



Reprinted
April 1, 2015

ENGROSSED HOUSE BILL No. 1413

DIGEST OF HB 1413 (Updated March 31, 2015 4:00 pm - DI 58)

Citations Affected: IC 6-6; IC 8-21.

Synopsis: Aircraft. Removes the automatic reclassification of an aircraft in an aircraft dealer's inventory from the status of "aircraft inventory" to the status of "property of a nondealer" after 180 days. Provides that an airplane that has total time in service exceeding 50 hours in a year is no longer considered an aircraft in inventory and requires the sales and use sales tax to be paid. Provides that a dealer who has had an aircraft reclassified out of the dealer's aircraft inventory because of the 180 day provision may: (1) elect to return an aircraft to the dealer's aircraft inventory if it would have qualified under the modified law; and (2) obtain a refund of the registration fees and sales or use taxes that were required to be paid when the statutory reclassification occurred (including any penalties and interest), if paid within the previous three years. Increases the amount of financial responsibility required for the ownership, maintenance, or use of an aircraft to: (1) \$100,000 for the bodily injury or death of one person;
(Continued next page)

Effective: July 1, 2015.

Speedy

(SENATE SPONSORS — FORD, ARNOLD J, ZAKAS, RANDOLPH)

January 14, 2015, read first time and referred to Committee on Roads and Transportation.
February 19, 2015, reported — Do Pass.
February 23, 2015, read second time, ordered engrossed. Engrossed.
February 24, 2015, read third time, passed. Yeas 93, nays 2.

SENATE ACTION

March 2, 2015, read first time and referred to Committee on Civil Law.
March 24, 2015, amended, reported favorably — Do Pass.
March 31, 2015, read second time, amended, ordered engrossed.

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Digest Continued

(2) \$200,000 for the bodily injury or death of two or more persons in any one accident; and (3) \$100,000 for damage to property in any one accident. Provides that the owner of an aircraft who is not the pilot is not vicariously liable for damages unless: (1) the owner engages in negligent, reckless, knowing, intentional, or unlawful conduct that is the proximate cause of the damages; (2) an agency relationship exists between the owner and the person who proximately caused the damages; or (3) the owner's liability is based on the doctrine of respondeat superior. Specifies that certain provisions relating to the ownership of an aircraft are not intended to modify Indiana law on bailments or bailor liability.



Reprinted
April 1, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1413

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 6-6-6.5-10.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10.6. (a) A dealer may
3 not use inventory aircraft for any purpose other than for resale and
4 demonstration flights unless the dealer charges the fair market rental
5 or lease value and complies with all applicable statutes, rules, and
6 procedures of the department.
7 (b) Failure to comply or failure to provide proof of compliance to
8 the department may be cause for immediate revocation of the dealer's
9 certificate. However, the dealer has one hundred eighty (180) days after
10 the date of the order to sell the dealer's inventory.
11 (c) An aircraft used for other purposes shall no longer be considered
12 aircraft inventory and shall be treated as property of a nondealer. The
13 registration fee and all applicable taxes become due thirty-one (31)
14 days after the date the improper use begins.
15 (d) An inventory aircraft ~~held for more than eighteen (18) months~~

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1 that during a year has total time in service exceeding fifty (50)
 2 hours is no longer considered aircraft inventory and is treated as
 3 property of a nondealer. The registration fee and all applicable taxes
 4 are due thirty-one (31) days after the date the ~~eighteen (18) month~~
 5 ~~period ends~~; total time in service exceeds fifty (50) hours for the
 6 year for that aircraft.

7 SECTION 2. IC 6-6-6.5-26 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2015]: **Sec. 26. (a) This section applies only to an aircraft that:**

10 (1) is held by a dealer on July 1, 2015;

11 (2) ceased to be considered aircraft inventory of the dealer on
 12 a date occurring before July 1, 2015, and began to be treated
 13 as property of a nondealer under section 10.6(d) of this
 14 chapter (before its amendment on July 1, 2015); and

15 (3) would not have been considered to be property of a
 16 nondealer if section 10.6(d) of this chapter after its
 17 amendment on July 1, 2015, had been applied.

18 (b) A dealer who holds an aircraft to which this section applies
 19 may elect to reclassify the aircraft as aircraft inventory in the
 20 manner prescribed by the department.

21 (c) If:

22 (1) a dealer makes an election under subsection (b) for an
 23 aircraft to which this section applies; and

24 (2) as of July 1, 2015, the dealer owed unpaid registration fees,
 25 state gross retail or use taxes, penalties, or interest because of
 26 the reclassification of the aircraft under section 10.6(d) of this
 27 chapter (before its amendment on July 1, 2015);

28 the dealer is entitled to a credit against the liability in an amount
 29 equal to the total of the unpaid registration fees, state gross retail
 30 or use taxes, penalties, and interest attributable to the
 31 reclassification of the aircraft under section 10.6(d) of this chapter
 32 (before its amendment on July 1, 2015). A dealer must claim the
 33 credit in the manner prescribed by the department. The
 34 department shall notify dealers of the availability of the credit.

