

IC 9-20-18

Chapter 18. Penalties and Enforcement

IC 9-20-18-1

Venue

Sec. 1. For the purposes of this chapter, the operation of a vehicle or combination of vehicles in violation of a limitation in IC 9-20-4, IC 9-20-5, or IC 9-20-11 is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a conviction or acquittal in one (1) county bars a prosecution in another county.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-2

Repealed

(Repealed by P.L.100-1991, SEC.3.)

IC 9-20-18-3

Detention of vehicles; bond; impoundment of property

Sec. 3. (a) If a person is apprehended operating or causing to be operated a vehicle or combination of vehicles on a highway with a weight in excess of a limitation under IC 9-20-4, IC 9-20-5, or IC 9-20-11, the vehicle or combination of vehicles shall be detained until the weight of the vehicle or combination of vehicles is reduced or distributed to comply with the limitation.

(b) While a vehicle or combination of vehicles is detained, the vehicle or combination of vehicles shall be kept in the custody of the apprehending officer and shall be moved only as directed by the officer or by direction of a court.

(c) A person who is apprehended may post a bond in a court. If a bond is posted and the weight is reduced to within the lawful limits, the vehicle or combination of vehicles shall be released by order of the court.

(d) If a bond is not posted, the court may have the apprehending officer impound the property until a bond is posted or until all fines and costs are paid or stayed.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-4 Version a

Movement of vehicle following impoundment; Class B misdemeanor

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 4. A person who moves a vehicle or combination of vehicles after the vehicle or combination of vehicles is impounded commits a Class B misdemeanor.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-4 Version b

Movement of vehicle following impoundment; Class A infraction

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 4. A person who moves a vehicle or combination of vehicles after the vehicle or combination of vehicles is impounded commits a Class A infraction.

As added by P.L.2-1991, SEC.8. Amended by P.L.217-2014, SEC.43.

IC 9-20-18-5

Impoundment of cargo

Sec. 5. This chapter does not authorize the impounding of a part of the cargo of an impounded vehicle or combination of vehicles.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-6

Notification of location of cargo to shipper

Sec. 6. The driver of an impounded vehicle or combination of vehicles shall notify the shipper or a person having a monetary interest in the cargo or vehicle or combination of vehicles of the location of the cargo. The impounding officer shall give the driver reasonable opportunity to make the notification.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-7

Criminal liability; defenses; knowledge of violation; fine; payment; sale of property

Sec. 7. (a) A court shall determine the extent of liability of the driver, carrier, shipper, or other party shown to be liable.

(b) It is a defense if a party can show that the party:

(1) could not reasonably have known the actual weight of the load involved;

(2) had no access to or control of the loading of an overweighted load;

(3) reasonably relied upon the representation of another party regarding the validity, scope, or allowable weight of a permit issued to the other party under this article; or

(4) received written confirmation from a carrier that the carrier:

(A) had a valid permit for the load; or

(B) was not required to have a permit for the load.

(c) If a person who is an owner, a driver, a carrier or a shipper specifically or directly orders or assigns a particular shipment to be loaded:

(1) the person shall be considered to have had control of the loading within the meaning of this section; and

(2) a showing of knowledge of the overweighted load affixes liability to the person.

(d) The person who has loaded a shipment has control of the loading within the meaning of this section and a showing of knowledge of the overweighted load affixes liability to the person if the person is self-employed. If the person loading a shipment is not self-employed, then liability affixes to the person's employer jointly

and severally with the driver of an overweight vehicle.

(e) If a court determines that the owner of a vehicle or combination of vehicles involved in a case is jointly or severally liable, the owner shall be given ninety (90) days to pay the liability assessed by the court. During the ninety (90) days the court may continue the impounding of the equipment until all fines and costs are paid. If the fines and costs are not paid within the ninety (90) days after the court determination, the court may order the property sold to pay the fines and costs.

(f) The court shall determine the liabilities, rights, and remedies of all of the parties involved.

As added by P.L.2-1991, SEC.8. Amended by P.L.54-2009, SEC.5.

IC 9-20-18-8

Order for sale of property; procedure; expenses; bill of sale; certificate of title; liens

Sec. 8. (a) An order for sale may do the following:

(1) Include an apportionment of fines and costs among the parties.

(2) Establish a civil right of recovery by the owner of the property to be sold against any other parties the court also finds liable for apportioned shares.

(b) The procedure for the sale is the same as though the property was abandoned, and the impounding officer shall initiate the action necessary for the sale of the impounded property under the laws concerning the sale of abandoned vehicles.

(c) Expenses that are incurred in the storage and selling of a vehicle or combination of vehicles shall be deducted from the proceeds received from the sale, and any amount remaining shall be forwarded to the owner by registered mail to the address to which original notice was given.

(d) A person conducting a sale may give a bill of sale to a purchaser. The bureau may issue a certificate of title based on the bill of sale.

