



Reprinted
February 22, 2012

ENGROSSED HOUSE BILL No. 1298

DIGEST OF HB 1298 (Updated February 21, 2012 3:22 pm - DI 103)

Citations Affected: IC 8-2.1; IC 34-30.

Synopsis: Transportation of food products. Provides that a person who operates a motor vehicle for the transportation of food without complying with health rules or certain health requirements concerning food transportation commits a Class A infraction. Authorizes a law enforcement officer to inspect, detain, and, in certain cases, impound a motor vehicle that does not comply with the health rules. Provides that a health inspector may order the disposal of certain food and the impoundment of noncomplying motor vehicles. Provides that a person who transports food that was ordered disposed commits a Class A misdemeanor. Provides civil immunity for certain individuals enforcing food transportation safety laws.

Effective: Upon passage.

Davis, Morris

(SENATE SPONSORS — HOLDMAN, PAUL, LANANE, MILLER)

January 11, 2012, read first time and referred to Committee on Roads and Transportation.
January 26, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, ordered engrossed. Engrossed.
January 31, 2012, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.
February 16, 2012, amended, reported favorably — Do Pass.
February 21, 2012, read second time, amended, ordered engrossed.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1298

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 8-2.1-27 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 27. Transportation of Food**

5 **Sec. 1. As used in this chapter, "acceptable temperature" means**
6 **a temperature established in a rule or regulation adopted by the**
7 **state department of health with respect to the storage and**
8 **transportation of a particular food and enforced by the state**
9 **department of health or a local health department.**

10 **Sec. 2. As used in this chapter, "health inspector" refers to an**
11 **agent or employee of the state department of health or a local**
12 **health department.**

13 **Sec. 3. As used in this chapter, "law enforcement officer"**
14 **means:**

15 (1) a state police officer; or

16 (2) a state police motor carrier inspector;

17 **with authority to enforce this article.**

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1 **Sec. 4.** As used in this chapter, "local health department" refers
 2 to a local health department established under IC 16-20 or the
 3 health and hospital corporation created under IC 16-22-8.

4 **Sec. 5.** As used in this chapter, "motor vehicle for the
 5 transportation of food" means a motor vehicle that is:

6 (1) subject to inspection under IC 8-2.1-24, including under
 7 rules prescribed under IC 8-2.1-24; and

8 (2) engaged in the transportation of food.

9 **Sec. 6.** A person may not operate a motor vehicle for the
 10 transportation of food upon a public highway unless the motor
 11 vehicle is in compliance with applicable rules adopted by the state
 12 department of health concerning the transportation of food.

13 **Sec. 7. (a)** A law enforcement officer may inspect a motor
 14 vehicle used to transport food to determine compliance with
 15 section 6 of this chapter.

16 **(b)** This subsection applies if, during the course of an inspection
 17 under subsection (a), a law enforcement officer determines that:

18 (1) the temperature of the food is more than two (2) degrees
 19 above the acceptable temperature;

20 (2) the food exhibits outward signs of contamination, spoilage,
 21 deterioration, putrefaction, or infestation; or

22 (3) the food is improperly loaded in a manner that increases
 23 the risk of cross-contamination.

24 A person who operates a motor vehicle described in this subsection
 25 commits a Class A infraction.

26 **(c)** If, during the course of an inspection under subsection (a), a
 27 law enforcement officer determines that the motor vehicle is not in
 28 compliance with applicable rules and regulations adopted by the
 29 state department of health concerning the transportation of food,
 30 the law enforcement officer:

31 (1) may contact a health inspector to inspect the motor
 32 vehicle; and

33 (2) may detain the motor vehicle and its operator for purposes
 34 of the inspection.

35 **(d)** If a health inspector is present to inspect a motor vehicle and
 36 finds a violation of section 6 of this chapter, the health inspector
 37 may order either or both of the following:

38 (1) Disposal of part or all of the food.

39 (2) Impoundment of the vehicle.

40 **(e)** The penalty under this subsection is in addition to any
 41 penalties provided in IC 9, IC 16, or rules or regulations adopted
 42 by the state department of health. This subsection applies if a

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1 health inspector, after inspection of a motor vehicle under
 2 subsection (d), finds a violation of section 6 of this chapter. A
 3 person who operates a motor vehicle described in this subsection
 4 commits a Class A infraction.

5 (f) A person who recklessly, knowingly, or intentionally
 6 transports food that a health inspector ordered to be disposed
 7 under subsection (d)(1), other than for the purpose of disposal,
 8 commits a Class A misdemeanor.

9 (g) A person who operated a motor vehicle impounded under
 10 subsection (d)(2) may not obtain possession of the motor vehicle
 11 until the person complies with the requirements of this chapter,
 12 including paying any costs associated with the disposal of food
 13 under subsection (d)(1).

14 **Sec. 8. The following are not liable in a civil action for an official**
 15 **act done or omitted in connection with the performance of duties**
 16 **under this chapter:**

- 17 (1) An agent or employee of the department.
- 18 (2) An agent or employee of the state police department.
- 19 (3) An agent or employee of the state department of health.
- 20 (4) An agent or employee of a local health department.
- 21 (5) Any other individual charged with enforcing:
 - 22 (A) this article; or
 - 23 (B) rules or regulations adopted by the state department of
 - 24 health concerning the transportation of food.

