



April 5, 2011

**ENGROSSED
SENATE BILL No. 458**

DIGEST OF SB 458 (Updated March 31, 2011 3:58 pm - DI 96)

Citations Affected: IC 6-6; IC 8-2.1; IC 9-20; IC 9-24.

Synopsis: Motor carriers and commercial drivers licenses. Requires electronic filing and payment for motor carrier fuel use tax returns. Provides that a passenger vehicle that has seats for more than nine passengers does not have to be registered for the motor carrier fuel use tax. Specifies that the responsibility for civil penalties for an oversize/overweight violation is with the person whose United States Department of Transportation number is registered on the vehicle transporting the load. Authorizes the department of state revenue (department) to impose a penalty that is less than the maximum penalty for an oversize/overweight violation. Provides that, for purposes of persons making occasional trips during eligible events, the department may issue temporary authority or emergency temporary authority for not more than 15 consecutive days. Changes commercial driver license provisions to conform with federal regulations concerning medical issues.

Effective: July 1, 2011; January 1, 2012.

Wyss, Arnold

(HOUSE SPONSORS — DAVIS, PFLUM)

January 12, 2011, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

February 8, 2011, amended, reported favorably — Do Pass.

February 14, 2011, read second time, amended, ordered engrossed.

February 15, 2011, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Roads and Transportation.

April 4, 2011, reported — Do Pass.

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ES 458—LS 6723/DI 58+



April 5, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 458

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

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

- 1 SECTION 1. IC 6-6-4.1-2, AS AMENDED BY P.L.24-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 2. (a) Except as provided in subsection (b), this
4 chapter applies to each:
5 ~~(1) passenger vehicle that has seats for more than nine (9)~~
6 ~~passengers in addition to the driver;~~
7 ~~(2) (1) road tractor;~~
8 ~~(3) (2) tractor truck;~~
9 ~~(4) (3) truck having more than two (2) axles;~~
10 ~~(5) (4) truck having a gross weight or a declared gross weight~~
11 ~~greater than twenty-six thousand (26,000) pounds; and~~
12 ~~(6) (5) vehicle used in combination if the gross weight or the~~
13 ~~declared gross weight of the combination is greater than~~
14 ~~twenty-six thousand (26,000) pounds;~~
15 that is propelled by motor fuel.
16 (b) This chapter does not apply to the following:
17 (1) A vehicle operated by:

ES 458—LS 6723/DI 58+



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- 1 (A) this state;
- 2 (B) a political subdivision (as defined in IC 36-1-2-13);
- 3 (C) the United States; or
- 4 (D) an agency of states and the United States, or of two (2) or
- 5 more states, in which this state participates.
- 6 (2) A school bus (as defined by the laws of a state) operated by,
- 7 for, or on behalf of a:
- 8 (A) state;
- 9 (B) political subdivision (as defined in IC 36-1-2-13) of a
- 10 state; or
- 11 (C) private or privately operated school.
- 12 (3) A vehicle used in casual or charter bus operations.
- 13 (4) Trucks, trailers, or semitrailers and tractors that are qualified
- 14 to be registered and used as farm trucks, farm trailers, or farm
- 15 semitrailers and tractors and that are registered as such by the
- 16 bureau of motor vehicles under IC 9-18 or under a similar law of
- 17 another state.
- 18 (5) An intercity bus (as defined in IC 9-13-2-83).
- 19 (6) A vehicle described in subsection ~~(a)(2)~~ **(a)(1)** through ~~(a)(6)~~
- 20 **(a)(5)** when the vehicle is displaying a dealer registration plate.
- 21 (7) A recreational vehicle.
- 22 (8) A pickup truck that:
- 23 (A) is modified to include a third free rotating axle;
- 24 (B) has a gross weight not greater than twenty-six thousand
- 25 (26,000) pounds; and
- 26 (C) is operated solely for personal use and not for commercial
- 27 use.

28 SECTION 2. IC 6-6-4.1-10 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 10. (a) Except as
 30 provided in section 13 of this chapter, each carrier subject to the tax
 31 imposed under this chapter shall submit to the department such
 32 quarterly reports of the operations of commercial motor vehicles giving
 33 rise to the carrier's tax liability as the department may require. The
 34 carrier shall submit each quarterly report required under this subsection
 35 on or before the last day of the month immediately following that
 36 quarter.

37 (b) Subject to the restrictions of this subsection and subsection (c),
 38 the department may, by rules adopted under IC 4-22-2, exempt any
 39 carrier from the quarterly reporting requirements of this section. The
 40 department may exempt only a carrier who submits an annual affidavit
 41 attesting that:

- 42 (1) all or substantially all of the mileage of the carrier in the

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- 1 previous calendar year was the result of operations in Indiana;
- 2 (2) all or substantially all of the motor fuel used in the operations
- 3 of the carrier in the previous calendar year was purchased in
- 4 Indiana; or
- 5 (3) the carrier is from a state that has a reciprocity agreement with
- 6 the state of Indiana relating to motor fuel taxes.

