



Reprinted  
February 23, 2010

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**ENGROSSED**  
**SENATE BILL No. 400**

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DIGEST OF SB 400 (Updated February 22, 2010 4:35 pm - DI 96)

**Citations Affected:** IC 9-13; IC 9-21; IC 9-24; IC 14-8; IC 14-16; IC 15-12; IC 34-13.

**Synopsis:** Motor vehicles. Defines "all-terrain vehicle" (ATV) and "recreational off-highway vehicle" (ROV). Amends the definition of "off-road vehicle" for purposes of regulation of land recreation to specifically include ATVs and ROVs. Prohibits: (1) a county, city, or town from adopting an ordinance; and (2) the department of natural resources from adopting a rule, regulation, or guideline; that imposes on off-road vehicles a dry weight limitation of less than 2,000 pounds. Cross-references the new ATV definition for purposes of excluding ATVs from requirements concerning the repurchase of farm or industrial machinery. Provides that a governmental entity or an  
(Continued next page)

**Effective:** July 1, 2010.

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**Yoder, Lewis, Steele**  
(HOUSE SPONSORS — AUSTIN, WOLKINS)

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January 14, 2010, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 28, 2010, reported favorably — Do Pass.

February 1, 2010, read second time, ordered engrossed.

February 2, 2010, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2010, read first time and referred to Committee on Roads and Transportation.

February 18, 2010, amended, reported — Do Pass.

February 22, 2010, read second time, amended, ordered engrossed.

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ES 400—LS 7099/DI 103+



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employee acting within the scope of the employee's employment is not liable if a loss results from the operation of an off-road vehicle by a non-governmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to gross negligence, willful or wanton misconduct, or intentional misconduct, with certain exceptions. Revises provisions governing the use of golf carts on certain county roads. Provides that an ordinance authorizing the use of golf carts on county roads must require that: (1) an individual who operates a golf cart on a county road hold a driver's license; and (2) a fine assessed for a violation of the ordinance be deposited in the general fund of the county. Specifies that the violation of an ordinance governing the use of a golf cart on a state highway in the county is considered an ordinance violation (instead of a Class C infraction). Requires a collector snowmobile to be registered with the department of natural resources in order to be operated on public property. Adds a 3, 4, or 6 wheeled construction related motor vehicle that is: (1) capable of cross-country travel without the benefit of a road and on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain; and (2) used primarily for construction related purposes; to the definition of "farm wagon" for purposes of the operation of the motor vehicle on highways.

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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.

## ENGROSSED SENATE BILL No. 400

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and civil law.

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

1 SECTION 1. IC 9-13-2-60, AS AMENDED BY P.L.150-2009,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 60. (a) "Farm wagon" means ~~either~~ **any** of the  
4 following:

5 (1) A wagon, other than an implement of agriculture, that is used  
6 primarily for transporting farm products and farm supplies in  
7 connection with a farming operation.

8 (2) A three (3), four (4), or six (6) wheeled motor vehicle with a  
9 folding hitch on the front of the motor vehicle, manufactured with  
10 seating for not more than four (4) individuals, that is used  
11 primarily:

12 (A) to transport an individual from one (1) farm field to  
13 another, whether or not the motor vehicle is operated on a  
14 highway in order to reach the other farm field;

15 (B) for the transportation of an individual upon farm premises;

16 or

17 (C) for both purposes set forth in clauses (A) and (B).

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1           **(3) A three (3), four (4), or six (6) wheeled construction**  
 2           **related motor vehicle, capable of cross-country travel:**  
 3           **(A) without the benefit of a road; and**  
 4           **(B) on or immediately over land, water, snow, ice, marsh,**  
 5           **swampland, or other natural terrain;**  
 6           **that is used primarily for construction related purposes,**  
 7           **including hauling building materials.**

8           (b) The term includes a motor vehicle described in subsection (a)(2)  
 9 that is used for the incidental transportation of farm supplies or farm  
 10 implements at the same time it is used for the transportation of an  
 11 individual.

12           SECTION 2. IC 9-21-1-3.3, AS AMENDED BY P.L.182-2009(ss),  
 13 SECTION 292, IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2010]: Sec. 3.3. (a) A **county**, city, or a town  
 15 may adopt by ordinance traffic regulations concerning the use of golf  
 16 carts on a highway under the jurisdiction of the **county**, city, or ~~the~~  
 17 town. An ordinance adopted under this subsection may not:

- 18           (1) conflict with or duplicate another state law; or
- 19           (2) conflict with a driver's licensing requirement of another  
 20 provision of the Indiana Code.

