

Adopted	Rejected
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## COMMITTEE REPORT

YES:	11
NO:	0

### MR. SPEAKER:

*Your Committee on Roads and Transportation, to which was referred Senate Bill 249, 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:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 motor vehicle fuel tax, transportation, motor vehicles, and tort claims.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-6-2.5-62 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE] Sec. 62. (a) No person
- 8 shall import, sell, use, deliver, or store in Indiana special fuel in bulk
- 9 as to which dye or a marker, or both, has not been added in accordance
- 10 with section 31 of this chapter, or as to which the tax imposed by this
- 11 chapter has not been paid to or accrued by a licensed supplier or
- 12 licensed permissive supplier as shown by a notation on a
- 13 terminal-issued shipping paper subject to the following exceptions:
- 14 (1) A supplier shall be exempt from this provision with respect to
- 15 special fuel manufactured in Indiana or imported by pipeline or
- 16 waterborne barge and stored within a terminal in Indiana.

1 (2) An end user shall be exempt from this provision with respect  
2 to special fuel in a vehicle supply tank when the fuel was placed  
3 in the vehicle supply tank outside of Indiana.

4 (3) A licensed importer, and transporter operating on the  
5 importer's behalf, that transports in vehicles with a capacity of  
6 more than five thousand four hundred (5,400) gallons, shall be  
7 exempt from this prohibition if the importer or the transporter has  
8 met all of the following conditions:

9 (A) The importer or the transporter before entering onto the  
10 highways of Indiana has obtained an import verification  
11 number from the department not earlier than twenty-four (24)  
12 hours before entering Indiana.

13 (B) The import verification number must be set out  
14 prominently and indelibly on the face of each copy of the  
15 terminal-issued shipping paper carried on board the transport  
16 truck.

17 (C) The terminal origin and the importer's name and address  
18 must be set out prominently on the face of each copy of the  
19 terminal-issued shipping paper.

20 (D) The terminal-issued shipping paper data otherwise  
21 required by this chapter is present.

22 (E) All tax imposed by this chapter with respect to previously  
23 requested import verification number activity on the account  
24 of the importer or the transporter has been timely remitted.

25 In every case, a transporter acting in good faith is entitled to rely upon  
26 representations made to the transporter by the fuel supplier or importer  
27 and when acting in good faith is not liable for the negligence or  
28 malfeasance of another person. A person who knowingly violates or  
29 knowingly aids and abets another person in violating this subsection  
30 commits a Class D felony.

31 (b) No person shall export special fuel from Indiana unless that  
32 person has obtained an exporter's license or a supplier's license or has  
33 paid the destination state special fuel tax to the supplier and can  
34 demonstrate proof of export in the form of a destination state bill of  
35 lading. A person who knowingly violates or knowingly aids and abets  
36 another person in violating this subsection commits a Class D felony.

37 (c) No person shall operate or maintain a motor vehicle on any  
38 public highway in Indiana with special fuel contained in the fuel supply

1 tank for the motor vehicle that contains dye or a marker, or both, as  
 2 provided under section 31 of this chapter. This provision does not  
 3 apply to persons operating motor vehicles that have received fuel into  
 4 their fuel tanks outside of Indiana in a jurisdiction that permits  
 5 introduction of dyed or marked, or both, special fuel of that color and  
 6 type into the motor fuel tank of highway vehicles or to a person that  
 7 qualifies for the federal fuel tax exemption under Section 4082 of the  
 8 Internal Revenue Code and that is registered with the department as a  
 9 dyed fuel user. A person who knowingly:

10 (1) violates; or

11 (2) aids and abets another person in violating;

12 this subsection commits a Class A infraction. However, the violation  
 13 is a Class A misdemeanor if the person has committed one (1) prior  
 14 unrelated violation of this subsection, and a Class D felony if the  
 15 person has committed more than one (1) prior unrelated violation of  
 16 this subsection. **For purposes of this subsection, "motor vehicle"**  
 17 **does not include a farm tractor (as defined in IC 9-13-2-56) or an**  
 18 **implement of agriculture (as defined in IC 9-13-2-77).**

19 (d) No person shall engage in any business activity in Indiana as to  
 20 which a license is required by section 41 of this chapter unless the  
 21 person shall have first obtained the license. A person who knowingly  
 22 violates or knowingly aids and abets another person in violating this  
 23 subsection commits a Class D felony.

