

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.

HOUSE ENROLLED ACT No. 1233

AN ACT to amend the Indiana Code concerning environmental law.

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

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.**

SECTION 2. IC 13-11-2-144.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 144.8. "Onsite sewage system" ~~for purposes of IC 13-18-17~~; means all equipment and devices necessary for proper:

- (1) onsite:
 - (A) conduction;
 - (B) collection;
 - (C) storage; and
 - (D) treatment; and

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(2) absorption in soil;
of sewage from a residence, **municipality, publicly owned treatment works**, or a commercial facility.

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

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

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

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

the permits or permit modifications.

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

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

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

SECTION 4. IC 13-17-15 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 15. Disposal and Destruction of Confiscated Drugs

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

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



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

- (1) the state; or
 - (2) a political subdivision of the state;
- whose principal function is the apprehension of criminal offenders.

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

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

- (1) Portland cement manufacturing kilns regulated under 40 CFR 63, Subpart LLL.
- (2) Electric arc furnace steelmaking facilities regulated under:
 - (A) 40 CFR 60, Subpart AAa; or
 - (B) 40 CFR 63, Subpart YYYYY.
- (3) Integrated iron and steel manufacturing furnaces regulated under 40 CFR 63, Subpart FFFFF.
- (4) Commercial and industrial solid waste incineration units regulated under 40 CFR 63, Subpart CCCC or DDDD.
- (5) Hazardous waste combustion units regulated under 40 CFR 63, Subpart EEE.
- (6) Hospital, medical, and infectious waste incinerators regulated under 40 CFR 60, Subpart Ce or Ec.
- (7) Institutional boilers and process heaters regulated under 40 CFR 63, Subpart DDDDD.
- (8) Small or large municipal waste combustion units regulated under 40 CFR 60, Subpart AAAA, BBBB, JJJ, Ea, Eb, or Cb.

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

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

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

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

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

- (b) The fee is due and payable on or before July 1 of the year for



which a renewal certificate is issued:

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

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

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

(b) The:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

SECTION 10. 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 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.**

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

~~(b)~~ **(a)** Except as provided in subsection ~~(c)(5)~~; **(b)(5)**, an appointed



trustee does not have to be a resident of the district.

(e) (b) An appointed trustee must:

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

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

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

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

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

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;

(1) 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).**

~~(d)~~ (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 (1); ~~(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.

(l) 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 (l); 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, 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).

(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 (f) 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 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.

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

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



IC 16-41-25.5-2.

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

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

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

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

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

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

- (1) design;**
- (2) construction;**
- (3) installation;**
- (4) maintenance; and**
- (5) operation;**

of onsite sewage systems.

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

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



camps.

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

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

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

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

SECTION 19. IC 16-41-27-8, AS AMENDED BY P.L.113-2014, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in subsection (b), the state department may adopt rules under IC 4-22-2 to carry out this chapter, including rules for the following:

- (1) Health, sanitation, and safety.
- (2) Sewage collection.
- (3) Sewage disposal through septic tank absorption fields.

(b) The environmental rules board shall adopt rules under ~~IC 4-22-2~~ **IC 13-14-9** concerning the following: (1) public water supplies required for mobile home communities.

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

SECTION 20. IC 35-43-2-2, AS AMENDED BY P.L.32-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) As used in this section, "authorized person" means a person authorized by an agricultural operation to act on behalf of the agricultural operation.

(b) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that



person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner of the agricultural operation or an authorized person; or

(B) dwelling of another person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:

(A) vacant real property (as defined in IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6); or

(B) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1);

(8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the permission of the owner of the agricultural operation or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to:

(A) the owner of or a person having a contractual interest in the agricultural operation;

(B) the operator of the agricultural operation; or

(C) a person having personal property located on the property



of the agricultural operation; or

(9) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be a vacant property, an abandoned property, or an abandoned structure (as defined in IC 36-7-36-1);

commits criminal trespass, a Class A misdemeanor. However, the offense is a Level 6 felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property. The offense is a Level 6 felony, for purposes of subdivision (8), if the property damage is more than seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). The offense is a Level 5 felony, for purposes of subdivision (8), if the property damage is at least fifty thousand dollars (\$50,000).

(c) A person has been denied entry under subsection (b)(1) when the person has been denied entry by means of:

- (1) personal communication, oral or written;
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or
- (3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
- (4) posting the property by placing identifying purple marks on trees or posts around the area where entry is denied.**

(d) For the purposes of subsection (c)(4):

(1) each purple mark must be readily visible to any person approaching the property and must be placed:

(A) on a tree:

- (i) as a vertical line of at least eight (8) inches in length and with the bottom of the mark at least three (3) feet and not more than five (5) feet from the ground; and**
- (ii) not more than one hundred (100) feet from the nearest other marked tree; or**

(B) on a post:

- (i) with the mark covering at least the top two (2) inches of the post, and with the bottom of the mark at least three (3) feet and not more than five (5) feet six (6) inches**



from the ground; and

(ii) not more than thirty-six (36) feet from the nearest other marked post; and

(2) before a purple mark that would be visible from both sides of a fence shared by different property owners or lessees may be applied, all of the owners or lessees of the properties must agree to post the properties with purple marks under subsection (c)(4).

~~(d)~~ (e) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (b)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

~~(e)~~ (f) A person described in subsection (b)(7) violates subsection (b)(7) unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.

~~(f)~~ (g) A person described in subsection (b)(9) violates subsection (b)(9) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

~~(g)~~ (h) Subsections (b), (c), and ~~(f)~~ (g) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain



access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying research and outreach efforts to reduce non-point source impacts on water quality, as conducted through government supported programs and by universities, including programs related to:

(1) nutrient management and soil health; and

(2) drainage water management.

(b) This SECTION expires January 1, 2019.

SECTION 22. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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