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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 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 100

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 34-30-2-156.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 156.8. IC 36-8-24-6 (Concerning vehicular carbon monoxide testing).**

SECTION 2. IC 36-8-24 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 24. Vehicular Carbon Monoxide Testing

Sec. 1. The following terms are defined for this chapter:

- (1) "Direct read instrument" means a carbon monoxide detector that provides a rapid and continuous measurement of the carbon monoxide concentration of ambient air without the need for additional analysis or interpretation.
- (2) "Fire department" means a fire department established by a county, city, town, or township. The term includes a volunteer fire department.
- (3) "NIOSH TWA standard" means the National Institute for Occupational Safety and Health's time weighted average for carbon monoxide.
- (4) "Owner" means a person, other than a lienholder, that:
 - (A) holds the property in or title to, as applicable, a motor vehicle; or



(B) is entitled to the use or possession of, as applicable, a motor vehicle through a lease or other agreement intended to operate as a security.

(5) "Ppm" means parts per million.

(6) "Test administrator" means an individual who:

(A) is an agent, employee, or officer of a fire department that provides vehicular carbon monoxide testing; and

(B) conducts vehicular carbon monoxide testing for the owner of a motor vehicle.

Sec. 2. A fire department may provide vehicular carbon monoxide testing to any owner of a motor vehicle.

Sec. 3. Vehicular carbon monoxide testing described in section 2 of this chapter shall be provided to the owner of a motor vehicle without charge.

Sec. 4. A test administrator conducting vehicular carbon monoxide testing for the owner of a motor vehicle shall do the following for each vehicular carbon monoxide test performed:

(1) Instruct the owner of the motor vehicle to:

(A) park the motor vehicle in an open air location;

(B) place the transmission in park;

(C) leave the engine running;

(D) set the motor vehicle's heater to its lowest activation setting; and

(E) completely close every window, sunroof, door, and trunk of the motor vehicle.

(2) Place a direct read instrument on the floorboard of the motor vehicle with the screen of the direct read instrument visible to the test administrator through a closed window of the test administrator's choosing.

(3) Verify that every window, sunroof, door, and trunk of the motor vehicle is completely closed.

(4) Record on the form described in section 5 of this chapter the numeric reading displayed by the direct read instrument five (5) minutes after the verification required under subdivision (3).

(5) Instruct the owner of the motor vehicle to set the motor vehicle's air conditioner to its lowest activation setting.

(6) Verify that every window, sunroof, door, and trunk of the motor vehicle is completely closed.

(7) Record on the form described in section 5 of this chapter the numeric reading displayed by the direct read instrument five (5) minutes after the verification required under



subdivision (6).

(8) Inform the owner of the motor vehicle of the specific readings displayed by the direct read instrument during the course of the vehicular carbon monoxide test.

(9) Advise the owner of the motor vehicle that a reading equal to or greater than thirty-five (35) ppm exceeds the accepted NIOSH TWA standard for carbon monoxide.

(10) Recommend, as applicable, to the owner of a motor vehicle with a direct read instrument reading equal to or greater than thirty-five (35) ppm but less than one hundred (100) ppm to have the motor vehicle serviced by the owner's mechanic or exhaust system specialist of choice.

(11) Recommend, as applicable, to the owner of a motor vehicle with a direct read instrument reading equal to or greater than one hundred (100) ppm to cease use and operation of the motor vehicle immediately.

(12) Complete all remaining entries on the form described in section 5 of this chapter.

(13) Review the completed form described in subdivision (12) with the owner of the motor vehicle.

(14) Instruct the owner of the motor vehicle to print the owner's name and sign the completed form described in subdivision (13).

(15) Provide the owner of the motor vehicle with a copy of the completed and signed form described in subdivision (14).

(16) Maintain, in a manner consistent with the record keeping practices of the fire department responsible for the administration of the vehicular carbon monoxide test, a permanent record of the completed and signed form described in subdivision (14).