35 (d) Subject to IC 6-8.1-9-1, a dealer who makes an election
 36 under subsection (b) for an aircraft to which this section applies is
 37 eligible to receive a refund of:

38 (1) the registration fees and the state gross retail or use taxes
 39 that were paid by the dealer for the aircraft because of the
 40 reclassification of the aircraft as property of a nondealer
 41 under section 10.6(d) of this chapter (before its amendment on
 42 July 1, 2015); and



1 (2) any penalties and interest that have been assessed and paid
2 to the department by the dealer that are attributable to the
3 registration fees or the gross retail or use taxes for which a
4 refund is claimed by the dealer under subdivision (1).

5 The department shall notify dealers of the availability of the
6 refund.

7 (e) This section expires July 1, 2018.

8 SECTION 3. IC 8-21-3-1 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2015]: Sec. 1. The following words and phrases
10 when used in this chapter shall, for the purpose of this chapter, unless
11 a different meaning appears from the context, have the following
12 meanings:

13 (1) The singular shall include the plural; the masculine shall
14 include the feminine and neuter, as requisite.

15 (2) "Aircraft" means any contrivance now known, or hereafter
16 invented, used or designed for navigation of or flight in the air.

17 (3) "Aircraft accident" means any mishap involving an aircraft
18 resulting in injury or damage to such aircraft or to any person,
19 property, or thing.

20 (4) "Department" refers to the Indiana department of
21 transportation; and "state" or "this state" means the state of
22 Indiana.

23 (5) "Guest" means any person who rides in an aircraft for which
24 no charge is made for such ride or flight.

25 (6) "Insured" means the person in whose name there is issued an
26 aircraft liability policy (as defined in section 12 of this chapter)
27 and any other person insured under the terms of such policy.

28 (7) "Judgment" means any judgment, except a judgment rendered
29 against this state or any political subdivision thereof or any
30 municipality therein, which shall have become final by expiration
31 without appeal of the time within which appeal might have been
32 perfected, or by final affirmation on appeal, rendered by a court
33 of competent jurisdiction of any state or of the United States.

34 (8) "Operation of aircraft" or "operate aircraft" means the use of
35 aircraft for the purpose of air navigation, and includes the
36 navigation or piloting of aircraft. Any person who causes or
37 authorizes the operation of aircraft, whether with or without the
38 right of legal control (in the capacity of owner, lessee, or
39 otherwise) of the aircraft, **including an aircraft otherwise
40 considered inventory, if it is operated in flight**, shall be deemed
41 to be engaged in the operation of aircraft within the meaning of
42 the statutes of this state.



- 1 (9) "Operator" means any person who is in actual physical control
2 of an aircraft.
- 3 (10) "Owner" means any person in whose name the aircraft is
4 certificated, licensed, or registered by appropriate federal or state
5 authority.
- 6 (11) "Passenger" means any person in, on or boarding an aircraft
7 for the purpose of riding therein, or alighting therefrom, following
8 a flight or attempted flight therein.
- 9 (12) "Person" means any individual, firm, partnership,
10 corporation, company, limited liability company, association, joint
11 stock association, or body politic; and includes any trustee,
12 receiver, assignee, or other similar representative thereof.
- 13 (13) "Policy" or "insurance policy" means an aircraft liability
14 policy conforming to section 12 of this chapter.
- 15 (14) **"Proof of financial responsibility" has the meaning set
16 forth in section 8 of this chapter.**

17 SECTION 4. IC 8-21-3-8 IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2015]: Sec. 8. **For purposes of this article,**
19 **Proof "proof of financial responsibility" shall mean proof of ability to**
20 **respond in damages for liability thereafter incurred; arising out of the**
21 **ownership, maintenance or use of an aircraft, in the amount of ten**
22 **thousand dollars (\$10,000) because of bodily injury to or death of any**
23 **one (1) person; and, subject to said limit respecting one (1) person; in**
24 **the amount of twenty thousand dollars (\$20,000) because of bodily**
25 **injury or death of two (2) or more persons in any one (1) accident; and**
26 **in the amount of twenty thousand dollars (\$20,000) because of injury**
27 **to or destruction of property in any one (1) accident. Such proof in such**
28 **amounts shall be furnished for each aircraft owned by such person and**
29 **operated in this state. means proof of the ability to satisfy a claim for**
30 **damages arising from liability for the ownership, maintenance, or**
31 **use of an aircraft, in the following amounts:**

- 32 (1) **One hundred thousand dollars (\$100,000) for the bodily**
33 **injury or death of one (1) person.**
- 34 (2) **Two hundred thousand dollars (\$200,000) for the bodily**
35 **injury or death of two (2) or more persons in any one (1)**
36 **accident.**
- 37 (3) **One hundred thousand dollars (\$100,000) for damage to**
38 **property in any one (1) accident.**

39 SECTION 5. IC 8-21-4-1 IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2015]: Sec. 1. In this chapter:

41 "Aircraft" includes balloon, airplane, hydroplane, and every other
42 vehicle used for navigation through the air. A hydroplane, while at rest



1 on water and while being operated on or immediately above water,
 2 shall be governed by the rules regarding water navigation. While being
 3 operated through the air otherwise than immediately above water, it
 4 shall be treated as an aircraft.

