February 20, 2009

HOUSE BILL No. 1650

DIGEST OF HB 1650 (Updated February 18, 2009 4:47 pm - DI 96)

Citations Affected: IC 4-13; IC 9-13; IC 9-19; IC 9-20; IC 9-22; IC 9-26.

Synopsis: Motor vehicle matters. Requires the department of administration to enter into quantity purchase agreements with vendors for the purchase of road salt. Provides that these quantity purchase agreements must require the vendors to offer the road salt to political subdivisions. Provides that political subdivisions: (1) may participate in the solicitation of purchase of road salt by submitting the estimated volume of salt use to the department; and (2) shall be committed to purchasing the minimum fill percentage submitted for solicitation. Provides that certain substances approved by the federal Environmental Protection Agency are acceptable alternatives for use as refrigerants in motor vehicle air conditioning systems. Updates an obsolete reference to a federal statute in the Indiana statute governing recovery of civil penalties by the attorney general for violation of state or federal laws concerning tampering with or resetting odometers. Establishes certain defenses for vehicle weight limit violations. Deletes certain references in vehicle law regarding criminal liability for purposes of weight limitations to bring those references into conformance with vehicle law and current case law. Reduces the length of time that a vehicle must sit under certain circumstances before being considered abandoned. Provides that agents of certain persons are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of certain vehicles or parts. Provides that a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible for purposes of determining whether a vehicle is considered abandoned. Specifies the responsibilities of a driver involved in a nonfatal accident.

Effective: July 1, 2009.

Austin, Michael, Clements, Oxley

January 16, 2009, read first time and referred to Committee on Roads and Transportation.
February 19, 2009, amended, reported — Do Pass.

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February 20, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1650

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:

SECTION 1. IC 4-13-1-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) As used in this section, "salt" means road salt or another product used to treat snow or ice, or both snow and ice.**

(b) The department shall award quantity purchase agreements to vendors for the purchase of salt under IC 5-22.

(c) A quantity purchase agreement awarded under this section must require the vendor to offer to political subdivisions salt under the quantity purchase agreement as provided in IC 5-22-17-9.

(d) Political subdivisions:

(1) may participate in the solicitation of purchase of salt by submitting the estimated volume of use to the department; and

(2) shall be committed to purchasing the minimum fill percentage submitted for solicitation.

(e) The department may adopt rules under IC 4-22-2 for management and control of the process by which political

subdivisions may purchase salt.

SECTION 2. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. "Abandoned vehicle" means the following:

(1) A vehicle located on public property illegally.

(2) A vehicle left on public property without being moved for ~~three (3) days.~~ **twenty-four (24) hours.**

(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.

(7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. **For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.**

SECTION 3. IC 9-19-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Air conditioning equipment shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public and may not contain a refrigerant that is toxic to individuals or that is flammable, **unless the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. 7671k(c).**

SECTION 4. IC 9-19-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A person who:

(1) violates this chapter; or

(2) violates ~~15 U.S.C. 1988~~ **49 U.S.C. 32709** (as in effect January 1, ~~1987);~~ **1995);**

commits a deceptive act and is subject to a civil penalty of not more

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than one thousand five hundred dollars ($1,500) for each violation in addition to other remedies available under this chapter and IC 24-5-0.5. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a penalty, and the penalty may be recovered only in an action brought under IC 24-5-0.5-4(c).

SECTION 5. IC 9-20-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A court shall determine the extent of liability of the driver, carrier, shipper, or other party shown to be ~~criminally~~ liable.

(b) It is a defense if a party can show that the party:

(1) could not reasonably have known the actual weight of the load involved; ~~or~~

(2) had no access to or control of the loading of an overweighted load;

(3) reasonably relied upon the representation of another party regarding the validity, scope, or allowable weight of a permit issued to the other party under this article; or

(4) received written confirmation from a carrier that the carrier:

(A) had a valid permit for the load; or

(B) was not required to have a permit for the load.

(c) If a person who is an owner, a driver, a carrier or a shipper specifically or directly orders or assigns a particular shipment to be loaded:

(1) the person shall be considered to have had control of the loading within the meaning of this section; and

(2) a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person.