(e) A sale under this chapter is subject to liens of record or recorded on the title and to mechanic's possessory liens.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-9

Penalties based on number of convictions; certified copy of judgment; notice to appear before department of revenue; proceedings; suspension

Sec. 9. (a) A person who owns a motor vehicle and is convicted the following number of times is subject to the following penalties:

(1) For five (5) times in a year of violating IC 9-20-4-1(a), suspension for five (5) days from the use of the highways, and if subject to the jurisdiction of the department of state revenue, the person's permit, registration, certificate, or certificate of authority issued by the department shall be suspended for the same period of time on receipt by the department of certified

copies of the five (5) convictions. The suspension of the permit, registration, certificate, or certificate of authority runs concurrently.

(2) For ten (10) times in a year of violating IC 9-20-4-1(a), suspension for ten (10) days from the use of the highways and the person's permit, registration, certificate, or certificate of authority issued by the department of state revenue under IC 8-2.1 shall be suspended for the same period of time upon receipt by the department of certified copies of the ten (10) convictions. The suspension of the permit, registration, certificate, or certificate of authority runs concurrently.

(3) For fifteen (15) times in a year of violating IC 9-20-4-1(a), suspension for thirty (30) days from the use of the highways and the person's permit, registration, certificate, or certificate of authority issued by the department of state revenue under IC 8-2.1 shall be suspended for the same period of time upon receipt by the department of certified copies of the fifteen (15) convictions. The suspension of the permit, registration, certificate, or certificate of authority runs concurrently.

(4) For more than fifteen (15) times in a year of violating IC 9-20-4-1(a), for each additional five (5) convictions in excess of fifteen (15), suspension for five (5) days from the use of the highways and the person's permit, registration, certificate, or certificate of authority issued by the department of state revenue under IC 8-2.1 shall be suspended for the same period of time upon receipt by the department of certified copies of the additional convictions. The suspension of the permit, registration, certificate, or certificate of authority runs concurrently.

(b) A court shall immediately, upon conviction of a person who owns or operates a motor vehicle of violating IC 9-20-4-1(a), send the bureau of the department of state revenue a certified copy of the judgment of the court setting forth the following:

- (1) The name of the person who owns the vehicle.
- (2) The date of the violation.
- (3) The amount of fine levied.

The bureau shall keep a record of all convictions in the bureau's office.

(c) After the number of convictions has been certified to the bureau of the department of state revenue, the bureau shall send by certified mail to the person against whom the convictions have accumulated a notice to appear before the department of state revenue for the following purposes:

- (1) To show cause why a suspension should not be assessed.
- (2) To advise the person of a date on which the department will conduct the hearing. The date must not be less than twenty (20) days from the date of the sending of the certified letter.

The department shall conduct the proceeding in accordance with IC 8-2.1.

(d) If after the proceeding the department of state revenue finds

that the permit, registration, certificate, or certificate of authority should be suspended, the department shall do the following:

- (1) Issue an order within thirty (30) days from the date of the conclusion of the proceeding.
- (2) Serve upon the person a certified copy of the order of suspension by certified mail.

If the department finds that a suspension is not justified, the department shall serve an order upon the person affected. All rights of appeal from the orders of the department are subject to appeal as provided by IC 8-2.1.

(e) If a private carrier not under the jurisdiction of the department of state revenue is convicted under this article, the court shall immediately certify the convictions to the bureau. The bureau shall keep a record of the convictions in the same manner as provided for the department of state revenue.

(f) After the number of convictions on a person operating as a private carrier not under the jurisdiction of the department of state revenue has been certified to the bureau, the bureau shall send by certified mail to the person a notice to appear before the department to show cause why the person should not have the suspensions assessed. All provisions for the notice of the citation proceedings, together with the rights of compelling the attendance of witnesses, swearing of witnesses, taking testimony of witnesses, and of issuing an order, are the same before the bureau for private carriers as are provided before the department for public carriers, but the procedure to govern the hearings is the same as other similar hearings.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-10

Maintenance personnel; assistance in enforcement; powers and duties; compensation

Sec. 10. (a) The department of transportation may deputize and appoint the department's regularly employed maintenance personnel to assist in the enforcement of this article.

(b) Maintenance personnel delegated and appointed under this section shall report to the proper officers any violations of this article for prosecution by the proper officers.

(c) For the purpose of enforcing this article, an employee who is designated:

- (1) has the power of a police officer anywhere in Indiana;
- (2) must subscribe an oath; and
- (3) must furnish a bond of one thousand dollars (\$1,000):
 - (A) for faithful performance of the employee's duties as a special officer running to the state; and
 - (B) approved and filed in the office of the secretary of state.

(d) An employee described under this section may not receive additional salary or wages due to the employee's services under this section.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-11

Damage to highways and bridges; liability; civil action

Sec. 11. (a) A person who owns or operates a vehicle, an object, or a contrivance unlawfully operated or moved on a highway or bridge is jointly and severally responsible for all damages to the highway or bridge as a result of a violation of this article.

