

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1090

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 6-1.1-5.5-2, AS AMENDED BY P.L.182-2009(ss), SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) As used in this chapter, "conveyance document" means any of the following:

- (1) Any of the following that purports to transfer a real property interest for valuable consideration:
 - (A) A document.
 - (B) A deed.
 - (C) A contract of sale.
 - (D) An agreement.
 - (E) A judgment.
 - (F) A lease that includes the fee simple estate and is for a period in excess of ninety (90) years.
 - (G) A quitclaim deed serving as a source of title.
 - (H) Another document presented for recording.
 - (2) Documents for compulsory transactions as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate.
 - (3) Documents involving the partition of land between tenants in common, joint tenants, or tenants by the entirety.
- (b) The term does not include the following:
- (1) Security interest documents such as mortgages and trust

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deeds.

- (2) Leases that are for a term of less than ninety (90) years.
- (3) Agreements and other documents for mergers, consolidations, and incorporations involving solely nonlisted stock.
- (4) Quitclaim deeds not serving as a source of title.
- (5) Public utility or governmental easements or rights-of-way.

(6) Conveyances to the state.

SECTION 2. IC 8-3-1.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) There is created a fund known as the industrial rail service fund. The fund shall consist of money distributed to the fund by IC 6-2.5-10-1 and IC 8-3-1.5-20. Amounts held in the fund may only be used to do the following:

- (1) Provide loans to railroads that will be used to purchase or rehabilitate real or personal property that will be used by the railroad in providing railroad transportation services.
- (2) Pay operating expenses of the Indiana department of transportation, subject to appropriation by the general assembly.
- (3) Provide fifty thousand dollars (\$50,000) annually to the Indiana department of transportation for rail planning activities. Money distributed under this subdivision does not revert back to the state general fund at the end of a state fiscal year.
- (4) Provide money for the high speed rail development fund under IC 8-23-25.
- (5) Provide grants to a railroad owned or operated by a port authority established under IC 8-10-5.
- (6) Make grants to a Class II or a Class III railroad for the rehabilitation of railroad infrastructure or railroad construction.

(b) A grant made under subsection (a)(5) may not exceed twenty percent (20%) of the gross sales and use tax receipts deposited in the fund under IC 6-2.5-10-1 during the fiscal year preceding the fiscal year in which the grant is made.

(c) A grant program under subsection (a)(6) must:

- (1) provide a grant to a recipient of not more than seventy-five percent (75%) of the cost of the project; and
- (2) require a grant recipient to pay for not ~~more~~ **less** than twenty-five percent (25%) of the cost of a project.

SECTION 3. IC 8-6-7.7-3.2, AS AMENDED BY P.L.198-2016, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3.2. (a) A person may petition a unit (as defined in IC 36-1-2-23) under whose jurisdiction a public railroad crossing lies for the closure of a public railroad crossing. The unit shall conduct a public hearing on the petition not more than sixty (60) days after the

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date on which the unit receives the petition. **Notice of the public hearing must be provided under section 3.5 of this chapter.**

(b) Except as provided in subsection (c), if the unit determines that the crossing meets the criteria adopted by the Indiana department of transportation under section 3.1 of this chapter for closing a crossing, the unit shall approve the petition described in subsection (a) and issue an order to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.

(c) If the unit determines that:

- (1) the crossing meets the criteria for closure adopted by the Indiana department of transportation under section 3.1 of this chapter; and
- (2) a compelling reason has been shown to exist for the crossing to remain open;

the unit may deny a petition to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.

(d) If the unit determines that the crossing does not meet the criteria for closure adopted by the Indiana department of transportation and section 3.1 of this chapter, the unit may deny a petition to close the crossing.

