



February 3, 2015

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## HOUSE BILL No. 1090

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DIGEST OF HB 1090 (Updated January 27, 2015 2:10 pm - DI 96)

**Citations Affected:** IC 10-13; IC 24-4; IC 35-52.

**Synopsis:** Expanded criminal history checks for drivers for hire. Requires a transportation network company, a taxicab company, or a taxicab service (company) to request and receive an expanded criminal history check and a certified copy of the driving record (check) of a driver or taxicab driver (driver) before a driver begins employment or association with the company. Makes it a Class A infraction for a company to allow a driver to operate a motor vehicle or taxicab if the driver has been convicted of: (1) certain felonies or misdemeanors; or (2) certain motor vehicle offenses. Makes it a Class A infraction for a driver to operate a motor vehicle or taxicab if the driver has been convicted of: (1) certain felonies or misdemeanors; or (2) certain motor vehicle offenses. Requires periodic updates of checks for a driver for continued employment or association with the company.

**Effective:** July 1, 2015.

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### Hale, Gutwein, Lehman, Carbaugh

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January 6, 2015, read first time and referred to Committee on Employment, Labor and Pensions.

January 27, 2015, amended, reported — Do Pass.

February 3, 2015, referred to Committee on Courts and Criminal Code pursuant to Rule 127.

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HB 1090—LS 7349/DI 96





February 3, 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.

## HOUSE BILL No. 1090

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

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

- 1 SECTION 1. IC 10-13-3-3.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 3.5. As used in this chapter, "company" means a**  
4 **transportation network company, a taxicab company, or a taxicab**  
5 **service, as set forth in IC 24-4-20-1.**  
6 SECTION 2. IC 10-13-3-7.7 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2015]: **Sec. 7.7. As used in this chapter, "expanded criminal**  
9 **history check" means a criminal history data background check of**  
10 **an individual that includes a background check by a consumer**  
11 **reporting agency regulated under 15 U.S.C. 1681 et seq. that**  
12 **includes a:**  
13 (1) **verification of the applicant's identity;**  
14 (2) **search of all names associated with the applicant;**  
15 (3) **search of the records maintained by all counties in Indiana**

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- 1 in which the individual who is the subject of the background  
 2 check resided after the individual became seventeen (17) years  
 3 of age;  
 4 (4) search of the records maintained by all counties or similar  
 5 governmental units in another state, if the individual who is  
 6 the subject of the background check resided in another state  
 7 after the individual became seventeen (17) years of age;  
 8 (5) search of United States district court criminal case records  
 9 from the districts in which the applicant resided;  
 10 (6) check of sex offender registries in every state or the  
 11 national sex offender registry maintained by the United States  
 12 Department of Justice; and  
 13 (7) multistate criminal history data base search.

14 SECTION 3. IC 10-13-3-27.6 IS ADDED TO THE INDIANA  
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2015]: **Sec. 27.6. (a) Upon request, a criminal**  
 17 **justice agency shall release information contained in criminal**  
 18 **history data or allow inspection of criminal history data by a**  
 19 **company in order for the company to complete an expanded**  
 20 **criminal history check only if the subject of the request is or will be**  
 21 **a driver (as defined in IC 24-4-20-3) or a taxicab driver.**

22 (b) Any person who knowingly or intentionally uses criminal  
 23 history data for any purpose not specified under this section  
 24 commits a Class A misdemeanor.

25 SECTION 4. IC 24-4-20 IS ADDED TO THE INDIANA CODE AS  
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2015]:

28 **Chapter 20. Transportation Network Companies and Taxicabs**

29 **Sec. 1. As used in this chapter, "company" means a**  
 30 **transportation network company, a taxicab company, or a taxicab**  
 31 **service.**

32 **Sec. 2. As used in this chapter, "criminal history data" has the**  
 33 **meaning set forth in IC 10-13-3-5.**

34 **Sec. 3. As used in this chapter, "driver" means an individual**  
 35 **who operates a vehicle that is:**

- 36 (1) owned, leased, or otherwise authorized for use by the  
 37 individual;  
 38 (2) not a taxicab; and  
 39 (3) used to provide services for a transportation network  
 40 company.

41 **Sec. 4. As used in this chapter, "driving record" has the**  
 42 **meaning set forth in IC 9-13-2-48.5(1).**



1           **Sec. 5.** As used in this chapter, "expanded criminal history  
2 check" has the meaning forth in IC 10-13-3-11.

