



January 28, 2014

SENATE BILL No. 217

DIGEST OF SB 217 (Updated January 24, 2014 10:51 am - DI 55)

Citations Affected: IC 13-11; IC 13-23; IC 36-9.

Synopsis: Underground tank fee and drainage onsite reviews. Provides that if an underground storage tank consists of a single tank in which there are separate compartments, a separate annual registration fee shall be paid for each compartment within the single tank. Requires the owner of an underground storage tank to pay an annual registration fee for a calendar year if the underground storage tank is not closed before January 1 of that year. Requires the department of environmental management (instead of the department of state revenue) to collect the annual registration fee. Provides that: (1) for purposes of determining eligibility for payment of a tank owner's liability from the underground petroleum storage tank excess liability trust fund, only registration fees paid in 1991 or later shall be considered; (2) for the period preceding July 1, 2014, the payment of a single annual fee of \$90 for a tank containing separate compartments shall be deemed to satisfy the annual fee requirements; and (3) IDEM is not required to pay any refunds to a tank owner that, before July 1, 2014, paid a separate registration fee for each compartment within a tank. Provides that a county surveyor planning to perform a regulated drain reconstruction or maintenance project shall request a review of the project but is not required to request an onsite field review.

Effective: July 1, 2014.

Charbonneau, Eckerty, Randolph

January 9, 2014, read first time and referred to Committee on Environmental Affairs.
January 27, 2014, amended, reported favorably — Do Pass.

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January 28, 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.

SENATE BILL No. 217

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 13-11-2-241 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 241. (a) "Underground
3 storage tank", for purposes of section 161 of this chapter and IC 13-23,
4 means one (1) tank or a combination of tanks: ~~including underground~~
5 ~~pipes connected to the tank or combination of tanks:~~
6 (1) that is used to contain an accumulation of regulated
7 substances; and
8 (2) the volume of which, including the volume of the underground
9 connected pipes **described in subsection (b)**, is at least ten
10 percent (10%) beneath the surface of the ground.
11 **(b) If:**
12 **(1) a single tank; or**
13 **(2) a combination of tanks;**
14 **constitutes an underground storage tank under subsection (a), any**
15 **underground pipes that are connected to the single tank or**
16 **combination of tanks are also part of the underground storage**

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- 1 **tank.**
- 2 **(c) The term defined in subsection (a) includes a single tank:**
- 3 **(1) that meets the definition set forth in subsection (a); and**
- 4 **(2) in which there are separate compartments.**
- 5 ~~(b)~~ **(d) The term does not include any of the following:**
- 6 (1) A farm or residential tank with a capacity of not more than one
- 7 thousand one hundred (1,100) gallons that is used for storing
- 8 motor fuel for noncommercial purposes.
- 9 (2) A tank used for storing heating oil for consumptive use on the
- 10 premises on which the tank is stored.
- 11 (3) A septic tank.
- 12 (4) A pipeline facility, including gathering lines, that:
- 13 (A) is regulated under the Natural Gas Pipeline Safety Act of
- 14 1968 (49 U.S.C. 1671 et seq.);
- 15 (B) is regulated under the Hazardous Liquid Pipeline Safety
- 16 Act of 1979 (49 U.S.C. 60101 et seq.); or
- 17 (C) is an intrastate pipeline facility regulated under state laws
- 18 comparable to the laws identified in clauses (A) through (B).
- 19 (5) A surface impoundment, pit, pond, or lagoon.
- 20 (6) A stormwater or wastewater collection system.
- 21 (7) A flow-through process tank.
- 22 (8) A liquid trap or associated gathering lines directly related to
- 23 oil or gas production and gathering operations.
- 24 (9) A storage tank situated in an underground area such as:
- 25 (A) a basement;
- 26 (B) a cellar;
- 27 (C) a mineworking;
- 28 (D) a drift;
- 29 (E) a shaft; or
- 30 (F) a tunnel;
- 31 if the storage tank is situated upon or above the surface of the
- 32 floor.
- 33 (10) Any other tank exempted by a rule adopted by the solid
- 34 waste management board in accordance with regulations adopted
- 35 by the Administrator of the United States Environmental
- 36 Protection Agency.
- 37 (11) A pipe connected to a tank described in subdivisions (1)
- 38 through (10).
- 39 SECTION 2. IC 13-23-4-7 IS AMENDED TO READ AS
- 40 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. The provisions of
- 41 ~~IC 13-11-2-241(b)(10)~~ **IC 13-11-2-241(d)(10)** and sections 1(6) and
- 42 5(c) of this chapter requiring the concurrence of the Administrator of