(d) The person who has loaded a shipment has control of the loading within the meaning of this section and a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person if the person is self-employed. If the person loading a shipment is not self-employed, then ~~criminal~~ liability affixes to the person's employer jointly and severally with the driver of an overweight vehicle.

(e) If a court determines that the owner of a vehicle or combination of vehicles involved in a case is jointly or severally liable, the owner shall be given ninety (90) days to pay the liability assessed by the court. During the ninety (90) days the court may continue the impounding of the equipment until all fines and costs are paid. If the fines and costs are not paid within the ninety (90) days after the court determination, the court may order the property sold to pay the fines and costs.

(f) The court shall determine the liabilities, rights, and remedies of

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all of the parties involved.

SECTION 6. IC 9-22-1-11, AS AMENDED BY P.L.131-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

SECTION 7. IC 9-22-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

(1) obtain the assistance of an officer under section 18 of this chapter to have the vehicle removed; or

(2) personally arrange for the removal of the vehicle by complying with subsection (b) and section 16 of this chapter.

(b) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns or controls the private property and a telephone number to contact for information.

(2) That the vehicle is considered abandoned.

(3) That the vehicle will be removed after ~~seventy-two (72)~~ **twenty-four (24)** hours.

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(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within ~~seventy-two (72)~~ **twenty-four (24)** hours.

SECTION 8. IC 9-22-1-16, AS AMENDED BY P.L.191-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) If after ~~seventy-two (72)~~ **twenty-four (24)** hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property.

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 9. IC 9-22-1-32, AS AMENDED BY P.L.104-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal **or** storage ~~or disposition~~ of a vehicle or parts under this chapter:

(1) A person who owns, leases, or occupies property from which an abandoned vehicle or **its contents or** parts are removed.

(2) A public agency.

(3) A towing service.

(4) An automobile scrapyard.

(5) A storage yard.

(6) An agent of a person or entity listed in subdivisions (1) through (5).

SECTION 10. IC 9-26-1-2, AS AMENDED BY P.L.126-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person or the entrapment of a person in a vehicle **and that does not involve the transportation of hazardous materials** but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not

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obstruct traffic more than is necessary. **If the accident occurs on a federal interstate highway, or on a ramp providing access to or from a federal interstate highway, the driver shall, as soon as safely possible, move the vehicle off the highway or ramp to a location as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.**

(2) Immediately return to and remain at the scene of the accident until the driver does the following **upon request:**

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Gives the names and addresses of the owner and any occupants of the vehicle the driver was driving, if the names or addresses are different from the name and address provided under clause (A).

(C) Provides proof of financial responsibility (as defined in IC 9-25-2-3) for the motor vehicle.

~~(B) Upon request,~~ **(D)** Exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least one thousand dollars ($1,000), forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005;

within ten (10) days after the accident.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1650, 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:

Delete the title and insert the following:

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

Page 1, line 3, after "(a)" insert "**As used in this section, "salt" means road salt or another product used to treat snow or ice, or both snow and ice.**

(b)".

Page 1, line 4, delete "road".

Page 1, line 6, delete "(b)" and insert "**(c)**".

Page 1, line 7, delete "road".

Page 1, after line 9, begin a new paragraph and insert:

"**(d) Political subdivisions:**

(1) may participate in the solicitation of purchase of salt by submitting the estimated volume of use to the department; and

(2) shall be committed to purchasing the minimum fill percentage submitted for solicitation.

(e) The department may adopt rules under IC 4-22-2 for management and control of the process by which political subdivisions may purchase salt.

SECTION 2. IC 9-13-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. "Abandoned vehicle" means the following:

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(3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an

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ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.

(7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. **For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.**

SECTION 3. IC 9-19-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Air conditioning equipment shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public and may not contain a refrigerant that is toxic to individuals or that is flammable, **unless the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. 7671k(c).**

SECTION 4. IC 9-19-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A person who:

(1) violates this chapter; or

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commits a deceptive act and is subject to a civil penalty of not more than one thousand five hundred dollars ($1,500) for each violation in addition to other remedies available under this chapter and IC 24-5-0.5. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a penalty, and the penalty may be recovered only in an action brought under IC 24-5-0.5-4(c).