5 "Aeronaut" includes aviator, pilot, balloonist, and every other
 6 person having any part in the operation of aircraft while in flight.

7 "Passenger" includes any person riding in an aircraft but having no
 8 part in its operation.

9 **"Pilot" means the person who has final authority and**
 10 **responsibility for the operation and safety of an aircraft in flight.**

11 SECTION 6. IC 8-21-4-6 IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) All offenses, torts, and other
 13 wrongs committed by or against an aeronaut or passenger while in
 14 flight over Indiana shall be governed by Indiana laws; and the question
 15 whether damage occasioned by or to an aircraft while in flight over
 16 Indiana constitutes an offense, tort, or other wrong by or against the
 17 owner of the aircraft shall be determined by Indiana laws.

18 **(b) This article does not impose vicarious liability for damages**
 19 **on an owner of an aircraft who is not the pilot unless:**

20 **(1) the owner engages in negligent, reckless, knowing,**
 21 **intentional, or unlawful conduct that is the proximate cause**
 22 **of the damages;**

23 **(2) an agency relationship exists between the owner and the**
 24 **person who proximately caused the damages; or**

25 **(3) the owner's liability is based on the doctrine of respondeat**
 26 **superior.**

27 **(c) This article is not intended to modify or amend Indiana law**
 28 **with respect to:**

29 **(1) bailments; or**

30 **(2) bailor liability.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1413, 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.

(Reference is to HB 1413 as introduced.)

SOLIDAY

Committee Vote: Yeas 8, Nays 0

 COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred House Bill No. 1413, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, after "aircraft," insert "**including an aircraft otherwise considered inventory, if it is operated in flight,**".

and when so amended that said bill do pass.

(Reference is to HB 1413 as printed February 20, 2015.)

ZAKAS, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1413 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-6.5-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10.6. (a) A dealer may not use inventory aircraft for any purpose other than for resale and demonstration flights unless the dealer charges the fair market rental

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or lease value and complies with all applicable statutes, rules, and procedures of the department.

(b) Failure to comply or failure to provide proof of compliance to the department may be cause for immediate revocation of the dealer's certificate. However, the dealer has one hundred eighty (180) days after the date of the order to sell the dealer's inventory.

(c) An aircraft used for other purposes shall no longer be considered aircraft inventory and shall be treated as property of a nondealer. The registration fee and all applicable taxes become due thirty-one (31) days after the date the improper use begins.

(d) An inventory aircraft ~~held for more than eighteen (18) months~~ **that during a year has total time in service exceeding fifty (50) hours** is no longer considered aircraft inventory and is treated as property of a nondealer. The registration fee and all applicable taxes are due thirty-one (31) days after the date the ~~eighteen (18) month period ends~~ **total time in service exceeds fifty (50) hours for the year for that aircraft.**

SECTION 2. IC 6-6-6.5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 26. (a) This section applies only to an aircraft that:**

- (1) is held by a dealer on July 1, 2015;**
- (2) ceased to be considered aircraft inventory of the dealer on a date occurring before July 1, 2015, and began to be treated as property of a nondealer under section 10.6(d) of this chapter (before its amendment on July 1, 2015); and**
- (3) would not have been considered to be property of a nondealer if section 10.6(d) of this chapter after its amendment on July 1, 2015, had been applied.**

(b) A dealer who holds an aircraft to which this section applies may elect to reclassify the aircraft as aircraft inventory in the manner prescribed by the department.

(c) If:

- (1) a dealer makes an election under subsection (b) for an aircraft to which this section applies; and**
- (2) as of July 1, 2015, the dealer owed unpaid registration fees, state gross retail or use taxes, penalties, or interest because of the reclassification of the aircraft under section 10.6(d) of this chapter (before its amendment on July 1, 2015);**

the dealer is entitled to a credit against the liability in an amount equal to the total of the unpaid registration fees, state gross retail or use taxes, penalties, and interest attributable to the reclassification of the aircraft under section 10.6(d) of this chapter



(before its amendment on July 1, 2015). A dealer must claim the credit in the manner prescribed by the department. The department shall notify dealers of the availability of the credit.

(d) Subject to IC 6-8.1-9-1, a dealer who makes an election under subsection (b) for an aircraft to which this section applies is eligible to receive a refund of:

(1) the registration fees and the state gross retail or use taxes that were paid by the dealer for the aircraft because of the reclassification of the aircraft as property of a nondealer under section 10.6(d) of this chapter (before its amendment on July 1, 2015); and

(2) any penalties and interest that have been assessed and paid to the department by the dealer that are attributable to the registration fees or the gross retail or use taxes for which a refund is claimed by the dealer under subdivision (1).

The department shall notify dealers of the availability of the refund.

(e) **This section expires July 1, 2018."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1413 as printed March 25, 2015.)

Senator ZAKAS