21           (b) A fine assessed for a violation of a traffic ordinance adopted by  
 22 a **county**, city, or a town under this section shall be deposited into the  
 23 general fund of the **county**, city, or town.

24           ~~(c) A person who violates subsection (a) commits a Class E~~  
 25 ~~infraction:~~

26           **(c) Notwithstanding subsection (a), an ordinance adopted by a**  
 27 **county under the authority of this section must require that a golf**  
 28 **cart may not be operated on a highway with a speed limit of**  
 29 **greater than thirty-five (35) miles per hour.**

30           SECTION 3. IC 9-21-9-0.5, AS AMENDED BY P.L.150-2009,  
 31 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2010]: Sec. 0.5. (a) This chapter does not apply to the  
 33 following:

- 34           (1) An electric personal assistive mobility device.
- 35           (2) A low speed vehicle.
- 36           (3) Except as provided in subsection (b), a golf cart.

37           (b) An ordinance adopted in accordance with IC 9-21-1-3(a)(14) or  
 38 IC 9-21-1-3.3(a) may require a golf cart to display a slow moving  
 39 vehicle emblem in accordance with section 3 of this chapter or a red or  
 40 amber flashing lamp in accordance with section 4 of this chapter. A  
 41 fine assessed for a violation of an ordinance under this section shall be  
 42 deposited in the general fund of the city, **county**, or town.

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1 SECTION 4. IC 9-24-1-7, AS AMENDED BY P.L.150-2009,  
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 7. (a) Sections 1 through 5 of this chapter do not  
4 apply to the following individuals:

5 (1) An individual in the service of the armed forces of the United  
6 States while operating an official motor vehicle in that service.

7 (2) An individual while operating:

8 (A) a road roller;

9 (B) road construction or maintenance machinery, except where  
10 the road roller or machinery is required to be registered under  
11 Indiana law;

12 (C) a ditch digging apparatus;

13 (D) a well drilling apparatus;

14 (E) a concrete mixer; or

15 (F) a farm tractor, a farm wagon (as defined in  
16 IC 9-13-2-60(a)(2)), or an implement of agriculture designed  
17 to be operated primarily in a farm field or on farm premises;  
18 that is being temporarily drawn, moved, or propelled on a public  
19 highway. However, to operate a farm wagon (as defined in  
20 IC 9-13-2-60(a)(2)) on a highway, an individual must be at least  
21 fifteen (15) years of age.

22 (3) A nonresident who:

23 (A) is at least sixteen (16) years and one (1) month of age; and

24 (B) has in the nonresident's immediate possession a valid  
25 operator's license that was issued to the nonresident in the  
26 nonresident's home state or country;

27 while operating a motor vehicle in Indiana only as an operator.

28 (4) A nonresident who:

29 (A) is at least eighteen (18) years of age; and

30 (B) has in the nonresident's immediate possession a valid  
31 chauffeur's license that was issued to the nonresident in the  
32 nonresident's home state or country;

33 while operating a motor vehicle upon a public highway, either as  
34 an operator or a chauffeur.

35 (5) A nonresident who:

36 (A) is at least eighteen (18) years of age; and

37 (B) has in the nonresident's immediate possession a valid  
38 license issued by the nonresident's home state for the operation  
39 of any motor vehicle upon a public highway when in use as a  
40 public passenger carrying vehicle;

41 while operating a motor vehicle upon a public highway.

