January 29, 2010

SENATE BILL No. 143

DIGEST OF SB 143 (Updated January 28, 2010 11:11 am - DI 96)

Citations Affected: IC 9-13; IC 9-22.

Synopsis: Towing services. Provides that a towing service that provides professional towing services shall release a passenger motor vehicle to the owner or a representative of the owner upon the receipt of the towing service of certain documentation concerning the charges and the ownership of the vehicle. Provides that upon release of the vehicle, the towing service may no longer claim a statutory or possessory lien on the vehicle, but requires the insurer to pay the reasonable and customary charges for professional services proved by the towing service, including interest on unpaid charges for the professional services, beginning on the thirty-first day after the release of the vehicle.

Effective: July 1, 2010.

Paul

January 5, 2010, read first time and referred to Committee on Insurance and Financial Institutions.
January 28, 2010, reported favorably — Do Pass.

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January 29, 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.

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SENATE BILL No. 143

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

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

SECTION 1. IC 9-13-2-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.9. "Accessible to the public", for purposes of IC 9-22-5, has the meaning set forth in IC 9-22-5-0.3.**

SECTION 2. IC 9-13-2-111.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 111.5. "Nonconsenting police generated tow", for purposes of IC 9-22-5, has the meaning set forth in IC 9-22-5-0.7.**

SECTION 3. IC 9-22-5-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.3. As used in this chapter, "accessible to the public" means that the place of business of a towing service is:**

(1) staffed at least thirty (30) hours a week;

(2) staffed at least twenty (20) hours a week and a telephone answering, paging, or mobile service is offered at least ten (10) of the remaining hours of the week, for which the contact

telephone number is identified on the business sign at the towing service; or

(3) open by appointment at least thirty (30) hours a week by maintaining a staffed telephone or mobile paging telephone service at least than ten (10) hours a week and a telephone answering, paging, or mobile service offered at least twenty (20) hours a week, for which the contact telephone number is identified on the business sign at the towing service.

SECTION 4. IC 9-22-5-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.7. As used in this chapter, "nonconsenting police generated tow" means a professional service provided by a towing service that was ordered by a police officer (as defined in IC 9-13-2-127(b)).**

SECTION 5. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. (a) This section applies only to a nonconsenting police generated tow for a passenger motor vehicle when the payment for the nonconsenting police generated tow is expected to be paid for by an insurer.**

(b) To be paid by an insurer, a towing service must comply with the following:

(1) Use a recovery vehicle that is registered under IC 9-18-13-3(b).

(2) Meet the financial responsibility requirements of IC 9-18-13-4(a).

(3) Use appropriately licensed operators when being operated on highways.

(4) Possess a current and valid registered retail merchant's certificate issued under IC 6-2.5-8-1.

(5) Have a properly zoned and secured storage lot, if applicable.

(6) Comply with IC 24-4-6-2(b).

(7) Be accessible to the public.

(8) Submit the charges that the towing service charges for professional services to the nearest state police post.

(9) Make charges for professional services that are reasonable and customary.

(c) If a towing service does not satisfy the requirements of subsection (b) and the insurer disputes the amounts charged for professional services provided by the towing service for towing, transporting, recovery, cleanup, or storage of a motor vehicle or

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any combination of these charges, the towing service shall release the passenger motor vehicle at the request of and receipt from the owner or a representative of the owner of the passenger motor vehicle of:

(1) a written agreement of the insurer to pay reasonable towing, transporting, recovery, cleanup, or storage charges concerning the passenger motor vehicle or any combination of these charges; and

(2) proof of ownership of the passenger motor vehicle, regardless of charges or liens placed on the passenger motor vehicle, and a copy of the passenger motor vehicle registration.

The documents under subdivisions (1) and (2) may be received by facsimile transmission, United States mail, or other method agreed upon between the parties including, but not limited to, electronic mail.

(d) Upon release of a passenger motor vehicle, a towing service may no longer claim a statutory or possessory lien on the passenger motor vehicle. The insurer shall pay the reasonable and customary charges for professional services proved by the towing service including interest at the rate set forth in IC 34-54-8-5(b)(1) on unpaid charges for the professional services, beginning on the thirty-first day after the release of the passenger motor vehicle.

(e) This chapter may not be construed to repeal, modify, or amend section 14 or 15 of this chapter or IC 32-33-10.

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 143, 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 143 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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