



Reprinted
March 2, 2018

ENGROSSED HOUSE BILL No. 1233

DIGEST OF HB 1233 (Updated March 1, 2018 3:40 pm - DI 55)

Citations Affected: IC 13-11; IC 13-17; IC 13-18; IC 13-21; 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. Repeals a section providing that a countywide regional water, sewage, or solid waste district established in response to an agreed order must
(Continued next page)

Effective: Upon passage; July 1, 2018; January 1, 2019.

Wolkins, Errington, Lehe, Miller D

(SENATE SPONSORS — BASSLER, NIEZGODSKI,
RANDOLPH LONNIE M)

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.
March 1, 2018, read second time, amended, ordered engrossed.

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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 an employee of a solid waste management district (SWMD) who is also a member of the county executive, legislative body, or fiscal body, after the SWMD is dissolved: (1) may continue to hold the employee's elected office; (2) is neither required to resign nor considered to have resigned as a county employee; and (3) may not cast a vote on any matter concerning solid waste management as a member of the county executive, legislative body, or fiscal body. Provides that, with certain exceptions and conditions, 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. Defines "negligently." 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 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.



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March 2, 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

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 13-11-2-138.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 138.5. For purposes of**
4 **IC 13-30-10-1.5, a person acts "negligently" when:**
5 **(1) the person acts with a conscious and voluntary disregard**
6 **for a standard of care that a reasonable person would exercise**
7 **in the same circumstance;**
8 **(2) the consequence of the person's action is likely to cause**
9 **foreseeable injury to human health or the environment; and**
10 **(3) the risk of the person's action causing foreseeable injury**
11 **to human health or the environment is of such a nature and**
12 **degree that the failure to perceive it constitutes a gross**
13 **deviation from the standard of care that an ordinary person**
14 **would exercise in a similar circumstance.**
15 SECTION 2. IC 13-11-2-144.8 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 144.8. "Onsite sewage**
17 **system" for purposes of IC 13-18-17, means all equipment and devices**

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1 necessary for proper:

- 2 (1) onsite:
 3 (A) conduction;
 4 (B) collection;
 5 (C) storage; and
 6 (D) treatment; and
 7 (2) absorption in soil;

8 of sewage from a residence, **municipality, publicly owned treatment**
 9 **works**, or a commercial facility.

10 SECTION 3. IC 13-17-3-4, AS AMENDED BY P.L.79-2014,
 11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2018]: Sec. 4. (a) The board shall adopt rules under IC 4-22-2
 13 **and IC 13-14-9** that are:

- 14 (1) consistent with the general intent and purposes declared in
 15 IC 13-17-1 and section 1 of this chapter; and
 16 (2) necessary to the implementation of the federal Clean Air Act
 17 (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act
 18 Amendments of 1990 (P.L.101-549).

19 (b) Notwithstanding IC 13-15-5, the board may adopt rules under
 20 IC 4-22-2 and IC 13-14-9 that allow the commissioner's actions on
 21 permits and permit modifications to become effective immediately,
 22 regardless of whether a thirty (30) day comment period is held on the
 23 permits or permit modifications. The board may adopt rules under this
 24 subsection only after considering the:

- 25 (1) environmental significance of;
 26 (2) federal requirements for federally delegated or approved
 27 programs concerning; and
 28 (3) need for opportunity for public participation on;

29 the permits or permit modifications.

30 (c) The board may adopt rules to require sources to report hazardous
 31 air pollutant emissions if the reporting is necessary to demonstrate
 32 compliance with emissions and other performance standards
 33 established under 42 U.S.C. 7412 or 42 U.S.C. 7429. The board may
 34 amend 326 IAC 2-6 to allow the department to request hazardous air
 35 pollutant emissions data from individual sources for the purpose of site
 36 specific studies of hazardous air pollutant:

- 37 (1) emissions; and
 38 (2) impacts.