(e) ~~Notwithstanding subsections (a) through (d)~~; A unit and a railroad may agree to close a crossing within the jurisdiction of the unit. **The unit must conduct a public hearing before agreeing to the closure of the crossing. Notice of the public hearing must be provided under section 3.5 of this chapter.**

SECTION 4. IC 8-6-7.7-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 3.5. The unit (as defined in IC 36-1-2-23) under whose jurisdiction a public railroad crossing lies must provide notice of the public hearing regarding the proposed closure as follows:**

- (1) By publication in two (2) newspapers of general circulation in the unit, published not less than thirty (30) days prior to the public hearing.**
- (2) By certified mail to those property owners who would be considered interested parties under the unit's rules for providing notice under IC 36-7-4, postmarked not less than thirty (30) days prior to the public hearing.**

SECTION 5. IC 8-23-2-5, AS AMENDED BY P.L.121-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 5. (a) The department, through the commissioner or the commissioner's designee, shall:**

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- (1) develop, continuously update, and implement:
 - (A) long range comprehensive transportation plans;
 - (B) work programs; and
 - (C) budgets;
 to assure the orderly development and maintenance of an efficient statewide system of transportation;
- (2) implement the policies, plans, and work programs adopted by the department;
- (3) organize by creating, merging, or abolishing divisions;
- (4) evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques;
- (5) carry out public transportation responsibilities, including:
 - (A) developing and recommending public transportation policies, plans, and work programs;
 - (B) providing technical assistance and guidance in the area of public transportation to political subdivisions with public transportation responsibilities;
 - (C) developing work programs for the utilization of federal mass transportation funds;
 - (D) furnishing data from surveys, plans, specifications, and estimates required to qualify a state agency or political subdivision for federal mass transportation funds;
 - (E) conducting or participating in any public hearings to qualify urbanized areas for an allocation of federal mass transportation funding;
 - (F) serving, upon designation of the governor, as the state agency to receive and disburse any state or federal mass transportation funds that are not directly allocated to an urbanized area;
 - (G) entering into agreements with other states, regional agencies created in other states, and municipalities in other states for the purpose of improving public transportation service to the citizens; and
 - (H) developing and including in its own proposed transportation plan a specialized transportation services plan for the elderly and persons with disabilities;
- (6) provide technical assistance to units of local government with road and street responsibilities;
- (7) develop, undertake, and administer the program of research and extension required under IC 8-17-7;
- (8) allow public testimony in accordance with section 17 of this chapter whenever the department holds a public hearing (as

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defined in section 17 of this chapter); and

(9) subject to section 6.5 of this chapter, adopt rules under IC 4-22-2 to reasonably and cost effectively manage the right-of-way of the state highway system by establishing a formal procedure for highway improvement projects that involve the relocation of utility facilities by providing for an exchange of information among the department, utilities, and the department's highway construction contractors.

(b) Rules adopted under subsection (a)(9):

(1) shall not unreasonably affect the cost, or impair the safety or reliability, of a utility service; and

(2) must require a utility to provide information concerning all authorized representatives of the utility for purposes of highway improvement projects and improvement projects undertaken by local units of government.

(c) A civil action may be prosecuted by or against the department, a department highway construction contractor, or a utility to recover costs and expenses directly resulting from willful violation of the rules. Nothing in this section or in subsection (a)(9) shall be construed as granting authority to the department to adopt rules establishing fines, assessments, or other penalties for or against utilities or the department's highway construction contractors.

(d) Based on information provided by utilities under rules described in subsection (b)(2), the department shall establish and publish on the department's ~~Internet web site~~ **website** a searchable data base of authorized representatives of utilities for purposes of improvement projects that involve the relocation of utility facilities. A utility that provides information described in subsection (b)(2) shall:

(1) update the information provided to the department on an annual basis; and

(2) notify the department of any change in the information not more than thirty (30) days after the change occurs.

(e) Not later than ~~August~~ **November 1** of each year, the department, through the commissioner or the commissioner's designee, shall prepare for the interim study committee on roads and transportation a report that includes updates on ~~the following~~:

~~(1) Transportation and infrastructure funding;~~

~~(2) Public-private agreements under IC 8-15.5;~~

~~(3) Public-private partnerships under IC 8-15.7;~~

~~(4) Reports and supplements prepared under IC 8-23-12;~~

~~(5) Programs and projects conducted in cooperation with Purdue University under IC 8-23-9-56.~~

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~~(6) any other information requested by the study committee to aid in the study of the study committee's assigned topics.~~

The report must be submitted in an electronic format under IC 5-14-6.

