
SENATE BILL No. 95

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-22-5.

Synopsis: Towing services. Provides that a towing service that provides professional towing services shall release a passenger motor vehicle (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: (1) the towing service may no longer claim a statutory or possessory lien on the vehicle; and (2) the insurer of the vehicle shall 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, 2011.

Holdman

January 5, 2011, read first time and referred to Committee on Judiciary.

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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. 95



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:

1 SECTION 1. IC 9-13-2-0.9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 0.9. "Accessible to the public", for purposes of**
4 **IC 9-22-5, has the meaning set forth in IC 9-22-5-0.3.**

5 SECTION 2. IC 9-13-2-111.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2011]: **Sec. 111.5. "Nonconsenting police**
8 **generated tow", for purposes of IC 9-22-5, has the meaning set**
9 **forth in IC 9-22-5-0.7.**

10 SECTION 3. IC 9-13-2-127, AS AMENDED BY P.L.94-2006,
11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]: Sec. 127. (a) "Police officer" means, except as
13 provided in subsection (b), the following:

- 14 (1) A regular member of the state police department.
- 15 (2) A regular member of a city or town police department.
- 16 (3) A town marshal or town marshal deputy.
- 17 (4) A regular member of a county sheriff's department.



- 1 (5) A conservation officer of the department of natural resources.
- 2 (6) An individual assigned as a motor carrier inspector under
- 3 IC 10-11-2-26(a).
- 4 (7) An excise police officer of the alcohol and tobacco
- 5 commission.

6 (b) "Police officer", for purposes of IC 9-21 **and IC 9-22-5-0.7**,

7 means an officer authorized to direct or regulate traffic or to make

8 arrests for violations of traffic regulations.

9 SECTION 4. IC 9-22-5-0.3 IS ADDED TO THE INDIANA CODE

10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

11 1, 2011]: **Sec. 0.3. As used in this chapter, "accessible to the public"**

12 **means that the place of business of a towing service is:**

- 13 (1) **staffed at least thirty (30) hours a week;**
- 14 (2) **staffed at least twenty (20) hours a week and a telephone**
- 15 **answering, paging, or mobile service is offered at least ten**
- 16 **(10) of the remaining hours of the week, for which the contact**
- 17 **telephone number is identified on the business sign at the**
- 18 **towing service; or**
- 19 (3) **open by appointment at least thirty (30) hours a week by**
- 20 **maintaining a staffed telephone or mobile paging telephone**
- 21 **service at least ten (10) hours a week and a telephone**
- 22 **answering, paging, or mobile service offered at least twenty**
- 23 **(20) hours a week, for which the contact telephone number is**
- 24 **identified on the business sign at the towing service.**

25 SECTION 5. IC 9-22-5-0.7 IS ADDED TO THE INDIANA CODE

26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

27 1, 2011]: **Sec. 0.7. As used in this chapter, "nonconsenting police**

28 **generated tow" means a professional service provided by a towing**

29 **service that was ordered by a police officer.**

30 SECTION 6. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE

31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

32 1, 2011]: **Sec. 18. (a) This section applies only to a nonconsenting**

33 **police generated tow for a passenger motor vehicle when the**

34 **payment for the nonconsenting police generated tow is expected to**

35 **be paid by an insurer.**

36 (b) **To be paid by an insurer, a towing service must comply with**

37 **the following:**

- 38 (1) **Use a recovery vehicle that is registered under**
- 39 **IC 9-18-13-3(b).**
- 40 (2) **Meet the financial responsibility requirements of**
- 41 **IC 9-18-13-4(a).**
- 42 (3) **Use appropriately licensed operators when being operated**

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- 1 on highways.
- 2 (4) Possess a current and valid registered retail merchant's
- 3 certificate issued under IC 6-2.5-8-1.
- 4 (5) Have a properly zoned and secured storage lot, if
- 5 applicable.
- 6 (6) Comply with IC 24-4-6-2(b).
- 7 (7) Be accessible to the public.
- 8 (8) Submit the charges that the towing service charges for
- 9 professional services to the nearest state police post.
- 10 (9) Make charges for professional services that are reasonable
- 11 and customary.

12 (c) If a towing service does not satisfy the requirements of
 13 subsection (b) and the insurer disputes the amounts charged for
 14 professional services provided by the towing service for towing,
 15 transporting, recovery, cleanup, or storage of a motor vehicle or
 16 any combination of these charges, the towing service shall release
 17 the passenger motor vehicle at the request of and receipt from the
 18 owner or a representative of the owner of the passenger motor
 19 vehicle of:

- 20 (1) a written agreement of the insurer to pay reasonable
- 21 towing, transporting, recovery, cleanup, or storage charges
- 22 concerning the passenger motor vehicle or any combination
- 23 of these charges; and
- 24 (2) proof of ownership of the passenger motor vehicle,
- 25 regardless of charges or liens placed on the passenger motor
- 26 vehicle, and a copy of the passenger motor vehicle
- 27 registration.

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

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

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

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