39 (d) The board may amend 326 IAC 2-6 or adopt new rules to
 40 establish a general requirement for sources to report hazardous air
 41 pollutant emissions (as defined by 42 U.S.C. 7412(b)).

42 SECTION 4. IC 13-17-15 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2018]:

3 **Chapter 15. Disposal and Destruction of Confiscated Drugs**

4 **Sec. 1. As used in this chapter, "drug" means:**

- 5 (1) a drug, as defined in IC 16-42-19-2; or
6 (2) a controlled substance, as defined in IC 35-48-1-9.

7 **Sec. 2. As used in this chapter, "law enforcement agency" means**
8 **an agency or department of:**

- 9 (1) the state; or
10 (2) a political subdivision of the state;

11 **whose principal function is the apprehension of criminal offenders.**

12 **Sec. 3. As used in this chapter, "law enforcement officer" has**
13 **the meaning set forth in IC 35-31.5-2-185(a).**

14 **Sec. 4. Drugs confiscated or collected as evidence by a law**
15 **enforcement agency may be disposed of and destroyed in any of the**
16 **following:**

- 17 (1) Portland cement manufacturing kilns regulated under 40
18 CFR 63, Subpart LLL.
19 (2) Electric arc furnace steelmaking facilities regulated under:
20 (A) 40 CFR 60, Subpart AAA; or
21 (B) 40 CFR 63, Subpart YYYYY.
22 (3) Integrated iron and steel manufacturing furnaces
23 regulated under 40 CFR 63, Subpart FFFFF.
24 (4) Commercial and industrial solid waste incineration units
25 regulated under 40 CFR 63, Subpart CCCC or DDDD.
26 (5) Hazardous waste combustion units regulated under 40
27 CFR 63, Subpart EEE.
28 (6) Hospital, medical, and infectious waste incinerators
29 regulated under 40 CFR 60, Subpart Ce or Ec.
30 (7) Institutional boilers and process heaters regulated under
31 40 CFR 63, Subpart DDDDD.
32 (8) Small or large municipal waste combustion units regulated
33 under 40 CFR 60, Subpart AAAA, BBBB, JJJ, Ea, Eb, or Cb.

34 **Sec. 5. Any destruction and disposal of drugs under this chapter**
35 **must be conducted under the supervision of a law enforcement**
36 **officer.**

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

- 39 (1) is being operated under a valid existing operating permit
40 issued under IC 13-17-7; and
41 (2) is in compliance with the applicable federal requirements
42 listed in section 4 of this chapter;



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

2 SECTION 5. IC 13-18-11-6 IS REPEALED [EFFECTIVE JULY 1,
3 2018]. Sec. 6: (a) A wastewater treatment plant operator certified under
4 this chapter may renew the operator's certificate biennially by paying
5 a renewal fee of thirty dollars (\$30):

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

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

11 SECTION 6. IC 13-18-11-6.5, AS AMENDED BY P.L.147-2015,
12 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2018]: Sec. 6.5. (a) A **wastewater treatment plant operator,**
14 water treatment plant operator, or water distribution system operator
15 certified under this chapter may renew the operator's certificate
16 triennially by:

17 (1) paying a renewal fee of thirty dollars (\$30); and

18 (2) meeting any continuing education requirements established
19 **under rules adopted by the department: board.**

20 (b) The:

21 (1) fee is due and payable; and

22 (2) proof of compliance with continuing education requirements
23 must be submitted to the department;

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

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

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

37 (1) The date of the expiration of the operator's certificate.

38 (2) The amount of the required fee for renewal **of the operator's**
39 **certificate** for ~~two (2)~~ **three (3)** years.

40 **(3) The continuing education required for renewal of the**
41 **operator's certificate for three (3) years.**

42 (b) The commissioner shall provide the notice at least one (1) month



1 in advance of the date of expiration of the person's certificate.

