights of the donee created by the gift are paramount to the
 28 rights of others except as provided by section 7(d) of this chapter.

29 SECTION 6. IC 29-2-16-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. (a) A gift of all
 31 or part of the body under section 2(a) of this chapter may be made by
 32 will. The gift becomes effective upon the death of the testator without
 33 waiting for probate. If the will is not probated, or if it is declared
 34 invalid for testamentary purposes, the gift, to the extent that it has been
 35 acted upon in good faith, is nevertheless valid and effective.

36 (b) A gift of all or part of the body under section 2(a) of this chapter
 37 may also be made by document other than a will. The gift becomes
 38 effective upon the death of the donor. The document, which may be a
 39 card designed to be carried on the person, must be signed by the donor.
 40 If the donor cannot sign, the document may be signed by another for
 41 the donor:

- 42 (1) at the donor's direction and in the donor's presence; and



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1 (2) in the presence of two (2) witnesses who must sign the
 2 document in the donor's presence and each other's presence.
 3 The document must state that it has been signed in accordance with this
 4 subsection. Delivery of the document of gift during the donor's lifetime
 5 is not necessary to make the gift valid.

6 (c) The gift may be made to a specified donee or without specifying
 7 a donee. If the latter, the gift may be accepted by the attending
 8 physician as donee upon or following death. If the gift is made to a
 9 specified donee who is not available at the time and place of death, the
 10 attending physician upon or following death, in the absence of any
 11 expressed indication that the donor desired otherwise, may accept the
 12 gift as donee. The gift of an eye or part of an eye made without
 13 specifying a donee, or made to a donee who is not available at the time
 14 and place of death and without an expression of a contrary desire, may
 15 be accepted by the attending physician as donee on behalf of an eye
 16 bank in Indiana. The physician who becomes a donee under this
 17 subsection shall not participate in the procedures for removing or
 18 transplanting a part.

19 (d) Notwithstanding section 7(b) of this chapter, the donor may
 20 designate in his will, card, or other document of gift the surgeon or
 21 physician to carry out the appropriate procedures. In the absence of a
 22 designation or if the designee is not available, the donee or other
 23 person authorized to accept the gift may employ or authorize any
 24 surgeon or physician for the purpose.

25 (e) After proper certification of death by a physician and compliance
 26 with the intent of the gift as determined by reference to this chapter:

27 (1) with respect to a gift of an eye or part of an eye, including the
 28 cornea or corneal tissue, the eye or part of the eye may be
 29 removed for the gift by:

- 30 (A) a physician licensed under IC 25-22.5; or
 31 (B) an individual who is registered with the medical licensing
 32 board as a corneal excision technician; or

33 (2) with respect to a gift of a whole eye, the eye may be removed
 34 for the gift by:

- 35 (A) a physician licensed under IC 25-22.5;
 36 (B) an individual who is registered with the medical licensing
 37 board as a corneal excision technician;
 38 (C) an embalmer or a funeral director who, before September
 39 1, 1983, completed a course in eye enucleation and was
 40 certified as competent to enucleate eyes by an accredited
 41 school of medicine; or
 42 (D) an individual who is registered with the medical licensing

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- 1 board as an eye enucleator.
- 2 (f) A person who, in good faith reliance upon a will, card, or other
3 document of gift, and without actual notice of the amendment,
4 revocation, or invalidity of the will, card, or document:
- 5 (1) takes possession of a decedent's body or performs or causes to
6 be performed surgical operations upon a decedent's body; or
7 (2) removes or causes to be removed organs, tissues, or other
8 parts from a decedent's body;
- 9 is not liable in damages in any civil action brought against the donor
10 for that act.
- 11 (g) Any gift by a person designated in section 2(b) of this chapter
12 shall be made by a document signed by the donor or made by the
13 donor's telegraphic, recorded telephonic, or other recorded message.
- 14 (h) An individual may refuse to make a gift under this chapter or
15 IC 9-24-17 of all or part of the individual's body by any of the following
16 methods:
- 17 (1) A writing signed in the same manner as a document under
18 subsection (b).
19 (2) A written statement attached to or imprinted on a person's
20 anatomical gift card received from the bureau of motor vehicles
21 under IC 9-24-17 and signed in the same manner as a gift under
22 IC 9-24-17-8.
23 (3) Any writing used to identify the individual as refusing to make
24 an anatomical gift under this chapter.
- 25 During a terminal illness or injury, the refusal may be an oral statement
26 or other form of communication.
- 27 (i) In the absence of a contrary indication by an individual, a gift
28 under this chapter of a part of the individual's body is neither a refusal
29 to give other parts of the body nor a limitation to give only part of the
30 body under this chapter or IC 9-24-17.
- 31 (j) In the absence of a contrary indication by an individual, a
32 revocation or an amendment under section 6 of this chapter is not a
33 refusal to make another gift under this chapter. If an individual intends
34 a revocation to be a refusal to make a gift under this chapter, the
35 individual must make the refusal in accordance with subsection (h).
- 36 (k) A gift under this chapter or IC 9-24-17 that is not revoked before
37 the donor dies is irrevocable.
- 38 (l) If a document of gift is attached to or imprinted on a donor's
39 motor vehicle ~~operator's or chauffeur's~~ **driver's license or**
40 **identification card issued under IC 9-24-16**, the document of gift
41 must comply with this section. Revocation, suspension, ~~expiration,~~ or
42 cancellation of the license **or expiration of the license or**