7 (c) The department may exempt carriers under subsection (b) only
8 if:

- 9 (1) granting exemptions will not adversely affect the enforcement
- 10 of this chapter; and
- 11 (2) the carriers that apply for exemptions purchased an equitable
- 12 amount of motor fuel in Indiana.

13 (d) Each carrier shall submit to the department any other reports
14 required by the department.

15 **(e) All reports required to be filed under this chapter must be**
16 **filed in an electronic format prescribed by the department.**

17 **(f) All taxes required to be remitted under this chapter must be**
18 **remitted in an electronic format prescribed by the department.**

19 SECTION 3. IC 6-6-4.1-17 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 17. If a carrier:

- 21 (1) fails to file a quarterly report required by this chapter;
- 22 (2) fails to pay the tax imposed under section 4 or section 4.5 of
- 23 this chapter;
- 24 (3) files a report after the date established under this chapter; or
- 25 (4) with respect to a listed tax (as defined in IC 6-8.1-1-1), fails
- 26 to file all tax returns or information reports or to pay all taxes,
- 27 penalties, and interest;

28 **(5) fails to file a form or report required under this chapter or**
29 **the International Fuel Tax Agreement in an electronic format**
30 **prescribed by the department; or**

31 **(6) fails to remit taxes under section 10(f) of this chapter;**
32 the commissioner may suspend or revoke any annual permit, trip
33 permit, temporary authorization, or repair and maintenance permit
34 issued to the carrier. The commissioner may reinstate a permit or
35 temporary authorization if a carrier files all required returns and reports
36 and pays all outstanding liabilities.

37 SECTION 4. IC 8-2.1-22-36 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 36. **(a) As used in this**
39 **section, "eligible event" has the meaning set forth in IC 6-8-12-2.**

40 **(b)** In addition to all other powers granted to the department under
41 this chapter, the department may issue, in accordance with its rules,
42 temporary authority or emergency temporary authority to **the**

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following:

- (1) Persons to whom permanent permits or certificates have been issued. ~~or to~~
- (2) Persons who have filed new applications for permanent permits or certificates. ~~and also to~~
- (3) Persons when there appears a necessity to make one (1) trip or occasional trips, **including during an eligible event.**

The department may grant temporary authority or emergency temporary authority under subdivision (3) during an eligible event for a period not greater than fifteen (15) consecutive days.

(c) An application for temporary authority or emergency temporary authority during an eligible event is not subject to section 11 or 13 of this chapter.

SECTION 5. IC 9-20-18-14.5, AS AMENDED BY P.L.176-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 14.5. (a) The civil penalties imposed under this section are in addition to the other civil penalties that may be imposed under IC 8 and IC 9. Notwithstanding section 12 of this chapter, a civil penalty imposed under this section:

- (1) is imposed on the person whose United States Department of Transportation number is registered on the vehicle transporting the load;**
- ~~(1)~~ **(2)** shall be deposited in the motor carrier regulation fund established by IC 8-2.1-23-1; and
- ~~(2)~~ **(3)** is in addition to any fines imposed by a court.

(b) A person who violates IC 9-20-5-7 is subject to a civil penalty of **not more than** five hundred dollars (\$500) for each violation.

(c) A person who obtains a permit under this article and violates this article is subject to a civil penalty of **not more than** five hundred dollars (\$500) for the first violation and **not more than** one thousand dollars (\$1,000) for each subsequent violation.

(d) A person who transports heavy vehicles or loads subject to this article and fails to obtain a permit required under this article is subject to a civil penalty of **not more than** five thousand dollars (\$5,000) for each violation.

(e) A civil penalty imposed under this section may be assessed against a person only after an administrative hearing has been conducted at which the person has an opportunity to present information as to why the civil penalty should not be assessed.

SECTION 6. IC 9-24-6-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.8. As used in this chapter, "downgrade" has the**

