

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. 1092

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-21-3-1, AS AMENDED BY P.L.136-2018, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. The following words and phrases when used in this chapter shall, for the purpose of this chapter, unless a different meaning appears from the context, have the following meanings:

- (1) The singular shall include the plural; the masculine shall include the feminine and neuter, as requisite.
- (2) "Aircraft" means any contrivance used or designed for navigation of or flight in the air.
- (3) "Aircraft accident" means any mishap involving an aircraft resulting in injury or damage to such aircraft or to any person, property, or thing.
- (4) "Department" refers to the Indiana department of transportation; and "state" or "this state" means the state of Indiana.
- (5) "Guest" means any person who rides in an aircraft for which no charge is made for such ride or flight.
- ~~(6)~~ (5) "Insured" means the person in whose name there is issued an aircraft liability policy (as defined in section 12 of this chapter) and any other person insured under the terms of such policy.
- ~~(7)~~ (6) "Judgment" means any judgment, except a judgment

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rendered against this state or any political subdivision of this state or any municipality in this state, which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States.

~~(8)~~ **(7)** "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, **aircraft sales broker**, or otherwise) of the aircraft, including an aircraft otherwise considered inventory, if it is operated in flight, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

~~(9)~~ **(8)** "Operator" means any person who is in actual physical control of an aircraft.

~~(10)~~ **(9)** "Owner" means any person in whose name the aircraft is certificated, licensed, or registered by appropriate federal or state authority.

~~(11)~~ "Passenger" means any person:

~~(A)~~ in, on or boarding an aircraft for the purpose of riding in the aircraft; or

~~(B)~~ alighting from the aircraft following a flight or attempted flight of the aircraft.

~~(12)~~ **(10)** "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative of an entity described in this subdivision.

~~(13)~~ **(11)** "Policy" or "insurance policy" means an aircraft liability policy conforming to section 12 of this chapter.

~~(14)~~ **(12)** "Proof of financial responsibility" has the meaning set forth in section 8 of this chapter.

SECTION 2. IC 8-21-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. **(a)** Any person who, while operating any aircraft, shall have been involved in any aircraft accident in this state resulting in bodily injury or death, or in damage to property of another in excess of ~~one hundred seven thousand five hundred~~ **dollars (\$100) (\$7,500)** or the owner of such aircraft, shall within ten (10) days following such aircraft accident report the same to the department. ~~Aircraft accident reports, as herein required, shall be~~

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submitted in such form as the department may prescribe.

(b) A report of an aircraft accident under this section must include the following information:

- (1) Name of the operator of the aircraft.**
- (2) Name of the owner of the aircraft.**
- (3) Means of financial responsibility and financial assurance.**
- (4) Date of the accident.**
- (5) Location of the accident.**
- (6) Federal Aviation Administration registration number.**

(c) The owner or operator of an aircraft shall, upon request, provide the information required in subsection (b) to a damaged or injured party or a damaged or injured party's representative.

SECTION 3. IC 8-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) The department may require, within not less than ten (10) days nor more than sixty (60) days after an aircraft accident from any person, who, while operating any aircraft shall have been involved in any aircraft accident resulting in bodily injury or death to any person ~~other than a guest passenger of such aircraft~~ or in damage to property of another, other than property owned, rented, occupied, or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft, in excess of ~~one hundred~~ **seven thousand five hundred** dollars (~~\$100~~), **(\$7,500)**, or, in the discretion of the department, the owner of such aircraft, or both, ~~secured security~~ sufficient in the discretion of the department to indemnify the injured party against loss and guarantee the payment and satisfaction of any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator by or on behalf of the injured person or ~~his~~ **the injured person's** legal representative, and in addition thereto, the department may require such operator, or in the department's discretion, the owner of such aircraft, or both, to file proof of financial responsibility for a period of one (1) year following the date of the accident: Provided, however, that if such owner operator shall satisfy the department that the liability, if any, for damages resulting from such accident is insured by an insurance policy or bond, the department shall not require security from such owner operator.

(b) Such security, where ordered, shall be in such form and in such amount as the department may require, but in no case in excess of the amount of proof required by section 8 of this chapter. The department may modify the amount of security ordered in any case, if after further investigation it shall determine that the amount ordered is improper.

SECTION 4. IC 8-21-3-5 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2024]: Sec. 5. If the person required to furnish proof of financial responsibility in the future or if the person required to furnish financial security under this chapter, neglects or refuses to comply with such requirements, ~~the department~~, the attorney general or the prosecuting attorney of the county in which such party resides, may, in accordance with the laws of the state of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin such person neglecting or refusing to comply with the financial responsibility or security requirements of this chapter from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such person has complied with such requirements or until such person has, by final judicial determination, been proved not legally liable for, or has been released from all liability for damages resulting from such aircraft accident.

SECTION 5. IC 8-21-3-6, AS AMENDED BY P.L.136-2018, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) Security furnished in compliance with the requirements of this chapter shall be placed by the department in the custody of the treasurer of state and shall be applicable only to the payment of a judgment **or claimant settlement agreement** against the depositor for damages arising out of the accident in question in an action at law in a court of this state begun not later than one (1) year after the date of such accident or, upon assignment of the depositor. All such payments made out of the deposited security shall be made ~~as follows~~: **subject to proration by court order or claimant settlement agreement if there is more than one (1) claimant.**

(1) Payment shall first be made to each of the judgment creditors in the order of judgment entry and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the department, in an amount not greater than the amount fixed in their respective evaluations.

(2) Whenever the department shall be given evidence, satisfactory to it, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the department, in proportion to the amounts of their respective evaluations unless there is a sufficient amount to make payment in full.

(3) Any balance remaining after the first and second distributions

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are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is a sufficient amount to make payment in full.

