



March 6, 2013

**ENGROSSED
HOUSE BILL No. 1068**

DIGEST OF HB 1068 (Updated March 5, 2013 11:24 am - DI 71)

Citations Affected: IC 8-2.1.

Synopsis: Transportation relating to agriculture. Provides that certain exemptions to the federal Moving Ahead for Progress in the 21st Century Act (MAP-21) apply to the operation of commercial motor vehicles relating to agriculture.

Effective: July 1, 2013.

Cherry, Friend, Lehe, DeLaney

(SENATE SPONSORS — HEAD, CRIDER, ECKERTY)

January 7, 2013, read first time and referred to Committee on Roads and Transportation.
January 10, 2013, reported — Do Pass.
January 14, 2013, read second time, ordered engrossed. Engrossed.
January 15, 2013, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.
March 5, 2013, reported favorably — Do Pass.

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EH 1068—LS 6792/DI 96+



March 6, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1068

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 8-2.1-24-18, AS AMENDED BY P.L.9-2010,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through
4 387, 390 through 393, and 395 through 398 are incorporated into
5 Indiana law by reference, and, except as provided in subsections (d),
6 (e), (f), (g), ~~and~~ (j), **(k), and (l)**, must be complied with by an interstate
7 and intrastate motor carrier of persons or property throughout Indiana.
8 Intrastate motor carriers subject to compliance reviews under 49 CFR
9 385 shall be selected according to criteria determined by the
10 superintendent which must include but are not limited to factors such
11 as previous history of violations found in roadside compliance checks
12 and other recorded violations. However, the provisions of 49 CFR 395
13 that regulate the hours of service of drivers, including requirements for
14 the maintenance of logs, do not apply to a driver of a truck that is
15 registered by the bureau of motor vehicles and used as a farm truck
16 under IC 9-18, or a vehicle operated in intrastate construction or
17 construction related service, or the restoration of public utility services

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1 interrupted by an emergency. Except as provided in subsection (i) and
2 (j):

3 (1) intrastate motor carriers not operating under authority issued
4 by the United States Department of Transportation shall comply
5 with the requirements of 49 CFR 390.21(b)(3) by registering with
6 the department of state revenue as an intrastate motor carrier and
7 displaying the certification number issued by the department of
8 state revenue preceded by the letters "IN"; and

9 (2) all other requirements of 49 CFR 390.21 apply equally to
10 interstate and intrastate motor carriers.

11 (b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177
12 through 178, and 180, are incorporated into Indiana law by reference,
13 and every:

14 (1) private carrier;

15 (2) common carrier;

16 (3) contract carrier;

17 (4) motor carrier of property, intrastate;

18 (5) hazardous material shipper; and

19 (6) carrier otherwise exempt under section 3 of this chapter;

20 must comply with the federal regulations incorporated under this
21 subsection, whether engaged in interstate or intrastate commerce.

22 (c) Notwithstanding subsection (b), nonspecification bulk and
23 nonbulk packaging, including cargo tank motor vehicles, may be used
24 only if all the following conditions exist:

25 (1) The maximum capacity of the vehicle is less than three
26 thousand five hundred (3,500) gallons.

27 (2) The shipment of goods is limited to intrastate commerce.

28 (3) The vehicle is used only for the purpose of transporting fuel
29 oil, kerosene, diesel fuel, gasoline, gasohol, or any combination
30 of these substances.

31 Maintenance, inspection, and marking requirements of 49 CFR 173.8
32 and Part 180 are applicable. In accordance with federal hazardous
33 materials regulations, new or additional nonspecification cargo tank
34 motor vehicles may not be placed in service under this subsection.

35 (d) For the purpose of enforcing this section, only:

36 (1) a state police officer or state police motor carrier inspector
37 who:

38 (A) has successfully completed a course of instruction
39 approved by the United States Department of Transportation;
40 and

41 (B) maintains an acceptable competency level as established
42 by the state police department; or

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- 1 (2) an employee of a law enforcement agency who:
- 2 (A) before January 1, 1991, has successfully completed a
- 3 course of instruction approved by the United States
- 4 Department of Transportation; and
- 5 (B) maintains an acceptable competency level as established
- 6 by the state police department;
- 7 on the enforcement of 49 CFR, may, upon demand, inspect the books,
- 8 accounts, papers, records, memoranda, equipment, and premises of any
- 9 carrier, including a carrier exempt under section 3 of this chapter.
- 10 (e) A person hired before September 1, 1985, who operates a motor
- 11 vehicle intrastate incidentally to the person's normal employment duties
- 12 and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a))
- 13 is exempt from 49 CFR 391 as incorporated by this section.
- 14 (f) Notwithstanding any provision of 49 CFR 391 to the contrary, a
- 15 person at least eighteen (18) years of age and less than twenty-one (21)
- 16 years of age may be employed as a driver to operate a commercial
- 17 motor vehicle intrastate. However, a person employed under this
- 18 subsection is not exempt from any other provision of 49 CFR 391.
- 19 (g) Notwithstanding subsection (a) or (b), the following provisions
- 20 of 49 CFR do not apply to private carriers of property operated only in
- 21 intrastate commerce or any carriers of property operated only in
- 22 intrastate commerce while employed in construction or construction
- 23 related service:
- 24 (1) Subpart 391.41(b)(3) as it applies to physical qualifications of
- 25 a driver who has been diagnosed as an insulin dependent diabetic,
- 26 if the driver has applied for and been granted an intrastate
- 27 medical waiver by the bureau of motor vehicles pursuant to this
- 28 subsection. The same standards and the following procedures
- 29 shall apply for this waiver whether or not the driver is required to
- 30 hold a commercial driver's license. An application for the waiver
- 31 shall be submitted by the driver and completed and signed by a
- 32 certified endocrinologist or the driver's treating physician
- 33 attesting that the driver:
- 34 (A) is not otherwise physically disqualified under Subpart
- 35 391.41 to operate a motor vehicle, whether or not any
- 36 additional disqualifying condition results from the diabetic
- 37 condition, and is not likely to suffer any diminution in driving
- 38 ability due to the driver's diabetic condition;
- 39 (B) is free of severe hypoglycemia or hypoglycemia
- 40 unawareness and has had less than one (1) documented,
- 41 symptomatic hypoglycemic reaction per month;
- 42 (C) has demonstrated the ability and willingness to properly

