February 12, 2010

ENGROSSED
SENATE BILL No. 186

DIGEST OF SB 186 (Updated February 10, 2010 12:13 pm - DI 96)

Citations Affected: IC 10-11; IC 10-14; IC 13-25; IC 22-12.

Synopsis: Transportation of radioactive materials. Adds violations concerning the transportation of radioactive waste to the list of violations for which a truck and trailer may be stopped, inspected, and cited at a weigh station. Allows certain members of: (1) local emergency planning committees; and (2) the board of firefighting personnel standards and education; to appoint designees. Amends IC 10-14-8 concerning the transportation of high level radioactive waste to apply to both high and low level radioactive waste. Requires a person that transports high or low level radioactive waste to obtain a permit from the department of homeland security. Provides that the state police department may detain, seize, or impound a vehicle that illegally transports radioactive waste. Imposes civil penalties for the illegal transportation of radioactive waste. Deposits civil penalties in the nuclear response fund. Specifies who may inspect motor vehicles for illegal transportation of radioactive waste. Provides that the illegal transportation of radioactive waste is a Class B infraction.

Effective: July 1, 2010.

Wyss, Arnold, Randolph
(HOUSE SPONSORS — TINCHER, WOLKINS)

January 5, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.
January 19, 2010, amended, reported favorably — Do Pass.
January 21, 2010, read second time, ordered engrossed.
January 22, 2010, engrossed.
January 26, 2010, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 2, 2010, read first time and referred to Committee on Roads and Transportation.
February 11, 2010, reported — Do Pass. Recommitted to Committee on Ways and Means.

C o p y

February 12, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

C o p y

ENGROSSED
SENATE BILL No. 186

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-11-2-26, AS AMENDED BY P.L.21-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least ten thousand one (10,001) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

(1) IC 6-1.1-7-10.
(2) IC 6-6-1.1-1202.
(3) IC 6-6-2.5.
(4) IC 6-6-4.1-12.
(5) IC 8-2.1.
(6) IC 9-18.
(7) IC 9-19.

(8) IC 9-20.
(9) IC 9-21-7-2 through IC 9-21-7-11.
(10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.
(11) IC 9-21-8-45 through IC 9-21-8-48.
(12) IC 9-21-9.
(13) IC 9-21-15.
(14) IC 9-21-21.
(15) IC 9-24-1-1 through IC 9-24-1-2.
(16) IC 9-24-1-7.
(17) Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.
(18) IC 9-24-4.
(19) IC 9-24-5.
(20) IC 9-24-11-4.
(21) IC 9-24-13-3.
(22) IC 9-24-18-1 through IC 9-24-18-2.
(23) IC 9-25-4-3.
(24) IC 9-28-4.
(25) IC 9-28-5.
(26) IC 9-28-6.
(27) IC 9-29-5-11 through IC 9-29-5-13.
(28) IC 9-29-5-42.
(29) IC 9-29-6-1.
(30) IC 10-14-8.
~~(30)~~ **(31)** IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.
~~(31)~~ **(32)** IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 2. IC 10-14-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This chapter applies to **the following:**

(1) High level radioactive waste transported to ~~or from facilities sited, constructed, or operated in accordance with the federal Nuclear Waste Policy Act of 1982.~~ **a site authorized by a government agency to receive, store, reprocess, or dispose of high level radioactive waste or spent nuclear fuel.**

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(2) Low level radioactive waste that is:

(A) transported to a site authorized by a government agency to receive low level radioactive waste; or

(B) shipped to a storage or treatment site before disposal.

(b) This chapter does not apply to:

(1) radioactive ~~materials~~ **waste** shipped by ~~or for~~ the ~~federal government for: (1) military; (2) national security; or (3) national defense; purposes.~~ **United States Department of Defense; or**

(2) the transport of low level radioactive waste between premises owned by or operated under the license of a licensee by a motor vehicle owned by or under contract to the licensee and a facility owned by or operated under the license of a licensee in Indiana.