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1 meaning specified in paragraph (4) of the definition of CDL
 2 downgrade as set forth in 49 CFR 383.5 as in effect on July 1, 2010.
 3 SECTION 7. IC 9-24-6-0.9 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2011]: **Sec. 0.9. As used in this chapter, "medical examiner" has**
 6 **the meaning set forth in 49 CFR 390.5.**
 7 SECTION 8. IC 9-24-6-2.3 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2011]: **Sec. 2.3. (a) In addition to the requirements of 49 CFR**
 10 **383.71, an applicant for a new commercial driver's license or a**
 11 **holder of a commercial driver's license must provide the bureau**
 12 **with a copy of a current medical examination report and medical**
 13 **examiner's certificate prepared by a medical examiner.**
 14 **(b) A commercial driver's license holder must provide the**
 15 **bureau with a copy of a current medical examination report and**
 16 **medical examiner's certificate each time a medical examination**
 17 **report and medical examiner's certificate are obtained by the**
 18 **commercial driver's license holder, regardless of whether the**
 19 **medical examiner certifies the driver as qualified.**
 20 **(c) If a medical examination report does not certify that a**
 21 **commercial driver's license holder meets the physical standards in**
 22 **49 CFR 391.41 or if the driver is otherwise unqualified, the**
 23 **commercial driver's license or permit holder is disqualified.**
 24 **(d) The bureau shall make the final determination of whether a**
 25 **commercial driver's license applicant or holder meets the**
 26 **qualifications of 49 CFR 391.41. If the bureau determines that the**
 27 **applicant or holder does not meet the qualifications of 49 CFR**
 28 **391.41, the applicant or holder is disqualified.**
 29 **(e) If a commercial driver's license applicant or holder who is**
 30 **disqualified under subsection (c) or (d) attempts to transfer the**
 31 **commercial driver's license to another state, the commercial**
 32 **driver's license applicant or holder remains disqualified until the**
 33 **applicant or holder is able to establish to the bureau's satisfaction**
 34 **that the applicant or holder meets the qualifications of 49 CFR**
 35 **391.41.**
 36 **(f) With respect to the self-certification requirements of 49 CFR**
 37 **383.71(a)(1), a commercial driver's license applicant must certify**
 38 **that the applicant expects to operate only in interstate commerce**
 39 **or only in intrastate commerce. In either case, the applicant**
 40 **remains subject to the requirements of 49 CFR 391.41, except as**
 41 **provided for by rule.**
 42 **(g) This section applies to every commercial driver's license**

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1 applicant and every commercial driver's license holder regardless
2 of whether the applicant or holder will be operating in excepted
3 commerce, as described in 49 CFR 383.71(a)(1)(ii)(B) and (D).

4 SECTION 9. IC 9-24-6-20 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2011]: Sec. 20. (a) The bureau shall downgrade the commercial
7 driver's license of a driver under the following circumstances:

8 (1) The driver's medical certification or federally granted
9 medical variance expires.

10 (2) The bureau receives notification that the driver's federally
11 granted medical variance was removed or rescinded.

12 Not later than sixty (60) days after the occurrence of a
13 circumstance described in subdivision (1) or (2), the bureau shall
14 initiate a downgrade of the driver's commercial driver's license.

15 (b) To prevent the driver's commercial driver's license from
16 being downgraded:

17 (1) a driver whose medical certification has expired must
18 submit a current and qualifying medical examination report
19 and medical examiner's certificate not later than sixty (60)
20 days after the bureau has initiated a downgrade; or

21 (2) a driver whose federally granted medical variance was
22 removed or rescinded must submit a new federally granted
23 medical variance not later than sixty (60) days after the
24 bureau has initiated a downgrade.

25 (c) The bureau shall provide written notice to a driver at least
26 ten (10) days before initiating a downgrade of the driver's
27 commercial driver's license informing the driver:

28 (1) that the driver is not medically certified due to the
29 expiration of the driver's medical certificate or because the
30 driver's federally granted medical variance was removed or
31 rescinded; and

32 (2) how the driver can prevent the driver's commercial
33 driver's license from being downgraded.

34 (d) The bureau shall not issue a commercial driver's license to
35 an applicant who does not certify that the applicant expects to
36 operate only in interstate commerce or only in intrastate
37 commerce.

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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. 458, 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 3, between lines 16 and 17, begin a new paragraph and insert:

"(f) All taxes required to be remitted under this chapter must be remitted in an electronic format prescribed by the department."

Page 3, line 25, delete "or".

Page 3, line 28, after "department;" insert "or

(6) fails to remit taxes under section 10(f) of this chapter;".

and when so amended that said bill do pass.

(Reference is to SB 458 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 458 be amended to read as follows:

Page 3, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 4. IC 8-2.1-22-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 36. **(a) As used in this section, "eligible event" has the meaning set forth in IC 6-8-12-2.**

(b) In addition to all other powers granted to the department under this chapter, the department may issue, in accordance with its rules, temporary authority or emergency temporary authority to the following:

(1) Persons to whom permanent permits or certificates have been issued. ~~or to~~

(2) Persons who have filed new applications for permanent permits or certificates. ~~and also to~~

(3) Persons when there appears a necessity to make one (1) trip or occasional trips, including during an eligible event.

The department may grant temporary authority or emergency temporary authority under subdivision (3) during an eligible event for a period not greater than fifteen (15) consecutive days.

ES 458—LS 6723/DI 58+



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(c) An application for temporary authority or emergency temporary authority during an eligible event is not subject to section 11 or 13 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to SB 458 as printed February 9, 2011.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 458, 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.

SOLIDAY, Chair

Committee Vote: yeas 9, nays 0.

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