1 the United States Environmental Protection Agency for an action of the
 2 board or commissioner to be effective are nullified if the Administrator
 3 grants to the commissioner, under the program approved under Section
 4 9004 of the federal Solid Waste Disposal Act, as amended (42 U.S.C.
 5 6991c, as amended), the authority to take the action without the
 6 Administrator's specific concurrence.

7 SECTION 3. IC 13-23-12-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Each year, ~~the~~
 9 ~~owner of if~~ an underground storage tank ~~that~~ has not been closed before
 10 ~~July~~ **January** 1 of ~~any~~ **the** year under:

11 (1) rules adopted under IC 13-23-1-2; or

12 (2) a requirement imposed by the commissioner before the
 13 adoption of rules under IC 13-23-1-2;

14 **the owner of the underground storage tank** shall pay to the
 15 department of state revenue an annual registration fee.

16 (b) The annual registration fee required by this section is as follows:

17 (1) Ninety dollars (\$90) for each underground petroleum storage
 18 tank.

19 (2) Two hundred forty-five dollars (\$245) for each underground
 20 storage tank containing regulated substances other than
 21 petroleum.

22 **(c) If an underground storage tank consists of a single tank in**
 23 **which there are separate compartments, a separate fee shall be**
 24 **paid under subsection (b) for each compartment within the single**
 25 **tank.**

26 ~~(c)~~ **(d)** If an underground storage tank consists of a combination of
 27 tanks, a separate fee shall be paid **under subsection (b)** for **each**
 28 **compartment within each tank in the combination of tanks.**

29 **(e) For purposes of determining eligibility for payment of part**
 30 **of the liability of owners and operators of underground petroleum**
 31 **storage tanks under IC 13-23-8, only fees paid in 1991 or later shall**
 32 **be considered.**

33 **(f) The following apply to tanks that contain separate**
 34 **compartments and that were in use before July 1, 2014:**

35 **(1) For the period preceding July 1, 2014, the payment of a**
 36 **single annual fee of ninety dollars (\$90) for a tank containing**
 37 **separate compartments shall be deemed to satisfy the**
 38 **requirements of subsection (b).**

39 **(2) The department shall not be required to pay any refunds**
 40 **to a tank owner that paid a separate fee under subsection (b)**
 41 **for each compartment within a tank before July 1, 2014.**

42 SECTION 4. IC 36-9-27-53.5 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 53.5. (a) A county
 2 surveyor or board planning to perform a project for the reconstruction
 3 or maintenance of a regulated drain under ~~IC 36-9-27~~ **this chapter**
 4 that:

5 (1) is subject to regulation under:

6 (A) IC 14-26-5; or

7 (B) IC 14-28-1; or

8 (2) requires an individual permit under Section 404 of the federal
 9 Clean Water Act (33 U.S.C. 1344);

10 shall request ~~an onsite field~~ a review of the project through a written
 11 notification ~~of to~~ the division of water of the department of natural
 12 resources (referred to as "the division" in this section). **The**
 13 **notification may include a request to schedule an onsite field**
 14 **review of the project.**

15 (b) **If an onsite field review is requested**, not more than fourteen
 16 (14) days after it receives ~~a notification the request~~ under subsection
 17 (a), the division shall contact the county surveyor or the designee of the
 18 county surveyor and the department of environmental management to
 19 establish a date, time, and location for the onsite field review.

20 (c) ~~The~~ **If an onsite field review is scheduled, it shall be conducted**
 21 by a team consisting of:

22 (1) one (1) or more representatives of the county;

23 (2) one (1) or more representatives of the department of natural
 24 resources, including an engineer from the division of water;

25 (3) one (1) or more representatives of the department of
 26 environmental management; and

27 (4) if applicable, representatives of the local soil and water
 28 conservation district.

