
SENATE BILL No. 65

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.6-5; IC 34-24-3-1.

Synopsis: Motor fuel theft. Provides that the owner of a vehicle that receives motor fuel from a retailer without making proper payment is liable to the retailer for the total pump price of the motor fuel received plus a \$50 service charge. Allows retailers to obtain name and mailing address information on the owner from the bureau of motor vehicles. Provides that if the owner does not pay the liability within 30 days after notice by certified mail, a retailer is entitled to triple the total pump price of the motor fuel received plus other costs and fees. Allows retailers to use a designee to send the notice and make collections.

Effective: July 1, 2009.

Young R Michael

January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

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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SENATE BILL No. 65



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

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

1 SECTION 1. IC 24-4.6-5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 5. Vehicle Owner Liability for Motor Fuel Theft**

5 **Sec. 1. As used in this chapter, "motor fuel" includes gasoline**
6 **(as defined in IC 6-6-1.1-103(g)), special fuel (as defined in**
7 **IC 6-6-2.5-22), and alternative fuel (as defined in IC 6-6-2.5-1).**

8 **Sec. 2. As used in this chapter, "retailer" means a person that**
9 **engages in the business of selling or distributing motor fuel to an**
10 **end user within Indiana.**

11 **Sec. 3. As used in this chapter, "vehicle" has the meaning set**
12 **forth in IC 6-6-5-1(a).**

13 **Sec. 4. An owner of a vehicle that receives motor fuel from a**
14 **retailer without making proper payment is liable to the retailer for**
15 **the total pump price of the motor fuel received plus a service**
16 **charge of fifty dollars (\$50). The service charge may be imposed**
17 **when notice is mailed under section 5 of this chapter. Only one (1)**



1 service charge may be imposed under this section for each incident.
 2 **Sec. 5.** A retailer, or its designee, that desires to collect a liability
 3 under this chapter must first send a notice of nonpayment to the
 4 owner by certified mail, to the address indicated by records
 5 obtained under section 8 of this chapter. The notice must include
 6 all of the following:
 7 (1) How the owner is to pay the liability.
 8 (2) A description of the total pump price of the motor fuel
 9 received and the service charge.
 10 (3) A copy of this chapter and IC 34-24-3-1.
 11 (4) A statement that an amount equal to triple the total pump
 12 price of the motor fuel received plus other damages permitted
 13 by IC 34-24-3-1 will become due, if the liability is not paid
 14 within thirty (30) days.
 15 (5) A signed statement by the retailer or the employee of the
 16 retailer who reported the act, the date and time of the
 17 occurrence, and the license plate number of the vehicle.
 18 **Sec. 6. (a)** If the total pump price of the motor fuel received and
 19 the service charge are not paid within thirty (30) days after the
 20 retailer or its designee has mailed the notice under section 5 of this
 21 chapter, the owner is liable to the retailer for the following:
 22 (1) Damages as provided by IC 34-24-3-1.
 23 (2) The service charge under section 4 of this chapter.
 24 (b) If within the thirty (30) day period referred to in subsection
 25 (a), the owner sends written notice to the retailer, or its designee,
 26 disputing the retailer's claim that the owner received motor fuel
 27 from the retailer without making proper payment, the retailer, and
 28 its designee:
 29 (1) shall cease communications and all collection efforts under
 30 this chapter; and
 31 (2) may pursue a civil action under IC 34-24-3-1.
 32 **Sec. 7.** Civil liability under this chapter does not preclude
 33 criminal liability under IC 35-43-4-2, IC 35-43-4-3, IC 35-43-4-8,
 34 or any other law.
 35 **Sec. 8. (a)** The bureau of motor vehicles shall adopt rules to
 36 implement a system by which a retailer or association of retailers
 37 may obtain the name and mailing address of any owner who has
 38 been identified as committing an offense under section 5 of this
 39 chapter. The bureau of motor vehicles may integrate any system
 40 established under this section with its existing programs for the
 41 release of information under IC 9-14-3.
 42 (b) The bureau of motor vehicles may enter into an agreement

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with a retailer or association of retailers to establish:

- (1) a fee different than the fee set forth in IC 9-29-2-2; or**
- (2) other negotiated terms for the release of owner records; using the system established under this section.**

(c) Any information released by the bureau of motor vehicles under this section shall be consistent with its authority under IC 9-14-3.5 and shall be in compliance with 18 U.S.C. 2721 et seq.

SECTION 2. IC 34-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. If a person **has an unpaid claim on a liability that is covered by IC 24-4.6-5** or suffers a pecuniary loss as a result of a violation of IC 35-43, IC 35-42-3-3, IC 35-42-3-4, or IC 35-45-9, the person may bring a civil action against the person who caused the loss for the following:

- (1) An amount not to exceed three (3) times:
 - (A) the actual damages of the person suffering the loss, in the case of a liability that is not covered by IC 24-4.6-5; or**
 - (B) the total pump price of the motor fuel received, in the case of a liability that is covered by IC 24-4.6-5.**
- (2) The costs of the action.
- (3) A reasonable attorney's fee.
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A).
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A).
- (7) All other reasonable costs of collection.

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