42 (6) A nonresident whose home state or country does not require

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1 the licensing of operators or chauffeurs and who has not been  
 2 licensed as an operator or a chauffeur in the nonresident's home  
 3 state or country as an operator if the nonresident is at least sixteen  
 4 (16) years and thirty (30) days of age and less than eighteen (18)  
 5 years of age or as a chauffeur if the nonresident is at least  
 6 eighteen (18) years of age, for not more than sixty (60) days in  
 7 any one (1) year if the following conditions exist:  
 8 (A) The unlicensed nonresident is the owner of the motor  
 9 vehicle or the authorized driver of the vehicle.  
 10 (B) The vehicle has been registered for the current year in the  
 11 state or country of which the owner is a resident.  
 12 (C) The motor vehicle at all times displays a registration plate  
 13 issued in the home state or country of the owner.  
 14 (D) The nonresident owner or driver has in the owner's or  
 15 driver's immediate possession a registration card evidencing  
 16 ownership and registration in the owner's or driver's home  
 17 state or country or is able at any required time or place to do  
 18 the following:  
 19 (i) Prove lawful possession or the right to operate the motor  
 20 vehicle.  
 21 (ii) Establish the nonresident's proper identity.  
 22 (7) An individual who is legally licensed to operate a motor  
 23 vehicle in the state of the individual's residence and who is  
 24 employed in Indiana, subject to the restrictions imposed by the  
 25 state of the individual's residence.  
 26 (8) A new resident of Indiana who possesses an unexpired driver's  
 27 license issued by the resident's former state of residence, for a  
 28 period of sixty (60) days after becoming a resident of Indiana.  
 29 (9) An individual who is an engineer, a conductor, a brakeman, or  
 30 another member of the crew of a locomotive or a train that is  
 31 being operated upon rails, including the operation of the  
 32 locomotive or the train on a crossing over a street or a highway.  
 33 An individual described in this subdivision is not required to  
 34 display a license to a law enforcement officer in connection with  
 35 the operation of a locomotive or a train in Indiana.  
 36 (b) An ordinance adopted under IC 9-21-1-3((a)(14) or  
 37 IC 9-21-1-3.3(a) must require that an individual who operates a golf  
 38 cart in the city, **county**, or town hold a driver's license.  
 39 SECTION 5. IC 14-8-2-5.7 IS ADDED TO THE INDIANA CODE  
 40 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
 41 1, 2010]: **Sec. 5.7. "All-terrain vehicle", for purposes of**  
 42 **IC 14-8-2-185, means a motorized, off-highway vehicle that:**

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- 1 (1) is fifty (50) inches or less in width;
- 2 (2) has a dry weight of twelve hundred (1,200) pounds or less;
- 3 (3) is designed for travel on at least three (3) nonhighway or
- 4 off-highway tires;
- 5 (4) is designed for recreational use by one (1) or more
- 6 individuals;
- 7 (5) has a seat or saddle designed to be straddled by the
- 8 operator; and
- 9 (6) has handlebars for steering control.

10 **The term includes parts, equipment, or attachments sold with the**  
 11 **vehicle.**

12 SECTION 6. IC 14-8-2-185, AS AMENDED BY P.L.150-2009,  
 13 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2010]: Sec. 185. (a) "Off-road vehicle", for purposes of  
 15 IC 14-16-1 and IC 14-19-1-0.5, means a motor driven vehicle capable  
 16 of cross-country travel:

- 17 (1) without benefit of a road; and
- 18 (2) on or immediately over land, water, snow, ice, marsh,
- 19 swampland, or other natural terrain.

20 (b) The term includes the following:

- 21 (1) A multiwheel drive or low pressure tire vehicle.
- 22 (2) An amphibious machine.
- 23 (3) A ground effect air cushion vehicle.
- 24 **(4) An all-terrain vehicle (as defined in section 5.7 of this**  
 25 **chapter).**
- 26 **(5) A recreational off-highway vehicle (as defined in section**  
 27 **233.5 of this chapter).**

28 ~~(4)~~ **(6) Other means of transportation deriving motive power from**  
 29 **a source other than muscle or wind.**

30 (c) The term does not include the following:

- 31 (1) A farm vehicle being used for farming, including, but not
- 32 limited to, a farm wagon (as defined in IC 9-13-2-60(a)(2)).
- 33 (2) A vehicle used for military or law enforcement purposes.
- 34 (3) A construction, mining, or other industrial related vehicle used
- 35 in performance of the vehicle's common function, **including, but**  
 36 **not limited to, a farm wagon (as defined in**  
 37 **IC 9-13-2-60(a)(3)).**
- 38 (4) A snowmobile (as defined by section 261 of this chapter).
- 39 (5) A registered aircraft.
- 40 (6) Any other vehicle properly registered by the bureau of motor
- 41 vehicles.
- 42 (7) Any watercraft that is registered under Indiana statutes.