2 SECTION 8. IC 13-18-11-7.5 IS REPEALED [EFFECTIVE JULY
3 1, 2018]. Sec. 7.5: (a) ~~The commissioner shall notify each person
4 certified by the commissioner as a water treatment plant operator or
5 water distribution system operator under this chapter of the following:~~

6 ~~(1) The date of expiration of the operator's certificate;~~

7 ~~(2) The amount of the required fee for renewal for three (3) years;~~

8 ~~(3) The continuing education required for renewal for three (3)
9 years.~~

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

12 SECTION 9. IC 13-18-11-9 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. The commissioner
14 may, upon receipt of an application and payment of the fee, issue a
15 certificate without examination in a comparable classification to any
16 person who holds a certificate in any state **or territory** of the United
17 States if:

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

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

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

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

26 SECTION 10. IC 13-21-3-1, AS AMENDED BY P.L.189-2016,
27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b),
29 each county shall, by ordinance of the county executive:

30 (1) join with one (1) or more other counties in establishing a joint
31 solid waste management district that includes the entire area of all
32 the acting counties; or

33 (2) designate itself as a county solid waste management district.

34 This subsection expires July 1, 2017.

35 (b) After June 30, 2017, a county may, by ordinance of the county
36 executive:

37 (1) join with one (1) or more other counties in establishing a joint
38 solid waste management district that includes the entire area of all
39 the acting counties; or

40 (2) designate itself as a county solid waste management district.

41 (c) Notwithstanding subsection (a)(1), if a county withdraws from
42 a joint solid waste management district under IC 13-21-4, the county



1 executive of the county may adopt an ordinance to join another or
 2 establish another joint solid waste management district with one (1) or
 3 more other counties:

4 (1) not earlier than fifteen (15) days; or

5 (2) not later than forty-five (45) days;

6 after the date the ordinance is introduced.

7 (d) An ordinance adopted under subsection (a)(1) or (c) must
 8 include the approval of an agreement governing the operation of the
 9 joint district.

10 (e) If a county fails to comply with this section, the commissioner
 11 shall designate the county as a solid waste management district. This
 12 subsection expires July 1, 2017.

13 (f) After June 30, 2017, a county may do the following:

14 (1) Dissolve the county solid waste management district of the
 15 county through:

16 (A) the adoption by the county executive of an ordinance in
 17 favor of the dissolution of the district;

18 (B) the adoption by the county fiscal body of an ordinance in
 19 favor of the dissolution of the district; and

20 (C) the action of the county legislative body according to the
 21 procedure set forth in IC 36-1-8-17.7, including the adoption
 22 of:

23 (i) a plan concerning the dissolution of the district that is
 24 consistent with IC 13-21-15 and includes the content
 25 required by IC 36-1-8-17.7(b)(5); and

26 (ii) an ordinance dissolving the district.

27 (2) Withdraw from the joint solid waste management district to
 28 which the county belongs through the action of the county
 29 executive in:

30 (A) following the procedure set forth in IC 13-21-4;

31 (B) adopting a plan that is consistent with IC 13-21-15 and
 32 includes the content required by IC 36-1-8-17.7(b)(5); and

33 (C) adopting an ordinance under IC 13-21-15-2(a) exercising
 34 the right of the county:

35 (i) not to be designated as a county solid waste management
 36 district; and

37 (ii) not to be a member of another joint solid waste
 38 management district.

39 (g) If a county, on June 30, 2017, is designated as a county solid
 40 waste management district or belongs to a joint solid waste
 41 management district, the expiration of subsection (a) and the taking
 42 effect of subsection (b) do not affect the county solid waste



1 management district or the county's membership in the joint solid
 2 waste management district. A solid waste management district
 3 established under subsection (a) (or under IC 13-9.5-2-1, before its
 4 repeal) continues in existence after June 30, 2017, unless the county
 5 takes action under subsection (f) concerning the solid waste
 6 management district. The expiration of subsection (a) does not affect:

- 7 (1) any rights or liabilities accrued;
- 8 (2) any administrative or legal proceedings begun;
- 9 (3) any bonds, notes, loans, or other forms of indebtedness issued,
 10 incurred, or made;
- 11 (4) any tax levies made or authorized;
- 12 (5) any fees collected;
- 13 (6) any funds established;
- 14 (7) any patents issued;
- 15 (8) the validity, continuation, or termination of any contracts or
 16 leases executed; or
- 17 (9) the validity of court decisions entered;

18 before July 1, 2017.

