

## **IC 20-27-5**

### **Chapter 5. Transportation Contracts**

#### **IC 20-27-5-0.2**

##### **Application of certain amendments to prior law**

Sec. 0.2. The amendments made to:

- (1) IC 20-9.1-2-4 (before its repeal, now codified at section 5 of this chapter); and
- (2) IC 20-9.1-2-4.1 (before its repeal, now codified at section 6 of this chapter);

do not apply to contracts entered into before July 1, 1988.

*As added by P.L.220-2011, SEC.332.*

#### **IC 20-27-5-1**

##### **Nonpublic school exemption**

Sec. 1. This chapter does not apply to a nonpublic school or to a school bus driver contract executed for a nonpublic school.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-2**

##### **Authority to provide transportation; fees prohibited**

Sec. 2. (a) The governing body of a school corporation may provide transportation for students to and from school.

(b) If the governing body of a school corporation:

- (1) provides transportation; or
- (2) contracts with an educational service center (as defined by IC 20-20-1-2) to provide transportation;

no fee may be charged to a parent or student for transportation to and from school. However, a fee may be charged for transportation to and from an athletic, a social, or another school sponsored function.

*As added by P.L.1-2005, SEC.11. Amended by P.L.140-2012, SEC.1.*

#### **IC 20-27-5-3**

##### **Transportation responsibilities**

Sec. 3. If a school corporation provides transportation for students, the governing body of the school corporation is responsible for obtaining the necessary school buses and school bus drivers.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-4**

##### **Employment of school bus driver**

Sec. 4. (a) If a school corporation owns the school bus equipment in its entirety, the school corporation may employ a school bus driver on a school year basis in the same manner as other noninstructional employees are employed.

(b) If a school corporation employs a school bus driver under subsection (a), the employment contract between the school corporation and the school bus driver must be in writing.

(c) A school corporation that hires a school bus driver under this section shall purchase and carry public liability and property damage

insurance covering the operation of school bus equipment in compliance with IC 9-25.

(d) Sections 5 through 32 of this chapter do not apply to the employment of a school bus driver hired under this section.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-5**

##### **Driver furnishing body or chassis of school bus; written transportation contract; benefits**

Sec. 5. (a) If a school bus driver is required to furnish the school bus body or the school bus chassis, or both, the governing body of the school corporation shall enter into a written transportation contract with the school bus driver.

(b) The transportation contract may include a provision allowing the school bus driver to be eligible for the life and health insurance benefits and other fringe benefits available to other school personnel.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-6**

##### **Fleet contract; written fleet contract; benefits**

Sec. 6. (a) When a fleet contractor is required to provide two (2) or more school buses and school bus drivers, the governing body of the school corporation shall enter into a written fleet contract with the fleet contractor.

(b) The fleet contract may include a provision allowing the school bus drivers to be eligible for the life and health insurance benefits and other fringe benefits available to other school personnel.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-7**

##### **Transportation or fleet contract; negotiation**

Sec. 7. Transportation or fleet contracts may either be:

- (1) negotiated and let after receiving bids on the basis of specifications, as provided for in section 10 of this chapter; or
- (2) negotiated on the basis of proposals by a bidder in which the bidder suggests additional or altered specifications.

A school corporation negotiating and executing a transportation contract shall comply with section 5 and sections 9 through 16 of this chapter. A school corporation negotiating and executing a fleet contract shall comply with sections 8 through 16 of this chapter.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-8**

##### **Transportation or fleet contract; specifications**

Sec. 8. (a) The governing body of a school corporation shall adopt specifications for transportation and fleet contracts before entering into a transportation or fleet contract under section 5 or 6 of this chapter.

(b) The specifications shall be prepared and placed on file in the office of the governing body at least fifteen (15) days before the

advertised date for beginning negotiations or receiving proposals or bids. However, if a school corporation is under the jurisdiction of a county superintendent of schools, the specifications shall be placed on file in the office of the county superintendent.

