

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.

SENATE ENROLLED ACT No. 458

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 6-6-4.1-2, AS AMENDED BY P.L.24-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as provided in subsection (b), this chapter applies to each:

- (~~1~~) passenger vehicle that has seats for more than nine (~~9~~) passengers in addition to the driver;
- (~~2~~) (1) road tractor;
- (~~3~~) (2) tractor truck;
- (~~4~~) (3) truck having more than two (2) axles;
- (~~5~~) (4) truck having a gross weight or a declared gross weight greater than twenty-six thousand (26,000) pounds; and
- (~~6~~) (5) vehicle used in combination if the gross weight or the declared gross weight of the combination is greater than twenty-six thousand (26,000) pounds;

that is propelled by motor fuel.

(b) This chapter does not apply to the following:

- (1) A vehicle operated by:
 - (A) this state;
 - (B) a political subdivision (as defined in IC 36-1-2-13);
 - (C) the United States; or
 - (D) an agency of states and the United States, or of two (2) or more states, in which this state participates.

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

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

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

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

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the state of Indiana relating to motor fuel taxes.

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

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

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

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

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

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

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

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

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

the commissioner may suspend or revoke any annual permit, trip permit, temporary authorization, or repair and maintenance permit issued to the carrier. The commissioner may reinstate a permit or temporary authorization if a carrier files all required returns and reports and pays all outstanding liabilities.

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~~

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(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 meaning specified in paragraph (4) of the definition of CDL downgrade as set forth in 49 CFR 383.5 as in effect on July 1, 2010.**

SECTION 7. IC 9-24-6-0.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.9. As used in this chapter, "medical examiner" has**

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the meaning set forth in 49 CFR 390.5.

SECTION 8. IC 9-24-6-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.3. (a) In addition to the requirements of 49 CFR 383.71, an applicant for a new commercial driver's license or a holder of a commercial driver's license must provide the bureau with a copy of a current medical examination report and medical examiner's certificate prepared by a medical examiner.**

(b) A commercial driver's license holder must provide the bureau with a copy of a current medical examination report and medical examiner's certificate each time a medical examination report and medical examiner's certificate are obtained by the commercial driver's license holder, regardless of whether the medical examiner certifies the driver as qualified.

(c) If a medical examination report does not certify that a commercial driver's license holder meets the physical standards in 49 CFR 391.41 or if the driver is otherwise unqualified, the commercial driver's license or permit holder is disqualified.

(d) The bureau shall make the final determination of whether a commercial driver's license applicant or holder meets the qualifications of 49 CFR 391.41. If the bureau determines that the applicant or holder does not meet the qualifications of 49 CFR 391.41, the applicant or holder is disqualified.

(e) If a commercial driver's license applicant or holder who is disqualified under subsection (c) or (d) attempts to transfer the commercial driver's license to another state, the commercial driver's license applicant or holder remains disqualified until the applicant or holder is able to establish to the bureau's satisfaction that the applicant or holder meets the qualifications of 49 CFR 391.41.

(f) With respect to the self-certification requirements of 49 CFR 383.71(a)(1), a commercial driver's license applicant must certify that the applicant expects to operate only in interstate commerce or only in intrastate commerce. In either case, the applicant remains subject to the requirements of 49 CFR 391.41, except as provided for by rule.

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

SECTION 9. IC 9-24-6-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2011]: Sec. 20. (a) The bureau shall downgrade the commercial driver's license of a driver under the following circumstances:

- (1) The driver's medical certification or federally granted medical variance expires.
- (2) The bureau receives notification that the driver's federally granted medical variance was removed or rescinded.

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

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

- (1) a driver whose medical certification has expired must submit a current and qualifying medical examination report and medical examiner's certificate not later than sixty (60) days after the bureau has initiated a downgrade; or
- (2) a driver whose federally granted medical variance was removed or rescinded must submit a new federally granted medical variance not later than sixty (60) days after the bureau has initiated a downgrade.

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

- (1) that the driver is not medically certified due to the expiration of the driver's medical certificate or because the driver's federally granted medical variance was removed or rescinded; and
- (2) how the driver can prevent the driver's commercial driver's license from being downgraded.

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

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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