24 (e) No person shall operate a motor vehicle with a capacity of more  
 25 than five thousand four hundred (5,400) gallons that is engaged in the  
 26 shipment of special fuel on the public highways of Indiana and that is  
 27 destined for a delivery point in Indiana, as shown on the  
 28 terminal-issued shipping papers, without having on board a  
 29 terminal-issued shipping paper indicating with respect to any special  
 30 fuel purchased:

31 (1) under claim of exempt use, a notation describing the load or  
 32 the appropriate portion of the load as Indiana tax exempt special  
 33 fuel;

34 (2) if not purchased under a claim of exempt use, a notation  
 35 describing the load or the appropriate portion thereof as Indiana  
 36 taxed or pretaxed special fuel; or

37 (3) if imported by or on behalf of a licensed importer instead of  
 38 the pretaxed notation, a valid verification number provided before

1 entry into Indiana by the department or the department's designee  
 2 or appointee, and the valid verification number may be  
 3 handwritten on the shipping paper by the transporter or importer.  
 4 A person is in violation of subdivision (1) or (2) (whichever applies) if  
 5 the person boards the vehicle with a shipping paper that does not meet  
 6 the requirements described in the applicable subdivision (1) or (2). A  
 7 person in violation of this subsection commits a Class A infraction (as  
 8 defined in IC 34-28-5-4).

9 (f) A person may not sell or purchase any product for use in the  
 10 supply tank of a motor vehicle for general highway use that does not  
 11 meet ASTM standards as published in the annual Book of Standards  
 12 and its supplements unless amended or modified by rules adopted by  
 13 the department under IC 4-22-2. The transporter and the transporter's  
 14 agent and customer have the exclusive duty to dispose of any product  
 15 in violation of this section in the manner provided by federal and state  
 16 law. A person who knowingly:

- 17 (1) violates; or
  - 18 (2) aids and abets another in violating;
- 19 this subsection commits a Class D felony.

20 (g) This subsection does not apply to the following:

- 21 (1) A person that:
  - 22 (A) inadvertently manipulates the dye or marker concentration
  - 23 of special fuel or coloration of special fuel; and
  - 24 (B) contacts the department within one (1) business day after
  - 25 the date on which the contamination occurs.
- 26 (2) A person that affects the dye or marker concentration of
- 27 special fuel by engaging in the blending of the fuel, if the blender:
  - 28 (A) collects or remits, or both, all tax due as provided in
  - 29 section 28(g) of this chapter;
  - 30 (B) maintains adequate records as required by the department
  - 31 to account for the fuel that is blended and its status as a
  - 32 taxable or exempt sale or use; and
  - 33 (C) is otherwise in compliance with this subsection.

34 A person may not manipulate the dye or marker concentration of a  
 35 special fuel or the coloration of special fuel after the special fuel is  
 36 removed from a terminal or refinery rack for sale or use in Indiana. A  
 37 person who knowingly violates or aids and abets another person to  
 38 violate this subsection commits a Class D felony.

1 (h) This subsection does not apply to a person that receives blended  
 2 fuel from a person in compliance with subsection (g)(2). A person may  
 3 not sell or consume special fuel if the special fuel dye or marker  
 4 concentration or coloration has been manipulated, inadvertently or  
 5 otherwise, after the special fuel has been removed from a terminal or  
 6 refinery rack for sale or use in Indiana. A person who knowingly:

7 (1) violates; or

8 (2) aids and abets another to violate;

9 this subsection commits a Class D felony.

10 (i) A person may not engage in blending fuel for taxable use in  
 11 Indiana without collecting and remitting the tax due on the untaxed  
 12 portion of the fuel that is blended. A person who knowingly:

13 (1) violates; or

14 (2) aids and abets another to violate;

15 this subsection commits a Class D felony.

16 SECTION 2. IC 8-2.1-24-1, AS AMENDED BY P.L.42-2007,  
 17 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 1. **(a) Except as provided in subsection (b),**  
 19 this chapter applies to the certification of a motor carrier providing  
 20 intrastate transportation by motor vehicle of property or passengers for  
 21 compensation.

22 **(b) Section 18 of this chapter applies to the regulation of the**  
 23 **following persons:**

24 **(1) A motor carrier described in subsection (a).**

25 **(2) A private carrier of persons or property, or both.**

26 SECTION 3. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007,  
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382  
 29 through 387, 390 through 393, and 395 through 398 are incorporated  
 30 into Indiana law by reference, and, except as provided in subsections  
 31 (d), (e), (f), and (g), must be complied with by an interstate and  
 32 intrastate motor carrier of persons or property throughout Indiana.  
 33 Intrastate motor carriers subject to compliance reviews under 49 CFR  
 34 385 shall be selected according to criteria determined by the  
 35 superintendent which must include but are not limited to factors such  
 36 as previous history of violations found in roadside compliance checks  
 37 and other recorded violations. However, the provisions of 49 CFR 395  
 38 that regulate the hours of service of drivers, including requirements for

1 the maintenance of logs, do not apply to a driver of a truck that is  
 2 registered by the bureau of motor vehicles and used as a farm truck  
 3 under IC 9-18, or a vehicle operated in intrastate construction or  
 4 construction related service, or the restoration of public utility services  
 5 interrupted by an emergency. Except as provided in subsection (i):

6 (1) intrastate motor carriers not operating under authority issued  
 7 by the United States Department of Transportation shall comply  
 8 with the requirements of 49 CFR 390.21(b)(3) by registering with  
 9 the department of state revenue as an intrastate motor carrier and  
 10 displaying the certification number issued by the department of  
 11 state revenue preceded by the letters "IN"; ~~Except as provided in~~  
 12 ~~subsection (i); and~~

13 (2) all other requirements of 49 CFR 390.21 apply equally to  
 14 interstate and intrastate motor carriers.