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(8) A golf cart vehicle.  
SECTION 7. IC 14-8-2-233.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 233.5. "Recreational off-road vehicle", for purposes of IC 14-8-2-185, means a motorized, off-highway vehicle that:**

- (1) is sixty-four (64) inches or less in width;**
- (2) has a dry weight of two thousand (2,000) pounds or less;**
- (3) is designed for travel on at least four (4) nonhighway or off-highway tires;**
- (4) is designed for recreational use by one (1) or more individuals;**
- (5) has a nonstraddle seat or saddle; and**
- (6) has a steering wheel for steering control.**

SECTION 8. IC 14-16-1-1.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.8. As used in this chapter, "collector snowmobile" means a snowmobile that is:**

- (1) at least twenty-five (25) years old; and**
- (2) owned and operated as a collector snowmobile for participation in special events of limited duration, including races, parades, and other group events.**

SECTION 9. IC 14-16-1-8, AS AMENDED BY P.L.225-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:**

- (1) An off-road vehicle.**
- (2) A snowmobile (including a collector snowmobile).**

**(b) Except as provided under subsection (c), a ~~vehicle that is purchased after December 31, 2003~~; the following must be registered under this chapter:**

- (1) A vehicle that is purchased after December 31, 2003.**
- (2) A collector snowmobile.**

- (c) Registration is not required for the following vehicles:**
  - (1) ~~A~~ An off-road vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.**
  - (2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.**
  - (3) A vehicle being operated for purposes of testing or demonstration with temporary placement of numbers as set forth**

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- 1 in section 16 of this chapter.
- 2 (4) A vehicle the operator of which has in the operator's
- 3 possession a bill of sale from a dealer or private individual that
- 4 includes the following:
- 5 (A) The purchaser's name and address.
- 6 (B) A date of purchase that is not more than thirty-one (31)
- 7 days preceding the date that the operator is required to show
- 8 the bill of sale.
- 9 (C) The make, model, and vehicle number of the vehicle
- 10 provided by the manufacturer as required by section 13 of this
- 11 chapter.

12 SECTION 10. IC 14-16-1-22 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. A county, city, or  
 14 town may pass an ordinance regulating the operation of vehicles if the  
 15 ordinance meets substantially the minimum requirements of this  
 16 chapter. However, a county, city, or town may not adopt an ordinance  
 17 that does any of the following:

- 18 (1) Imposes a fee for a license.
- 19 (2) Specifies accessory equipment to be carried on the vehicles.
- 20 (3) Requires a vehicle operator to possess a driver's license issued
- 21 under IC 9-24-11 while operating an off-road vehicle or
- 22 snowmobile.
- 23 **(4) Imposes a dry weight limitation of less than two thousand**
- 24 **(2,000) pounds.**

25 SECTION 11. IC 14-16-1-31 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2010]: **Sec. 31. The department may not**  
 28 **adopt a rule, regulation, or guideline that, with respect to an**  
 29 **off-road vehicle, imposes a dry weight limitation of less than two**  
 30 **thousand (2,000) pounds.**

31 SECTION 12. IC 15-12-3-2, AS ADDED BY P.L.2-2008,  
 32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2010]: Sec. 2. As used in this chapter, "all terrain vehicle"  
 34 means a motorized, off-highway vehicle that:

- 35 (1) is fifty (50) inches or less in width;
- 36 (2) has a dry weight of six hundred (600) pounds or less;
- 37 (3) is designed for travel on at least three (3) low pressure tires;
- 38 (4) is designed for operator use only with no passengers;
- 39 (5) has a seat or saddle designed to be straddled by the operator;
- 40 and
- 41 (6) has handlebars for steering control.

42 The term includes parts, equipment, or attachments sold with the

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~~vehicle~~ has the meaning set forth in IC 14-8-2-5.7.

SECTION 13. IC 34-13-3-3, AS AMENDED BY P.L.121-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
  - (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
  - (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
  - (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
  - (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
    - (A) a set of rules governing the use of the extreme sport area;
    - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
    - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.
- This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.
- (6) The initiation of a judicial or an administrative proceeding.
  - (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
  - (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
  - (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
  - (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
  - (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the