Sec. 5. (a) A test administrator shall generate a written form for each vehicular carbon monoxide test conducted on behalf of the test administrator's fire department.

(b) Each form described in subsection (a) must contain entries for the following identifiers:

- (1) Name of the motor vehicle owner.
- (2) Address of the motor vehicle owner.
- (3) Telephone number of the motor vehicle owner.
- (4) Vehicle year.
- (5) Vehicle make.
- (6) Vehicle model.
- (7) License plate number.



- (8) State in which the motor vehicle is registered.
- (9) Name of the fire department responsible for the administration of the vehicular carbon monoxide test.
- (10) Serial number of the direct read instrument.
- (11) Unit model number of the direct read instrument.
- (12) Carbon monoxide reading for the motor vehicle after five (5) minutes.
- (13) Carbon monoxide reading for the motor vehicle after ten (10) minutes.
- (14) Date of the vehicular carbon monoxide test.
- (15) Time of the vehicular carbon monoxide test.
- (16) Name of the motor vehicle owner (printed).
- (17) Name of the motor vehicle owner (signature).
- (18) Name of the test administrator (printed).
- (19) Name of the test administrator (signature).
- (20) Any other information required by the standard record keeping practices of the fire department responsible for the administration of the vehicular carbon monoxide test.

(c) In addition to the information required under subsection (b), each form shall contain the following language:

"The motor vehicle owner receiving carbon monoxide test results for a motor vehicle recognizes and agrees that the carbon monoxide test results provided are the result of a vehicular carbon monoxide test conducted by the device listed on the date and time indicated and under the conditions present at that date and time. The readings obtained by the vehicular carbon monoxide test do not constitute a warranty that the tested motor vehicle has a carbon monoxide issue or that the vehicle is free from any carbon monoxide issue.

In consideration for receiving the vehicular carbon monoxide test from (insert the name of the fire department) at no charge to the recipient, the recipient agrees to discharge and hold harmless (insert the name of the fire department), and its agents, employees, and officers from any and all actions, claims, causes of action, demands, damages, including punitive damages, and expenses arising from or relating to the results of the vehicular carbon monoxide test. This release specifically applies to any claims made or implied based upon the readings derived from the vehicular carbon monoxide test. This release from liability is binding regardless of whether a claim or expense is caused, or alleged to have been caused, by the sole, joint, several, or comparative negligence of the (insert the name of the fire department) or by any



other alleged breach of duty or warranty, express or implied, by the (insert the name of the fire department).

The recipient of the vehicular carbon monoxide test represents that he/she will, upon disclosure of the test readings and test administrator recommendations, assume all responsibility for all automotive diagnostics and repair. It is the responsibility of the recipient of the vehicular carbon monoxide test to schedule any recommended diagnostic services or repairs.

This agreement constitutes a waiver that covers the entire period from the date the results of the vehicular carbon monoxide test are presented to the owner of the motor vehicle through and after the date the owner submits the motor vehicle to an automotive specialist for any desired or recommended repair, maintenance, or service."

(d) All completed and original forms shall be permanently stored:

- (1) by the fire department responsible for the administration of the vehicular carbon monoxide test; and
- (2) in a manner consistent with the current record keeping practices of the fire department responsible for the administration of the vehicular carbon monoxide test.

Sec. 6. (a) A test administrator's good faith attempt to conduct a vehicular carbon monoxide test consistent with the methodology described in section 4 of this chapter immunizes the test administrator from civil liability and all associated damages, including punitive damages, arising from or related to the results of a vehicular carbon monoxide test described in this chapter.

(b) If a test administrator is not liable for:

- (1) an act;
- (2) an action;
- (3) a cause of action;
- (4) a claim;
- (5) damages, including punitive damages;
- (6) a demand;
- (7) an expense; or
- (8) an omission;

arising from or related to a vehicular carbon monoxide test described in this chapter, a fire department or other person may not incur liability by reason of an agency relationship between the test administrator and the fire department or the other person.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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