3           **Sec. 6.** As used in this chapter, "municipality" means a city or  
4 a town.

5           **Sec. 7.** As used in this chapter, "taxicab" means a motor vehicle  
6 that:

7           (1) is designed and constructed to accommodate and transport  
8 not more than six (6) passengers in addition to the driver;

9           (2) does not operate over any definite and designated routes  
10 within the corporate boundaries of a municipality and the  
11 suburban territory of a municipality; and

12           (3) transports passengers to the destination designated by the  
13 passengers at the time of their transportation.

14           **Sec. 8.** As used in this chapter, "transportation network  
15 company" means a business enterprise that uses a digital or  
16 software application service to connect potential passengers to  
17 transportation network company services provided by drivers. A  
18 transportation network company does not own, control, operate,  
19 or manage the vehicles used by the drivers and is not a taxicab  
20 company or taxicab service.

21           **Sec. 9.** As used in this chapter, "vehicle" means a private  
22 passenger motor vehicle primarily designed for transporting  
23 passengers. The term includes passenger vans and minivans that  
24 are primarily designed for transporting passengers.

25           **Sec. 10.** This chapter may not be construed as to limit the use of  
26 fingerprints for the purpose of identification of taxicab drivers, as  
27 set forth in IC 10-13-3-37.

28           **Sec. 11.** (a) A company shall request an expanded criminal  
29 history check and a certified copy of the driving record of a driver  
30 or taxicab driver before a driver or a taxicab driver begins  
31 employment or association with the company. The driver or the  
32 taxicab driver is responsible for the costs associated in securing the  
33 expanded criminal history check and the certified copy of the  
34 driving record.

35           (b) A company may not allow a driver or a taxicab driver to  
36 operate a vehicle or taxicab as an employee or an individual  
37 contracting with the company before the requested expanded  
38 criminal history check or certified copy of the driving record, or  
39 both, has been received by the company.

40           (c) A company must request an expanded criminal history check  
41 and certified copy of the driving record before July 15, 2015, for an  
42 employee or individual contracting with the company or taxicab



1 service before July 1, 2015. A driver or a taxicab driver may not  
 2 operate a vehicle or taxicab with the company after August 15,  
 3 2015, if the expanded criminal history check or the certified copy  
 4 of the driving record, or both, has not been received by the  
 5 company. This subsection expires December 31, 2016.

6 **Sec. 12. A company may not allow a driver or a taxicab driver**  
 7 **to operate a vehicle or taxicab as an employee or an individual**  
 8 **contracting with the company if the criminal history data from the**  
 9 **expanded criminal history check shows that the individual who is**  
 10 **the subject of the expanded criminal history check has been**  
 11 **convicted of:**

12 (1) a crime under:

13 (A) IC 35-42-1 (homicide);

14 (B) IC 35-42-2 (battery and related offenses);

15 (C) IC 35-42-3 (kidnapping and confinement);

16 (D) IC 35-42-3.5 (human and sexual trafficking);

17 (E) IC 35-42-4 (sex crimes);

18 (F) IC 35-42-5 (robbery);

19 (G) IC 35-43-1 (arson, mischief, and tampering);

20 (H) IC 35-43-2 (burglary and trespass);

21 (I) IC 35-43-4 (theft, conversion, and receiving stolen  
 22 property);

23 (J) IC 35-46-1-3 (incest);

24 (K) IC 35-41-5-1 as an attempt to commit an offense listed  
 25 in clauses (A) through (J);

26 (L) IC 35-41-5-2 to conspire to commit an offense listed in  
 27 clauses (A) through (J); or

28 (M) the law of any other jurisdiction in which the elements  
 29 of the offense for which the conviction was entered are  
 30 substantially similar to the elements of an offense  
 31 described under clauses (A) through (L); or

32 (2) a felony or misdemeanor under IC 9-21-8 (vehicle  
 33 operation) or IC 9-30-5 (operating a vehicle while  
 34 intoxicated); within ten (10) years of the date of the expanded  
 35 criminal history check.

