

IC 24-4.6-5

Chapter 5. Vehicle Owner Liability for Motor Fuel Theft

IC 24-4.6-5-1

"Motor fuel"

Sec. 1. As used in this chapter, "motor fuel" includes gasoline (as defined in IC 6-6-1.1-103(g)), special fuel (as defined in IC 6-6-2.5-22), and alternative fuel (as defined in IC 6-6-2.5-1).

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-2

"Retailer"

Sec. 2. As used in this chapter, "retailer" means a person that engages in the business of selling or distributing motor fuel to an end user within Indiana.

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-3

"Vehicle"

Sec. 3. As used in this chapter, "vehicle" has the meaning set forth in IC 6-6-5-1(a).

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-4

Owner liability to retailer

Sec. 4. (a) Subject to section 6(b) of this chapter, if:

- (1) motor fuel from a retailer is pumped into a vehicle; and
- (2) proper payment is not made to the retailer for the motor fuel;

the owner of the vehicle is liable to the retailer for the total pump price of the motor fuel pumped into the vehicle plus a service charge of fifty dollars (\$50), and the cost of certified mail, return receipt requested, or as provided in IC 1-1-7-1(a).

(b) The service charge may be imposed upon a vehicle owner when notice is mailed to the vehicle owner under section 5 of this chapter. Only one (1) service charge may be imposed under this section for each incident in which motor fuel is pumped into a vehicle and proper payment is not made.

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-5

Collection of a liability

Sec. 5. (a) To collect a liability from a vehicle owner under this chapter, an association of retailers must first send a notice of nonpayment to the vehicle owner by certified mail, return receipt requested, to the address indicated by records obtained under section 8 of this chapter.

(b) A notice sent under subsection (a) must:

- (1) state the total pump price of the motor fuel pumped into the vehicle owner's vehicle and the amount of the service charge;

- (2) state how the vehicle owner is to pay the liability;
- (3) include a copy of this chapter and IC 34-24-3;
- (4) state that, subject to section 6(b) of this chapter, the vehicle owner is subject to liability for an amount equal to triple the total pump price of the motor fuel received plus other damages under IC 34-24-3-1 if the liability is not paid within thirty (30) days; and
- (5) include a signed statement by the retailer or the employee of the retailer who reported the incident in which motor fuel was pumped into the vehicle owner's vehicle and proper payment was not made, setting forth:
 - (A) the date, time, and location of the incident; and
 - (B) the license plate number of the vehicle into which the motor fuel was pumped.

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-6

Notice to owner of vehicle

Sec. 6. (a) Subject to subsection (b), if a vehicle owner does not pay the total pump price of the motor fuel pumped and the service charge within thirty (30) days after the association of retailers sends the notice to the vehicle owner under section 5 of this chapter, the vehicle owner:

- (1) is liable to the retailer for:
 - (A) the total pump price of the motor fuel pumped, as set forth in the notice sent under section 5 of this chapter; and
 - (B) the service charge under section 4 of this chapter; and
- (2) is subject to liability to the retailer for other damages, costs, fees, and expenses in an action brought by the retailer under IC 34-24-3-1.

(b) If a vehicle owner, not more than thirty (30) days after the association of retailers sends the notice to the vehicle owner under section 5 of this chapter, sends written notice to the association of retailers:

- (1) disputing the retailer's claim that motor fuel was pumped into the vehicle owner's vehicle and proper payment was not made; or
- (2) stating that, when motor fuel was pumped into the vehicle owner's vehicle and proper payment was not made, the vehicle owner was not operating the vehicle and was not responsible for paying for the motor fuel pumped into the vehicle;

the vehicle owner does not become liable to the retailer under subsection (a)(1), and the association of retailers shall cease communications and all collection efforts under this chapter. However, the retailer may pursue a civil action against the vehicle owner under IC 34-24-3-1.

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-7

Civil liability of vehicle owner

Sec. 7. If a vehicle owner does not:

- (1) pay the total pump price of the motor fuel pumped and the service charge in response to a notice sent by a retailer under this chapter; or
- (2) reply to the retailer's notice with a written notice under section 6(b)(1) or 6(b)(2) of this chapter;

the vehicle owner's civil liability under this chapter does not preclude criminal liability under IC 35-43-4-2, IC 35-43-4-3, IC 35-43-4-8, or any other law.

As added by P.L.97-2011, SEC.2.

IC 24-4.6-5-8

Bureau of motor vehicles rules, agreements with association of retailers, release of information; owner payment of fees

Sec. 8. (a) The bureau of motor vehicles shall adopt rules under IC 4-22-2 to implement a system by which an association of retailers may obtain the name and mailing address of the owner of a vehicle involved in an incident in which motor fuel is pumped into the vehicle and proper payment is not made. The bureau of motor vehicles may integrate any system established under this section with its existing programs for the release of information under IC 9-14-3.

(b) The bureau of motor vehicles may enter into an agreement with an association of retailers to establish:

- (1) a fee different from the fees provided for in IC 9-29-2-2(a); or
- (2) other negotiated terms for the release of vehicle owner records;

for purposes of the system established under this section.

(c) Any release of information by the bureau of motor vehicles under this section must be:

- (1) consistent with the authority of the bureau of motor vehicles under IC 9-14-3.5; and
- (2) in compliance with 18 U.S.C. 2721 et seq.

(d) The name and mailing address of the owner of a vehicle released by the bureau of motor vehicles under subsection (a) may be used by an association of retailers only for purposes of collection efforts under this chapter.

(e) If the owner of a vehicle makes complete payment:

- (1) as set forth in section 4(a) of this chapter for the:
 - (A) price of motor fuel that has been pumped into the vehicle;
 - (B) service charge of fifty dollars (\$50); and
 - (C) cost of certified mail; or
- (2) for an amount equal to triple the pump price of the motor fuel received plus other damages under IC 34-24-3-1, as set forth in section 5(b)(4) of this chapter;

no criminal prosecution for a violation of IC 35-43-4 may be brought against the owner of the vehicle for the failure to make proper payment to a retailer under this chapter.

As added by P.L.97-2011, SEC.2.