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

18 (1) private carrier;

19 (2) common carrier;

20 (3) contract carrier;

21 (4) motor carrier of property, intrastate;

22 (5) hazardous material shipper; and

23 (6) carrier otherwise exempt under section 3 of this chapter;

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

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

29 (1) The maximum capacity of the vehicle is less than three  
 30 thousand five hundred (3,500) gallons.

31 (2) The shipment of goods is limited to intrastate commerce.

32 (3) The vehicle is used only for the purpose of transporting fuel  
 33 oil, kerosene, diesel fuel, gasoline, gasohol, or any combination  
 34 of these substances.

35 ~~All additional federal standards for the safe transportation of hazardous~~  
 36 ~~materials apply until July 1, 2000. After June 30, 2000, the~~  
 37 Maintenance, inspection, and marking requirements of 49 CFR 173.8  
 38 and Part 180 are applicable. In accordance with federal hazardous

1 materials regulations, new or additional nonspecification cargo tank  
 2 motor vehicles may not be placed in service under this subsection. ~~after~~  
 3 ~~June 30, 1998.~~

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

5 (1) a state police officer or state police motor carrier inspector  
 6 who:

7 (A) has successfully completed a course of instruction  
 8 approved by the United States Department of Transportation;  
 9 and

10 (B) maintains an acceptable competency level as established  
 11 by the state police department; or

12 (2) an employee of a law enforcement agency who:

13 (A) before January 1, 1991, has successfully completed a  
 14 course of instruction approved by the United States  
 15 Department of Transportation; and

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

18 on the enforcement of 49 CFR, may, upon demand, inspect the  
 19 books, accounts, papers, records, memoranda, equipment, and  
 20 premises of any carrier, including a carrier exempt under section  
 21 3 of this chapter.

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

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

31 (g) Notwithstanding subsection (a) or (b), the following provisions  
 32 of 49 CFR do not apply to private carriers of property operated only in  
 33 intrastate commerce or any carriers of property operated only in  
 34 intrastate commerce while employed in construction or construction  
 35 related service:

36 (1) Subpart 391.41(b)(3) as it applies to physical qualifications of  
 37 a driver who has been diagnosed as an insulin dependent diabetic,  
 38 if the driver has applied for and been granted an intrastate

1 medical waiver by the bureau of motor vehicles pursuant to this  
2 subsection. The same standards and the following procedures  
3 shall apply for this waiver whether or not the driver is required to  
4 hold a commercial driver's license. An application for the waiver  
5 shall be submitted by the driver and completed and signed by a  
6 certified endocrinologist or the driver's treating physician  
7 attesting that the driver:

8 (A) is not otherwise physically disqualified under Subpart  
9 391.41 to operate a motor vehicle, whether or not any  
10 additional disqualifying condition results from the diabetic  
11 condition, and is not likely to suffer any diminution in driving  
12 ability due to the driver's diabetic condition;

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

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

18 (D) has agreed to and, to the endocrinologist's or treating  
19 physician's knowledge, has carried a source of rapidly  
20 absorbable glucose at all times while driving a motor vehicle,  
21 has self monitored blood glucose levels one (1) hour before  
22 driving and at least once every four (4) hours while driving or  
23 on duty before driving using a portable glucose monitoring  
24 device equipped with a computerized memory; and

25 (E) has submitted the blood glucose logs from the monitoring  
26 device to the endocrinologist or treating physician at the time  
27 of the annual medical examination.

28 A copy of the blood glucose logs shall be filed along with the  
29 annual statement from the endocrinologist or treating physician  
30 with the bureau of motor vehicles for review by the driver  
31 licensing medical advisory board established under IC 9-14-4. A  
32 copy of the annual statement shall also be provided to the driver's  
33 employer for retention in the driver's qualification file, and a copy  
34 shall be retained and held by the driver while driving for  
35 presentation to an authorized federal, state, or local law  
36 enforcement official. Notwithstanding the requirements of this  
37 subdivision, the endocrinologist, the treating physician, the  
38 advisory board of the bureau of motor vehicles, or the bureau of

1 motor vehicles may, where medical indications warrant, establish  
 2 a short period for the medical examinations required under this  
 3 subdivision.

4 (2) Subpart 396.9 as it applies to inspection of vehicles carrying  
 5 or loaded with a perishable product. However, this exemption  
 6 does not prohibit a law enforcement officer from stopping these  
 7 vehicles for an obvious violation that poses an imminent threat of  
 8 an accident or incident. The exemption is not intended to include  
 9 refrigerated vehicles loaded with perishables when the  
 10 refrigeration unit is working.

11 (3) Subpart 396.11 as it applies to driver vehicle inspection  
 12 reports.

