

HOUSE BILL No. 1576

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-2.1-27.

Synopsis: Hazardous materials uniform procedures act. Codifies the hazardous materials transportation uniform procedures act to regulate the transport of hazardous material by motor vehicle.

Effective: July 1, 2011.

Austin

January 20, 2011, read first time and referred to Committee on Roads and Transportation.

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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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HOUSE BILL No. 1576



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 8-2.1-27 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]:

4 **Chapter 27. Hazardous Materials Transportation Uniform**
5 **Procedures Act**

6 **Sec. 1. As used in this chapter, "Alliance for Uniform Hazmat**
7 **Transportation Procedures", or "AUHMTP", means the group of**
8 **states that have adopted the recommendations concerning uniform**
9 **forms and procedures for hazardous materials transportation**
10 **registration and permitting under 49 CFR 5119.**

11 **Sec. 2. As used in this chapter, "applicant" means a motor**
12 **carrier that applies for a uniform program registration or permit**
13 **credential.**

14 **Sec. 3. As used in this chapter, "base state" means the state**
15 **selected by a carrier under section 23(a) of this chapter.**

16 **Sec. 4. As used in this chapter, "carrier" refers to a motor**
17 **carrier.**



1 **Sec. 5.** As used in this chapter, "credential" means a document
2 issued by a base state indicating that a motor carrier has
3 successfully registered or received a permit to transport hazardous
4 materials or hazardous waste in participating states.

5 **Sec. 6.** As used in this chapter, "designated hazardous material"
6 means a hazardous material described in 49 CFR 107.26-1.

7 **Sec. 7.** As used in this chapter, "hazardous material" means the
8 following:

9 (1) A hazardous material of a type or in a quantity that
10 requires the transport vehicle to be placarded under 49 CFR
11 Part 172.

12 (2) A hazardous substance or marine pollutant transported in
13 bulk packaging (as defined in 49 CFR 171.8).

14 (3) Hazardous waste of a type and amount that requires its
15 shipment to be accompanied by a uniform hazardous waste
16 manifest described in 40 CFR Part 262. The term includes
17 hazardous wastes designated by a state if the state has filed
18 the designation with the national repository under the
19 uniform program.

20 **Sec. 8.** As used in this chapter, "hazardous material
21 transportation" means the transportation of hazardous material
22 or hazardous waste, or both, on the public highways.

23 **Sec. 9.** As used in this chapter, "letter of filing" means a letter
24 from a participating state to an applicant that indicates the
25 applicant's compliance with application requirements of the
26 uniform program.

27 **Sec. 10.** As used in this chapter, "motor carrier" has the
28 meaning set forth in 9 CFR 390.5.

29 **Sec. 11.** As used in this chapter, "motor vehicle" has the
30 meaning set forth in 49 CFR 390.5.

31 **Sec. 12.** As used in this chapter, "participating state" means a
32 state that participates in the uniform program.

33 **Sec. 13.** As used in this chapter, "permit" refers to a permit
34 issued under section 23 of this chapter.

35 **Sec. 14.** As used in this chapter, "person" means an individual,
36 firm, co-partnership, cooperative, company, association, limited
37 liability company, corporation, or public entity.

38 **Sec. 15.** As used in this chapter, "power unit" means a truck or
39 truck tractor as defined in 49 CFR 390.5.

40 **Sec. 16.** As used in this chapter, "principal place of business"
41 means the state in which a motor carrier maintains its central
42 records relating to the transportation of hazardous materials.

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1 **Sec. 17. As used in this chapter, "public entity" means a carrier**
2 **that is a federal or state agency or political subdivision.**

3 **Sec. 18. As used in this chapter, "shipper" means a person that:**
4 **(1) offers a hazardous material to another person for**
5 **shipment; or**
6 **(2) causes a hazardous material to be transported or shipped**
7 **by another person;**
8 **and maintains facilities in Indiana.**

9 **Sec. 19. As used in this chapter, "uniform application" means**
10 **the uniform motor carrier registration and permit application**
11 **form and accompanying documents established under the uniform**
12 **program.**

13 **Sec. 20. As used in this chapter, "uniform program" refers to**
14 **the forms and procedures developed pursuant to the Hazardous**
15 **Materials Transportation Uniform Safety Act of 1990, 49 U.S.C.**
16 **5119, also known as the Alliance for Uniform Hazmat**
17 **Transportation Procedures in reports submitted to the United**
18 **States Department of Transportation in 1993 and 1996, as modified**
19 **and amended under 49 U.S.C. 5119(b), and as contained in the**
20 **AUHMTTP state program administrators' manual.**