SECTION 6. IC 8-23-9-56, AS AMENDED BY P.L.53-2014, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 56. (a) The department may cooperate with and assist Purdue University in developing the best methods of improving and maintaining the highways of the state and the respective counties. In so cooperating with Purdue University and for the purpose of developing and disseminating helpful information concerning road construction and improvement and the operation of the highways of the state and the counties, the department may expend money annually from the funds appropriated to the department's use for the use and benefit of Purdue University in carrying on programs of highway research and highway extension at or in connection with Purdue University and for the annual road school held at Purdue University. In addition, the money may be increased by federal funds, which may be made available to the department for the engineering and economic investigation of projects for future construction and for highway research necessary in connection therewith.

(b) For the purpose of disseminating knowledge of the highway maintenance methods that are best suited to the various sections of Indiana, the county and state highway officials, in cooperation with Purdue University, may hold joint road meetings in the various sections of Indiana.

(c) The aid authorized by this section shall be paid quarterly by the department to Purdue University upon proper voucher.

~~(d) Not later than August 1 of each year, a representative of Purdue University shall prepare, in cooperation with the department under IC 8-23-2-5(c)(5), for the interim study committee on roads and transportation a report that includes updates on the following:~~

~~(1) Programs or projects conducted under this section:~~

~~(2) Any other information requested by the study committee:~~

~~The report must be submitted in an electronic format under IC 5-14-6.~~

SECTION 7. IC 8-23-12-5 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 5. The department shall prepare and publish and make public a report at the end of each fiscal year. The report must contain appropriate financial data concerning receipts and disbursements; the past year's accomplishments; the current highway improvement program; a proposed program of construction to be accomplished within the following two (2) fiscal years; and an appraisal of the state's highway needs and the relative urgency of these needs.

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SECTION 8. IC 9-19-10-7, AS AMENDED BY P.L.262-2013, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) Failure to comply with section 1, 2, or 3.1(a) of this chapter does not constitute fault under IC 34-51-2 and does not limit the liability of an insurer.

(b) Except as provided in subsection (c), evidence of the failure to comply with section 1, 2, or 3.1(a) of this chapter may not be admitted in a civil action to mitigate damages.

(c) **(b) This subsection applies to a cause of action accruing before July 1, 2024.** Evidence of a failure to comply with this chapter may be admitted in a civil action as to mitigation of damages in a product liability action involving a motor vehicle restraint or supplemental restraint system. The defendant in such an action has the burden of proving noncompliance with this chapter and that compliance with this chapter would have reduced injuries, and the extent of the reduction.

(c) This subsection applies to a cause of action accruing after June 30, 2024. For a plaintiff who was at least fifteen (15) years of age or older at the time the cause of action accrued, evidence of a failure to comply with this chapter may be admitted in any civil action as to mitigation of damages. The defendant in such an action has the burden of proving noncompliance with this chapter and that compliance with this chapter would have reduced injuries.

SECTION 9. IC 9-19-11-8 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 8: Failure to comply with this chapter does not constitute contributory negligence.

SECTION 10. IC 9-19-11-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 8.5. In a civil action seeking to recover damages for personal injuries or death experienced by a plaintiff who:**

- (1) was in a motor vehicle that was manufactured after September 1, 1986, and equipped with at least one (1) inflatable restraint system; and**
- (2) was fifteen (15) years of age or older at the time the cause of action accrued;**

evidence that the motor vehicle was not operating in compliance with section 2 or 3.6 of this chapter may be admitted as proof of failure to mitigate damages.

SECTION 11. IC 9-21-5-6, AS AMENDED BY P.L.164-2018, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) Except as provided in subsections (e) and



(f), whenever a local authority in the authority's jurisdiction determines that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit on the highway. The maximum limit declared under this section may do any of the following:

- (1) Decrease the limit within urban districts, but not to less than twenty (20) miles per hour.
- (2) Increase the limit within an urban district, but not to more than fifty-five (55) miles per hour during daytime and fifty (50) miles per hour during nighttime.
- (3) Decrease the limit outside an urban district, but not to less than thirty (30) miles per hour.
- (4) Decrease the limit in an alley, but to not less than five (5) miles per hour.
- (5) Increase the limit in an alley, but to not more than ~~thirty (30)~~ **twenty (20)** miles per hour.