13 (4) Subpart 396.13 as it applies to driver inspection.

14 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting  
 15 season" refers to the period between January 1 and December 31 of  
 16 each year. The intrastate commerce exception set forth in 49 CFR  
 17 395.1(l), as it applies to the transportation of agricultural commodities  
 18 and farm supplies, is restricted to single vehicles and cargo tank motor  
 19 vehicles with a capacity of not more than five thousand four hundred  
 20 (5,400) gallons.

21 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate  
 22 **motor carrier:**

23 (1) or a guest operator not engaged in interstate commerce and  
 24 operating a motor vehicle as a farm vehicle in connection with  
 25 agricultural pursuits usual and normal to the user's farming  
 26 operation or for personal purposes unless the vehicle is operated  
 27 either part time or incidentally in the conduct of a commercial  
 28 enterprise; **or**

29 **(2) operating a motor vehicle exclusively in intrastate**  
 30 **commerce that does not have a gross vehicle weight, gross**  
 31 **vehicle weight rating, gross combination weight, or gross**  
 32 **combination weight rating with a gross combination weight**  
 33 **rating of equal to or less than twenty-six thousand one**  
 34 **(26,001) pounds. However, the motor vehicle may not be:**

35 **(A) used to provide for-hire transport;**

36 **(B) designed or used to transport sixteen (16) or more**  
 37 **passengers, including the driver; or**

38 **(C) used to transport hazardous material in amounts**

1                   **requiring a placard.**

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

5           SECTION 4. IC 8-3-1-1.5 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
7 UPON PASSAGE]: **Sec. 1.5. (a) As used in this section,**  
8 **"municipality" has the meaning set forth in IC 36-1-2-11.**

9           **(b) As used in this chapter, "railroad" means a Class I, Class II,**  
10 **or Class III railroad as established by the Interstate Commerce**  
11 **Commission.**

12           **(c) A railroad may not store a railroad car, whether loaded or**  
13 **empty, on a track, sidetrack, siding, switch, spur, or turnout track**  
14 **within the limits of a municipality for longer than ninety (90) days**  
15 **unless the area of storage has been zoned appropriately as a**  
16 **confined area for railroad car storage.**

17           **(d) A railroad that stores a railroad car subject to subsection (c)**  
18 **shall place a tag on the railroad car prominently displaying the**  
19 **date that the railroad car was first placed on the track, sidetrack,**  
20 **siding, switch, spur, or turnout track. A railroad that fails to place**  
21 **a tag in this manner on a railroad car shall be assessed a civil**  
22 **penalty of one hundred dollars (\$100) by the department.**

23           **(e) A police officer who finds or is notified of a railroad car that**  
24 **does not bear a tag as required under subsection (d) shall attach in**  
25 **a prominent place a notice tag containing the following**  
26 **information:**

27                   **(1) The date, time, police officer's name, public agency**  
28 **employing the police officer, and address and telephone**  
29 **number to contact for information.**

30                   **(2) That the railroad car is required to bear a tag as required**  
31 **by this section.**

32           **The police officer shall immediately notify the department of the**  
33 **placement of the notice tag by the police officer. The department**  
34 **shall maintain records of notifications by police officers.**

35           **(f) A railroad that fails to move a railroad car from a track,**  
36 **sidetrack, siding, switch, spur, or turnout track after ninety (90)**  
37 **days from the date of first placement on the track, sidetrack,**  
38 **siding, switch, spur, or turnout track shall be assessed a civil**

1        **penalty by the department of five hundred dollars (\$500) a day for**  
 2        **each day that the railroad car has remained on the track,**  
 3        **sidetrack, siding, switch, spur, or turnout track, beginning with the**  
 4        **ninety-first day of storage. For purposes of subsection (e) and this**  
 5        **subsection, the date that the police officer has placed on the notice**  
 6        **tag is considered to be the date of first placement of the railroad**  
 7        **car. Each railroad car that is stored shall be assessed a separate**  
 8        **civil penalty.**

9        **(g) A civil penalty assessed and collected by the department**  
 10       **under subsection (d) or (f) shall be deposited by the department in**  
 11       **the general fund of the municipality in which the railroad car that**  
 12       **is the subject of the civil penalty is located.**

13       SECTION 5. IC 8-3-1-2 IS AMENDED TO READ AS FOLLOWS  
 14       [EFFECTIVE UPON PASSAGE]: Sec. 2. **Except as provided in**  
 15       **section 1.5 of this chapter,** the term "railroad" as used in this chapter  
 16       shall mean and include any railroad whether its locomotives are  
 17       powered by steam, combustion-type fuel or electricity other than a  
 18       hobby, tourist, amusement, and non-freight-carrying railroad.

19       SECTION 6. IC 8-3-1-11 IS AMENDED TO READ AS FOLLOWS  
 20       [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **Except as provided in**  
 21       **section 1.5 of this chapter,** a carrier subject to this chapter who  
 22       knowingly violates or fails to comply with this chapter commits a Class  
 23       B infraction.