21 **Sec. 21. (a) Indiana shall enter into the Uniform Program for**
22 **Hazardous Materials Transportation Registration and Permitting**
23 **developed by the Alliance for Uniform Hazmat Transportation**
24 **Procedures.**

25 **(b) The department shall adopt rules under IC 4-22-2 to**
26 **administer the uniform program. Rules adopted under this**
27 **subsection must do the following:**

- 28 **(1) Establish duties and responsibilities for the department.**
- 29 **(2) Set forth requirements for participation in AUHMTTP**
30 **governance activities.**
- 31 **(3) Provide means of support for centralized AUHMTTP**
32 **activities and dispute resolution.**

33 **(c) The department shall:**
34 **(1) use the uniform application and supporting documents;**
35 **and**
36 **(2) follow the administrative guidance of the AUHMTTP.**

37 **Sec. 22. (a) A motor carrier may not transport a hazardous**
38 **material by motor vehicle in Indiana unless the motor carrier**
39 **complies with this chapter.**

40 **(b) A shipper may not:**
41 **(1) offer a designated hazardous material for shipment; or**
42 **(2) cause a designated hazardous material to be transported**

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1 or shipment;
2 in Indiana unless the shipper complies with the chapter.

3 Sec. 23. (a) A motor carrier shall determine its base state as
4 follows:

5 (1) A motor carrier that maintains its principal place of
6 business in Indiana shall designate Indiana as its base state.

7 (2) If a motor carrier maintains its principal place of business
8 outside Indiana, the motor carrier shall designate as its base
9 state the participating state in which the motor carrier has the
10 highest number of miles traveled under:

11 (A) the International Registration Plan;

12 (B) the International Fuel Tax Agreement; or

13 (C) an equivalent program.

14 (b) A motor carrier that designates Indiana as its base state
15 shall register with and obtain a permit from the department before
16 transporting hazardous materials in Indiana.

17 (c) A motor carrier that designates a participating state other
18 than Indiana as its base state shall:

19 (1) register with and obtain a permit from the other state; and

20 (2) pay the appropriate fees under subsections (d) and (e) to
21 Indiana;

22 before transporting hazardous materials in Indiana.

23 (d) A motor carrier that:

24 (1) engages in the interstate transportation of a hazardous
25 material; and

26 (2) is required to register its hazardous material
27 transportation in Indiana;

28 shall file parts I, II, and IV of the uniform application with the
29 department and pay an administrative processing fee imposed
30 under section 26 of this chapter and the apportioned vehicle fee
31 imposed under section 27 of this chapter.

32 (e) A motor carrier that:

33 (1) engages only in the intrastate transportation of a
34 hazardous material; and

35 (2) is required to register its hazardous material in Indiana;
36 shall file parts I and IV of the uniform application with the
37 department and pay a registration fee as determined by the
38 department.

39 (f) Upon determining that a motor carrier has complied with
40 this section, the department shall issue a registration credential
41 and permit to the carrier. A registration credential and permit are
42 nontransferable.

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- 1 **(g) A registration credential issued under subsection (f):**
- 2 **(1) must include a company registration number; and**
- 3 **(2) is valid for one (1) year from the date of issuance.**
- 4 **(h) A permit issued under subsection (f) is valid until the earlier**
- 5 **of the following:**
- 6 **(1) Three (3) years from the date of issuance.**
- 7 **(2) The date on which the motor carrier fails to renew the**
- 8 **permit.**
- 9 **(i) A motor carrier shall maintain:**
- 10 **(1) its original registration credential and permit at the motor**
- 11 **carrier's principal place of business; and**
- 12 **(2) a copy of the registration credential in each power unit**
- 13 **that the motor carrier uses to transport hazardous materials**
- 14 **in a participating state.**
- 15 **The motor carrier shall make available its original registration**
- 16 **credential and permit for inspection during normal business hours.**
- 17 **Sec. 24. (a) If the department is unable to process an application**
- 18 **submitted under section 23 of this chapter within the time**
- 19 **permitted under the uniform program, the department may issue**
- 20 **a letter of filing to the applicant.**
- 21 **(b) A letter of filing issued under subsection (a):**
- 22 **(1) is valid for not more than three hundred sixty (360) days;**
- 23 **and**
- 24 **(2) serves as a provisional credential.**
- 25 **(c) If an applicant has submitted an incomplete application**
- 26 **under section 23 of this chapter, the department shall notify the**
- 27 **applicant that the letter of filing is conditional on the applicant**
- 28 **providing, in the form prescribed by the department, the**
- 29 **information missing from the application.**
- 30 **Sec. 25. (a) A motor carrier that designates Indiana as its base**
- 31 **state for hazardous waste transportation shall file part III of the**
- 32 **uniform application with, and obtain a permit from, the**
- 33 **department before transporting hazardous waste within Indiana.**
- 34 **(b) A motor carrier that designates a participating state other**
- 35 **than Indiana as its base state for hazardous waste transportation**
- 36 **shall file Part III of the uniform application with, and obtain a**
- 37 **permit from, the base state that specifically authorizes the**
- 38 **transportation of hazardous waste before transporting a hazardous**
- 39 **waste in Indiana.**
- 40 **Sec. 26. The department shall issue a registration and permit**
- 41 **credential to a hazardous waste transporter that:**
- 42 **(1) submits a complete and accurate disclosure statement; and**

