

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.

HOUSE ENROLLED ACT No. 1298

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-2.1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Transportation of Food

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

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

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

- (1) a state police officer; or
- (2) a state police motor carrier inspector;

with authority to enforce this article.

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.

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



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- (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.

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

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

(b) 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.

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 6 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. This subsection applies if a health inspector, after inspection of a motor vehicle under subsection (d), finds a violation of section 6 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

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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).

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

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

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

SECTION 3. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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