29 (d) Not more than thirty (30) calendar days after the completion of
 30 ~~an onsite field~~ a review under this section, the division shall provide
 31 the county surveyor with a written summary of the review. The
 32 summary must contain the following:

33 (1) A narrative and map defining the project location.

34 (2) A description of the proposed work.

35 (3) A list of conditions that:

36 (A) the department of natural resources would place on a
 37 permit to mitigate any unreasonable or detrimental effects that
 38 may occur as a result of the proposed work;

39 (B) the department of environmental management would place
 40 on a certification to comply with Section 401 of the federal
 41 Clean Water Act (33 U.S.C. 1341), if it is possible to ensure
 42 compliance with Section 401 by placing conditions on the



- 1 certification; or
 2 (C) both departments referred to in this subdivision would
 3 place on a permit or certification.
- 4 (e) The department of natural resources may not require or
 5 recommend the following as conditions for a permit for a project for
 6 the reconstruction or maintenance of a regulated drain:
- 7 (1) Deed restrictions in connection with the proposed work.
 8 (2) Conservation easements in connection with the proposed
 9 work.
 10 (3) Tree planting or tree retention within the easement of the
 11 regulated drain, if:
- 12 (A) the project involves construction on only one (1) side of
 13 the drain;
 14 (B) vegetation on the opposite overbank will not be disturbed;
 15 and
 16 (C) the board agrees to establish a suitably sized vegetated
 17 filter strip consisting of grasses and legumes along the side of
 18 the drain on which the construction will occur.
- 19 (f) For the purposes of subsection (e)(3), a project involves
 20 construction on only one (1) side of a regulated drain if the work is
 21 limited to the entire area:
- 22 (1) below the top of the banks; and
 23 (2) within the drainage easement on one (1) side;
 24 of the stream or open drain.
- 25 (g) A county surveyor or board that is aggrieved by the permit
 26 conditions disclosed under subsection (d)(3) has the right to enter into
 27 further negotiations with the department of natural resources and the
 28 department of environmental management in order to obtain a mutually
 29 agreeable set of permit conditions.
- 30 (h) If the permit conditions disclosed under subsection (d)(3)
 31 concerning a project for the reconstruction or maintenance of a
 32 regulated drain are acceptable to the county surveyor and board, the
 33 conditions:
- 34 (1) are binding upon the department of natural resources; and
 35 (2) may not be changed by the department of natural resources.
 36 However, subdivisions (1) and (2) cease to apply to the permit
 37 conditions disclosed under subsection (d)(3) concerning a project if an
 38 application for a permit for the project is not submitted within two (2)
 39 years after the onsite field review.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 217, 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 3, line 27, after "for" insert "**each compartment within**".

Page 3, between lines 28 and 29, begin a new paragraph and insert:

"(e) For purposes of determining eligibility for payment of part of the liability of owners and operators of underground petroleum storage tanks under IC 13-23-8, only fees paid in 1991 or later shall be considered.

(f) The following apply to tanks that contain separate compartments and that were in use before July 1, 2014:

(1) For the period preceding July 1, 2014, the payment of a single annual fee of ninety dollars (\$90) for a tank containing separate compartments shall be deemed to satisfy the requirements of subsection (b).

(2) The department shall not be required to pay any refunds to a tank owner that paid a separate fee under subsection (b) for each compartment within a tank before July 1, 2014."

Page 3, line 32, strike "IC 36-9-27" and insert "**this chapter**".

Page 3, line 38, reset in roman "shall".

Page 3, line 38, delete "may".

Page 3, line 38, strike "an onsite field" and insert "**a**".

Page 3, line 39, after "notification" strike "of" and insert "**to**".

Page 3, line 40, after "section)." insert "**The notification may include a request to schedule an onsite field review of the project.**".

Page 3, line 41, delete "Not" and insert "**If an onsite field review is requested, not**".

Page 3, line 41, strike "a notification" and insert "**the request**".

Page 4, line 4, strike "The" and insert "**If an**".

Page 4, line 4, after "review" insert "**is scheduled, it**".

Page 4, line 14, strike "an onsite field" and insert "**a**".

Page 5, line 23, strike "onsite field".

and when so amended that said bill do pass.

(Reference is to SB 217 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.

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