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1 monitor and manage the driver's diabetic condition;
 2 (D) has agreed to and, to the endocrinologist's or treating
 3 physician's knowledge, has carried a source of rapidly
 4 absorbable glucose at all times while driving a motor vehicle,
 5 has self monitored blood glucose levels one (1) hour before
 6 driving and at least once every four (4) hours while driving or
 7 on duty before driving using a portable glucose monitoring
 8 device equipped with a computerized memory; and
 9 (E) has submitted the blood glucose logs from the monitoring
 10 device to the endocrinologist or treating physician at the time
 11 of the annual medical examination.
 12 A copy of the blood glucose logs shall be filed along with the
 13 annual statement from the endocrinologist or treating physician
 14 with the bureau of motor vehicles for review by the driver
 15 licensing medical advisory board established under IC 9-14-4. A
 16 copy of the annual statement shall also be provided to the driver's
 17 employer for retention in the driver's qualification file, and a copy
 18 shall be retained and held by the driver while driving for
 19 presentation to an authorized federal, state, or local law
 20 enforcement official. Notwithstanding the requirements of this
 21 subdivision, the endocrinologist, the treating physician, the
 22 advisory board of the bureau of motor vehicles, or the bureau of
 23 motor vehicles may, where medical indications warrant, establish
 24 a short period for the medical examinations required under this
 25 subdivision.
 26 (2) Subpart 396.9 as it applies to inspection of vehicles carrying
 27 or loaded with a perishable product. However, this exemption
 28 does not prohibit a law enforcement officer from stopping these
 29 vehicles for an obvious violation that poses an imminent threat of
 30 an accident or incident. The exemption is not intended to include
 31 refrigerated vehicles loaded with perishables when the
 32 refrigeration unit is working.
 33 (3) Subpart 396.11 as it applies to driver vehicle inspection
 34 reports.
 35 (4) Subpart 396.13 as it applies to driver inspection.
 36 (h) For purposes of 49 CFR 395.1(k)(2), "planting and harvesting
 37 season" refers to the period between January 1 and December 31 of
 38 each year. The intrastate commerce exception set forth in 49 CFR
 39 395.1(k), as it applies to the transportation of agricultural commodities
 40 and farm supplies, is restricted to single vehicles and cargo tank motor
 41 vehicles with a capacity of not more than five thousand four hundred
 42 (5,400) gallons.

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1 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate
2 motor carrier or a guest operator not engaged in interstate commerce
3 and operating a motor vehicle as a farm vehicle in connection with
4 agricultural pursuits usual and normal to the user's farming operation
5 or for personal purposes unless the vehicle is operated either part time
6 or incidentally in the conduct of a commercial enterprise.

7 (j) This section does not apply to private carriers that operate using
8 only the type of motor vehicles specified in IC 8-2.1-24-3(6).

9 **(k) This subsection expires October 1, 2015. The exemption**
10 **provided by Section 32101(d) (amending Section 229(a)(1) of the**
11 **Motor Carrier Safety Improvement Act of 1999 (MCSIA) (49**
12 **U.S.C. 31136 (note)) of the federal Moving Ahead for Progress in**
13 **the 21st Century Act (MAP-21) (Public Law 112-141, 126 Stat. 405)**
14 **(77 Fed. Reg. 59840-59842 (2012)) concerning federal hours of**
15 **service rules applies to commercial motor vehicle operators**
16 **engaged in the transportation of agricultural commodities and**
17 **farm supplies.**

18 **(l) This subsection expires October 1, 2015. The exemptions**
19 **provided by Section 32934 of the federal Moving Ahead for**
20 **Progress in the 21st Century Act (MAP-21) (Public Law 112-141,**
21 **126 Stat. 405) (77 Fed. Reg. 59840-59842 (2012)) concerning**
22 **federal motor carrier safety regulations apply to the operation of**
23 **covered farm vehicles by farm and ranch operators, employees of**
24 **farms and ranches, and other individuals.**

25 ~~(k)~~ **(m)** The superintendent of state police may adopt rules under
26 IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by
27 reference under this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1068, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SOLIDAY, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1068, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1068 as printed January 11, 2013.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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