SECTION 3. IC 10-14-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "high level radioactive waste" means:

(1) irradiated reactor fuel;

(2) liquid wastes resulting from the operation of a first cycle solvent extraction system or its equivalent and the concentrated wastes from a subsequent extraction cycle or its equivalent in a facility for reprocessing irradiated reactor fuel; ~~and~~

(3) solids into which liquid wastes described in subdivision (2) have been converted; **and**

(4) materials produced as a byproduct of the reactions that occur inside a nuclear reactor in either of the following forms:

(A) Spent nuclear fuel that is accepted for disposal.

(B) Waste materials remaining after spent nuclear fuel is reprocessed.

SECTION 4. IC 10-14-8-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.3. As used in this chapter, "licensee" refers to an entity that is licensed by the United States Nuclear Regulatory Commission to own or use radioactive materials.**

SECTION 5. IC 10-14-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. As used in this chapter, "low level radioactive waste" means radioactive material from a facility licensed by the United States Nuclear Regulatory Commission under 10 C.F.R. 50 other than the following:**

(1) High level radioactive waste.

(2) Spent nuclear fuel.

(3) Transuranic waste.

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(4) Byproduct material (as defined in 42 U.S.C. 2014(e)).

SECTION 6. IC 10-14-8-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.7. As used in this chapter, "spent nuclear fuel" means fuel:**

(1) that has been withdrawn from a nuclear reactor following irradiation; and

(2) whose constituent elements have not been separated by reprocessing.

SECTION 7. IC 10-14-8-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.9. (a) A shipper of high or low level radioactive waste in Indiana must submit an application to the department of homeland security in the form and manner prescribed by the department of homeland security.**

(b) The department of homeland security may issue a permit to a person that:

(1) submits a completed application; and

(2) pays a fee set by the department of homeland security.

(c) The permit must:

(1) specify the purpose for which the permit is issued; and

(2) contain an expiration date.

SECTION 8. IC 10-14-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the ~~person who is responsible for the shipment~~ **shipper** must submit the following to the director:

(1) ~~A notice that includes:~~

~~(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and~~

~~(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).~~ **An appropriate permit issued under section 2.9 of this chapter.**

(2) ~~A transportation fee of one thousand dollars ($1,000) for each cask of nuclear waste in the shipment.~~ **The following fees:**

(A) For each truck shipment, two thousand five hundred dollars ($2,500) per truck.

(B) For each rail shipment:

(i) Four thousand five hundred dollars ($4,500) for the first cask.

(ii) Three thousand dollars ($3,000) for the second and additional casks.

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(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

(c) As used in this section, "cask" means a heavily shielded container:

(1) used for the shipment of radioactive materials, including high level radioactive waste and spent nuclear fuel; and

(2) whose design is approved by the United States Nuclear Regulatory Commission.

SECTION 9. IC 10-14-8-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.1. (a) Before a person may transport low level radioactive waste ~~(as defined in IC 13-11-2-121(a))~~ in Indiana, the ~~person who is responsible for the shipment~~ **shipper** must submit:

(1) an appropriate permit issued under section 2.9 of this chapter; and

(2) a transportation fee of one hundred dollars ($100) for each ~~total~~ shipment of low level radioactive waste;

to the director.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

SECTION 10. IC 10-14-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The director shall consult with:

(1) the state health commissioner of the state department of health;

(2) the commissioner of the Indiana department of transportation;

(3) the commissioner of the department of environmental management;

(4) the director of the department of natural resources;

(5) the superintendent of the state police department;

(6) representatives of the:

(A) United States Nuclear Regulatory Commission;

(B) Federal Emergency Management Agency;

(C) United States Department of Energy; and

(D) United States Department of Transportation; and

(7) a representative of a local emergency management agency designated by the director;

to prepare a plan for emergency response to a ~~high level~~ radioactive waste transportation accident in Indiana. The plan must include provisions for evacuation, containment, and cleanup and must designate the role of each state or local government agency involved in the emergency response plan.

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(b) The director shall report to the general assembly each year on the:

(1) status of the plan prepared under subsection (a); and

(2) ability of the state to respond adequately to a ~~high level~~ radioactive waste transportation accident in Indiana.

A report under this subsection to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 11. IC 10-14-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Under 49 CFR Part 177, the director may require preferred highway routes for transporting high level radioactive waste in Indiana if the director determines under United States Department of Transportation "Guidelines for Selecting Preferred Highway Routes for ~~Large~~ **Highway Route Controlled** Quantity Shipments of Radioactive Materials" that alternative routes are safer than proposed routes.