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(2) pays an administrative review fee in an amount determined by the department.

Sec. 27. (a) The department shall impose on a motor carrier described in section 23(d) of this chapter an apportioned vehicle registration fee in an amount equal to the product of:

- (1) the percentage of transportation in Indiana, as determined under subsection (b) or (c), as applicable; multiplied by
- (2) the percentage of all hazardous materials transportation or hazardous waste transportation in all states; multiplied by
- (3) the total number of power units operated by the motor carrier in all states; multiplied by
- (4) a per-vehicle fee in an amount determined by the department.

(b) A motor carrier that is registered in the International Registration Plan shall determine its percentage of transportation in Indiana by dividing the number of miles traveled in Indiana under the International Registration Plan during the previous year by the number of miles the motor carrier traveled nationwide in all states under the International Registration Plan. The percentage of transportation in Indiana of a motor carrier that operates only in Indiana is one hundred percent (100%).

(c) A motor carrier that is not registered in the International Registration Plan shall determine its percentage of transportation of Indiana using the method in the International Registration Plan to calculate the number of miles traveled. If a motor carrier operates more than one (1) fleet under the international registration plan, the motor carrier may calculate each fleet's contribution to the motor carrier's total fee separately. A motor carrier that operates in another state under a reciprocal agreement with the other state shall include the miles operated under the reciprocal agreement as miles traveled in Indiana in calculating mileage under this section.

(d) A motor carrier shall determine its percentage of hazardous materials transportation or hazardous waste transportation under one (1) of the following methods:

- (1) For shipments of less than a truckload, divide the weight of all the motor carrier's hazardous materials shipments or hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the same year.
- (2) For truckload shipments, divide the total number of hazardous materials shipments or hazardous waste shipments

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1 during the previous year by the total number of all shipments
2 transported during the same year.

3 (e) A carrier that transports both truckload shipments and
4 shipments of less than a truckload of hazardous materials shall
5 calculate the percentage of hazardous materials activity on a
6 proportional basis between truckload shipments and shipments of
7 less than a truckload.

8 (f) A motor carrier shall use data from the most recent complete
9 fiscal or calendar year in calculating the percentages required
10 under this section.

11 Sec. 28. (a) The department shall use revenue generated from
12 registration fees under this chapter to enhance the safe
13 transportation of hazardous materials in Indiana.

14 (b) The department shall use revenue generated from permit
15 fees under this chapter only to cover costs associated with
16 administering the permit process.

17 (c) The department may develop a fee structure under this
18 chapter based on the level of effort required to review individual
19 applications if the department:

- 20 (1) provides an estimate of charges to each applicant; and
21 (2) establishes an appeals process.

22 The department shall use revenues generated from processing fees
23 under this chapter to cover costs associated with administering the
24 registration process.

25 Sec. 29. (a) The department may enter into agreements with
26 federal agencies, a national repository, or other participating states
27 to allow for reciprocal registration and permitting of motor
28 carriers transporting hazardous materials or hazardous waste. The
29 agreements may include procedures for:

- 30 (1) determining base states;
31 (2) the collection and distribution of fees;
32 (3) dispute resolution;
33 (4) the exchange of information for reporting and
34 enforcement; and
35 (5) other provisions necessary to administer this chapter and
36 the uniform program.

37 (b) The department may make payments to agencies of other
38 participating states in the uniform program to reimburse
39 apportioned registration permit fees.