19 (h) A person who is:

- 20 (1) a member of:
 - 21 (A) the county executive;
 - 22 (B) the county legislative body; or
 - 23 (C) the county fiscal body; and
- 24 (2) an employee of a district;

25 may not cast a vote on an ordinance under this section or in any other
 26 action concerning the dissolution of the district that employs the
 27 person.

28 **(i) The following apply to an individual described in subsection**
 29 **(h) after the solid waste management district is dissolved:**

30 **(1) Notwithstanding IC 3-5-9, the person may continue to hold**
 31 **the elected office to which the person was elected before the**
 32 **dissolution of the district until the expiration of the term to**
 33 **which the person was elected.**

34 **(2) Notwithstanding IC 3-5-9-5, the person is not:**

- 35 **(A) considered to have resigned; or**
- 36 **(B) required to resign;**

37 **as an employee of the county, after the dissolution of the**
 38 **district.**

39 **(3) The person may not cast a vote on any matter concerning**
 40 **solid waste management as a member of:**

- 41 **(A) the county executive;**
- 42 **(B) the county legislative body; or**



1 **(C) the county fiscal body.**

2 SECTION 11. IC 13-26-4-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. **(a)** The board
4 of trustees of a district is the governing body of the district. A board
5 may consist of:

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

12 trustees.

13 **(b) Except as provided in subsections (c) through (e), a board**
14 **must include at least the following number of members who are**
15 **ratepayers of the district:**

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

19 **(c) Subsection (b) does not apply to the board of a district**
20 **described in section 6(b)(5) or 7(b) of this chapter.**

21 **(d) The board of a district established under IC 13-26-2 is not**
22 **subject to subsection (b) until:**

- 23 **(1) at least one (1) year after the district has begun providing**
24 **service to at least one hundred (100) residents of the district;**
25 **and**
26 **(2) vacancies occur on the board through the expiration of the**
27 **terms of board members in sufficient number to enable the**
28 **required number of ratepayers of the district to be appointed**
29 **in compliance with subsection (b).**

30 **(e) Subsection (b) does not apply to a board whose members are**
31 **elected under section 2 of this chapter instead of being appointed**
32 **under section 3 of this chapter.**

33 SECTION 12. IC 13-26-4-5 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. **(a)** If a plan
35 also contemplates that sewage treatment for the district will be
36 provided in cooperation with a municipality, the order must provide
37 that:

- 38 (1) at least one (1) trustee shall be appointed by the executive of
39 the municipality; and
40 (2) at least:
41 (A) one (1) trustee shall be appointed by the fiscal body; and
42 (B) one (1) trustee shall be appointed by the executive;



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

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

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

5 **(2) the fiscal body or executive of a county may not appoint an**
 6 **employee of the county;**

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

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

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

14 ~~(c) (b) An appointed trustee must:~~

15 (1) own real property within the district;

16 (2) be a trustee appointed under section 4 or 5 of this chapter;

17 (3) be an elected official who represents a political subdivision
 18 that has territory in the district;

19 (4) be a ratepayer of the district; or

20 (5) with respect to a district in which a majority of ratepayers and
 21 property owners are not individuals, be an individual who is
 22 registered to vote at an address that is located in the district.