24       (b) A carrier who fails to comply with any final order made against  
 25       it by the department in any proceeding pending before the department,  
 26       in which any carrier is a party, unless the order is suspended, annulled,  
 27       or set aside by some court, shall forfeit and pay to the state for each  
 28       violation of any such order a penalty of not more than one thousand  
 29       dollars (\$1,000).

30       (c) A carrier subject to this chapter who knowingly charges,  
 31       collects, demands, or receives from any person a different rate, charge,  
 32       or compensation for the transportation of persons or property, or for  
 33       any service performed or to be performed by the carrier, than that fixed  
 34       in the schedule of rates filed with the department, the schedule of rates  
 35       adopted by the department, or the schedule of rates ordered observed  
 36       by any court, commits a Class A infraction."

37       Page 2, between lines 14 and 15, begin a new paragraph and insert:

38       "SECTION 11. IC 9-13-2-42, AS AMENDED BY P.L.131-2008,

1 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2009]: Sec. 42. (a) "Dealer" means, except as otherwise  
 3 provided in this section, a person who sells to the general public,  
 4 including a person who sells directly by the Internet or other computer  
 5 network, at least twelve (12) vehicles each year for delivery in Indiana.  
 6 The term includes a person who sells off-road vehicles **and**  
 7 **mini-trucks**. A dealer must have an established place of business that  
 8 meets the minimum standards prescribed by the bureau under rules  
 9 adopted under IC 4-22-2.

10 (b) The term does not include the following:

- 11 (1) A receiver, trustee, or other person appointed by or acting  
 12 under the judgment or order of a court.  
 13 (2) A public officer while performing official duties.  
 14 (3) A person who is a dealer solely because of activities as a  
 15 transfer dealer.

16 (c) "Dealer", for purposes of IC 9-31, means a person that sells to  
 17 the general public for delivery in Indiana at least six (6):

- 18 (1) boats; or  
 19 (2) trailers:  
 20 (A) designed and used exclusively for the transportation of  
 21 watercraft; and  
 22 (B) sold in general association with the sale of watercraft;  
 23 per year.

24 SECTION 12. IC 9-13-2-103.1 IS ADDED TO THE INDIANA  
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2009]: **Sec. 103.1. "Mini-truck" means a**  
 27 **truck that:**

- 28 **(1) is powered by an internal combustion engine with a piston**  
 29 **or rotor displacement of not less than six hundred sixty (660)**  
 30 **cubic centimeters;**  
 31 **(2) is sixty (60) inches or less in width;**  
 32 **(3) has an unladen dry weight of one thousand six hundred**  
 33 **(1,600) pounds or less;**  
 34 **(4) can achieve a top speed of not more than sixty (60) miles**  
 35 **per hour;**  
 36 **(5) is manufactured with a locking enclosed cab and a heated**  
 37 **interior; and**  
 38 **(6) is operated on a highway."**

1 Page 4, between lines 31 and 32, begin a new paragraph and insert:  
 2 "SECTION 17. IC 9-17-1-1 IS AMENDED TO READ AS  
 3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** This article does  
 4 not apply to farm wagons or to a motor vehicle that was designed to  
 5 have a maximum design speed of not more than twenty-five (25) miles  
 6 per hour and that was built, constructed, modified, or assembled by a  
 7 person other than the manufacturer.

8 **(b) IC 9-17-2, IC 9-17-3, IC 9-17-4, IC 9-17-5, and IC 9-17-8**  
 9 **apply to a mini-truck.**

10 SECTION 18. IC 9-18-1-2 IS ADDED TO THE INDIANA CODE  
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 12 1, 2009]: Sec. 2. **This article applies to a mini-truck with the**  
 13 **exception of the following:**

- 14 **(1) IC 9-18-7.**  
 15 **(2) IC 9-18-9 through IC 9-18-11.**  
 16 **(3) IC 9-18-13.**  
 17 **(4) IC 9-18-27.**

18 SECTION 19. IC 9-18-2-16 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A person who  
 20 owns a vehicle must sign an application in ink to register the vehicle.

21 (b) An application to register a vehicle must contain the following:

- 22 (1) The:  
 23 (A) name, **address for the** bona fide residence, and mailing  
 24 address, including the name of the county, of the person who  
 25 owns the vehicle, **and the numerical code assigned by the**  
 26 **department of local government finance for the taxing**  
 27 **district in which the bona fide residence of the person who**  
 28 **owns the vehicle is located;** or  
 29 (B) business address; including the name of the county; of the  
 30 ~~person that owns the vehicle~~ if the person **that owns the**  
 31 **vehicle** is a firm, a partnership, an association, a corporation,  
 32 a limited liability company, or a unit of government, **the**  
 33 **following information:**

- 34 **(i) The business address, including the name of the**  
 35 **county, of the person that owns the vehicle.**  
 36 **(ii) The numerical code assigned by the department of**  
 37 **local government finance for the taxing district in which**  
 38 **the business address of the person that owns the vehicle**

