



February 23, 2018

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# ENGROSSED HOUSE BILL No. 1233

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DIGEST OF HB 1233 (Updated February 19, 2018 3:46 pm - DI 55)

**Citations Affected:** IC 13-11; IC 13-17; IC 13-18; IC 13-26; IC 13-30; IC 16-18; IC 16-41.

**Synopsis:** Environmental management matters. Provides that the term "onsite sewage system" applies to systems that treat sewage from municipalities or publicly owned treatment works. Strikes an incorrect statutory reference in the section defining that term. Amends the air pollution control law to add a reference to the law establishing the procedure for environmental rule making. Authorizes the use of certain regulated combustion facilities to dispose of drugs confiscated or collected as evidence by law enforcement agencies. Provides for the renewal of the certificate of a wastewater treatment plant operator, water treatment plant operator, or water distribution system operator after three years (instead of two years). Authorizes the environmental rules board to establish: (1) continuing education requirements; and (2) dates by which fees must be paid and proof of compliance with continuing education requirements must be submitted; as a condition of certificate renewal for wastewater treatment plant operators, water treatment plant operators, and water distribution system operators.  
(Continued next page)

**Effective:** July 1, 2018; January 1, 2019.

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**Wolkins, Errington, Lehe, Miller D**  
(SENATE SPONSOR — BASSLER)

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January 11, 2018, read first time and referred to Committee on Environmental Affairs.  
January 25, 2018, amended, reported — Do Pass.  
January 29, 2018, read second time, amended, ordered engrossed.  
January 30, 2018, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Environmental Affairs.  
February 22, 2018, amended, reported favorably — Do Pass.

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EH 1233—LS 6685/DI 55



## Digest Continued

Repeals a section providing that a countywide regional water, sewage, or solid waste district established in response to an agreed order must have one appointed trustee who resides in the area that was the subject of the investigation resulting in the agreed order and one appointed trustee who is an elected official representing a political subdivision that has territory in the district. Provides that, with two exceptions, the board of a regional district must have at least: (1) two members who are ratepayers of the district if the board has seven members; or (2) three members who are ratepayers of the district if the board has nine, 11, or 13 members. Provides that after December 31, 2018, the executive of a municipality may not appoint an employee of the municipality as a member of the board of trustees of a regional sewage district, and the fiscal body or executive of a county may not appoint an employee of the county as a member of the board of trustees of a regional sewage district. Makes it a Class B misdemeanor: (1) to make a false material statement or representation in a form, notice, or report required under an air pollution control permit or water pollution control permit; (2) to tamper with or falsify data from an air or water pollution monitoring device; or (3) to make a false material statement or representation in a label, manifest, record, report, or other document required under a hazardous waste permit. Makes it a Class B misdemeanor to transport regulated used oil without a manifest. Makes it a Class C misdemeanor to knowingly violate certain air pollution control rules, permit conditions, or fee or filing requirements. Makes it a Class A misdemeanor to willfully or negligently violate certain water pollution control rules, permit conditions, or fee or filing requirements. Provides for potential fines for environmental Class A misdemeanors and Class B misdemeanors in an amount exceeding the ordinary statutory limit on fines for Class A and Class B misdemeanors. Provides that it is a Level 2 felony for a person to knowingly commit any of certain offenses involving hazardous waste, air pollution, or water pollution if the person knows that the person's act places another person in imminent danger of death or serious bodily injury. Sets forth certain factors that a court may consider when imposing a fine for an environmental offense. Requires the state department of health to adopt rules concerning: (1) the disposal of sewage through the use of onsite sewage systems for municipalities and publicly owned treatment works and (2) sewage disposal in agricultural labor camps through methods other than septic tank absorption fields.



February 23, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1233

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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 13-11-2-144.8 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 144.8. "Onsite sewage  
3 system" ~~for purposes of IC 13-18-17~~; means all equipment and devices  
4 necessary for proper:  
5 (1) onsite:  
6 (A) conduction;  
7 (B) collection;  
8 (C) storage; and  
9 (D) treatment; and  
10 (2) absorption in soil;  
11 of sewage from a residence, **municipality, publicly owned treatment**  
12 **works**, or a commercial facility.  
13 SECTION 2. IC 13-17-3-4, AS AMENDED BY P.L.79-2014,  
14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2018]: Sec. 4. (a) The board shall adopt rules under IC 4-22-2  
16 **and IC 13-14-9** that are:  
17 (1) consistent with the general intent and purposes declared in

**EH 1233—LS 6685/DI 55**



- 1 IC 13-17-1 and section 1 of this chapter; and  
 2 (2) necessary to the implementation of the federal Clean Air Act  
 3 (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act  
 4 Amendments of 1990 (P.L.101-549).
- 5 (b) Notwithstanding IC 13-15-5, the board may adopt rules under  
 6 IC 4-22-2 and IC 13-14-9 that allow the commissioner's actions on  
 7 permits and permit modifications to become effective immediately,  
 8 regardless of whether a thirty (30) day comment period is held on the  
 9 permits or permit modifications. The board may adopt rules under this  
 10 subsection only after considering the:
- 11 (1) environmental significance of;
  - 12 (2) federal requirements for federally delegated or approved  
 13 programs concerning; and
  - 14 (3) need for opportunity for public participation on;
- 15 the permits or permit modifications.
- 16 (c) The board may adopt rules to require sources to report hazardous  
 17 air pollutant emissions if the reporting is necessary to demonstrate  
 18 compliance with emissions and other performance standards  
 19 established under 42 U.S.C. 7412 or 42 U.S.C. 7429. The board may  
 20 amend 326 IAC 2-6 to allow the department to request hazardous air  
 21 pollutant emissions data from individual sources for the purpose of site  
 22 specific studies of hazardous air pollutant:
- 23 (1) emissions; and
  - 24 (2) impacts.
- 25 (d) The board may amend 326 IAC 2-6 or adopt new rules to  
 26 establish a general requirement for sources to report hazardous air  
 27 pollutant emissions (as defined by 42 U.S.C. 7412(b)).
- 28 SECTION 3. IC 13-17-15 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2018]:
- 31 **Chapter 15. Disposal and Destruction of Confiscated Drugs**
- 32 **Sec. 1. As used in this chapter, "drug" means:**
- 33 (1) a drug, as defined in IC 16-42-19-2; or
  - 34 (2) a controlled substance, as defined in IC 35-48-1-9.
- 35 **Sec. 2. As used in this chapter, "law enforcement agency" means**  
 36 **an agency or department of:**
- 37 (1) the state; or
  - 38 (2) a political subdivision of the state;
- 39 **whose principal function is the apprehension of criminal offenders.**
- 40 **Sec. 3. As used in this chapter, "law enforcement officer" has**  
 41 **the meaning set forth in IC 35-31.5-2-185(a).**
- 42 **Sec. 4. Drugs confiscated or collected as evidence by a law**



1 enforcement agency may be disposed of and destroyed in any of the  
2 following:

3 (1) Portland cement manufacturing kilns regulated under 40  
4 CFR 63, Subpart LLL.