23 SECTION 14. IC 13-26-4-6.1 IS REPEALED [EFFECTIVE
 24 JANUARY 1, 2019]. Sec. 6.1: ~~(a) This section applies to a district that~~
 25 ~~is:~~

26 ~~(1) a countywide district; and~~

27 ~~(2) established in response to an agreed order entered into after~~
 28 ~~December 31, 1982, by the department and the executive and~~
 29 ~~fiscal bodies of the county:~~

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

33 ~~(1) Beginning July 1, 2013, at least one (1) appointed trustee must~~
 34 ~~reside in the geographic area that is the subject of the department~~
 35 ~~investigation resulting in the agreed order:~~

36 ~~(2) Beginning July 1, 2013, an appointed trustee may not be~~
 37 ~~served by a municipal sewer system:~~

38 ~~(3) Beginning July 1, 2013, at least one (1) appointed trustee must~~
 39 ~~be an elected official who represents a political subdivision that~~
 40 ~~has territory in the district.~~

41 SECTION 15. IC 13-30-10-1, AS AMENDED BY P.L.114-2008,
 42 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2018]: Sec. 1. (a) A person who knowingly or intentionally:
2 ~~destroys, alters, conceals, or falsely certifies a record that:~~

3 **(1) makes a false material statement, representation, or**
4 **certification in any form, notice, or report; or**

5 **(2) destroys, alters, conceals, withholds, or falsely certifies a**
6 **record, report, plan or other document;**

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

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

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

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

26 **(1) For a person regulated under IC 13-17, a fine in a**
27 **maximum amount of not less than ten thousand dollars**
28 **(\$10,000) per day per violation, in accordance with the**
29 **requirements of 40 CFR 70.11(a)(3).**

30 **(2) For a person regulated under IC 13-18, a fine in a**
31 **maximum amount of not less than five thousand dollars**
32 **(\$5,000) per day per violation, in accordance with the**
33 **requirements of 40 CFR 123.27(a)(3).**

34 (e) Notwithstanding the maximum fine provisions of
35 IC 35-50-3-3, criminal fines for a person convicted of an offense
36 described in subsection (c) shall be assessable in a maximum
37 amount of not less than ten thousand dollars (\$10,000) per day per
38 violation, in accordance with the requirements of 40 CFR
39 271.16(a)(3).

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



1 SECTION 16. IC 13-30-10-1.5, AS AMENDED BY P.L.158-2013,
 2 SECTION 196, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2018]: Sec. 1.5. (a) Except as provided in
 4 subsection (b), a person regulated under IC 13-22 who knowingly: ~~does~~
 5 ~~any of the following commits a Class B misdemeanor:~~

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

16 **commits a Class B misdemeanor.**

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

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

- 29 (1) If the offense involves discharge of a contaminant into the
 30 environment, whether that discharge resulted in any or a
 31 combination of the following:
 32 (A) A substantial risk of serious bodily injury;
 33 (B) Serious bodily injury to an individual;
 34 (C) The death of a vertebrate animal;
 35 (D) Damage to the environment that:
 36 (i) renders the environment unfit for human or vertebrate
 37 animal life; or
 38 (ii) causes damage to an endangered; an at risk; or a
 39 threatened species;
 40 (2) Whether the person did not know and could not reasonably
 41 have been expected to know that the contaminant discharged into
 42 the environment was capable of causing a result described in