(b) The director shall:

(1) annually review federally approved highway and railway routes for transporting high level radioactive waste in Indiana; and

(2) select new state designated routes in accordance with 49 CFR Part 177 if safety considerations indicate the alternate routes would be preferable.

(c) Before the director may require alternative routes under subsection (a) or select new state designated routes under subsection (b), the director must do the following:

(1) Consult with all of the persons described in section 4(a) of this chapter.

(2) Conduct or engage in substantial consultation with the affected local county authorities.

(3) Notify the:

(A) state health commissioner of the state department of health;

(B) commissioner of the department of environmental management;

(C) superintendent of the state police department; and

(D) local emergency management agency and applicable local fire and law enforcement agencies in each affected county;

of the director's final decision concerning an alternative route or a new state designated route before the date upon which the alternative route or new state designated route takes effect.

(4) If the director wishes to change the route of a railway shipment of high level radioactive waste, the director must notify

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the ~~United States Department of Energy~~ **shipper** and the appropriate rail carrier of any changes the director feels should be made to the route.

(d) The state is not liable by requiring alternate routes to be used as provided under this section.

SECTION 12. IC 10-14-8-6, AS AMENDED BY P.L.1-2006, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The nuclear response fund is established to:

(1) provide appropriate education, training, and equipment to **state and** local emergency responders:

~~(1) in counties~~ **(A)** that ~~will be affected by~~ **respond to a release of radioactive waste caused by or during** the transportation of ~~high level~~ radioactive waste under this chapter; and

~~(2)~~ **(B)** to ~~(A)~~ prevent, ~~(B)~~ prepare for, and ~~(C)~~ respond to acts of terrorism; **and**

(2) otherwise enforce this chapter.

(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) **or 3.1(b)** of this chapter.

(c) The department of homeland security shall administer the fund. Money in the fund is annually appropriated to the ~~state emergency response commission~~ **department of homeland security** to be used for purposes described in subsection (a).

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 13. IC 10-14-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. A ~~person that transports.~~ **shipper of:**

(1) low level radioactive waste; ~~(as defined in IC 13-11-2-121(a)),~~ or

(2) high level radioactive waste;

in Indiana shall reimburse each governmental entity that provides security for a shipment for reasonable and necessary expenses incurred by the governmental entity in providing the security.

SECTION 14. IC 10-14-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) The state police department may detain, seize, or impound a motor vehicle and its cargo if the state police department determines that the motor vehicle is involved in a violation of this chapter. The state police department shall observe established state police department guidelines in seizing or impounding the motor vehicle and cargo.**

(b) To obtain possession of a seized or impounded motor vehicle or its cargo, the motor carrier that operates the motor vehicle must correct any violations of this chapter, including without limitation the failure to obtain a permit required under this chapter that resulted in the detention, seizure, or impounding of a motor vehicle or cargo.

SECTION 15. IC 10-14-8-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. The following may conduct inspections to determine violations of and enforce this chapter:**

(1) The state police department.

(2) Agents of the state police department.

(3) Motor carrier inspectors of the state police department.

(4) Rail safety inspectors.

(5) Other eligible law enforcement officers.

SECTION 16. IC 10-14-8-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12. A person who violates this chapter commits a Class B infraction.**

SECTION 17. IC 13-25-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The commission shall do the following:

(1) Encourage and support the development of emergency planning efforts to provide:

(A) state government entities;

(B) local governments; and

(C) the public;

with information concerning potential chemical hazards in Indiana.

(2) Assist the state in complying with the requirements of SARA.

(3) Design and supervise the operation of emergency planning districts in Indiana.

(4) Gather and distribute information needed for effective emergency response planning.

(b) A local emergency planning committee shall do the following:

(1) Satisfy the requirements of SARA.

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(2) Prepare and submit a roster of committee members to the commission at least one (1) time each year.

(3) Meet at least two (2) times, on separate days, every six (6) months.

(4) Prepare and submit the report required under IC 6-6-10-8.

(c) A local emergency planning committee member who is an employee of a unit (as defined in IC 36-1-2-23) may appoint a designee to act on the committee member's behalf under this chapter. An appointment under this subsection must:

(1) be in writing;

(2) specify the duration of the appointment; and

(3) be submitted to the committee at least two (2) calendar days before the first meeting that the designee attends on behalf of the member.