5 (2) Electric arc furnace steelmaking facilities regulated under:  
6 (A) 40 CFR 60, Subpart AAa; or  
7 (B) 40 CFR 63, Subpart YYYYY.

8 (3) Integrated iron and steel manufacturing furnaces  
9 regulated under 40 CFR 63, Subpart FFFFF.

10 (4) Commercial and industrial solid waste incineration units  
11 regulated under 40 CFR 63, Subpart CCCC or DDDD.

12 (5) Hazardous waste combustion units regulated under 40  
13 CFR 63, Subpart EEE.

14 (6) Hospital, medical, and infectious waste incinerators  
15 regulated under 40 CFR 60, Subpart Ce or Ec.

16 (7) Institutional boilers and process heaters regulated under  
17 40 CFR 63, Subpart DDDDD.

18 (8) Small or large municipal waste combustion units regulated  
19 under 40 CFR 60, Subpart AAAA, BBBB, JJJ, Ea, Eb, or Cb.

20 Sec. 5. Any destruction and disposal of drugs under this chapter  
21 must be conducted under the supervision of a law enforcement  
22 officer.

23 Sec. 6. A unit described in section 4 of this chapter is not  
24 required to have a separate approval under IC 13-17-7 if the unit:

25 (1) is being operated under a valid existing operating permit  
26 issued under IC 13-17-7; and

27 (2) is in compliance with the applicable federal requirements  
28 listed in section 4 of this chapter;

29 when it is used to dispose of and destroy drugs under this chapter.

30 SECTION 4. IC 13-18-11-6 IS REPEALED [EFFECTIVE JULY 1,  
31 2018]. Sec. 6. (a) A wastewater treatment plant operator certified under  
32 this chapter may renew the operator's certificate biennially by paying  
33 a renewal fee of thirty dollars (\$30).

34 (b) The fee is due and payable on or before July 1 of the year for  
35 which a renewal certificate is issued:

36 (c) A wastewater treatment plant operator who fails to renew a  
37 certificate for three (3) successive years may not receive a renewal  
38 certificate without reexamination:

39 SECTION 5. IC 13-18-11-6.5, AS AMENDED BY P.L.147-2015,  
40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2018]: Sec. 6.5. (a) A wastewater treatment plant operator,  
42 water treatment plant operator, or water distribution system operator



1 certified under this chapter may renew the operator's certificate  
2 triennially by:

- 3 (1) paying a renewal fee of thirty dollars (\$30); and  
4 (2) meeting any continuing education requirements established  
5 **under rules adopted by the department: board.**

6 (b) The:

- 7 (1) fee is due and payable; and  
8 (2) proof of compliance with continuing education requirements  
9 must be submitted to the department;

10 on or before July 1 of the year for which a renewal certificate is to be  
11 issued: **the renewal date established under rules adopted by the**  
12 **board.**

13 (c) A ~~water treatment plant operator or a water distribution system~~  
14 ~~operator person~~ who fails to renew a certificate **under this section**  
15 within one (1) year after the date the certificate expires may not receive  
16 a renewal certificate without reexamination.

17 SECTION 6. IC 13-18-11-7, AS AMENDED BY P.L.147-2015,  
18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2018]: Sec. 7. (a) The commissioner shall notify each person  
20 certified ~~by the commissioner~~ as a wastewater treatment plant operator,  
21 **water treatment plant operator, or water distribution system**  
22 **operator** under this chapter of the following:

- 23 (1) The date of the expiration of the operator's certificate.  
24 (2) The amount of the required fee for renewal **of the operator's**  
25 **certificate** for ~~two (2)~~ **three (3)** years.  
26 **(3) The continuing education required for renewal of the**  
27 **operator's certificate for three (3) years.**

28 (b) The commissioner shall provide the notice at least one (1) month  
29 in advance of the date of expiration of the person's certificate.

30 SECTION 7. IC 13-18-11-7.5 IS REPEALED [EFFECTIVE JULY  
31 1, 2018]. Sec. 7.5: (a) ~~The commissioner shall notify each person~~  
32 ~~certified by the commissioner~~ as a water treatment plant operator or  
33 ~~water distribution system operator under this chapter of the following:~~

- 34 ~~(1) The date of expiration of the operator's certificate.~~  
35 ~~(2) The amount of the required fee for renewal for three (3) years.~~  
36 ~~(3) The continuing education required for renewal for three (3)~~  
37 ~~years.~~

38 ~~(b) The commissioner shall provide the notice at least one (1) month~~  
39 ~~in advance of the date of expiration of the person's certificate.~~

40 SECTION 8. IC 13-18-11-9 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. The commissioner  
42 may, upon receipt of an application and payment of the fee, issue a



1 certificate without examination in a comparable classification to any  
 2 person who holds a certificate in any state **or territory** of the United  
 3 States if:

4 (1) the requirements for certification of operators under which the  
 5 person's certificate was issued:

6 (A) do not conflict with this chapter; ~~or~~ **and**

7 (B) are of a standard not lower than that specified by this  
 8 chapter and the rules adopted under this chapter; and

9 (2) **the state or territory in which the person holds a**  
 10 **certificate grants** reciprocal privileges ~~are granted~~ to certified  
 11 operators of Indiana.

12 SECTION 9. IC 13-26-4-1 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. **(a)** The board  
 14 of trustees of a district is the governing body of the district. A board  
 15 may consist of:

16 (1) three (3);

17 (2) five (5);

18 (3) seven (7);

19 (4) nine (9);

20 (5) eleven (11); or

21 (6) thirteen (13);

22 trustees.

