

HOUSE BILL No. 1151

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1.2-2-31; IC 13-11-2; IC 13-14-12-1; IC 13-18-28; IC 13-19-3-7.2; IC 13-30-4-1; IC 14-12-2-30; IC 35-52-13-1.3; IC 36-7-29-8.

Synopsis: Notice of environmental contamination. Requires a person who causes a spill of certain substances into waters of the state to report the spill immediately to the following: (1) The department of environmental management (department). (2) The county health officer of each county that may be affected by the spill. (3) A water user within five miles upstream and 25 miles downstream of where the spill occurred. (4) At least one emergency response agency. (5) Each park located in the county in which the spill occurred. Requires the department, the county health officer, the water user, the emergency response agency, and each park (entity) to: (1) post the information received about the spill on each entity's Internet web site; and (2) in a manner determined by each entity, make the information received about the spill available to the public. Provides that a county health officer who receives a report of a spill must notify: (1) each park located within five miles upstream and 25 miles downstream of where the spill occurred; and (2) news media in each county that may be affected by the spill. Provides that a person who fails to make the required report is liable for a civil penalty determined by the board. Provides that a person who knowingly or intentionally fails to make the report required by this act commits a Class A misdemeanor. Specifies that a person commits a Level 6 felony if the person has a prior unrelated conviction for a violation of the reporting requirements. Provides that money collected for a civil violation of the reporting requirements shall be deposited into the environmental management special fund. Adds definitions of "water user", "objectionable substance", "park", and "spill". Makes conforming changes.

Effective: July 1, 2021.

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January 7, 2021, read first time and referred to Committee on Environmental Affairs.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1151

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

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

1 SECTION 1. IC 5-1.2-2-31, AS ADDED BY P.L.189-2018,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 31. "Hazardous substance", for purposes of the
4 Indiana brownfields program established under IC 5-1.2-12, has the
5 meaning set forth in ~~IC 13-11-2-98~~: **IC 13-11-2-98(b)**.

6 SECTION 2. IC 13-11-2-49 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 49. **(a) "Damage", for**
8 **purposes of this chapter and IC 13-18-28, means the actual or**
9 **imminent alteration of the waters of the state so as to render the**
10 **waters harmful, detrimental, or injurious to:**

- 11 **(1) public health, safety, or welfare;**
- 12 **(2) domestic, commercial, industrial, agricultural, or**
- 13 **recreational uses; or**
- 14 **(3) an animal or aquatic life.**

15 **(b) "Damage", for purposes of IC 13-24-2, means damage of any**
16 **kind for which liability may exist under Indiana law:**

- 17 **(1) resulting from;**



- 1 (2) arising out of; or
 2 (3) related to;
 3 the discharge or threatened discharge of oil.
- 4 SECTION 3. IC 13-11-2-66 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 66. "Emergency
 6 response agency", for purposes of **IC 13-18-28** and IC 13-25-6, means:
 7 (1) the state police;
 8 (2) the environmental response branch of the department;
 9 (3) a police department established under IC 36-8-2-2;
 10 (4) a fire department established under IC 36-8-2-3;
 11 (5) any agency of a governmental entity, or any combination of
 12 agencies of governmental entities, that provides:
 13 (A) firefighting services;
 14 (B) emergency rescue services; or
 15 (C) emergency medical services; or
 16 (6) any other agency of a governmental entity that provides
 17 manpower, equipment, or supplies at the scene of a hazardous
 18 materials emergency.
- 19 SECTION 4. IC 13-11-2-76 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 76. (a) **"Extremely
 21 hazardous substance", for purposes of this chapter and
 22 IC 13-18-28, means a substance identified under 42 U.S.C. 11002
 23 and 42 U.S.C. 11004. The term includes a substance listed in 40
 24 CFR 355 Appendix A.**
- 25 (b) "Extremely hazardous substance", for purposes of IC 13-25-2,
 26 has the meaning set forth in 42 U.S.C. 11049.
- 27 SECTION 5. IC 13-11-2-98, AS AMENDED BY P.L.189-2018,
 28 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2021]: Sec. 98. (a) **"Hazardous substance",
 30 for purposes of this chapter and IC 13-18-28, has the meaning set
 31 forth in 42 U.S.C. 9601(14).**
- 32 (b) "Hazardous substance", for purposes of:
 33 (1) IC 13-25-4; and
 34 (2) IC 13-25-5;
 35 has the meaning set forth in Section 101 of CERCLA (42 U.S.C. 9601).
 36 The term includes any substance that the board determines to be
 37 hazardous under environmental management laws.
- 38 SECTION 6. IC 13-11-2-142.9 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2021]: **Sec. 142.9. (a) "Objectionable
 41 substance", for purposes of this chapter and IC 13-18-28, means a
 42 substance that is:**



- 1 (1) of a quantity and a type; and
 2 (2) present for a duration and in a location;
 3 so as to damage waters of the state.
 4 (b) The term does not include any of the following:
 5 (1) Extremely hazardous substances.
 6 (2) Hazardous substances.
 7 (3) Petroleum.
 8 (4) Any mixture of substances listed in subdivisions (1)
 9 through (3).