1 **is located.**

2 If the vehicle that is being registered has been leased and is  
 3 subject to the motor vehicle excise tax under IC 6-6-5 or the  
 4 commercial vehicle excise tax under IC 6-6-5.5, the application  
 5 must contain the address of the person who is leasing the vehicle.  
 6 If the vehicle that is being registered has been leased and is not  
 7 subject to the motor vehicle excise tax under IC 6-6-5 or the  
 8 commercial vehicle excise tax under IC 6-6-5.5, the application  
 9 must contain the address of the person who owns the vehicle, the  
 10 person who is the lessor of the vehicle, or the person who is the  
 11 lessee of the vehicle. If a leased vehicle is to be registered under  
 12 the International Registration Plan, the registration procedures are  
 13 governed by the terms of the plan.

14 (2) A brief description of the vehicle to be registered, including  
 15 the following information if available:

- 16 (A) The name of the manufacturer of the vehicle.
- 17 (B) The vehicle identification number.
- 18 (C) The manufacturer's rated capacity if the vehicle is a truck,  
 19 tractor, trailer, or semitrailer.
- 20 (D) The type of body of the vehicle.
- 21 (E) The model year of the vehicle.
- 22 (F) Any other information reasonably required by the bureau  
 23 to enable the bureau to determine if the vehicle may be  
 24 registered. The bureau may request the person applying for  
 25 registration to provide the vehicle's odometer reading.

26 (3) A space on the application in which the person registering the  
 27 vehicle may indicate the person's desire to donate money to  
 28 organizations that promote the procurement of organs for  
 29 anatomical gifts. The space on the application must:

- 30 (A) allow the person registering the vehicle to indicate the  
 31 amount the person desires to donate; and
- 32 (B) provide that the minimum amount a person may donate is  
 33 one dollar (\$1).

34 Funds collected under this subdivision shall be deposited with the  
 35 treasurer of state in a special account. The auditor of state shall  
 36 monthly distribute the money in the special account to the  
 37 anatomical gift promotion fund established by IC 16-19-3-26. The  
 38 bureau may deduct from the funds collected under this

1 subdivision the costs incurred by the bureau in implementing and  
2 administering this subdivision.

3 (c) The department of state revenue may audit records of persons  
4 who register trucks, trailers, semitrailers, buses, and rental cars under  
5 the International Registration Plan to verify the accuracy of the  
6 application and collect or refund fees due.

7 **(d) The bureau shall provide each applicant for registration**  
8 **with the taxing district information necessary to comply with**  
9 **subsection (b)(1). The department of local government finance and**  
10 **each county auditor shall provide the bureau with the information**  
11 **necessary to carry out this subsection for each application**  
12 **submitted for a registration year beginning after December 31,**  
13 **2009.**

14 SECTION 20. IC 9-18-2-20 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The bureau,  
16 upon registering a vehicle required to be registered by this chapter,  
17 shall issue a certificate of registration.

18 (b) The certificate of registration shall be delivered to the person  
19 leasing the vehicle or to the person who owns the vehicle and shall  
20 contain upon the face of the card the following information:

21 (1) The name and address of the person leasing the vehicle or the  
22 person who owns the vehicle.

23 **(2) The numerical code assigned by the department of local**  
24 **government finance for the taxing district in which the bona**  
25 **fide residence or business address of the person who owns or**  
26 **leases the vehicle is located.**

27 ~~(2)~~ (3) The date the card was issued.

28 ~~(3)~~ (4) The registration number assigned to the vehicle.

29 ~~(4)~~ (5) A description of the vehicle as determined by the bureau.

30 (c) If a certificate of registration is mutilated, destroyed, or lost, a  
31 duplicate certificate of registration must be purchased. The application  
32 for a duplicate certificate of registration must be accompanied by the  
33 service charge prescribed under IC 9-29.

34 **(d) The department of local government finance and each**  
35 **county auditor shall provide the bureau with any assistance**  
36 **necessary to enable the bureau to include the taxing district**  
37 **information required by subsection (b)(2) on each certificate of**  
38 **registration issued for a registration year beginning after**

1 **December 31, 2010.**

2 SECTION 21. IC 9-21-8-46, AS AMENDED BY P.L.210-2005,  
3 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2009]: Sec. 46. (a) A person may not drive or operate:

5 (1) an implement of agriculture designed to be operated primarily  
6 in a farm field or on farm premises; ~~or~~

7 (2) a piece of special machinery; **or**

8 **(3) a mini-truck;**

9 upon any part of an interstate highway.

10 **(b) In addition to the prohibition set forth in subsection (a), a**  
11 **mini-truck may not be operated on a divided four (4) lane**  
12 **highway."**

13 Page 4, between lines 35 and 36, begin a new paragraph and insert:

14 "SECTION 23. IC 9-24-6-2, AS AMENDED BY P.L.188-2006,  
15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2009]: Sec. 2. (a) The bureau shall adopt rules under  
17 IC 4-22-2 to regulate persons required to hold a commercial driver's  
18 license.