23 **(b) Except for the board of a district described in section 6(b)(5)**  
 24 **of this chapter or IC 13-26-4-7(b), a board must include at least the**  
 25 **following number of members who are ratepayers of the district:**

26 **(1) Two (2) for a board with seven (7) members.**

27 **(2) Three (3) for a board with nine (9), eleven (11), or thirteen**  
 28 **(13) members.**

29 SECTION 10. IC 13-26-4-5 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. **(a)** If a plan  
 31 also contemplates that sewage treatment for the district will be  
 32 provided in cooperation with a municipality, the order must provide  
 33 that:

34 (1) at least one (1) trustee shall be appointed by the executive of  
 35 the municipality; and

36 (2) at least:

37 (A) one (1) trustee shall be appointed by the fiscal body; and

38 (B) one (1) trustee shall be appointed by the executive;

39 of the county having the largest amount of territory in the district.

40 **(b) After December 31, 2018:**

41 **(1) the executive of a municipality may not appoint an**  
 42 **employee of the municipality; and**



1           **(2) the fiscal body or executive of a county may not appoint an**  
 2           **employee of the county;**  
 3           **as a trustee under subsection (a).**

4           SECTION 11. IC 13-26-4-6, AS AMENDED BY P.L.211-2014,  
 5           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6           JANUARY 1, 2019]: Sec. 6. ~~(a) This section does not apply to a district~~  
 7           ~~described in section 6.1 of this chapter.~~

8           ~~(b) (a)~~ Except as provided in subsection ~~(c)(5)~~; **(b)(5)**, an appointed  
 9           trustee does not have to be a resident of the district.

10          ~~(c)~~ **(b)** An appointed trustee must:

- 11           (1) own real property within the district;
- 12           (2) be a trustee appointed under section 4 or 5 of this chapter;
- 13           (3) be an elected official who represents a political subdivision  
 14           that has territory in the district;
- 15           (4) be a ratepayer of the district; or
- 16           (5) with respect to a district in which a majority of ratepayers and  
 17           property owners are not individuals, be an individual who is  
 18           registered to vote at an address that is located in the district.

19          SECTION 12. IC 13-26-4-6.1 IS REPEALED [EFFECTIVE  
 20          JANUARY 1, 2019]. Sec. 6.1. ~~(a) This section applies to a district that~~  
 21          ~~is:~~

- 22           ~~(1) a countywide district; and~~
- 23           ~~(2) established in response to an agreed order entered into after~~  
 24           ~~December 31, 1982, by the department and the executive and~~  
 25           ~~fiscal bodies of the county.~~

26          ~~(b) Not later than December 31, 2012, the parties to an agreed order~~  
 27          ~~described in subsection (a)(2) shall amend the agreed order to provide~~  
 28          ~~for the appointment of trustees as follows:~~

- 29           ~~(1) Beginning July 1, 2013, at least one (1) appointed trustee must~~  
 30           ~~reside in the geographic area that is the subject of the department~~  
 31           ~~investigation resulting in the agreed order.~~
- 32           ~~(2) Beginning July 1, 2013, an appointed trustee may not be~~  
 33           ~~served by a municipal sewer system.~~
- 34           ~~(3) Beginning July 1, 2013, at least one (1) appointed trustee must~~  
 35           ~~be an elected official who represents a political subdivision that~~  
 36           ~~has territory in the district.~~

37          SECTION 13. IC 13-30-10-1, AS AMENDED BY P.L.114-2008,  
 38          SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39          JULY 1, 2018]: Sec. 1. (a) A person who knowingly or intentionally:  
 40          destroys, alters, conceals, or falsely certifies a record that:

- 41           **(1) makes a false material statement, representation, or**  
 42           **certification in any form, notice, or report; or**





1           **(2) destroys, alters, conceals, withholds, or falsely certifies a**  
 2           **record, report, plan or other document;**  
 3       ~~(1)~~ **that** is required to be **filed or** maintained under the terms of a  
 4       permit issued by the department and ~~(2)~~ **may be used to determine the**  
 5       **status of compliance; under IC 13-17 or IC 13-18** commits a Class B  
 6       misdemeanor.

7           (b) A person who knowingly or intentionally **tampers with,**  
 8           **falsifies, or** renders inaccurate or inoperative a recording **or**  
 9           **monitoring device or a monitoring device method, including the data**  
 10          **gathered from the device or method, that is** required to be  
 11          maintained by **under** a permit issued by the department **under**  
 12          **IC 13-17 or IC 13-18** commits a Class B misdemeanor.

13          (c) A person who knowingly or intentionally ~~falsifies testing or~~  
 14          ~~monitoring data required by a permit issued by the department~~ commits  
 15          a Class B misdemeanor. **makes a false material statement or**  
 16          **representation in any label, manifest, record, report, or other**  
 17          **document that is required to be maintained or filed under a permit**  
 18          **issued under IC 13-22** commits a Class B misdemeanor.

19          (d) Notwithstanding the maximum fine provisions of  
 20          **IC 35-50-3-3, criminal fines for a person convicted of an offense**  
 21          **described in subsection (a) or (b) shall be assessable as follows:**

22               **(1) For a person regulated under IC 13-17, a fine in a**  
 23               **maximum amount of not less than ten thousand dollars**  
 24               **(\$10,000) per day per violation, in accordance with the**  
 25               **requirements of 40 CFR 70.11(a)(3).**

26               **(2) For a person regulated under IC 13-18, a fine in a**  
 27               **maximum amount of not less than five thousand dollars**  
 28               **(\$5,000) per day per violation, in accordance with the**  
 29               **requirements of 40 CFR 123.27(a)(3).**

30          (e) Notwithstanding the maximum fine provisions of  
 31          **IC 35-50-3-3, criminal fines for a person convicted of an offense**  
 32          **described in subsection (c) shall be assessable in a maximum**  
 33          **amount of not less than ten thousand dollars (\$10,000) per day per**  
 34          **violation, in accordance with the requirements of 40 CFR**  
 35          **271.16(a)(3).**

36          ~~(d)~~ **(f)** The penalties under this section apply regardless of whether  
 37          a person uses electronic submissions or paper documents to accomplish  
 38          the actions described in this section.