- 1 subdivision (1):
- 2 (d) Notwithstanding the maximum fine under IC 35-50-3-3, the
- 3 court shall order a person convicted under subsection (a) to pay a fine
- 4 of at least five thousand dollars (\$5,000) per day for each violation and
- 5 not more than twenty-five thousand dollars (\$25,000) per day for each
- 6 violation:
- 7 (e) 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 (b) 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 (f) (c) Except as provided in subsection (g); (d), a person regulated
- 17 under IC 13-17 who does any of the following commits a Class C
- 18 misdemeanor: **knowingly violates:**
- 19 (1) **Knowingly violates any applicable requirements of**
- 20 **IC 13-17-4, IC 13-17-5, IC 13-17-6, IC 13-17-7, IC 13-17-8,**
- 21 **IC 13-17-9, IC 13-17-10, or IC 13-17-13 or of rules of the board**
- 22 **implementing the chapters referred to in this subdivision;**
- 23 (2) **Knowingly violates any air pollution registration, construction,**
- 24 **or operating permit condition of a permit issued by the**
- 25 **department under IC 13-17; or**
- 26 (3) **Knowingly violates any fee or filing requirement in IC 13-17,**
- 27 **including the requirement to file an application for a permit**
- 28 **under IC 13-17;**
- 29 (4) **Knowingly makes any false material statement, representation,**
- 30 **or certification in any form, notice, or report required by an air**
- 31 **pollution registration, construction, or operating permit issued by**
- 32 **the department.**
- 33 **commits a Class C misdemeanor.**
- 34 (g) An offense under subsection (f) is a Level 6 felony if the offense
- 35 results in damage to the environment that renders the environment unfit
- 36 for human or vertebrate animal life. An offense under subsection (f) is
- 37 a Level 5 felony if the offense results in the death of another person.
- 38 (h) Before imposing sentence upon conviction of an offense under
- 39 subsection (f) or (g), the court shall consider either or both of the
- 40 following factors, if found by the jury or if stipulated to by the parties
- 41 in a plea agreement:
- 42 (1) If the offense involves discharge of a contaminant into the



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



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

4 (4) Knowingly makes any false material statement, representation,
 5 or certification in any National Pollutant Discharge Elimination
 6 System Permit form or in any notice or report required by a
 7 National Pollutant Discharge Elimination System permit issued
 8 by the department. **any condition of a permit issued by the**
 9 **department in accordance with the requirements of 33 U.S.C.**
 10 **1344;**

11 **commits a Class A misdemeanor.**

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

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

21 (m) Before imposing sentence upon conviction of an offense under
 22 subsection (k) or (t), the court shall consider any or a combination of
 23 the following factors, if found by the jury or if stipulated to by the
 24 parties 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 (3) Whether the discharge was the result of a combined sewer
 41 overflow and the person regulated had given notice of that fact to
 42 the department.



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

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

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

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

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

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

26 (i) A person who:

- 27 (1) knowingly commits any act described in subsection (a), (c),
 28 or (e); and
 29 (2) knows that commission of the act places another person in
 30 imminent danger of death or serious bodily injury;
 31 commits a Level 4 felony. However, the offense is a Level 3 felony
 32 if it results in serious bodily injury to any person, and a Level 2
 33 felony if it results in the death of any person.

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

- 36 (1) did not know; or
 37 (2) could not reasonably have been expected to know;
 38 that the violation would place another person in imminent danger
 39 or threat of serious bodily injury. For the purposes of subsection
 40 (i), a person is responsible only for the person's own actual
 41 awareness or actual belief, and knowledge by another person may
 42 not be attributed to the person.



1 (Ⓢ) **(k)** The penalties under this section apply regardless of whether
 2 a person uses electronic submissions or paper documents to accomplish
 3 the actions described in this section.

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

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

14 SECTION 19. IC 16-41-25.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2018]:

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

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

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

28 **Sec. 3. (a) The state department shall adopt rules under**
 29 **IC 4-22-2 for the disposal of sewage through the use of onsite**
 30 **sewage systems for municipalities and publicly owned treatment**
 31 **works.**

32 **(b) The rules adopted under this section must include**
 33 **procedures for the review and approval of the:**

- 34 **(1) design;**
- 35 **(2) construction;**
- 36 **(3) installation;**
- 37 **(4) maintenance; and**
- 38 **(5) operation;**

39 **of onsite sewage systems.**

40 SECTION 20. IC 16-41-26-8, AS AMENDED BY P.L.113-2014,
 41 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2018]: **Sec. 8. (a) Except as provided in**



1 subsection (b), the state department shall adopt rules under IC 4-22-2
 2 necessary to protect the health, safety, and welfare of persons living in
 3 agricultural labor camps, prescribing standards for living quarters at
 4 agricultural labor camps, including provisions relating to construction
 5 of camps, sanitary conditions, light, air, safety protection from fire
 6 hazards, equipment, maintenance and operation of the camp, sewage
 7 disposal through septic tank absorption fields **or other approved**
 8 **methods**, and other matters appropriate for the security of the life and
 9 health of occupants.