36 **Sec. 13. A driver or a taxicab driver may not operate a vehicle**  
 37 **or taxicab as an employee or an individual contracting with the**  
 38 **company if the driver or the taxicab driver has been convicted of**  
 39 **any of the offenses listed in section 12(1) through 12(2) of this**  
 40 **chapter within seven (7) years of the date of the expanded criminal**  
 41 **history check.**

42 **Sec. 14. A driver or a taxicab driver must report to the company**



1 with which the driver or taxicab driver is employed or has a  
 2 contractual relationship immediately after an arrest for any of the  
 3 offenses listed in section 12(1) through 12(2) of this chapter.

4 **Sec. 15.** Not less than six (6) years and three hundred (300) days  
 5 after the date the expanded criminal history data was received by  
 6 the company, a driver, taxicab driver, or company must request an  
 7 updated expanded criminal history check and a certified copy of  
 8 the driving record. If the driver, taxicab driver, or company has  
 9 not received the expanded criminal history check or the certified  
 10 copy of the driving record, or both, within seven (7) years of the  
 11 date of the last expanded criminal history check and receipt of the  
 12 certified copy of the driving record, the driver or taxicab driver  
 13 may not operate a vehicle or taxicab as an employee or individual  
 14 contracting with the company until both the expanded criminal  
 15 history check and the certified copy of the driving record have  
 16 been received. A company may not allow a driver or taxicab driver  
 17 to operate a vehicle or taxicab as an employee or an individual  
 18 contracting with the company if any of the offenses set forth in  
 19 section 12 of this chapter have been committed.

20 **Sec. 16.** An expanded criminal history check must be requested  
 21 and received for each seven (7) year period that a driver or taxicab  
 22 driver operates a vehicle or taxicab as an employee or an  
 23 individual contracting with a company, in compliance with section  
 24 15 of this chapter.

25 **Sec. 17. (a)** A company that allows a driver or a taxicab driver  
 26 to operate a vehicle or taxicab as an employee or an individual  
 27 contracting with the company without having received an  
 28 expanded criminal history check or a certified copy of the driving  
 29 record, as required by sections 11(b), 11(c), 15, and 16 of this  
 30 chapter, commits a Class A infraction.

31 **(b)** A company that allows a driver or a taxicab driver to  
 32 operate a vehicle or taxicab as an employee or an individual  
 33 contracting with the company in violation of section 12 or 15 of this  
 34 chapter commits a Class A infraction.

35 **(c)** A driver or a taxicab driver who violates section 13, 14, 15,  
 36 or 16 of this chapter commits a Class A infraction.

37 **(d)** Notwithstanding IC 34-28-5-4(a), a judgment of ten  
 38 thousand dollars (\$10,000) shall be imposed for each Class A  
 39 infraction committed as set forth in subsections (a), (b), and (c).

40 SECTION 5. IC 35-52-10-2.2 IS ADDED TO THE INDIANA  
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2015]: **Sec. 2.2.** IC 10-13-3-27.6 defines a



1 **crime concerning expanded criminal history checks.**





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1090, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.5. As used in this chapter, "company" means a transportation network company, a taxicab company, or a taxicab service, as set forth in IC 24-4-20-1.**

SECTION 2. IC 10-13-3-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7.7. As used in this chapter, "expanded criminal history check" means a criminal history data background check of an individual that includes a background check by a consumer reporting agency regulated under 15 U.S.C. 1681 et seq. that includes a:**

- (1) verification of the applicant's identity;
- (2) search of all names associated with the applicant;
- (3) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided after the individual became seventeen (17) years of age;
- (4) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state after the individual became seventeen (17) years of age;
- (5) search of United States district court criminal case records from the districts in which the applicant resided;
- (6) check of sex offender registries in every state or the national sex offender registry maintained by the United States Department of Justice; and
- (7) multistate criminal history data base search."

Delete page 2.

Page 3, delete lines 1 through 35, begin a new paragraph and insert:

"SECTION 3. IC 10-13-3-27.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 27.6. (a) Upon request, a criminal justice agency shall release information contained in criminal history data or allow inspection of criminal history data by a company in order for the company to complete an expanded**



**criminal history check only if the subject of the request is or will be a driver (as defined in IC 24-4-20-3) or a taxicab driver.**

**(b) Any person who knowingly or intentionally uses criminal history data for any purpose not specified under this section commits a Class A misdemeanor."**

Page 4, line 12, delete "limited" and insert "expanded".

Page 4, line 12, delete "history"" and insert "history check"".