39          SECTION 14. IC 13-30-10-1.5, AS AMENDED BY P.L.158-2013,  
 40          SECTION 196, IS AMENDED TO READ AS FOLLOWS  
 41          [EFFECTIVE JULY 1, 2018]: Sec. 1.5. (a) Except as provided in  
 42          subsection (b), a person regulated under IC 13-22 who knowingly: ~~does~~



1 any of the following commits a Class B misdemeanor:

- 2 (1) transports hazardous waste to an unpermitted facility;  
 3 (2) treats, stores, or disposes of hazardous waste without a permit  
 4 issued by the department **under IC 13-22; or**  
 5 (3) transports, treats, stores, disposes, recycles, or causes to be  
 6 transported used oil regulated under ~~329 IAC 13~~ **rules adopted**  
 7 **by the board without a manifest or** in violation of the standards  
 8 established by the department for the management of used oil;  
 9 (4) ~~Makes a false material statement or representation in any~~  
 10 ~~label, manifest, record, report, or other document filed or~~  
 11 ~~maintained under the hazardous waste or used oil standards.~~

12 **commits a Class B misdemeanor.**

13 (b) An offense under subsection (a) is a Level 6 felony if the offense  
 14 results in damage to the environment that renders the environment unfit  
 15 for human or vertebrate animal life. An offense under subsection (a) is  
 16 a Level 5 felony if the offense results in the death of another person.  
 17 **Notwithstanding the maximum fine provisions of IC 35-50-3-3,**  
 18 **criminal fines for a person convicted of an offense described in**  
 19 **subsection (a) shall be assessable in a maximum amount of not less**  
 20 **than ten thousand dollars (\$10,000) per day per violation.**

21 (c) Before imposing sentence upon conviction of an offense under  
 22 subsection (a) or (b), the court shall consider either or both of the  
 23 following factors, if found by the jury or if stipulated to by the parties  
 24 in a plea agreement:

25 (1) If the offense involves discharge of a contaminant into the  
 26 environment, whether that discharge resulted in any or a  
 27 combination of the following:

28 (A) A substantial risk of serious bodily injury.

29 (B) Serious bodily injury to an individual.

30 (C) The death of a vertebrate animal.

31 (D) Damage to the environment that:

32 (i) renders the environment unfit for human or vertebrate  
 33 animal life; or

34 (ii) causes damage to an endangered, an at risk, or a  
 35 threatened species.

36 (2) Whether the person did not know and could not reasonably  
 37 have been expected to know that the contaminant discharged into  
 38 the environment was capable of causing a result described in  
 39 subdivision (1).

40 (d) Notwithstanding the maximum fine under IC 35-50-3-3, the  
 41 court shall order a person convicted under subsection (a) to pay a fine  
 42 of at least five thousand dollars (\$5,000) per day for each violation and



1 not more than twenty-five thousand dollars (\$25,000) per day for each  
2 violation.

3 (e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or  
4 IC 35-50-2-7(a), the court shall order a person convicted under  
5 subsection (b) to pay:

6 (1) a fine of at least five thousand dollars (\$5,000) and not more  
7 than fifty thousand dollars (\$50,000) for each day of violation; or

8 (2) if the person has a prior unrelated conviction for an offense  
9 under this title that may be punished as a felony, a fine of at least  
10 five thousand dollars (\$5,000) and not more than one hundred  
11 thousand dollars (\$100,000) for each day of violation.

12 (f) (c) Except as provided in subsection (g); (d), a person regulated  
13 under IC 13-17 who does any of the following commits a Class E  
14 misdemeanor: **knowingly violates:**

15 (1) **Knowingly violates** any applicable requirements of  
16 IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8,  
17 IC 13-17-9, IC 13-17-10, or IC 13-17-13 **or of rules of the board**  
18 **implementing the chapters referred to in this subdivision;**

19 (2) **Knowingly violates** any air pollution registration, construction,  
20 or operating permit condition of a permit issued by the  
21 department **under IC 13-17; or**

22 (3) **Knowingly violates** any fee or filing requirement in IC 13-17,  
23 **including the requirement to file an application for a permit**  
24 **under IC 13-17;**

25 (4) **Knowingly makes** any false material statement, representation,  
26 or certification in any form, notice, or report required by an air  
27 pollution registration, construction, or operating permit issued by  
28 the department.

29 **commits a Class C misdemeanor.**

30 (g) An offense under subsection (f) is a Level 6 felony if the offense  
31 results in damage to the environment that renders the environment unfit  
32 for human or vertebrate animal life. An offense under subsection (f) is  
33 a Level 5 felony if the offense results in the death of another person.

34 (h) Before imposing sentence upon conviction of an offense under  
35 subsection (f) or (g), the court shall consider either or both of the  
36 following factors, if found by the jury or if stipulated to by the parties  
37 in a plea agreement:

38 (1) If the offense involves discharge of a contaminant into the  
39 environment, whether that discharge resulted in any or a  
40 combination of the following:

41 (A) A substantial risk of serious bodily injury.

42 (B) Serious bodily injury to an individual.