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

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

15 (1) shall consult with and request technical assistance from other
 16 appropriate state agencies; and

17 (2) may appoint and consult with committees of technically
 18 qualified persons and of representatives of employers and
 19 employees.

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

23 (e) A copy of every rule adopted under this chapter shall be sent to
 24 each health officer in Indiana and to the heads of other state agencies
 25 with specific or related responsibility affecting agricultural labor camps
 26 and to any person requesting the rules. The rules affecting agricultural
 27 labor camps adopted under this chapter shall be published periodically
 28 in the manner the state department determines.

29 SECTION 21. IC 16-41-27-8, AS AMENDED BY P.L.113-2014,
 30 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in
 32 subsection (b), the state department may adopt rules under IC 4-22-2
 33 to carry out this chapter, including rules for the following:

34 (1) Health, sanitation, and safety.

35 (2) Sewage collection.

36 (3) Sewage disposal through septic tank absorption fields.

37 (b) The environmental rules board shall adopt rules under ~~IC 4-22-2~~
 38 **IC 13-14-9** concerning ~~the following~~: (†) public water supplies
 39 required for mobile home communities.

40 (2) ~~Sewage disposal systems other than septic tank absorption~~
 41 ~~fields~~.

42 SECTION 22. **An emergency is declared for this act.**



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.

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

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:

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(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.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1233 be amended to read as follows:

Page 5, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 9. IC 13-21-3-1, AS AMENDED BY P.L.189-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), each county shall, by ordinance of the county executive:

(1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or

(2) designate itself as a county solid waste management district.

This subsection expires July 1, 2017.

(b) After June 30, 2017, a county may, by ordinance of the county executive:

(1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or

(2) designate itself as a county solid waste management district.

(c) Notwithstanding subsection (a)(1), if a county withdraws from a joint solid waste management district under IC 13-21-4, the county executive of the county may adopt an ordinance to join another or establish another joint solid waste management district with one (1) or more other counties:

(1) not earlier than fifteen (15) days; or

(2) not later than forty-five (45) days;

after the date the ordinance is introduced.

(d) An ordinance adopted under subsection (a)(1) or (c) must include the approval of an agreement governing the operation of the

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joint district.

(e) If a county fails to comply with this section, the commissioner shall designate the county as a solid waste management district. This subsection expires July 1, 2017.

(f) After June 30, 2017, a county may do the following:

(1) Dissolve the county solid waste management district of the county through:

(A) the adoption by the county executive of an ordinance in favor of the dissolution of the district;

(B) the adoption by the county fiscal body of an ordinance in favor of the dissolution of the district; and

(C) the action of the county legislative body according to the procedure set forth in IC 36-1-8-17.7, including the adoption of:

(i) a plan concerning the dissolution of the district that is consistent with IC 13-21-15 and includes the content required by IC 36-1-8-17.7(b)(5); and

(ii) an ordinance dissolving the district.

(2) Withdraw from the joint solid waste management district to which the county belongs through the action of the county executive in:

(A) following the procedure set forth in IC 13-21-4;

(B) adopting a plan that is consistent with IC 13-21-15 and includes the content required by IC 36-1-8-17.7(b)(5); and

(C) adopting an ordinance under IC 13-21-15-2(a) exercising the right of the county:

(i) not to be designated as a county solid waste management district; and

(ii) not to be a member of another joint solid waste management district.