10 SECTION 7. IC 13-11-2-152.3 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2021]: Sec. 152.3. "Park", for purposes of
 13 IC 13-18-28, means any of the following:

- 14 (1) A national park.
 15 (2) A state park.
 16 (3) Any property operated by a political subdivision for park
 17 purposes (as defined in IC 36-10-1-2).

18 SECTION 8. IC 13-11-2-160 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 160. "Petroleum", for
 20 purposes of:

- 21 (1) this chapter;
 22 (2) IC 13-18-28;
 23 (+) (3) IC 13-23;
 24 (±) (4) IC 13-24-1; and
 25 (≡) (5) IC 13-25-5;

26 includes petroleum and crude oil or any part of petroleum or crude oil
 27 that is liquid at standard conditions of temperature and pressure (sixty
 28 degrees Fahrenheit (60°F) and fourteen and seven-tenths (14.7) pounds
 29 per square inch absolute).

30 SECTION 9. IC 13-11-2-183, AS AMENDED BY P.L.113-2014,
 31 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2021]: Sec. 183. "Regulated substance", for purposes of this
 33 chapter and IC 13-23, includes the following:

- 34 (1) Any substance defined in section ~~98~~ **98(b)** of this chapter as
 35 a hazardous substance, but excluding any substance regulated as
 36 a hazardous waste under:
 37 (A) Subtitle C of the federal Solid Waste Disposal Act, as
 38 amended (42 U.S.C. 6921 through 6939(a)); or
 39 (B) IC 13-22-2-3.
 40 (2) Petroleum.
 41 (3) Any other substance designated by rules adopted by the board
 42 under IC 13-23-1-2.



1 SECTION 10. IC 13-11-2-216.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2021]: **Sec. 216.5. (a) "Spill", for purposes of**
 4 **IC 13-18-28, means any unexpected, unintended, abnormal, or**
 5 **unapproved dumping, leakage, drainage, seepage, discharge, or**
 6 **other loss of:**

- 7 (1) petroleum;
 8 (2) hazardous substances;
 9 (3) extremely hazardous substances; or
 10 (4) objectionable substances.

11 **The term includes a discharge or exceedance of a substance**
 12 **described in this subsection that is subject to an applicable permit.**

13 **(b) The term does not include a release to an impermeable**
 14 **surface if the substance does not migrate off the surface or**
 15 **penetrate the surface and enter the soil.**

16 SECTION 11. IC 13-11-2-265.2 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2021]: **Sec. 265.2. "Water user", for**
 19 **purposes of IC 13-18-28, means:**

- 20 (1) a community public water supply described in
 21 IC 14-25-7-13(d); or
 22 (2) a significant water withdrawal facility described in
 23 IC 14-25-7-15.

24 SECTION 12. IC 13-14-12-1, AS AMENDED BY P.L.170-2006,
 25 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2021]: Sec. 1. (a) The officials collecting the following shall
 27 remit the money to the treasurer of state:

- 28 (1) Money collected under the following:
 29 (A) **IC 13-18-28-7.**
 30 ~~(A)~~ (B) IC 13-30-4-1.
 31 ~~(B)~~ (C) IC 13-30-4-2.
 32 ~~(C)~~ (D) IC 13-30-5-1.

33 (2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.

34 (b) Except as provided in subsection (c), the treasurer of state shall
 35 credit the money to the environmental management special fund.

36 (c) With respect to the money collected under subsection ~~(a)(1)(A)~~
 37 **(a)(1)(B) and ~~(a)(1)(B)~~: (a)(1)(C):**

- 38 (1) the commissioner may direct the treasurer of state to credit all
 39 or a part of the money to the solid waste management fund
 40 established by IC 13-20-22-2; and
 41 (2) the treasurer of state shall:
 42 (A) credit money as directed by the commissioner under



- 1 subdivision (1); and
 2 (B) credit to the environmental management special fund only
 3 money that is not credited under subdivision (1).

4 SECTION 13. IC 13-18-28 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2021]:

7 **Chapter 28. Reporting and Notification of Spills into Waters**

8 **Sec. 1. This chapter does not apply to a release that is subject to**
 9 **IC 13-25-2.**

10 **Sec. 2. As used in this chapter, "327 IAC 2-6.1" refers to the**
 11 **administrative rule of the environmental rules board in effect on**
 12 **July 1, 2021, concerning the:**

- 13 (1) reporting and containment of:
 14 (A) extremely hazardous substances;
 15 (B) hazardous substances;
 16 (C) petroleum; and
 17 (D) objectionable substances; and
 18 (2) response to spills of substances described in subdivision
 19 (1);

20 that damage the waters of the state.

21 **Sec. 3. (a) A person who is subject to the reporting requirements**
 22 **of this chapter or 327 IAC 2-6.1 or who otherwise engages in**
 23 **activity that results in a spill of an extremely hazardous substance,**
 24 **a hazardous substance, petroleum, or an objectionable substance**
 25 **into waters of the state shall, upon discovering the spill, report the**
 26 **spill immediately to:**

- 27 (1) the department;
 28 (2) the county health officer of each county that may be
 29 affected by the spill;
 30 (3) a water user within five (5) miles upstream and twenty-five
 31 (25) miles downstream of where the spill occurred;
 32 (4) at least one (1) emergency response agency; and
 33 (5) each park located in a county in which the spill occurred,
 34 if a park is located in the county.