- 1                    (~~C~~) The death of a vertebrate animal;
- 2                    (~~D~~) Damage to the environment that:
  - 3                    (i) renders the environment unfit for human or vertebrate
  - 4                    animal life; or
  - 5                    (ii) causes damage to an endangered; an at risk; or a
  - 6                    threatened species;
- 7                    (2) Whether the person did not know and could not reasonably
- 8                    have been expected to know that the contaminant discharged into
- 9                    the environment was capable of causing a result described in
- 10                   subdivision (1);
- 11                    (i) ~~(d)~~ Notwithstanding the maximum fine under ~~IC 35-50-3-4;~~
- 12                    **provisions of IC 35-50-3-4, the court shall order criminal fines for a**
- 13                    **person convicted under of an offense described in subsection (f) (c)**
- 14                    **to pay a fine shall be assessable in a maximum amount of at least**
- 15                    **five thousand dollars (\$5,000) per day for each violation and not more**
- 16                    **than twenty-five thousand dollars (\$25,000) not less than ten**
- 17                    **thousand dollars (\$10,000) per day for each per violation.**
- 18                    (j) Notwithstanding the maximum fine under ~~IC 35-50-2-6(a) or~~
- 19                    ~~IC 35-50-2-7(a);~~ the court shall order a person convicted under
- 20                    subsubsection (g) to pay:
  - 21                    (1) a fine of at least five thousand dollars (\$5,000) and not more
  - 22                    than fifty thousand dollars (\$50,000) for each day of violation; or
  - 23                    (2) if the person has a prior unrelated conviction for an offense
  - 24                    under this title that may be punished as a felony; a fine of at least
  - 25                    five thousand dollars (\$5,000) and not more than one hundred
  - 26                    thousand dollars (\$100,000) for each day of violation;
- 27                    (~~k~~) ~~(e)~~ Except as provided in subsubsection (f); ~~(f)~~, a person regulated
- 28                    under ~~IC 13-18~~ who does any of the following commits a Class ~~C~~
- 29                    **misdemeanor: willfully or negligently violates:**
  - 30                    (1) ~~Willfully or recklessly~~ violates any applicable standards or
  - 31                    limitations of ~~IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8,~~
  - 32                    ~~IC 13-18-9; IC 13-18-10; IC 13-18-12, IC 13-18-14, IC 13-18-15,~~
  - 33                    ~~or IC 13-18-16~~ **or of rules of the board implementing the**
  - 34                    **chapters referred to in this subdivision;**
  - 35                    (2) ~~Willfully or recklessly~~ violates any **condition of a** National
  - 36                    Pollutant Discharge Elimination System permit ~~condition~~ issued
  - 37                    by the department under ~~IC 13-18-19~~ **or rules adopted by the**
  - 38                    **board under IC 13-18-19;**
  - 39                    (3) ~~Willfully or recklessly~~ violates any National Pollutant
  - 40                    Discharge Elimination System Permit filing requirement **under**
  - 41                    **IC 13-18-19; or**
  - 42                    (4) ~~Knowingly~~ makes any false material statement, representation;



1 or certification in any National Pollutant Discharge Elimination  
 2 System Permit form or in any notice or report required by a  
 3 National Pollutant Discharge Elimination System permit issued  
 4 by the department. any condition of a permit issued by the  
 5 department in accordance with the requirements of 33 U.S.C.  
 6 1344;

7 commits a Class A misdemeanor.

8 (f) Notwithstanding the maximum fine provisions of  
 9 IC 35-50-3-2, criminal fines for a person convicted of an offense  
 10 described in subsection (e) shall be assessable in a maximum  
 11 amount of not less than ten thousand dollars (\$10,000) per day per  
 12 violation.

13 (l) An offense under subsection (k) is a Level 6 felony if the offense  
 14 results in damage to the environment that renders the environment unfit  
 15 for human or vertebrate animal life. An offense under subsection (k) is  
 16 a Level 5 felony if the offense results in the death of another person.

17 (m) Before imposing sentence upon conviction of an offense under  
 18 subsection (k) or (l); the court shall consider any or a combination of  
 19 the following factors, if found by the jury or if stipulated to by the  
 20 parties in a plea agreement:

21 (1) If the offense involves discharge of a contaminant into the  
 22 environment; whether that discharge resulted in any or a  
 23 combination of the following:

- 24 (A) A substantial risk of serious bodily injury.
- 25 (B) Serious bodily injury to an individual.
- 26 (C) The death of a vertebrate animal.
- 27 (D) Damage to the environment that:
  - 28 (i) renders the environment unfit for human or vertebrate
  - 29 animal life; or
  - 30 (ii) causes damage to an endangered; an at risk; or a
  - 31 threatened species.

32 (2) Whether the person did not know and could not reasonably  
 33 have been expected to know that the contaminant discharged into  
 34 the environment was capable of causing a result described in  
 35 subdivision (1):

36 (3) Whether the discharge was the result of a combined sewer  
 37 overflow and the person regulated had given notice of that fact to  
 38 the department.

39 (n) Notwithstanding the maximum fine under IC 35-50-3-4, the  
 40 court shall order a person convicted under subsection (k)(1); (k)(2); or  
 41 (k)(3) to pay a fine of at least five thousand dollars (\$5,000) a day for  
 42 each violation and not more than twenty-five thousand dollars



1 (\$25,000) a day for each violation.

2 (o) Notwithstanding the maximum fine under IC 35-50-3-4, the  
3 court shall order a person convicted under subsection (k)(4) to pay a  
4 fine of at least five thousand dollars (\$5,000) for each instance of  
5 violation and not more than ten thousand dollars (\$10,000) for each  
6 instance of violation.

7 (p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or  
8 IC 35-50-2-7(a), the court shall order a person convicted under  
9 subsection (4) to pay:

10 (1) a fine of at least five thousand dollars (\$5,000) and not more  
11 than fifty thousand dollars (\$50,000) for each day of violation; or

12 (2) if the person has a prior unrelated conviction for an offense  
13 under this title that may be punished as a felony; a fine of at least  
14 five thousand dollars (\$5,000) and not more than one hundred  
15 thousand dollars (\$100,000) for each day of violation.

16 (g) A person who willfully or recklessly violates any applicable  
17 standards or limitations of IC 13-18-8 commits a Class B  
18 misdemeanor.

19 (h) A person who willfully or recklessly violates any applicable  
20 standards or limitations of IC 13-18-9, IC 13-18-10, or  
21 IC 13-18-10.5, commits a Class C misdemeanor.

22 (i) A person who:

23 (1) knowingly commits any act described in subsection (a), (c),  
24 or (e); and

25 (2) knows that commission of the act places another person in  
26 imminent danger of death or serious bodily injury;

27 commits a Level 2 felony.

28 (j) It shall be a defense to an offense described in subsection (i)  
29 that the person charged:

30 (1) did not know; or

31 (2) could not reasonably have been expected to know;

32 that the violation would place another person in imminent danger  
33 or threat of serious bodily injury. For the purposes of subsection  
34 (i), a person is responsible only for the person's own actual  
35 awareness or actual belief, and knowledge by another person may  
36 not be attributed to the person.

37 (k) When imposing a sentence upon a person beyond the  
38 minimum sentences and fines required under this section, the court  
39 may consider any of the following factors, if found by the finder of  
40 fact or if stipulated to by the parties in a plea agreement:

41 (1) If the offense involves the discharge of a contaminant into  
42 the environment, whether the discharge resulted in any of the



1 following:

2 (A) A substantial risk of serious bodily injury.