25 SECTION 2. IC 34-30-2-24.3 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: **Sec. 24.3. IC 8-2.1-27-8**
 28 **(Concerning persons who enforce certain food transportation**
 29 **safety laws).**

30 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1298, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, after line 17, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "motor vehicle for the transportation of food" means:

(1) a common carrier that professes to the general public that the carrier engages in transportation by motor vehicle of food for compensation;

(2) a contract carrier that engages in transportation by motor vehicle of food for compensation (other than transportation provided by a common carrier described in subdivision (1)) under continuing contracts with one (1) person or a limited number of persons for:

(A) the furnishing of transportation services through the dedication of motor vehicles for a continuing time to the exclusive use of each person served; or

(B) the furnishing of transportation services designed to meet the distinct need of each individual customer; or

(3) a motor vehicle that is engaged in the transportation of food that is operated by any establishment within Indiana that manufactures, packages, stores, or repackages human food products for distribution to another entity for resale or redistribution."

Page 2, line 1, delete "4. (a)" and insert "5".

Page 2, delete lines 5 through 16.

Page 2, line 17, delete "5." and insert "6".

Page 2, line 19, delete "4(a)" and insert "5".

Page 2, line 19, delete "If the law enforcement officer".

Page 2, delete lines 20 through 24.

Page 2, line 25, delete "A health inspector may inspect a motor vehicle used to" and insert **"This subsection applies if, during the course of an inspection under subsection (a), a law enforcement officer determines that:**

(1) the temperature of the food is more than two (2) degrees above the acceptable temperature;

(2) the food exhibits outward signs of contamination, spoilage, deterioration, putrefaction, or infestation; or

(3) the food is improperly loaded in a manner that increases the risk of cross-contamination.

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A person who operates a motor vehicle described in this subsection commits a Class A infraction.

(c) If, during the course of an inspection under subsection (a), a law enforcement officer determines that the motor vehicle is not in compliance with applicable rules and regulations adopted by the state department of health concerning the transportation of food, the law enforcement officer:

- (1) may contact a health inspector to inspect the motor vehicle; and**
- (2) may detain the motor vehicle and its operator for purposes of the inspection.**

(d) If a health inspector is present to inspect a motor vehicle and finds a violation of section 5 of this chapter, the health inspector may order either or both of the following:

- (1) Disposal of part or all of the food.**
- (2) Impoundment of the vehicle.**

(e) The penalty under this subsection is in addition to any penalties provided in IC 9, IC 16, or rules or regulations adopted by the state department of health or a local health department. This subsection applies if a health inspector, after inspection of a motor vehicle under subsection (d) finds a violation of section 5 of this chapter. A person who operates a motor vehicle described in this subsection commits a Class A infraction.

(f) A person who recklessly, knowingly, or intentionally transports food that a health inspector ordered to be disposed under subsection (d)(1), other than for the purpose of disposal, commits a Class A misdemeanor.

(g) A person who operated a motor vehicle impounded under subsection (d)(2) may not obtain possession of the motor vehicle until the person complies with the requirements of this chapter, including paying any costs associated with the disposal of food under subsection (d)(1)."

Page 2, delete lines 26 through 39.

Page 2, line 40, delete "6." and insert "7."

Page 3, line 12, delete "IC 8-2.1-27-6" and insert "**IC 8-2.1-27-7**".

and when so amended that said bill do pass.

(Reference is to HB 1298 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1298, 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 1, line 6, after "adopted" insert **"by the state department of health with respect to the storage and transportation of a particular food"**.

Page 1, line 8, delete "with respect to the storage and transportation of a" and insert ".".

Page 1, delete line 9.

Page 1, after line 17, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "local health department" refers to a local health department established under IC 16-20 or the health and hospital corporation created under IC 16-22-8."

Page 2, line 1, delete "4." and insert "5."

Page 2, line 21, delete "5." and insert "6."

Page 2, line 25, delete "6." and insert "7."

Page 2, line 27, delete "5" and insert "6".

Page 3, line 6, delete "5" and insert "6".

Page 3, line 14, delete "5" and insert "6".

Page 3, line 26, delete "7." and insert "8."

Page 3, line 40, delete "IC 8-2.1-27-7" and insert **"IC 8-2.1-27-8"**.

and when so amended that said bill do pass.

(Reference is to HB 1298 as printed January 27, 2012.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 2.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1298 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 5, delete "means:" and insert "**means a motor vehicle that is:**

(1) subject to inspection under IC 8-2.1-24, including under rules prescribed under IC 8-2.1-24; and

(2) engaged in the transportation of food."

Page 2, delete lines 6 through 23.

Page 3, line 15, delete "health or a local health department." and insert "**health.**".

Page 3, line 17, after "(d)" insert ",".

Page 3, line 39, delete "or a local health department".

Page 4, after line 2, begin a new paragraph and insert:

"SECTION 3. **An emergency is declared for this act.**".

(Reference is to EHB 1298 as printed February 17, 2012.)

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