(c) All specifications are public records and are open, during regular office hours, for inspection by the public.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-9**

##### **Transportation or fleet contract; required specifications**

Sec. 9. The specifications for contracts adopted under section 8 of this chapter must include the following:

- (1) A description of the route for which the contract is to be let.
- (2) The approximate number of students to be transported on the route.
- (3) The approximate number of miles to be traveled each school day on the route.
- (4) The type of school bus equipment required to be furnished by the school bus driver or fleet contractor, including the seating capacity of the equipment required.
- (5) The amount of public liability and property damage insurance coverage, if any, required to be furnished by the school bus driver or fleet contractor. If a school corporation owns either the chassis or the body of the school bus equipment, the specifications must recite the amount and kind of insurance coverage required to be furnished by a bidding school bus driver. In addition to the amount and kind of insurance set forth in the specifications, the governing body, the school bus driver, or the fleet contractor may, at their own election and at their own expense, carry additional insurance, including health, accident, and medical payments insurance.
- (6) The amount of surety bond required to be furnished by the school bus driver.
- (7) The length of the term for which the contract may be let. However, a township trustee may not enter into a school bus contract that has a term extending beyond the June 30 following the expiration date of the trustee's term of office.
- (8) Any other relevant information necessary to advise a prospective bidder of the terms and conditions of the transportation contract or fleet contract.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-10**

##### **Transportation or fleet contract; public notice**

Sec. 10. (a) The governing body shall give notice to the public at least ten (10) days before beginning negotiations or receiving proposals or bids for transportation or fleet contracts. Notice shall be given in the manner provided by IC 5-3-1. The notice must include the following information:

- (1) That the governing body will negotiate, receive proposals,

or receive bids for transportation contracts and fleet contracts on a specified date.

(2) That the governing body will execute contracts for the school bus routes of the school corporation.

(3) That the specifications for the routes and related information are on file in the office of the governing body or in the office of the county superintendent.

(b) A transportation or fleet contract may not be negotiated until notice has been given under this section.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-11**

##### **Transportation or fleet contract; time to be let**

Sec. 11. (a) Except as provided in subsection (b), if the duration of a transportation or fleet contract is for more than one (1) full school year, the contract must be let before the May 1 preceding the beginning of the first school year covered by the contract.

(b) A contract described in subsection (a) that is let after the May 1 preceding the beginning of the first school year covered by the contract is valid if the contract was let after May 1 due to an emergency situation.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-12**

##### **Transportation or fleet contract; award**

Sec. 12. (a) If a transportation or fleet contract is let under sections 5 through 11 of this chapter, or let after renegotiation under section 16 of this chapter, the contract shall be awarded to the lowest responsible bidder, subject to the limitations in this section and in sections 14 and 15 of this chapter.

(b) The governing body may refuse to award the bid to the lowest responsible bidder if the amount of the bid is not satisfactory to the school corporation.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-13**

##### **Prerequisites for bidders for transportation contract**

Sec. 13. Before a bidder may be awarded a transportation contract, the bidder must meet the following conditions:

(1) The bidder must meet the physical requirements prescribed in IC 20-27-8-1 as evidenced by a certificate signed by an Indiana physician who has examined the bidder.

(2) The bidder must hold a valid public passenger chauffeur's license or commercial driver's license issued by the bureau of motor vehicles.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-14**

##### **Transportation or fleet contract; power to reject bid**

Sec. 14. A governing body may reject any or all bids. If a bid is

not received for a specified route, the governing body may either readvertise for bids or negotiate a contract for the route without further advertising.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-15**

##### **Transportation or fleet contract; alteration of route**

Sec. 15. The governing body may alter a school bus route at any time. If the altered route is longer than the route in the original contract, the school bus driver or fleet contractor shall be paid additional compensation for each additional mile or fraction of a mile. The additional compensation shall be based on the average rate per mile in the original contract.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-16**