3 (B) Serious bodily injury to an individual.

4 (C) The death of an animal.

5 (D) Damage to the environment that:

6 (i) renders the environment unfit for human or animal  
7 life; or

8 (ii) causes damage to an endangered, at risk, or  
9 threatened species.

10 (2) Whether the person did not know and could not  
11 reasonably have been expected to know that the contaminant  
12 discharged into the environment was capable of causing a  
13 result described in subdivision (1).

14 (c) (1) The penalties under this section apply regardless of whether  
15 a person uses electronic submissions or paper documents to accomplish  
16 the actions described in this section.

17 SECTION 15. IC 16-18-2-263.6 IS ADDED TO THE INDIANA  
18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2018]: **Sec. 263.6. "Onsite sewage system",**  
20 **for purposes of IC 16-41-25.5, has the meaning set forth in**  
21 **IC 16-41-25.5-1.**

22 SECTION 16. IC 16-18-2-299.1 IS ADDED TO THE INDIANA  
23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2018]: **Sec. 299.1. "Publicly owned treatment**  
25 **works", for purposes of IC 16-41-25.5, has the meaning set forth in**  
26 **IC 16-41-25.5-2.**

27 SECTION 17. IC 16-41-25.5 IS ADDED TO THE INDIANA  
28 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
29 [EFFECTIVE JULY 1, 2018]:

30 **Chapter 25.5. Health, Sanitation, and Safety: Onsite Sewage**  
31 **Systems for Municipalities and Publicly Owned Treatment Works**

32 **Sec. 1. As used in this chapter, "onsite sewage system" has the**  
33 **meaning set forth in IC 13-11-2-144.8.**

34 **Sec. 2. As used in this chapter, "publicly owned treatment**  
35 **works" means a treatment works, as defined in Section 212(2) of**  
36 **the federal Clean Water Act (33 U.S.C. 1292(2)), that is owned by**  
37 **the state or a municipality, as defined in Section 502(4) of the**  
38 **federal Clean Water Act (33 U.S.C. 1362(4), except that it does not**  
39 **include pipes, sewers, or other conveyances that are not connected**  
40 **to a facility providing treatment.**

41 **Sec. 3. (a) The state department shall adopt rules under**  
42 **IC 4-22-2 for the disposal of sewage through the use of onsite**



1 sewage systems for municipalities and publicly owned treatment  
2 works.

3 (b) The rules adopted under this section must include  
4 procedures for the review and approval of the:

- 5 (1) design;
- 6 (2) construction;
- 7 (3) installation;
- 8 (4) maintenance; and
- 9 (5) operation;

10 of onsite sewage systems.

11 SECTION 18. IC 16-41-26-8, AS AMENDED BY P.L.113-2014,  
12 SECTION 105, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in  
14 subsection (b), the state department shall adopt rules under IC 4-22-2  
15 necessary to protect the health, safety, and welfare of persons living in  
16 agricultural labor camps, prescribing standards for living quarters at  
17 agricultural labor camps, including provisions relating to construction  
18 of camps, sanitary conditions, light, air, safety protection from fire  
19 hazards, equipment, maintenance and operation of the camp, sewage  
20 disposal through septic tank absorption fields **or other approved**  
21 **methods**, and other matters appropriate for the security of the life and  
22 health of occupants.

23 (b) The environmental rules board shall adopt rules under ~~IC 4-22-2~~  
24 **IC 13-14-9** pertaining to water supplies **and sewage disposal systems**  
25 **other than septic tank absorption fields** required for agricultural labor  
26 camps.

27 (c) In the preparation of rules, the state department:

- 28 (1) shall consult with and request technical assistance from other
- 29 appropriate state agencies; and
- 30 (2) may appoint and consult with committees of technically
- 31 qualified persons and of representatives of employers and
- 32 employees.

33 (d) If a conflict exists between rules adopted under this chapter and  
34 rules adopted by the fire prevention and building safety commission,  
35 the rules authorized in this section apply.

36 (e) A copy of every rule adopted under this chapter shall be sent to  
37 each health officer in Indiana and to the heads of other state agencies  
38 with specific or related responsibility affecting agricultural labor camps  
39 and to any person requesting the rules. The rules affecting agricultural  
40 labor camps adopted under this chapter shall be published periodically  
41 in the manner the state department determines.

42 SECTION 19. IC 16-41-27-8, AS AMENDED BY P.L.113-2014,





1 SECTION 106, IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in  
3 subsection (b), the state department may adopt rules under IC 4-22-2  
4 to carry out this chapter, including rules for the following:  
5 (1) Health, sanitation, and safety.  
6 (2) Sewage collection.  
7 (3) Sewage disposal through septic tank absorption fields.  
8 (b) The environmental rules board shall adopt rules under ~~IC 4-22-2~~  
9 **IC 13-14-9** concerning ~~the following~~: ~~(1)~~ public water supplies  
10 required for mobile home communities.  
11 ~~(2) Sewage disposal systems other than septic tank absorption~~  
12 ~~fields.~~



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1233, 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 3, line 5, delete "under" and insert "**under:**

- (A) **40 CFR 60, Subpart AAa; or**  
 (B) **40 CFR 63, Subpart YYYYYY."**

Page 3, delete line 6.

Page 3, line 22, delete "**combustion**".

Page 3, line 23, delete "**must:**" and insert "**is not required to have a separate approval under IC 13-17-7 if the unit:**".

Page 3, line 24, delete "have" and insert "**is being operated under**".

Page 3, line 24, after "**existing**" insert "**operating**".

Page 3, delete lines 25 through 26, begin a new line block indented and insert:

**"(2) is in compliance with the applicable federal requirements listed in section 4 of this chapter;"**

Page 5, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 9. IC 13-26-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) The board of trustees of a district is the governing body of the district. A board may consist of:

- (1) three (3);
- (2) five (5);
- (3) seven (7);
- (4) nine (9);
- (5) eleven (11); or
- (6) thirteen (13);

trustees.