(g) If a county, on June 30, 2017, is designated as a county solid waste management district or belongs to a joint solid waste management district, the expiration of subsection (a) and the taking effect of subsection (b) do not affect the county solid waste management district or the county's membership in the joint solid waste management district. A solid waste management district established under subsection (a) (or under IC 13-9.5-2-1, before its repeal) continues in existence after June 30, 2017, unless the county takes action under subsection (f) concerning the solid waste management district. The expiration of subsection (a) does not affect:

(1) any rights or liabilities accrued;

(2) any administrative or legal proceedings begun;



- (3) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
- (4) any tax levies made or authorized;
- (5) any fees collected;
- (6) any funds established;
- (7) any patents issued;
- (8) the validity, continuation, or termination of any contracts or leases executed; or
- (9) the validity of court decisions entered;

before July 1, 2017.

- (h) A person who is:
 - (1) a member of:
 - (A) the county executive;
 - (B) the county legislative body; or
 - (C) the county fiscal body; and
 - (2) an employee of a district;

may not cast a vote on an ordinance under this section or in any other action concerning the dissolution of the district that employs the person.

(i) The following apply to an individual described in subsection (h) after the solid waste management district is dissolved:

- (1) Notwithstanding IC 3-5-9, the person may continue to hold the elected office to which the person was elected before the dissolution of the district until the expiration of the term to which the person was elected.**
- (2) Notwithstanding IC 3-5-9-5, the person is not:**
 - (A) considered to have resigned; or**
 - (B) required to resign;****as an employee of the county, after the dissolution of the district.**
- (3) The person may not cast a vote on any matter concerning solid waste management as a member of:**
 - (A) the county executive;**
 - (B) the county legislative body; or**
 - (C) the county fiscal body."**

Page 15, after line 12, begin a new paragraph and insert:
 "SECTION 21. **An emergency is declared for this act.**".
 Renumber all SECTIONS consecutively.

(Reference is to EHB 1233 as printed February 23, 2018.)

BROWN L



SENATE MOTION

Madam President: I move that Engrossed House Bill 1233 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-138.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 138.5. For purposes of IC 13-30-10-1.5, a person acts "negligently" when:**

- (1) the person acts with a conscious and voluntary disregard for a standard of care that a reasonable person would exercise in the same circumstance;**
- (2) the consequence of the person's action is likely to cause foreseeable injury to human health or the environment; and**
- (3) the risk of the person's action causing foreseeable injury to human health or the environment is of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise in a similar circumstance."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1233 as printed February 23, 2018.)

BASSLER

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1233 be amended to read as follows:

Page 5, line 23, after "6(b)(5)" insert "**or 7(b)**".

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

Page 12, line 27, delete "Level 2 felony." and insert "**Level 4 felony. However, the offense is a Level 3 felony if it results in serious bodily injury to any person, and a Level 2 felony if it results in the death of any person.**".



Page 12, delete lines 37 through 42.

Page 13, delete lines 1 through 13.

Page 13, delete "(l)" and insert "(k)".

(Reference is to EHB 1233 as printed February 23, 2018.)

YOUNG M

SENATE MOTION

Madam President: I move that Engrossed House Bill 1233 be amended to read as follows:

Page 5, delete lines 23 through 28, begin a new paragraph and insert:

"(b) Except as provided in subsections (c) through (e), 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.

(c) Subsection (b) does not apply to the board of a district described in section 6(b)(5) or 7(b) of this chapter.

(d) The board of a district established under IC 13-26-2 is not subject to subsection (b) until:

(1) at least one (1) year after the district has begun providing service to at least one hundred (100) residents of the district; and

(2) vacancies occur on the board through the expiration of the terms of board members in sufficient number to enable the required number of ratepayers of the district to be appointed in compliance with subsection (b).

(e) Subsection (b) does not apply to a board whose members are elected under section 2 of this chapter instead of being appointed under section 3 of this chapter."

(Reference is to EHB 1233 as printed February 23, 2018.)

BASSLER