Such deposit, or any balance of the amount deposited, shall be returned to the depositor or the depositor's personal representative whenever after the expiration of such year the department shall be given evidence, satisfactory to it, that there is no such judgment unsatisfied and that there is no pending action against the depositor for damages arising out of such accident.

(b) Neither the action taken by the department pursuant to this chapter, the findings, if any, of the department upon which such action is based, nor the security filed by the owner or operator as provided in this chapter shall be referred to in any way, nor be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(c) In lieu of deposit of security when required pursuant to this chapter the aircraft owner or operator may, if the person who has sustained bodily injury, including death, or damage to the person's property or the person's legal representative consents, effect and deliver a consent judgment or release for such amount and payable when and in such installments as the judgment creditor or claimant may agree to. In the event the judgment debtor fails to pay any installment as agreed, then upon notice of such default, ~~the department~~, the attorney general or the prosecuting attorney may pursuant to section 5 of this chapter maintain an action to enjoin such person from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such judgment is appropriately satisfied as required under this chapter.

(d) Information regarding security taken under this section shall be available to the person injured or the representative of any person killed and their duly authorized agents or attorney.

SECTION 6. IC 8-21-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The provisions of this chapter shall apply to any person who is not a resident of this state under the same circumstances as they would apply to a resident, and, in such event, such a nonresident shall not operate any aircraft in this state nor shall any aircraft owned by ~~him~~ **the nonresident** be operated in this state, unless and until such nonresident, or the owner of the aircraft, if another person, has complied with the requirements of this chapter with respect to security and proof of financial responsibility covering such

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aircraft.

(b) The operation by a nonresident, or by ~~his~~ **the nonresident's** duly authorized agent, of an aircraft in this state shall be deemed equivalent to an appointment by such nonresident of the secretary of state, or ~~his~~ **the secretary of state's** successor in office, to be ~~his~~ **the nonresident's** true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against ~~him~~, **the nonresident**, growing out of any aircraft accident in which such nonresident may be involved while so operating or so permitting to be operated an aircraft in this state, and such operation shall be signification of ~~his~~ **the nonresident's** agreement that any such process against ~~him~~, **the nonresident**, which is so served, shall be of the same legal force and validity as if served upon ~~him~~ **the nonresident** personally. Such action may be filed in the county of the residence of the plaintiff or in the county where the accident occurred, at the election of the plaintiff, and service of such process shall be made by leaving a copy thereof, with ~~a~~ **the** fee of ~~two dollars~~ **two dollars (\$2)**, ~~set forth in IC 23-0.5-9-56~~, for such defendant to be served, with the secretary of state, or in ~~his~~ **the secretary of state's** office, and such service shall be sufficient service upon such nonresident, provided that notice of such service and a copy of the process are forthwith sent by registered mail to the defendant and the defendant's return receipt is appended to the original process and filed therewith in the court. In the event that the defendant refuses to accept or claim such registered mail, then such registered mail shall be returned by the secretary of state to the plaintiff or to ~~his~~ **the plaintiff's** attorney, and the same shall be appended to the original process, together with an affidavit of the plaintiff or of ~~his~~ **the plaintiff's** attorney or agent to the effect that such summons was delivered to the secretary of state, together with ~~a~~ **the** fee of ~~two dollars~~ **two dollars (\$2)**, ~~set forth in IC 23-0.5-9-56~~, and was thereafter returned unclaimed by the postoffice department, and such affidavit, together with the returned affidavit including said summons, shall be considered sufficient service upon such nonresident defendant. The court in which the action is brought may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

(c) No insurance policy or bond shall be effective under section 4 of this chapter in the case of an aircraft owned or operated by a nonresident in this state at the time of the accident or at the effective date of the policy or bond, or the most recent renewal thereof, unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the secretary of state to accept service on its behalf of notice or process in

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any action upon such policy or bond arising out of such accident.

SECTION 7. IC 8-21-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. (a) Proof of financial responsibility may be made by filing with the department the written certificate or certificates of any insurance carrier certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured **or additional insured**, an aircraft liability policy or policies meeting the requirements of this chapter, and such other information as the department may require.

(b) When the person required to give proof of financial responsibility, is not the owner of an aircraft, then an operator's policy of liability insurance as defined in this chapter shall be sufficient proof of financial responsibility.

SECTION 8. IC 8-21-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. An aircraft liability policy as said term is used in this chapter, shall mean an owner's policy of liability insurance or an operator's policy of liability insurance for which a certificate has been filed with the department by an insurance carrier authorized to do business in this state pursuant to the insurance laws of this state for the benefit of the person named therein as insured **or additional insured**; which policy shall contain the terms, conditions and provisions required by the laws of this state and with sufficient liability coverage to meet the security and proof of financial responsibility requirements established within the purview of section 4 of this chapter and pursuant to this chapter by the department as a result of an aircraft accident occurring within this state and shall be approved by the insurance commissioner of the state of Indiana.

SECTION 9. IC 8-21-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. An insurance carrier which has issued an aircraft liability policy or policies meeting the requirements of this chapter shall, upon request of the named insured **or additional insured**, deliver to such insured **or additional insured** for filing or at the request of such insured **or additional insured** shall file direct with the department, an appropriate certificate showing that such policy or policies have been issued, which certificate shall meet the requirements of this chapter. The issuance of a certificate to serve as proof of financial responsibility under this chapter shall be conclusive evidence that every aircraft liability policy therein cited conforms to all the requirements of this chapter.

SECTION 10. IC 8-21-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 20. A person who fails to submit an accident report to the department **or to a damaged or**

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injured party or a damaged or injured party's representative as provided in section 3 of this chapter commits a Class C infraction.



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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