**(b) Except for the board of a district described in section 6(b)(5) of this chapter, a board must include at least the following number of members who are ratepayers of the district:**

- (1) Two (2) for a board with seven (7) members.**
- (2) Three (3) for a board with nine (9), eleven (11), or thirteen (13) members."**



Page 5, delete line 42.  
Page 6, delete lines 1 through 9.  
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1233 as introduced.)

WOLKINS

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1233 be amended to read as follows:

Page 5, line 24, delete "chapter," and insert "**chapter or IC 13-26-4-7(b)**".

(Reference is to HB 1233 as printed January 26, 2018.)

WOLKINS

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COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1233, 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 5, line 13, delete "[EFFECTIVE JULY 1, 2018]:" and insert "[EFFECTIVE JANUARY 1, 2019]:".

Page 5, between lines 28 and 29, begin a new paragraph and insert:  
"SECTION 10. IC 13-26-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. **(a)** If a plan also contemplates that sewage treatment for the district will be provided in cooperation with a municipality, the order must provide that:

- (1) at least one (1) trustee shall be appointed by the executive of the municipality; and
- (2) at least:

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- (A) one (1) trustee shall be appointed by the fiscal body; and  
 (B) one (1) trustee shall be appointed by the executive;  
 of the county having the largest amount of territory in the district.

**(b) After December 31, 2018:**

- (1) the executive of a municipality may not appoint an employee of the municipality; and**  
**(2) the fiscal body or executive of a county may not appoint an employee of the county;**

**as a trustee under subsection (a)."**

Page 5, line 30, delete "[EFFECTIVE".

Page 5, line 31, delete "JULY 1, 2018]:" and insert "[EFFECTIVE JANUARY 1, 2019]:".

Page 6, line 2, delete "[EFFECTIVE JULY".

Page 6, line 3, delete "1, 2018]." and insert "[EFFECTIVE JANUARY 1, 2019]:".

Page 6, between lines 18 and 19, begin a new paragraph and insert:  
 "SECTION 13. IC 13-30-10-1, AS AMENDED BY P.L.114-2008, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) A person who knowingly or intentionally: ~~destroys, alters, conceals, or falsely certifies a record that:~~

- (1) makes a false material statement, representation, or certification in any form, notice, or report; or**  
**(2) destroys, alters, conceals, withholds, or falsely certifies a record, report, plan or other document;**

~~(†) that is required to be filed or maintained under the terms of a permit issued by the department and (2) may be used to determine the status of compliance; under IC 13-17 or IC 13-18 commits a Class B misdemeanor.~~

(b) A person who knowingly or intentionally **tampers with, falsifies, or renders inaccurate or inoperative a recording or monitoring device or a monitoring device method, including the data gathered from the device or method, that is** required to be maintained by ~~under~~ a permit issued by the department **under IC 13-17 or IC 13-18** commits a Class B misdemeanor.

(c) A person who knowingly or intentionally ~~falsifies testing or monitoring data required by a permit issued by the department commits a Class B misdemeanor:~~ **makes a false material statement or representation in any label, manifest, record, report, or other document that is required to be maintained or filed under a permit issued under IC 13-22** commits a Class B misdemeanor.

(d) **Notwithstanding the maximum fine provisions of IC 35-50-3-3, criminal fines for a person convicted of an offense**



described in subsection (a) or (b) shall be assessable as follows:

(1) For a person regulated under IC 13-17, a fine in a maximum amount of not less than ten thousand dollars (\$10,000) per day per violation, in accordance with the requirements of 40 CFR 70.11(a)(3).

(2) For a person regulated under IC 13-18, a fine in a maximum amount of not less than five thousand dollars (\$5,000) per day per violation, in accordance with the requirements of 40 CFR 123.27(a)(3).

(e) Notwithstanding the maximum fine provisions of IC 35-50-3-3, criminal fines for a person convicted of an offense described in subsection (c) shall be assessable in a maximum amount of not less than ten thousand dollars (\$10,000) per day per violation, in accordance with the requirements of 40 CFR 271.16(a)(3).

(f) The penalties under this section apply regardless of whether a person uses electronic submissions or paper documents to accomplish the actions described in this section.

SECTION 14. IC 13-30-10-1.5, AS AMENDED BY P.L.158-2013, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.5. (a) Except as provided in subsection (b), a person regulated under IC 13-22 who knowingly: ~~does any of the following commits a Class B misdemeanor:~~

- (1) transports hazardous waste to an unpermitted facility;
- (2) treats, stores, or disposes of hazardous waste without a permit issued by the department **under IC 13-22; or**
- (3) transports, treats, stores, disposes, recycles, or causes to be transported used oil regulated under ~~329 IAC 13~~ **rules adopted by the board without a manifest or** in violation of the standards established by the department for the management of used oil;
- ~~(4) Makes a false material statement or representation in any label, manifest, record, report, or other document filed or maintained under the hazardous waste or used oil standards.~~

**commits a Class B misdemeanor.**

(b) An offense under subsection (a) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (a) is a Level 5 felony if the offense results in the death of another person. **Notwithstanding the maximum fine provisions of IC 35-50-3-3, criminal fines for a person convicted of an offense described in subsection (a) shall be assessable in a maximum amount of not less than ten thousand dollars (\$10,000) per day per violation.**



(c) Before imposing sentence upon conviction of an offense under subsection (a) or (b); the court shall consider either or both of the following factors; if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment; whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury;

(B) Serious bodily injury to an individual;

(C) The death of a vertebrate animal;

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered; an at risk; or a threatened species;

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1):

(d) Notwithstanding the maximum fine under IC 35-50-3-3; the court shall order a person convicted under subsection (a) to pay a fine of at least five thousand dollars (\$5,000) per day for each violation and not more than twenty-five thousand dollars (\$25,000) per day for each violation:

(e) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a); the court shall order a person convicted under subsection (b) to pay:

(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony; a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation:

(f) (c) Except as provided in subsection (g); (d), a person regulated under IC 13-17 who does any of the following commits a Class C misdemeanor: **knowingly violates:**

(1) **Knowingly violates any applicable requirements of IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8, IC 13-17-9, IC 13-17-10, or IC 13-17-13 or of rules of the board implementing the chapters referred to in this subdivision;**

(2) **Knowingly violates any air pollution registration, construction; or operating permit condition of a permit issued by the**



department **under IC 13-17; or**

(3) **Knowingly violates any fee or filing requirement in IC 13-17, including the requirement to file an application for a permit under IC 13-17;**

(4) Knowingly makes any false material statement, representation, or certification in any form, notice, or report required by an air pollution registration, construction, or operating permit issued by the department.