19 (b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49  
20 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49  
21 CFR 383 through 384, and may not be more restrictive than the federal  
22 Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law  
23 ~~106-159-113~~ **106-159, 113** Stat. 1748).

24 (c) Rules adopted under this section must include the following:

25 (1) Establishment of classes and periods of validation of  
26 commercial driver's licenses.

27 (2) Standards for commercial driver's licenses, including  
28 suspension and revocation procedures.

29 (3) Requirements for documentation of eligibility for legal  
30 employment, as set forth in 8 CFR 274a.2, and proof of Indiana  
31 residence.

32 (4) Development of written or oral tests, driving tests, and fitness  
33 requirements.

34 (5) Defining the commercial driver's licenses by classification and  
35 the information to be contained on the licenses, including a  
36 unique identifier of the holder.

37 (6) Establishing fees for the issuance of commercial driver's  
38 licenses, including fees for testing and examination.

1 (7) Procedures for the notification by the holder of a commercial  
2 driver's license to the bureau and the driver's employer of  
3 pointable traffic offense convictions.

4 (8) Conditions for reciprocity with other states, including  
5 requirements for a written commercial driver's license test and  
6 operational skills test, and a hazardous materials endorsement  
7 written test and operational skills test, before a license may be  
8 issued. **The rules must carry out 49 CFR 383.71(b) with**  
9 **respect to an application for a commercial driver's license for**  
10 **a holder of a commercial driver's license in another state who**  
11 **seeks a transfer of the commercial driver's license to Indiana.**

12 (9) Other rules necessary to administer this chapter.

13 (d) 49 CFR 383 through 384 are adopted as Indiana law."

14 Page 7, after line 4, begin a new paragraph and insert:

15 "SECTION 28. IC 34-13-3-3, AS AMENDED BY P.L.47-2006,  
16 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 UPON PASSAGE]: Sec. 3. A governmental entity or an employee  
18 acting within the scope of the employee's employment is not liable if  
19 a loss results from the following:

- 20 (1) The natural condition of unimproved property.
- 21 (2) The condition of a reservoir, dam, canal, conduit, drain, or
- 22 similar structure when used by a person for a purpose that is not
- 23 foreseeable.
- 24 (3) The temporary condition of a public thoroughfare or extreme
- 25 sport area that results from weather.
- 26 (4) The condition of an unpaved road, trail, or footpath, the
- 27 purpose of which is to provide access to a recreation or scenic
- 28 area.
- 29 (5) The design, construction, control, operation, or normal
- 30 condition of an extreme sport area, if all entrances to the extreme
- 31 sport area are marked with:
  - 32 (A) a set of rules governing the use of the extreme sport area;
  - 33 (B) a warning concerning the hazards and dangers associated
  - 34 with the use of the extreme sport area; and
  - 35 (C) a statement that the extreme sport area may be used only
  - 36 by persons operating extreme sport equipment.

37 This subdivision shall not be construed to relieve a governmental  
38 entity from liability for the continuing duty to maintain extreme

- 1 sports areas in a reasonably safe condition.
- 2 (6) The initiation of a judicial or an administrative proceeding.
- 3 (7) The performance of a discretionary function; however, the  
4 provision of medical or optical care as provided in IC 34-6-2-38  
5 shall be considered as a ministerial act.
- 6 (8) The adoption and enforcement of or failure to adopt or enforce  
7 a law (including rules and regulations), unless the act of  
8 enforcement constitutes false arrest or false imprisonment.
- 9 (9) An act or omission performed in good faith and without  
10 malice under the apparent authority of a statute which is invalid  
11 if the employee would not have been liable had the statute been  
12 valid.
- 13 (10) The act or omission of anyone other than the governmental  
14 entity or the governmental entity's employee.
- 15 (11) The issuance, denial, suspension, or revocation of, or failure  
16 or refusal to issue, deny, suspend, or revoke any permit, license,  
17 certificate, approval, order, or similar authorization, where the  
18 authority is discretionary under the law.
- 19 (12) Failure to make an inspection, or making an inadequate or  
20 negligent inspection, of any property, other than the property of  
21 a governmental entity, to determine whether the property  
22 complied with or violates any law or contains a hazard to health  
23 or safety.
- 24 (13) Entry upon any property where the entry is expressly or  
25 impliedly authorized by law.
- 26 (14) Misrepresentation if unintentional.
- 27 (15) Theft by another person of money in the employee's official  
28 custody, unless the loss was sustained because of the employee's  
29 own negligent or wrongful act or omission.
- 30 (16) Injury to the property of a person under the jurisdiction and  
31 control of the department of correction if the person has not  
32 exhausted the administrative remedies and procedures provided  
33 by section 7 of this chapter.
- 34 (17) Injury to the person or property of a person under supervision  
35 of a governmental entity and who is:
- 36 (A) on probation; or
- 37 (B) assigned to an alcohol and drug services program under  
38 IC 12-23, a minimum security release program under

1 IC 11-10-8, a pretrial conditional release program under  
2 IC 35-33-8, or a community corrections program under  
3 IC 11-12.