Page 4, line 39, delete "a limited" and insert "an expanded".

Page 4, line 39, after "history" insert "check".

Page 4, line 42, after "company." insert "**The driver or the taxicab driver is responsible for the costs associated in securing the expanded criminal history check and the certified copy of the driving record.**".

Page 5, line 3, delete "limited" and insert "expanded".

Page 5, line 4, after "history" insert "check".

Page 5, line 6, delete "a limited" and insert "an expanded".

Page 5, line 6, after "history" insert "check".

Page 5, line 11, delete "limited" and insert "expanded".

Page 5, line 11, after "history" insert "check".

Page 5, line 17, delete "limited" and insert "expanded".

Page 5, line 17, after "history" insert "check".

Page 5, line 18, delete "limited" and insert "expanded".

Page 5, line 18, after "history" insert "check".

Page 5, line 19, delete "felony or a misdemeanor;" and insert "**crime** under:

- (A) IC 35-42-1 (homicide);
- (B) IC 35-42-2 (battery and related offenses);
- (C) IC 35-42-3 (kidnapping and confinement);
- (D) IC 35-42-3.5 (human and sexual trafficking);
- (E) IC 35-42-4 (sex crimes);
- (F) IC 35-42-5 (robbery);
- (G) IC 35-43-1 (arson, mischief, and tampering);
- (H) IC 35-43-2 (burglary and trespass);
- (I) IC 35-43-4 (theft, conversion, and receiving stolen property);
- (J) IC 35-46-1-3 (incest);
- (K) IC 35-41-5-1 as an attempt to commit an offense listed in clauses (A) through (J);
- (L) IC 35-41-5-2 to conspire to commit an offense listed in clauses (A) through (J); or
- (M) the law of any other jurisdiction in which the elements of the offense for which the conviction was entered are



**substantially similar to the elements of an offense described under clauses (A) through (L);"**

Page 5, line 20, delete "moving violation that has a direct bearing on the" and insert "**felony or misdemeanor under IC 9-21-8 (vehicle operation) or IC 9-30-5 (operating a vehicle while intoxicated); within ten (10) years of the date of the expanded criminal history check.**".

Page 5, delete line 21.

Page 5, line 24, delete "of:" and insert "**of any of the offenses listed in section 12(1) through 12(2) of this chapter within seven (7) years of the date of the expanded criminal history check.**".

Page 5, delete lines 25 through 27.

Page 5, line 30, delete "after:" and insert "**after an arrest for any of the offenses listed in section 12(1) through 12(2) of this chapter.**".

Page 5, delete lines 31 through 33, begin a new paragraph and insert:

**"Sec. 15. Not less than six (6) years and three hundred (300) days after the date the expanded criminal history data was received by the company, a driver, taxicab driver, or company must request an updated expanded criminal history check and a certified copy of the driving record. If the driver, taxicab driver, or company has not received the expanded criminal history check or the certified copy of the driving record, or both, within seven (7) years of the date of the last expanded criminal history check and receipt of the certified copy of the driving record, the driver or taxicab driver may not operate a vehicle or taxicab as an employee or individual contracting with the company until both the expanded criminal history check and the certified copy of the driving record have been received. A company may not allow a driver or taxicab driver to operate a vehicle or taxicab as an employee or an individual contracting with the company if any of the offenses set forth in section 12 of this chapter have been committed.**

**Sec. 16. An expanded criminal history check must be requested and received for each seven (7) year period that a driver or taxicab driver operates a vehicle or taxicab as an employee or an individual contracting with a company, in compliance with section 15 of this chapter."**

Page 5, line 34, delete "15." and insert "17."

Page 5, line 36, delete "a limited" and insert "**an expanded**".

Page 5, line 37, after "history" insert "**check**".

Page 5, line 38, delete "section 11(b) and 11(c)" and insert "**sections**



**11(b), 11(c), 15, and 16".**

Page 5, line 42, after "12" insert "**or 15**".

Page 6, line 2, delete "13 or 14" and insert "**13, 14, 15, or 16**".

Page 6, after line 6, begin a new paragraph and insert:

"SECTION 3. IC 35-52-10-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.2. IC 10-13-3-27.6 defines a crime concerning expanded criminal history checks.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1090 as introduced.)

GUTWEIN

Committee Vote: yeas 8, nays 4.