The local authority must perform an engineering and traffic investigation before a determination may be made to change a speed limit under subdivision (2), (3), (4), or (5) or before the speed limit **on a highway with a functional classification of arterial or major collector** within an urban district may be decreased to less than twenty-five (25) miles per hour under subdivision (1). **An engineering and traffic investigation is not required to decrease the speed limit to twenty (20) miles per hour on a highway with a functional classification of minor collector or local road in an urban district.**

(b) Except as provided in subsection (f), a local authority in the authority's jurisdiction shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district. However, an engineering and traffic study is not required to be performed for the local streets in an urban district under this subsection if the local authority determines that the proper maximum speed in the urban district is not less than twenty-five (25) miles per hour.

(c) An altered limit established under this section is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice of the altered limit are erected on the street or highway.

(d) Except as provided in this subsection, a local authority may not alter a speed limit on a highway or extension of a highway in the state

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highway system. A city or town may establish speed limits on state highways upon which a school is located. However, a speed limit established under this subsection is valid only if the following conditions exist:

- (1) The limit is not less than twenty (20) miles per hour.
 - (2) The limit is imposed only in the immediate vicinity of the school.
 - (3) Children are present.
 - (4) The speed zone is properly signed. There must be:
 - (A) a sign located:
 - (i) where the reduced speed zone begins; or
 - (ii) as near as practical to the point where the reduced speed zone begins;
 indicating the reduced speed limit; and
 - (B) a sign located at the end of the reduced speed zone indicating:
 - (i) the speed limit for the section of highway that follows; or
 - (ii) the end of the reduced speed zone.
 - (5) The Indiana department of transportation has been notified of the limit imposed by certified mail.
- (e) A local authority may decrease a limit on a street to not less than fifteen (15) miles per hour if the following conditions exist:
- (1) The street is located within a park or playground established under IC 36-10.
 - (2) The:
 - (A) board established under IC 36-10-3;
 - (B) board established under IC 36-10-4; or
 - (C) park authority established under IC 36-10-5;
 requests the local authority to decrease the limit.
 - (3) The speed zone is properly signed.
- (f) A city, town, or county may establish speed limits on a street or highway upon which a school is located if the street or highway is under the jurisdiction of the city, town, or county, respectively. However, a speed limit established under this subsection is valid only if the following conditions exist:
- (1) The limit is not less than twenty (20) miles per hour.
 - (2) The limit is imposed only in the immediate vicinity of the school.
 - (3) Children are present.
 - (4) The speed zone is properly signed. There must be:
 - (A) a sign located where the reduced speed zone begins or as near as practical to the point where the reduced speed zone

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begins indicating the reduced speed limit and a sign located at the end of the reduced speed zone indicating the end of the reduced speed zone; and

(B) if the school operates on a twelve (12) month schedule, a sign indicating that the school is an all year school.

(g) Except as provided in subsection (h), a person who exceeds a speed limit established by a local authority under this section commits a Class C infraction.

(h) A person who exceeds a speed limit that is established under subsection (d) or (f) commits a Class B infraction.

SECTION 12. IC 9-21-5-12, AS AMENDED BY P.L.164-2018, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. (a) **Except as provided in subsection (d)**, whenever the Indiana department of transportation determines on the basis of an engineering and traffic investigation that a maximum speed set forth in this chapter is greater or less than is reasonable or safe under the conditions found to exist at an intersection or other place or on part of the state highway system, the Indiana department of transportation may determine and declare a reasonable and safe maximum limit at the intersection or on the part of the state highway system. The differing limit is effective when appropriate signs giving notice of the limit are erected.

(b) A maximum speed limit under this section may be declared to be effective at all times or at times indicated on the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds. The differing limits are effective when posted on appropriate fixed or variable signs.

(c) A person who exceeds a speed limit established under this section commits a Class C infraction.

(d) The Indiana department of transportation may decrease the speed limit on a highway in its jurisdiction with a functional classification of minor collector or local road in an urban district to twenty (20) miles per hour without an engineering and traffic investigation.

SECTION 13. IC 36-9-42.2-9 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 9: Not later than November 1 of each year, the department shall submit a report on the program to the general assembly in an electronic format under IC 5-14-6. A report submitted under this section must include:

(1) a summary of the awarded exchanged funds to eligible entities during the previous state fiscal year; and

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(2) a status report on the implementation of projects funded through the program.



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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