SECTION 18. IC 22-12-3-2, AS AMENDED BY P.L.101-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The education board consists of eleven (11) voting members ~~The governor shall appoint nine (9) individuals as voting members of the education board, each to serve a term of four (4) years.~~ **as follows:**

(1) The state fire marshal ~~and~~ **or the state fire marshal's designee.**

(2) The ~~deputy~~ director of the department's division of preparedness and training ~~shall also serve as voting members of the education board.~~ **or the director's designee.**

(3) Nine (9) members appointed by the governor, each serving a four (4) year term.

(b) Each appointed member of the education board must be qualified by experience or education in the field of fire protection and related fields.

(c) Each appointed member of the education board must be a resident of Indiana.

(d) The education board must include the following appointed members:

(1) Seven (7) individuals who are members of fire departments. Appointments under this subdivision must include the following:

(A) At least one (1) individual who is a full-time firefighter (as defined in IC 36-8-10.5-3).

(B) At least one (1) individual who is a volunteer firefighter (as defined in IC 36-8-12-2).

(C) At least one (1) individual who is a fire department officer.

(2) Two (2) citizens who are not members of a fire department.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 186, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 2. IC 10-14-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This chapter applies to **the following:**

(1) High level radioactive waste transported to ~~or from facilities sited, constructed, or operated in accordance with the federal Nuclear Waste Policy Act of 1982.~~ **a site authorized by a government agency to receive, store, reprocess, or dispose of high level radioactive waste or spent nuclear fuel.**

(2) Low level radioactive waste that is:

(A) transported to a site authorized by a government agency to receive low level radioactive waste; or

(B) shipped to a storage or treatment site before disposal.

(b) This chapter does not apply to:

(1) radioactive ~~materials~~ **waste** shipped by ~~or for~~ the ~~federal government for: (1) military; (2) national security; or (3) national defense; purposes.~~ **United States Department of Defense; or**

(2) the transport of low level radioactive waste between premises owned by or operated under the license of a licensee by a motor vehicle owned by or under contract to the licensee and a facility owned by or operated under the license of a licensee in Indiana.

SECTION 3. IC 10-14-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "high level radioactive waste" means:

(1) irradiated reactor fuel;

(2) liquid wastes resulting from the operation of a first cycle solvent extraction system or its equivalent and the concentrated wastes from a subsequent extraction cycle or its equivalent in a facility for reprocessing irradiated reactor fuel; ~~and~~

(3) solids into which liquid wastes described in subdivision (2) have been converted; **and**

(4) materials produced as a byproduct of the reactions that occur inside a nuclear reactor in either of the following forms:

(A) Spent nuclear fuel that is accepted for disposal.

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(B) Waste materials remaining after spent nuclear fuel is reprocessed.

SECTION 4. IC 10-14-8-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.3. As used in this chapter, "licensee" refers to an entity that is licensed by the United States Nuclear Regulatory Commission to own or use radioactive materials.**".

Page 3, delete lines 1 through 10.

Page 3, line 14, after "material" insert "**from a facility licensed by the United States Nuclear Regulatory Commission under 10 C.F.R. 50**".

Page 3, between lines 16 and 17, begin a new line block indented and insert:

"**(3) Transuranic waste.**".

Page 3, line 17, delete "(3)" and insert "**(4)**".

Page 3, line 17, delete "42 U.S.C. 2014(e)(2))." and insert "**42 U.S.C. 2014(e)).**".

Page 3, line 28, delete "person that seeks to transport" and insert "**shipper of**".

Page 3, delete lines 32 through 40.

Page 3, line 41, delete "(c)" and insert "**(b)**".

Page 4, line 3, delete "(d)" and insert "**(c)**".

Page 7, line 16, strike "person that".

Page 7, line 17, strike "transports:" and insert "**shipper of:**".

Page 7, delete lines 34 through 38 and insert "**correct any violations of this chapter, including without limitation the failure to obtain a permit required under this chapter that resulted in the detention, seizure, or impounding of a motor vehicle or cargo.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 186 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 186, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AUSTIN, Chair

Committee Vote: yeas 9, nays 1.

C o p y