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- 1 **identification card** does not invalidate the anatomical gift.
 2 SECTION 7. IC 29-2-16-10 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10. (a) As used
 4 in this section:
 5 "Administrator" means a hospital administrator or a hospital
 6 administrator's designee.
 7 "Gift" means a gift of all or any part of the human body made under
 8 this chapter.
 9 "Representative" means a person who is:
 10 (1) authorized under section 2(b) of this chapter to make a gift on
 11 behalf of a decedent; and
 12 (2) available at the time of the decedent's death when members of
 13 a prior class under section 2(b) of this chapter are unavailable.
 14 (b) An administrator of each hospital or the administrator's designee
 15 may ask each patient who is at least eighteen (18) years of age if the
 16 patient is an organ or a tissue donor or if the patient desires to become
 17 an organ or a tissue donor.
 18 (c) The governing board of each hospital shall adopt procedures to
 19 determine under what circumstances an administrator or an
 20 administrator's designee may ask a patient if the patient is an organ or
 21 a tissue donor or if the patient desires to become an organ or a tissue
 22 donor.
 23 (d) The administrator shall inform the representative of the
 24 procedures available under this chapter for making a gift whenever:
 25 (1) an individual dies in a hospital;
 26 (2) the hospital has not been notified that a gift has been
 27 authorized under section 2 of this chapter; and
 28 (3) a physician determines that the individual's body may be
 29 suitable of yielding a gift.
 30 (e) If:
 31 (1) an individual makes an anatomical gift on the individual
 32 driver's license **or identification card** under IC 9-24-17; and
 33 (2) the individual dies;
 34 the person in possession of the individual driver's license **or**
 35 **identification card** shall immediately produce the driver's license **or**
 36 **identification card** for examination upon request, as provided in
 37 section 5 of this chapter.
 38 (f) A gift made in response to information provided under this
 39 section must be documented as described under section 4(g) of this
 40 chapter.
 41 (g) When a representative is informed under this section about the
 42 procedures available for making a gift, the fact that the representative

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1 was so informed must be noted in the decedent's medical record.
2 (h) A person who fails to discharge the duties imposed by this
3 section is not subject to criminal or civil liability but may be subject to
4 administrative sanctions.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1034, 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:

Replace the effective dates in SECTIONS 1 through 5 with "[EFFECTIVE JANUARY 1, 2001]".

Page 1, line 2, strike "nonprobationary".

Page 1, line 8, strike "nonprobationary".

Page 1, line 15, delete "nonprobationary".

Page 2, before line 1, begin a new paragraph and insert:

"SECTION 3. IC 9-24-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) ~~Upon request the bureau shall make available to an individual who is less than eighteen (18) years of age an anatomical gift card that identifies the individual as an organ donor.~~ **Before issuing an individual who is less than eighteen (18) years of age may make an anatomical gift, card,** the bureau must obtain and document the consent required under section 8 of this chapter and the consent of the individual's parent or guardian.

(b) The bureau may charge a fee to an individual ~~obtaining making~~ an anatomical gift ~~card~~ under ~~subsection (a)~~ **section 1 of this chapter.** The fee must equal an amount necessary to cover the cost of making available ~~the anatomical a document that acknowledges the making of the gift. card.~~

Page 2, line 11, strike "operator's or chauffeur's" and insert "**driver's**".

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 4. IC 29-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Any individual:

- (1) of sound mind and eighteen (18) years of age or more; or
- (2) less than eighteen (18) years of age who obtains **an anatomical gift card the consent of the individual's parent or guardian as required** under IC 9-24-17-7;

may give all or any part of the individual's body for any purpose specified in section 3 of this chapter, the gift to take effect upon death. An individual may limit a gift made under this chapter or IC 9-24-17 to one (1) of the purposes specified in section 3 of this chapter. An individual may refuse to make a gift of all or part of the individual's body.

(b) Any of the following individuals, in order of priority stated when



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individuals in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3 of this chapter:

- (1) the spouse;
- (2) a son or daughter, at least eighteen (18) years of age;
- (3) either parent;
- (4) a grandparent;
- (5) a brother or sister, at least eighteen (18) years of age; or
- (6) a guardian of the person of the decedent at the time of his death.

A gift made by an individual under this subsection may be revoked by an individual in the same or prior class as the individual making the gift, if the individual doing the removal of an organ receives notice of the revocation before the organ is removed. A failure to make a gift under this subsection is not an objection to the making of a gift, and an individual in a subsequent class may make a gift under this subsection.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The individuals authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d) of this chapter."

Page 4, line 26, strike "operator's or chauffeur's" and insert "**driver's**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1034 as introduced.)

COOK, Chair

Committee Vote: yeas 8, nays 1.

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