##### **Transportation or fleet contract; change of equipment**

Sec. 16. The governing body may require the school bus driver or fleet contractor to furnish equipment with greater seating capacity at any time. When a school bus driver or fleet contractor is required to furnish different equipment during the term of the contract, the contracting parties may mutually agree to the cancellation of the existing contract and renegotiate a new contract for the balance of the term of the original contract. Action taken by a governing body under section 15 of this chapter does not preclude simultaneous action under this section.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-17**

##### **Transportation or fleet contract; amendment**

Sec. 17. Notwithstanding any other provision in this chapter, the governing body may, with the consent of the other party or parties to the contract, amend an existing transportation or fleet contract to make any necessary adjustments caused by a fluctuation in the cost of fuel that occurs during the term of the contract.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-18**

##### **Transportation or fleet contract; road conditions**

Sec. 18. If highway or road conditions require a school bus driver to drive a greater distance than provided by the contract, additional compensation shall be paid to the school bus driver or fleet contractor. The additional compensation shall be computed as if the governing body had lengthened the route under section 15 of this chapter.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-19**

##### **Transportation or fleet contract; sale or assignment**

Sec. 19. A transportation or fleet contract entered into under this

chapter may not be sold or assigned except by written agreement of both parties to the original contract and by the assignee or purchaser of the contract.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-20**

##### **Transportation contract; substitute driver**

Sec. 20. After notice to the governing body or its authorized agent, a school bus driver may provide a substitute driver for any of the following reasons:

- (1) Illness of the school bus driver.
- (2) Illness or death of a member of the school bus driver's family.
- (3) Compulsory absence of a school bus driver because of jury duty.
- (4) Performance of services and duties related to the Indiana State Association of School Bus Drivers, Inc.
- (5) Performance of services and duties required by service in the general assembly.
- (6) Attendance at meetings of the committee.
- (7) Management by a school bus driver of the school bus driver's personal business affairs. However, a school bus driver may not be absent for management of personal business affairs for more than ten (10) days in any one (1) school year without the approval of the governing body.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-21**

##### **Transportation contract; substitute driver requirements**

Sec. 21. A substitute school bus driver may not operate a school bus unless the substitute school bus driver meets the standards required by IC 20-27-8-1 and has been approved by the governing body or its authorized agent.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-22**

##### **Transportation contract; termination; generally**

Sec. 22. (a) A school bus driver's transportation contract may be terminated for:

- (1) incompetency;
- (2) physical disability;
- (3) negligence; or
- (4) failure to faithfully perform the school bus driver's duties under the contract;

only after the school bus driver has received notice and a hearing.

(b) Notice under subsection (a) must:

- (1) be in writing; and
- (2) allow a reasonable time before the hearing.

(c) The school bus driver may appear at a hearing under subsection (a) either in person or by counsel.

*As added by P.L.1-2005, SEC.11.*

**IC 20-27-5-23**

**Transportation contract; termination; alcoholic beverage**

Sec. 23. A school bus driver may not consume an alcoholic beverage during school hours or while operating a school bus. A transportation contract may be terminated without hearing upon presentation of reliable evidence that a school bus driver has consumed an alcoholic beverage:

- (1) during school hours;
- (2) while operating a school bus; or
- (3) while performing the school bus driver's duties.

*As added by P.L.1-2005, SEC.11.*

**IC 20-27-5-24**

**Transportation contract; physically unfit driver; duty**

Sec. 24. When a physical examination reveals that a school bus driver is physically unfit to perform the transportation contract, the school bus driver shall:

- (1) furnish a substitute school bus driver who is qualified under section 21 of this chapter; or
- (2) assign the school bus driver's transportation contract, if the governing body approves, to a person qualified under this chapter.