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- 1 authority is discretionary under the law.
- 2 (12) Failure to make an inspection, or making an inadequate or
- 3 negligent inspection, of any property, other than the property of
- 4 a governmental entity, to determine whether the property
- 5 complied with or violates any law or contains a hazard to health
- 6 or safety.
- 7 (13) Entry upon any property where the entry is expressly or
- 8 impliedly authorized by law.
- 9 (14) Misrepresentation if unintentional.
- 10 (15) Theft by another person of money in the employee's official
- 11 custody, unless the loss was sustained because of the employee's
- 12 own negligent or wrongful act or omission.
- 13 (16) Injury to the property of a person under the jurisdiction and
- 14 control of the department of correction if the person has not
- 15 exhausted the administrative remedies and procedures provided
- 16 by section 7 of this chapter.
- 17 (17) Injury to the person or property of a person under supervision
- 18 of a governmental entity and who is:
- 19 (A) on probation; or
- 20 (B) assigned to an alcohol and drug services program under
- 21 IC 12-23, a minimum security release program under
- 22 IC 11-10-8, a pretrial conditional release program under
- 23 IC 35-33-8, or a community corrections program under
- 24 IC 11-12.
- 25 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
- 26 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
- 27 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
- 28 claimed loss occurs at least twenty (20) years after the public
- 29 highway, toll road project, tollway, or project was designed or
- 30 substantially redesigned; except that this subdivision shall not be
- 31 construed to relieve a responsible governmental entity from the
- 32 continuing duty to provide and maintain public highways in a
- 33 reasonably safe condition.
- 34 (19) Development, adoption, implementation, operation,
- 35 maintenance, or use of an enhanced emergency communication
- 36 system.
- 37 (20) Injury to a student or a student's property by an employee of
- 38 a school corporation if the employee is acting reasonably under a
- 39 discipline policy adopted under IC 20-33-8-12.
- 40 (21) An act or omission performed in good faith under the
- 41 apparent authority of a court order described in IC 35-46-1-15.1
- 42 that is invalid, including an arrest or imprisonment related to the

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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 (22) 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 **(23) The operation of an off-road vehicle (as defined in**  
 12 **IC 14-8-2-185) by a nongovernmental employee, or by a**  
 13 **governmental employee not acting within the scope of the**  
 14 **employment of the employee, on a public highway in a county**  
 15 **road system outside the corporate limits of a city or town,**  
 16 **unless the loss is the result of an act or omission amounting to:**  
 17 **(A) gross negligence;**  
 18 **(B) willful or wanton misconduct; or**  
 19 **(C) intentional misconduct.**  
 20 **This subdivision shall not be construed to relieve a**  
 21 **governmental entity from liability for the continuing duty to**  
 22 **maintain highways in a reasonably safe condition for the**  
 23 **operation of motor vehicles licensed by the bureau of motor**  
 24 **vehicles for operation on public highways.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 400, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 400 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 400, 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 natural and cultural resources and civil law.

Page 3, after line 30, begin a new paragraph and insert:

"SECTION 7. IC 34-13-3-3, AS AMENDED BY P.L.121-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
  - (A) a set of rules governing the use of the extreme sport area;
  - (B) a warning concerning the hazards and dangers associated



with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under

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IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

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

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

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12.

(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

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

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

**(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:**

**(A) gross negligence;**

**(B) willful or wanton misconduct; or**

**(C) intentional misconduct.**

**This subdivision shall not be construed to relieve a**

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**governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition."**

and when so amended that said bill do pass.

(Reference is to SB 400 as printed January 29, 2010.)

AUSTIN, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 400 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-60, AS AMENDED BY P.L.150-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 60. (a) "Farm wagon" means ~~either~~ **any** of the following:

(1) A wagon, other than an implement of agriculture, that is used primarily for transporting farm products and farm supplies in connection with a farming operation.

(2) A three (3), four (4), or six (6) wheeled motor vehicle with a folding hitch on the front of the motor vehicle, manufactured with seating for not more than four (4) individuals, that is used primarily:

(A) to transport an individual from one (1) farm field to another, whether or not the motor vehicle is operated on a highway in order to reach the other farm field;

(B) for the transportation of an individual upon farm premises; or

(C) for both purposes set forth in clauses (A) and (B).

**(3) A three (3), four (4), or six (6) wheeled construction related motor vehicle, capable of cross-country travel:**

**(A) without the benefit of a road; and**

**(B) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain;**

**that is used primarily for construction related purposes, including hauling building materials.**

(b) The term includes a motor vehicle described in subsection (a)(2) that is used for the incidental transportation of farm supplies or farm

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implements at the same time it is used for the transportation of an individual."