35 (b) An entity described in subsection (a) that receives a report
 36 of a spill under this section shall:

- 37 (1) post the information received about the spill on each
 38 entity's Internet web site; and
 39 (2) in a manner determined by each entity, make the
 40 information received about the spill available to the public.

41 (c) In addition to the requirements under subsection (b), a
 42 county health officer who receives a report of a spill under this



1 **section must notify:**

2 (1) each park located within five (5) miles upstream and
3 twenty-five (25) miles downstream of where the spill
4 occurred; and

5 (2) news media in each county that may be affected by the
6 spill.

7 **Sec. 4. Subject to IC 13-14-2-6, a person who fails to make a**
8 **report required by section 3(a) of this chapter is liable for a civil**
9 **penalty determined by the board.**

10 **Sec. 5. (a) A person who knowingly or intentionally fails to make**
11 **a report required by section 3(a) of this chapter commits a Class A**
12 **misdemeanor.**

13 **(b) The offense described in subsection (a) is a Level 6 felony if**
14 **the person has a prior unrelated conviction for violating this**
15 **section.**

16 **Sec. 6. The money collected from the civil penalty described in**
17 **section 4 of this chapter shall be deposited into the environmental**
18 **management special fund established under IC 13-14-12-1.**

19 SECTION 14. IC 13-19-3-7.2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7.2. (a) The board may
21 adopt rules under IC 4-22-2 and IC 13-14-9 to develop a voluntary
22 certification program for persons that remediate sites where releases of
23 hazardous substances (as defined in ~~IC 13-11-2-98~~) **IC 13-11-2-98(b)**
24 or petroleum (as defined in IC 13-11-2-160) have occurred.

25 (b) The rules adopted under this section must establish, at a
26 minimum, the following:

27 (1) Eligibility criteria for certification.

28 (2) Criteria and procedures for suspension or revocation of
29 certification.

30 (3) A certification application fee.

31 (c) The department may audit remediations performed by persons
32 certified under rules adopted under this section.

33 SECTION 15. IC 13-30-4-1, AS AMENDED BY P.L.133-2012,
34 SECTION 160, IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Subject to IC 13-14-6 and
36 except as provided in **IC 13-18-28**, IC 13-23-14-2, and IC 13-23-14-3,
37 a person who violates:

38 (1) any provision of:

39 (A) environmental management laws;

40 (B) air pollution control laws;

41 (C) water pollution control laws;

42 (D) IC 13-18-14-1;



- 1 (E) a rule or standard adopted by the board; or
 2 (F) a rule or standard adopted by the underground storage tank
 3 financial assurance board created by IC 13-23-11-1; or
 4 (2) any determination, permit, or order made or issued by the
 5 commissioner under:
 6 (A) environmental management laws or IC 13-7 (before its
 7 repeal);
 8 (B) air pollution control laws or IC 13-1-1 (before its repeal);
 9 or
 10 (C) water pollution control laws or IC 13-1-3 (before its
 11 repeal);
 12 is liable for a civil penalty not to exceed twenty-five thousand dollars
 13 (\$25,000) per day of any violation.

14 (b) The department may:

- 15 (1) recover the civil penalty described in subsection (a) in a civil
 16 action commenced in any court with jurisdiction; and
 17 (2) request in the action that the person be enjoined from
 18 continuing the violation.

19 SECTION 16. IC 14-12-2-30, AS AMENDED BY P.L.172-2016,
 20 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2021]: Sec. 30. (a) Money in the accounts of the fund, other
 22 than the stewardship account, may be used for the following:

- 23 (1) Acquisition costs, such as costs of surveying, title insurance,
 24 and other activities associated with the transfer of title to property.
 25 (2) Costs of services and expenses related to acquisition, such as
 26 engineering, appraisal, environmental, accounting, project
 27 development, and legal services and expenses.

28 (b) Money in the fund may not be used for the following:

- 29 (1) The costs of construction of structures other than those
 30 authorized under section 26(a)(6) of this chapter.
 31 (2) The costs of removal (as defined in IC 13-11-2-187) and
 32 remedial action (as defined in IC 13-11-2-185) relating to
 33 hazardous substances (as defined in ~~IC 13-11-2-98~~):
 34 **IC 13-11-2-98(b)**.
 35 (3) The costs of wastewater treatment.

36 SECTION 17. IC 35-52-13-1.3 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2021]: **Sec. 1.3. IC 13-18-28-5 defines crimes**
 39 **concerning reporting and notification of spills into waters of the**
 40 **state.**

41 SECTION 18. IC 36-7-29-8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. As used in this



1 chapter, "substance" has the meaning set forth in ~~IC 13-11-2-98~~
2 **IC 13-11-2-98(b)** for the term "hazardous substance".