*As added by P.L.1-2005, SEC.11.*

**IC 20-27-5-25**

**Transportation contract; physically unfit driver; termination**

Sec. 25. (a) If a school bus driver is found physically unfit and fails to perform the duty required by section 24 of this chapter, the governing body may terminate the school bus driver's contract after the school bus driver has been given notice and an opportunity for a hearing.

(b) Notice under subsection (a) must:

- (1) be in writing; and
- (2) allow a reasonable time before the hearing.

(c) The school bus driver may appear at a hearing under subsection (a) either in person or by counsel.

*As added by P.L.1-2005, SEC.11.*

**IC 20-27-5-26**

**Fleet contract; school bus driver provisions**

Sec. 26. A fleet contract entered into under this chapter must provide the following:

- (1) The fleet contractor is responsible for the employment, physical condition, and conduct of every school bus driver employed by the fleet contractor.
- (2) The fleet contractor shall submit to the governing body a list of the names, addresses, telephone numbers, and route assignments of all regular and substitute school bus drivers

employed by the fleet contractor.

(3) All school bus drivers employed by the fleet contractor must meet the physical, moral, and license standards prescribed in IC 20-27-8.

(4) School bus drivers employed by a fleet contractor shall attend the annual safety meeting for school bus drivers sponsored by the committee and the state police department in accordance with IC 20-27-8-9.

(5) Failure to employ school bus drivers who meet and maintain the physical, moral, and license standards of IC 20-27-8, or failure to compel attendance of a school bus driver at the annual safety meeting, is a breach of contract and may result in termination of the fleet contract and in forfeiture of the surety bond.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-27**

##### **Transportation or fleet contract; cancellation; purchase of equipment**

Sec. 27. If a transportation or fleet contract is canceled by a governing body under this chapter, the governing body may purchase the school bus equipment owned by the school bus driver or fleet contractor and used under the transportation contract. The purchase price is the fair market value of the equipment as determined by agreement of the governing body and the school bus driver or fleet contractor.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-28**

##### **Transportation or fleet contract; bond**

Sec. 28. A school bus driver or fleet contractor operating a transportation or fleet contract shall furnish a surety bond conditioned on faithful performance of the contract. The governing body shall specify the amount of bond required.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-29**

##### **Common carrier contract; generally**

Sec. 29. A governing body may enter into a contract for student transportation with a regular route common carrier that operates under the jurisdiction of the department of state revenue.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-30**

##### **Common carrier contract; provisions**

Sec. 30. Each common carrier contract made under section 29 of this chapter must provide the following:

(1) The common carrier is solely responsible for the employment, physical condition, and conduct of every school bus driver employed by the carrier.



(2) The carrier must submit a certificate to the governing body showing that any school bus driver used in performing the contract meets the physical standards required by IC 20-27-8-1(a)(7).

*As added by P.L.1-2005, SEC.11. Amended by P.L.1-2009, SEC.123.*

#### **IC 20-27-5-31**

##### **Common carrier contract; exemption from physical examination**

Sec. 31. When a school bus driver is employed by a common carrier to assist in performing a common carrier contract made under section 29 of this chapter, the school bus driver is exempt from mandatory physical examinations required under this article, except to the extent that examination may be necessary for a common carrier to comply with section 30(2) of this chapter.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-32**

##### **Common carrier contract; exemption from requirements**

Sec. 32. A bus operated under a common carrier contract is not required to be constructed, equipped, or painted as specified under this article or the rules of the committee unless the bus:

(1) is operated exclusively for the transportation of students to and from school; or

(2) must be operated more than three (3) miles outside the corporation limit of a city or town in order to perform the contract.

*As added by P.L.1-2005, SEC.11.*

#### **IC 20-27-5-33**

##### **Violation**

Sec. 33. A person who knowingly, intentionally, or recklessly violates this chapter commits a Class C misdemeanor.

*As added by P.L.1-2005, SEC.11. Amended by P.L.231-2005, SEC.36.*