Page 2, line 22, delete "." and insert ", **including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(3)).**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 400 as printed February 19, 2010.)

FRIEND

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 400 be amended to read as follows:

Page 6, line 9, delete "condition." and insert "**condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.**"

(Reference is to ESB 400 as printed February 19, 2010.)

STILWELL

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 400 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-21-1-3.3, AS AMENDED BY P.L.182-2009(ss), SECTION 292, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.3. (a) A **county**, city, or a town may adopt by ordinance traffic regulations concerning the use of golf carts on a highway under the jurisdiction of the **county**, city, or ~~the~~ town. An ordinance adopted under this subsection may not:

- (1) conflict with or duplicate another state law; or
- (2) conflict with a driver's licensing requirement of another provision of the Indiana Code.

(b) A fine assessed for a violation of a traffic ordinance adopted by a **county**, city, or a town under this section shall be deposited into the general fund of the **county**, city, or town.

~~(c) A person who violates subsection (a) commits a Class E~~



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~~infraction.~~

**(c) Notwithstanding subsection (a), an ordinance adopted by a county under the authority of this section must require that a golf cart may not be operated on a highway with a speed limit of greater than thirty-five (35) miles per hour.**

SECTION 2. IC 9-21-9-0.5, AS AMENDED BY P.L.150-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) This chapter does not apply to the following:

- (1) An electric personal assistive mobility device.
- (2) A low speed vehicle.
- (3) Except as provided in subsection (b), a golf cart.

(b) An ordinance adopted in accordance with IC 9-21-1-3(a)(14) or IC 9-21-1-3.3(a) may require a golf cart to display a slow moving vehicle emblem in accordance with section 3 of this chapter or a red or amber flashing lamp in accordance with section 4 of this chapter. A fine assessed for a violation of an ordinance under this section shall be deposited in the general fund of the city, **county**, or town.

SECTION 3. IC 9-24-1-7, AS AMENDED BY P.L.150-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Sections 1 through 5 of this chapter do not apply to the following individuals:

- (1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.
- (2) An individual while operating:
  - (A) a road roller;
  - (B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;
  - (C) a ditch digging apparatus;
  - (D) a well drilling apparatus;
  - (E) a concrete mixer; or
  - (F) a farm tractor, a farm wagon (as defined in IC 9-13-2-60(a)(2)), or an implement of agriculture designed to be operated primarily in a farm field or on farm premises; that is being temporarily drawn, moved, or propelled on a public highway. However, to operate a farm wagon (as defined in IC 9-13-2-60(a)(2)) on a highway, an individual must be at least fifteen (15) years of age.
- (3) A nonresident who:
  - (A) is at least sixteen (16) years and one (1) month of age; and
  - (B) has in the nonresident's immediate possession a valid

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operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.

(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.

(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.

(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:

(i) Prove lawful possession or the right to operate the motor vehicle.

(ii) Establish the nonresident's proper identity.

(7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the

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state of the individual's residence.

(8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

(9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

(b) An ordinance adopted under IC 9-21-1-3((a)(14) or IC 9-21-1-3.3(a) must require that an individual who operates a golf cart in the city, **county**, or town hold a driver's license."

Page 2, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 7. IC 14-16-1-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.8. As used in this chapter, "collector snowmobile" means a snowmobile that is:**

- (1) **at least twenty-five (25) years old; and**
- (2) **owned and operated as a collector snowmobile for participation in special events of limited duration, including races, parades, and other group events.**

SECTION 8. IC 14-16-1-8, AS AMENDED BY P.L.225-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:

- (1) An off-road vehicle.
- (2) A snowmobile **(including a collector snowmobile).**

(b) Except as provided under subsection (c), a ~~vehicle that is purchased after December 31, 2003;~~ **the following** must be registered under this chapter:

- (1) **A vehicle that is purchased after December 31, 2003.**
- (2) **A collector snowmobile.**

(c) Registration is not required for the following vehicles:

- (1) ~~A~~ **An off-road** vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.
- (2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.
- (3) A vehicle being operated for purposes of testing or

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demonstration with temporary placement of numbers as set forth in section 16 of this chapter.

(4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make, model, and vehicle number of the vehicle provided by the manufacturer as required by section 13 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to ESB 400 as printed February 19, 2010.)

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