



January 17, 2014

HOUSE BILL No. 1241

DIGEST OF HB 1241 (Updated January 15, 2014 1:08 pm - DI 97)

Citations Affected: IC 27-7.

Synopsis: Environmental coverage. Specifies the manner in which the meaning of "pollutant", as used in certain liability insurance policies, must be construed.

Effective: July 1, 2014.

Carbaugh

January 14, 2014, read first time and referred to Committee on Insurance.
January 16, 2014, amended, reported — Do Pass.

HB 1241—LS 7007/DI 97



January 17, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1241

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

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

1 SECTION 1. IC 27-7-14 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]:

4 **Chapter 14. Pollutant Coverage Exclusions**

5 **Sec. 1. This chapter applies to a claim made under a liability**
6 **insurance policy after June 30, 2014.**

7 **Sec. 2. When used in a liability insurance policy that:**

8 **(1) does not define the term "pollutant"; or**

9 **(2) defines the term:**

10 **(A) "pollutant" as any solid, liquid, gaseous, or thermal**
11 **agent or substance, including smoke, vapor, soot, fumes,**
12 **acids, alkalis, chemicals, and waste; and**

13 **(B) "waste" to include a material that is to be recycled,**
14 **reconditioned, or reclaimed;**

15 **the term "pollutant" must be construed to have the meaning set**
16 **forth in section 3 of this chapter.**

HB 1241—LS 7007/DI 97



1 **Sec. 3. (a) As used in a liability insurance policy described in**
 2 **section 2 of this chapter, the following apply:**

3 **(1) "Pollutant" means any solid, liquid, gaseous, or thermal**
 4 **agent or substance, including:**

5 **(A) smoke, vapor, soot, fumes, acids, alkalis, chemicals,**
 6 **and waste;**

7 **(B) agents or substances that are recognized in industry or**
 8 **government to be harmful or toxic to an individual or to**
 9 **property; and**

10 **(C) agents or substances that are regulated under or listed**
 11 **in any of the following:**

12 **(i) The Comprehensive Environmental Response,**
 13 **Compensation, and Liability Act (CERCLA) Priority**
 14 **List of Hazardous Substances (1997 and all subsequent**
 15 **editions).**

16 **(ii) The Resource Conservation and Recovery Act**
 17 **(RCRA), including all categories of hazardous waste and**
 18 **all hazardous constituents.**

19 **(iii) The Agency for Toxic Substances And Disease**
 20 **Registry ToxFAQs.**

21 **(iv) The United States Environmental Protection Agency**
 22 **EMCI Chemical References Complete Index.**

23 **(v) The United States Occupational Safety and Health**
 24 **Administration List of Hazardous Chemicals.**

25 **(vi) All successive editions, updates, and successors of**
 26 **items (i) through (v) and similar state and federal**
 27 **statutes, regulations, and indices concerning potentially**
 28 **harmful agents.**

29 **(2) "Waste" includes a material that is to be recycled,**
 30 **reconditioned, or reclaimed.**

31 **(b) The definitions specified in subsection (a):**

32 **(1) shall be presumed to be clear and sufficient notice to an**
 33 **insured under the liability insurance policy; and**

34 **(2) shall not be considered to be ambiguous or unenforceable.**

35 **Sec. 4. An agent or a substance referred to in section 3 of this**
 36 **chapter constitutes a pollutant without regard to the:**

37 **(1) physical form;**

38 **(2) presence, alone or in combination with another agent or**
 39 **substance; or**

40 **(3) use in the insured's general business activities;**

41 **of the agent or substance.**

42 **Sec. 5. This chapter does not preclude an insurer from defining**



1 **"pollutant" in a manner different from the manner specified in**
2 **section 3 of this chapter, subject to any required approval by the**
3 **department of insurance.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1241, 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 1, line 11, delete "irritant or contaminant," and insert "**agent or substance**,".

Page 2, line 4, delete "irritant or contaminant," and insert "**agent or substance**,".

Page 2, line 35, delete "irritant or a contaminant" and insert "**agent or a substance**".

Page 2, line 38, delete "irritant" and insert "**agent**".

Page 2, line 39, delete "contaminant;" and insert "**substance;**".

Page 2, line 41, delete "irritant or contaminant." and insert "**agent or substance.**".

and when so amended that said bill do pass.

(Reference is to HB 1241 as introduced.)

LEHMAN, Chair

Committee Vote: yeas 8, nays 4.