(b) The:

- (1) attorney general on behalf of the state, for state highways; and
- (2) proper legal officer on behalf of the county, township, or municipality affected;

shall bring a civil action against the person involved to recover the damages sustained.

(c) All funds recovered shall be credited to the proper highway fund to be used for the reimbursement of the cost of repairing the damaged highways and bridges.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-12

Violation of article; Class C infraction; violation of weight limitations; Class B infraction; Class A infraction; defenses; suspension; funds; disbursement

Sec. 12. (a) Except as provided in subsection (b), a person who violates this article commits a Class C infraction.

(b) A violation of a weight limitation in IC 9-20-4, IC 9-20-5, IC 9-20-11, or IC 9-20-7-1 is:

- (1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and
- (2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) This subsection does not apply to violations that occur on an interstate highway. It is a defense to a charge of violating a weight limitation in IC 9-20-4, IC 9-20-5, or IC 9-20-11 that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle used in violating this article for not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a law regarding the weight limit of vehicles operated upon a highway, the court may recommend suspension of the person's current chauffeur's license if the violation was committed knowingly.

(f) Notwithstanding IC 34-28-5-4, funds collected as judgments, except for costs, for violations under subsection (a) or (b) shall be deposited in the state highway fund.

As added by P.L.2-1991, SEC.8. Amended by P.L.122-1993, SEC.6; P.L.1-1998, SEC.99.

IC 9-20-18-13

Special tractor-mobile home rig moving violations; extra wide manufactured home rig rules violations; penalties

Sec. 13. (a) A person who operates a special tractor-mobile home rig who violates IC 9-20-15 is considered to be committing a moving violation and is subject to the penalties provided under rules adopted under IC 9-25.

(b) A person or an individual owner who violates a rule adopted under IC 9-20-15-6 commits a Class C infraction.

As added by P.L.2-1991, SEC.8. Amended by P.L.95-1991, SEC.5.

IC 9-20-18-14

Loads not securely fastened; Class C infraction

Sec. 14. (a) This section does not apply to a vehicle that has sides that extend above the load unless the load is not safely secured.

(b) A person who operates or permits the operation of a vehicle:

(1) on which:

(A) logs, lumber, pipe, poles, tanks, boilers, or similar objects are carried and not securely fastened by:

(i) metal chains;

(ii) wire cables;

(iii) steel strapping; or

(iv) logistic webbing of synthetic fibers;

identified as to strength and equipped with compatible hardware, that are of sufficient strength to hold the load in place under ordinary traffic or road conditions; and

(B) a load or part of a load more than ten (10) feet in length is not fastened by at least three (3) of the devices listed under subdivision (1), one (1) of which must be near each end and the other at the approximate center of the load; and

(2) on a public street or highway;

commits a Class C infraction.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-14.5

Civil penalties

Sec. 14.5. (a) The civil penalties imposed under this section are in addition to the other civil penalties that may be imposed under IC 8 and IC 9. Notwithstanding section 12 of this chapter, a civil penalty imposed under this section:

(1) is imposed on the person whose United States Department of Transportation number is registered on the vehicle transporting the load;

(2) shall be deposited in the motor carrier regulation fund established by IC 8-2.1-23-1; and

(3) is in addition to any fines imposed by a court.

(b) A person who violates IC 9-20-5-7 is subject to a civil penalty of not more than five hundred dollars (\$500) for each violation.

(c) A person who obtains a permit under this article and violates this article is subject to a civil penalty of not more than five hundred dollars (\$500) for the first violation and not more than one thousand

dollars (\$1,000) for each subsequent violation.

(d) A person who transports heavy vehicles or loads subject to this article and fails to obtain a permit required under this article is subject to a civil penalty of not more than five thousand dollars (\$5,000) for each violation.

(e) A civil penalty imposed under this section may be assessed against a person only after an administrative hearing has been conducted at which the person has an opportunity to present information as to why the civil penalty should not be assessed.

As added by P.L.129-2001, SEC.31. Amended by P.L.176-2006, SEC.12; P.L.45-2011, SEC.5.

IC 9-20-18-15

Enforcement of size and weight restrictions; cooperation among departments

Sec. 15. The Indiana state police board, the state police department, and the Indiana department of transportation shall cooperate in enforcement of Indiana laws relating to the height, width, length, gross weights, and load weights of vehicles or combinations of vehicles, with or without motive power, being operated, drawn, driven, moved, or transported on or over Indiana highways.

As added by P.L.2-1991, SEC.8.

IC 9-20-18-16

Interstate compacts and agreements; violations subject to IC 9-28

Sec. 16. The following are subject to IC 9-28:

(1) A:

(A) conviction for a crime; or

(B) judgment for an offense or ordinance violation; under this article related to the use or operation of a motor vehicle.

(2) The issuance of a citation (as defined in IC 9-28-2-1) under this article.

As added by P.L.2-1991, SEC.8.