SECTION 5. IC 9-20-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A court shall determine the extent of liability of the driver, carrier, shipper, or other party shown to be ~~criminally~~ liable.

(b) It is a defense if a party can show that the party:

(1) could not reasonably have known the actual weight of the load involved; ~~or~~

(2) had no access to or control of the loading of an overweighted load;

(3) reasonably relied upon the representation of another party regarding the validity, scope, or allowable weight of a permit issued to the other party under this article; or

(4) received written confirmation from a carrier that the

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carrier:

(A) had a valid permit for the load; or

(B) was not required to have a permit for the load.

(c) If a person who is an owner, a driver, a carrier or a shipper specifically or directly orders or assigns a particular shipment to be loaded:

(1) the person shall be considered to have had control of the loading within the meaning of this section; and

(2) a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person.

(d) The person who has loaded a shipment has control of the loading within the meaning of this section and a showing of knowledge of the overweighted load affixes ~~criminal~~ liability to the person if the person is self-employed. If the person loading a shipment is not self-employed, then ~~criminal~~ liability affixes to the person's employer jointly and severally with the driver of an overweight vehicle.

(e) If a court determines that the owner of a vehicle or combination of vehicles involved in a case is jointly or severally liable, the owner shall be given ninety (90) days to pay the liability assessed by the court. During the ninety (90) days the court may continue the impounding of the equipment until all fines and costs are paid. If the fines and costs are not paid within the ninety (90) days after the court determination, the court may order the property sold to pay the fines and costs.

(f) The court shall determine the liabilities, rights, and remedies of all of the parties involved.

SECTION 6. IC 9-22-1-11, AS AMENDED BY P.L.131-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officer's name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

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(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(A) ~~thirty-six (36)~~ **twenty-four (24)** hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or

(B) seventy-two (72) hours, for any other vehicle.

SECTION 7. IC 9-22-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, may:

(1) obtain the assistance of an officer under section 18 of this chapter to have the vehicle removed; or

(2) personally arrange for the removal of the vehicle by complying with subsection (b) and section 16 of this chapter.

(b) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, name, and address of the person who owns or controls the private property and a telephone number to contact for information.

(2) That the vehicle is considered abandoned.

(3) That the vehicle will be removed after ~~seventy-two (72)~~ **twenty-four (24)** hours.

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within ~~seventy-two (72)~~ **twenty-four (24)** hours.

SECTION 8. IC 9-22-1-16, AS AMENDED BY P.L.191-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) If after ~~seventy-two (72)~~ **twenty-four (24)** hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property.

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business

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operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 9. IC 9-22-1-32, AS AMENDED BY P.L.104-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. The following are not liable for loss or damage to a vehicle or parts occurring during the removal **or** storage ~~or disposition~~ of a vehicle or parts under this chapter:

(1) A person who owns, leases, or occupies property from which an abandoned vehicle or **its contents or** parts are removed.

(2) A public agency.

(3) A towing service.

(4) An automobile scrapyard.

(5) A storage yard.

(6) An agent of a person or entity listed in subdivisions (1) through (5).

SECTION 10. IC 9-26-1-2, AS AMENDED BY P.L.126-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person or the entrapment of a person in a vehicle **and that does not involve the transportation of hazardous materials** but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

(1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary. **If the accident occurs on a federal interstate highway, or on a ramp providing access to or from a federal interstate highway, the driver shall, as soon as safely possible, move the vehicle off the highway or ramp to a location as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.**

(2) Immediately return to and remain at the scene of the accident until the driver does the following **upon request:**

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Gives the names and addresses of the owner and any occupants of the vehicle the driver was driving, if the names or addresses are different from the name and address provided under clause (A).

(C) Provides proof of financial responsibility (as defined in IC 9-25-2-3) for the motor vehicle.

~~(B) Upon request,~~ **(D)** Exhibits the driver's license of the driver to the driver or occupant of or person attending each

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vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least one thousand dollars ($1,000), forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005;

within ten (10) days after the accident.".

and when so amended that said bill do pass.

(Reference is to HB 1650 as introduced.)

AUSTIN, Chair

Committee Vote: yeas 10, nays 0.

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