**commits a Class C misdemeanor.**

(g) An offense under subsection (f) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (f) is a Level 5 felony if the offense results in the death of another person.

(h) Before imposing sentence upon conviction of an offense under subsection (f) or (g), the court shall consider either or both of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:

(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury.

(B) Serious bodily injury to an individual.

(C) The death of a vertebrate animal.

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, an at risk, or a threatened species.

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).

(i) **(d) Notwithstanding the maximum fine under IC 35-50-3-4, provisions of IC 35-50-3-4, the court shall order criminal fines for a person convicted under of an offense described in subsection (f) (c) to pay a fine shall be assessable in a maximum amount of at least five thousand dollars (\$5,000) per day for each violation and not more than twenty-five thousand dollars (\$25,000) not less than ten thousand dollars (\$10,000) per day for each per violation.**

(j) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (g) to pay:



(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or  
 (2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony; a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation.

~~(k)~~ (e) Except as provided in subsection ~~(t)~~; (f), a person regulated under IC 13-18 who does any of the following commits a Class C misdemeanor: **willfully or negligently violates:**

(1) ~~Willfully or recklessly violates any applicable standards or limitations of IC 13-18-3-2.4, IC 13-18-4-5, IC 13-18-8, IC 13-18-9, IC 13-18-10, IC 13-18-12, IC 13-18-14, IC 13-18-15, or IC 13-18-16~~ **or of rules of the board implementing the chapters referred to in this subdivision;**

(2) ~~Willfully or recklessly violates any condition of a National Pollutant Discharge Elimination System permit~~ **condition** issued by the department under IC 13-18-19 **or rules adopted by the board under IC 13-18-19;**

(3) ~~Willfully or recklessly violates any National Pollutant Discharge Elimination System Permit filing requirement~~ **under IC 13-18-19; or**

(4) ~~Knowingly makes any false material statement, representation, or certification in any National Pollutant Discharge Elimination System Permit form or in any notice or report required by a National Pollutant Discharge Elimination System permit issued by the department.~~ **any condition of a permit issued by the department in accordance with the requirements of 33 U.S.C. 1344;**

**commits a Class A misdemeanor.**

(f) **Notwithstanding the maximum fine provisions of IC 35-50-3-2, criminal fines for a person convicted of an offense described in subsection (e) shall be assessable in a maximum amount of not less than ten thousand dollars (\$10,000) per day per violation.**

~~(t)~~ An offense under subsection (k) is a Level 6 felony if the offense results in damage to the environment that renders the environment unfit for human or vertebrate animal life. An offense under subsection (k) is a Level 5 felony if the offense results in the death of another person.

(m) Before imposing sentence upon conviction of an offense under subsection (k) or ~~(t)~~; the court shall consider any or a combination of the following factors, if found by the jury or if stipulated to by the parties in a plea agreement:





(1) If the offense involves discharge of a contaminant into the environment, whether that discharge resulted in any or a combination of the following:

(A) A substantial risk of serious bodily injury;

(B) Serious bodily injury to an individual;

(C) The death of a vertebrate animal;

(D) Damage to the environment that:

(i) renders the environment unfit for human or vertebrate animal life; or

(ii) causes damage to an endangered, at risk, or a threatened species;

(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1);

(3) Whether the discharge was the result of a combined sewer overflow and the person regulated had given notice of that fact to the department.

(n) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(1), (k)(2), or (k)(3) to pay a fine of at least five thousand dollars (\$5,000) a day for each violation and not more than twenty-five thousand dollars (\$25,000) a day for each violation.

(o) Notwithstanding the maximum fine under IC 35-50-3-4, the court shall order a person convicted under subsection (k)(4) to pay a fine of at least five thousand dollars (\$5,000) for each instance of violation and not more than ten thousand dollars (\$10,000) for each instance of violation.

(p) Notwithstanding the maximum fine under IC 35-50-2-6(a) or IC 35-50-2-7(a), the court shall order a person convicted under subsection (1) to pay:

(1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or

(2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of at least five thousand dollars (\$5,000) and not more than one hundred thousand dollars (\$100,000) for each day of violation.

(g) A person who willfully or recklessly violates any applicable standards or limitations of IC 13-18-8 commits a Class B misdemeanor.

(h) A person who willfully or recklessly violates any applicable standards or limitations of IC 13-18-9, IC 13-18-10, or



**IC 13-18-10.5, commits a Class C misdemeanor.**

**(i) A person who:**

**(1) knowingly commits any act described in subsection (a), (c), or (e); and**

**(2) knows that commission of the act places another person in imminent danger of death or serious bodily injury;**

**commits a Level 2 felony.**

**(j) It shall be a defense to an offense described in subsection (i) that the person charged:**

**(1) did not know; or**

**(2) could not reasonably have been expected to know;**

**that the violation would place another person in imminent danger or threat of serious bodily injury. For the purposes of subsection (i), a person is responsible only for the person's own actual awareness or actual belief, and knowledge by another person may not be attributed to the person.**

**(k) When imposing a sentence upon a person beyond the minimum sentences and fines required under this section, the court may consider any of the following factors, if found by the finder of fact or if stipulated to by the parties in a plea agreement:**

**(1) If the offense involves the discharge of a contaminant into the environment, whether the discharge resulted in any of the following:**

**(A) A substantial risk of serious bodily injury.**

**(B) Serious bodily injury to an individual.**

**(C) The death of an animal.**

**(D) Damage to the environment that:**

**(i) renders the environment unfit for human or animal life; or**

**(ii) causes damage to an endangered, at risk, or threatened species.**

**(2) Whether the person did not know and could not reasonably have been expected to know that the contaminant discharged into the environment was capable of causing a result described in subdivision (1).**

**(~~e~~) (l) The penalties under this section apply regardless of whether**



a person uses electronic submissions or paper documents to accomplish the actions described in this section."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1233 as reprinted January 30, 2018.)

ECKERTY, Chairperson

Committee Vote: Yeas 8, Nays 1.

