
SENATE BILL No. 79

DIGEST OF INTRODUCED BILL

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

Synopsis: Motor fuel theft. Provides that if motor fuel from a retailer is pumped into a vehicle and proper payment is not made to the retailer, the owner of the vehicle is liable to the retailer for the total pump price of the motor fuel pumped plus a service charge of \$50. Provides that a retailer, to collect from the vehicle owner, must send a notice of nonpayment to the vehicle owner by certified mail. Allows a retailer to use a designee to send notices and make collections. Provides that, if a vehicle owner does not pay the total pump price of the motor fuel pumped plus the service charge within 30 days after the retailer sends the notice, the vehicle owner is also subject to liability to the retailer for other damages, costs, fees, and expenses. Provides that within 30 days after the sending of the retailer's notice, the vehicle owner may send a written response to the retailer disputing the retailer's claim or stating that, when the motor fuel was pumped into the vehicle, the vehicle owner was not operating the vehicle and was not responsible for paying for the motor fuel. Provides that if a vehicle owner sends such a response to the retailer, the retailer shall stop communicating with the vehicle owner but may still seek to recover from the vehicle owner by initiating a civil action. Requires the bureau of motor vehicles (BMV) to adopt rules under which retailers may obtain the names and mailing addresses of vehicle owners from the BMV for purposes of recovering for motor fuel that is pumped into vehicles without payment being made.

Effective: July 1, 2011.

Young R Michael

January 5, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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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.

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SENATE BILL No. 79



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

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

1 SECTION 1. IC 24-4.6-5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]:

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

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

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

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

13 **Sec. 4. (a)** Subject to section 6(b) of this chapter, if:

- 14 (1) motor fuel from a retailer is pumped into a vehicle; and
- 15 (2) proper payment is not made to the retailer for the motor
16 fuel;

17 **the owner of the vehicle is liable to the retailer for the total pump**



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price of the motor fuel pumped into the vehicle plus a service charge of fifty dollars (\$50).

(b) The service charge may be imposed upon a vehicle owner when notice is mailed to the vehicle owner under section 5 of this chapter. Only one (1) service charge may be imposed under this section for each incident in which motor fuel is pumped into a vehicle and proper payment is not made.

Sec. 5. (a) To collect a liability from a vehicle owner under this chapter, a retailer (or the retailer's designee) must first send a notice of nonpayment to the vehicle owner by certified mail, to the address indicated by records obtained under section 8 of this chapter.

(b) A notice sent under subsection (a) must:

- (1) state the total pump price of the motor fuel pumped into the vehicle owner's vehicle and the amount of the service charge;
- (2) state how the vehicle owner is to pay the liability;
- (3) include a copy of this chapter and IC 34-24-3;
- (4) state that, subject to section 6(b) of this chapter, the vehicle owner is subject to liability for an amount equal to triple the total pump price of the motor fuel received plus other damages under IC 34-24-3-1 if the liability is not paid within thirty (30) days; and
- (5) include a signed statement by the retailer or the employee of the retailer who reported the incident in which motor fuel was pumped into the vehicle owner's vehicle and proper payment was not made, setting forth:
 - (A) the date, time, and location of the incident; and
 - (B) the license plate number of the vehicle into which the motor fuel was pumped.

Sec. 6. (a) Subject to subsection (b), if a vehicle owner does not pay the total pump price of the motor fuel pumped and the service charge within thirty (30) days after the retailer or the retailer's designee sends the notice to the vehicle owner under section 5 of this chapter, the vehicle owner:

- (1) is liable to the retailer for:
 - (A) the total pump price of the motor fuel pumped, as set forth in the notice sent under section 5 of this chapter; and
 - (B) the service charge under section 4 of this chapter; and
- (2) is subject to liability to the retailer for other damages, costs, fees, and expenses in an action brought by the retailer under IC 34-24-3-1.

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1 (b) If a vehicle owner, not more than thirty (30) days after the
2 retailer or the retailer's designee sends the notice to the vehicle
3 owner under section 5 of this chapter, sends written notice to the
4 retailer or its designee:

5 (1) disputing the retailer's claim that motor fuel was pumped
6 into the vehicle owner's vehicle and proper payment was not
7 made; or

8 (2) stating that, when motor fuel was pumped into the vehicle
9 owner's vehicle and proper payment was not made, the
10 vehicle owner was not operating the vehicle and was not
11 responsible for paying for the motor fuel pumped into the
12 vehicle;

13 the vehicle owner does not become liable to the retailer under
14 subsection (a)(1), and the retailer (and any designee of the retailer)
15 shall cease communications and all collection efforts under this
16 chapter. However, the retailer may pursue a civil action against the
17 vehicle owner under IC 34-24-3-1.

18 Sec. 7. If a vehicle owner does not:

19 (1) pay the total pump price of the motor fuel pumped and the
20 service charge in response to a notice sent by a retailer under
21 this chapter; or

22 (2) reply to the retailer's notice with a written notice under
23 section 6(b)(1) or 6(b)(2) of this chapter;

24 the vehicle owner's civil liability under this chapter does not
25 preclude criminal liability under IC 35-43-4-2, IC 35-43-4-3,
26 IC 35-43-4-8, or any other law.

27 Sec. 8. (a) The bureau of motor vehicles shall adopt rules under
28 IC 4-22-2 to implement a system by which a retailer or an
29 association of retailers may obtain the name and mailing address
30 of the owner of a vehicle involved in an incident in which motor
31 fuel is pumped into the vehicle and proper payment is not made.
32 The bureau of motor vehicles may integrate any system established
33 under this section with its existing programs for the release of
34 information under IC 9-14-3.

35 (b) The bureau of motor vehicles may enter into an agreement
36 with an association of retailers to establish:

37 (1) a fee different from the fees provided for in IC 9-29-2-2(a);
38 or

39 (2) other negotiated terms for the release of vehicle owner
40 records;

41 for purposes of the system established under this section.

42 (c) Any release of information by the bureau of motor vehicles

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under this section must be:

- (1) consistent with the authority of the bureau of motor vehicles under IC 9-14-3.5; and**
- (2) in compliance with 18 U.S.C. 2721 et seq.**

SECTION 2. IC 34-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. If a person **has an unpaid claim on a liability that is covered by IC 24-4.6-5** or suffers a pecuniary loss as a result of a violation of IC 35-43, IC 35-42-3-3, IC 35-42-3-4, or IC 35-45-9, the person may bring a civil action against the person who caused the loss for the following:

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

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