40 (c) The department may make payments to a national repository
41 to facilitate this agreement.

42 (d) The department may develop forms, applications, and

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software required to implement this chapter.

Sec. 30. (a) The department may:

- (1) inspect or examine any motor vehicle or facility operated by a motor carrier; or**
- (2) conduct investigations, audits, or compliance reviews; to determine compliance with, or eligibility for registration or permitting under, this chapter and the uniform program.**

(b) The department may inspect and electronically reproduce any papers, books, records, documents, or evidentiary material necessary to determine if a motor carrier is complying with, or is eligible for registration or permitting under, this chapter and the uniform program.

(c) The department may conduct investigations and audits necessary to determine:

- (1) if a motor carrier is entitled to a permit; or**
- (2) the need for a suspension or revocation.**

(d) A person that fails to comply with this chapter commits a Class C infraction. Each day of noncompliance constitutes a separate infraction for purposes of this subsection.

Sec. 31. (a) The department shall immediately suspend or revoke a registration or permit, or deny an application for a registration or permit, upon determination of any of the following conditions:

- (1) The motor carrier made a materially false or misleading statement in an application.**
- (2) The motor carrier has committed one (1) or more misdemeanors or felonies under Indiana law.**
- (3) The United States Department of Transportation has issued the motor carrier an unsatisfactory rating under its motor carrier rating system.**
- (4) The motor carrier is under a current out of service order under 49 CFR 395.13 or 49 CFR 396.9(c)(12).**
- (5) The motor carrier does not maintain the appropriate level of financial responsibility under IC 8-2.1-22 or IC 9-25, as applicable.**
- (6) The motor carrier has exhibited a reckless disregard for the public and the environment.**

(b) Upon making a determination under subsection (a), the department shall:

- (1) suspend or revoke the registration credential or permit issued to the motor carrier under section 23 of this chapter;**
- (2) suspend or revoke the hazardous materials or hazardous**

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1 waste transportation operations in Indiana if the motor
 2 carrier is operating under a registration or permit issued by
 3 another participating state; or
 4 (3) deny the motor carrier's application for a registration or
 5 permit.
 6 (c) If the department revokes a registration or permit, the
 7 department shall notify the carrier by certified mail of:
 8 (1) the reasons for the revocation;
 9 (2) the steps necessary for reinstatement; and
 10 (3) the process to appeal the revocation.
 11 (d) If the department suspends a registration or permit, the
 12 department shall notify the carrier by certified mail of:
 13 (1) the reasons for the suspension;
 14 (2) the steps necessary for reinstatement;
 15 (3) the process to appeal the suspension; and
 16 (4) the date by which the carrier must achieve compliance to
 17 avoid revocation of the registration or permit.
 18 (e) If the department denies an application, the department shall
 19 notify the carrier by certified mail of:
 20 (1) the reasons for the denial;
 21 (2) the steps necessary for approval; and
 22 (3) the process to appeal the denial.
 23 (f) Upon receiving notice under this section, a motor carrier
 24 may submit a written request to the department for a hearing
 25 under IC 4-21.5.
 26 (g) The department may reinstate a notice of registration form
 27 or permit that was suspended under this section if the department
 28 is satisfied that the motor carrier has corrected the violations that
 29 caused the suspension and that further violations are unlikely.
 30 (h) The department may issue a registration credential or
 31 permit that was previously denied to a motor carrier if the
 32 department is satisfied that the motor carrier has corrected the
 33 violations that caused the denial and that further violations are
 34 unlikely.
 35 **Sec. 32. This chapter preempts and supersedes any hazardous**
 36 **materials or hazardous waste transportation registration or**
 37 **permitting program administered or enforced by a state or local**
 38 **agency or other political subdivision.**
 39 **Sec. 33. (a) To become party to the uniform program, Indiana**
 40 **shall:**
 41 (1) meet the requirements of admittance contained in the
 42 uniform program administrator's manual; and

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- 1 **(2) petition the governing board for admittance.**
- 2 **(b) As required by uniform program procedures, the governor**
- 3 **shall appoint a person to attend all meetings of the AUHMTP and**
- 4 **serve on the alliance governing board.**
- 5 **(c) The department shall supply information upon request to the**
- 6 **AUHMTP data repository.**
- 7 **(d) The department shall follow AUHMTP requirements**
- 8 **regarding the assessing of fees to support central AUHMTP**
- 9 **functions. The state shall pay the fees to the AUHMTP based on the**
- 10 **alliance fee schedule.**

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