4 (18) Design of a highway (as defined in IC 9-13-2-73), toll road  
5 project (as defined in IC 8-15-2-4(4)), tollway (as defined in  
6 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the  
7 claimed loss occurs at least twenty (20) years after the public  
8 highway, toll road project, tollway, or project was designed or  
9 substantially redesigned; except that this subdivision shall not be  
10 construed to relieve a responsible governmental entity from the  
11 continuing duty to provide and maintain public highways in a  
12 reasonably safe condition.

13 (19) Development, adoption, implementation, operation,  
14 maintenance, or use of an enhanced emergency communication  
15 system.

16 (20) Injury to a student or a student's property by an employee of  
17 a school corporation if the employee is acting reasonably under a  
18 discipline policy adopted under IC 20-33-8-7(b).

19 (21) An error resulting from or caused by a failure to recognize  
20 the year 1999, 2000, or a subsequent year, including an incorrect  
21 date or incorrect mechanical or electronic interpretation of a date,  
22 that is produced, calculated, or generated by:

- 23 (A) a computer;
- 24 (B) an information system; or
- 25 (C) equipment using microchips;

26 that is owned or operated by a governmental entity. However, this  
27 subdivision does not apply to acts or omissions amounting to  
28 gross negligence, willful or wanton misconduct, or intentional  
29 misconduct. For purposes of this subdivision, evidence of gross  
30 negligence may be established by a party by showing failure of a  
31 governmental entity to undertake an effort to review, analyze,  
32 remediate, and test its electronic information systems or by  
33 showing failure of a governmental entity to abate, upon notice, an  
34 electronic information system error that caused damage or loss.  
35 However, this subdivision expires June 30, 2003.

36 (22) An act or omission performed in good faith under the  
37 apparent authority of a court order described in IC 35-46-1-15.1  
38 that is invalid, including an arrest or imprisonment related to the

1 enforcement of the court order, if the governmental entity or  
 2 employee would not have been liable had the court order been  
 3 valid.

4 (23) An act taken to investigate or remediate hazardous  
 5 substances, petroleum, or other pollutants associated with a  
 6 brownfield (as defined in IC 13-11-2-19.3) unless:

- 7 (A) the loss is a result of reckless conduct; or  
 8 (B) the governmental entity was responsible for the initial  
 9 placement of the hazardous substances, petroleum, or other  
 10 pollutants on the brownfield.

11 **(24) The operation of an off-road vehicle (as defined in**  
 12 **IC 14-8-2-185) by a:**

- 13 **(A) nongovernmental employee; or**  
 14 **(B) governmental employee not acting within the scope of**  
 15 **the employee's employment;**  
 16 **on a public highway in a county road system outside the**  
 17 **corporate limits of a town, unless the loss is the result of an**  
 18 **act or omission amounting to gross negligence, willful or**  
 19 **wanton misconduct, or intentional misconduct.**

20 SECTION 29. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON  
 21 PASSAGE].

22 SECTION 30. [EFFECTIVE UPON PASSAGE] (a) **As used in this**  
 23 **SECTION, "bureau" means the bureau of motor vehicles created**  
 24 **by IC 9-14-1-1.**

25 **(b) Notwithstanding IC 9-24-6-2(c)(8), as amended by this act,**  
 26 **the bureau, under interim written guidelines approved by the**  
 27 **commissioner of the bureau, shall provide that, after June 30, 2009,**  
 28 **an application for a commercial driver's license for a holder of a**  
 29 **commercial driver's license from another state be conducted in**  
 30 **accordance with 49 CFR 383.71(b).**

31 **(c) This SECTION expires on the earlier of the following:**

- 32 **(1) The date rules are adopted under IC 9-24-6-2(c)(8), as**  
 33 **amended by this act.**  
 34 **(2) December 31, 2010.**

35 SECTION 31. [EFFECTIVE UPON PASSAGE] (a) **As used in this**  
 36 **SECTION, "bureau" means the bureau of motor vehicles created**  
 37 **by IC 9-14-1-1.**

38 **(b) As used in this SECTION, "mini-truck" has the meaning set**

1       **forth in IC 9-13-2-103.1, as added by this act.**  
2       **(c) Before July 1, 2009, in accordance with IC 6-6-5-3(b), the**  
3       **bureau shall determine the true tax value for each make and model**  
4       **of mini-truck, subject to review and adjustment by the department**  
5       **of local government finance.**  
6       **(d) This SECTION expires December 31, 2010.**  
7       **SECTION 32. An emergency is declared for this act."**  
8       Renumber all SECTIONS consecutively.  
      (Reference is to SB 249 as printed January 30, 2009.)

**and when so amended that said bill do pass.**

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Representative Austin