



February 23, 2018

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**ENGROSSED  
SENATE BILL No. 274**

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DIGEST OF SB 274 (Updated February 21, 2018 2:00 pm - DI 55)

**Citations Affected:** IC 13-21; IC 13-23; IC 36-1.

**Synopsis:** Environmental matters. Amends the solid waste management district law to provide that a solid waste hauler or a hauler of recyclable materials may not be required to collect district solid waste management fees and remit the fees to the board of a solid waste management district or a unit of local government. Amends the local government law to provide that a unit of local government does not have the power to require a solid waste hauler or a hauler of recyclable materials to collect solid waste management fees and remit the fees to a unit of local government or the board of a solid waste management  
(Continued next page)

**Effective:** July 1, 2018; July 1, 2020.

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**Bassler, Sandlin, Niezgodski,  
Randolph Lonnie M**  
(HOUSE SPONSOR — WOLKINS)

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January 4, 2018, read first time and referred to Committee on Environmental Affairs.  
January 22, 2018, reported favorably — Do Pass.  
January 25, 2018, read second time, ordered engrossed. Engrossed.  
January 29, 2018, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 6, 2018, read first time and referred to Committee on Environmental Affairs.  
February 22, 2018, amended, reported — Do Pass.

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Digest Continued

district. Authorizes the commissioner of the department of environmental management (IDEM), after issuing an initial temporary order prohibiting the use of a particular underground storage tank, to reissue the temporary order prohibiting the use of the tank if the tank remains ineligible for delivery, deposit, or acceptance of a regulated substance when the initial order expires. Authorizes the commissioner of IDEM to require the closure of an underground storage tank that is subject to delivery prohibition if: (1) the owner or operator of the tank has failed to complete the corrective actions required by the commissioner in an earlier order; and (2) the tank has been the subject of one temporary order prohibiting the use of the underground storage tank and at least two consecutive actions by the commissioner reissuing the order prohibiting the use of the underground storage tank.



February 23, 2018

Second Regular Session 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 SENATE BILL No. 274

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

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

1 SECTION 1. IC 13-21-14-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) The collection of  
3 the fees authorized by this chapter may be effectuated through a  
4 periodic billing system.

5 (b) **A solid waste hauler or a person who operates a vehicle in**  
6 **which recyclable material is transported for recycling may not be**  
7 **required to collect fees authorized by this chapter and remit the**  
8 **fees to the board of a district or to a unit (as defined in**  
9 **IC 36-1-2-23).**

10 SECTION 2. IC 13-23-1-4, AS AMENDED BY P.L.5-2015,  
11 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2018]: Sec. 4. (a) This section shall be enforced under  
13 IC 4-21.5-4.

14 (b) To fully implement the delivery prohibition program  
15 requirements under 42 U.S.C. 6991k, the commissioner may **do the**  
16 **following:**

17 (1) Determine whether an underground storage tank is eligible for

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1 delivery, deposit, or acceptance of a regulated substance. ~~and~~  
 2 (2) Issue a temporary order to prohibit the use of an underground  
 3 storage tank that has been determined to be ineligible under  
 4 subdivision (1), and demand compliance with the rules adopted  
 5 under this chapter as follows:

6 (A) If an underground storage tank inspection shows failure to  
 7 install equipment for:

- 8 (i) corrosion protection;
- 9 (ii) leak detection;
- 10 (iii) overfill protection; or
- 11 (iv) spill prevention.

12 The commissioner must give the owner or operator written  
 13 notice before implementing a temporary order under this  
 14 clause.

15 (B) If the owner or operator fails to properly operate or  
 16 maintain equipment for corrosion protection, leak detection,  
 17 overfill protection, and spill prevention. The commissioner  
 18 must give the owner or operator:

- 19 (i) a written warning; and
- 20 (ii) at least thirty (30) days to take corrective action to bring  
 21 the underground storage tank into compliance.

22 (C) If the owner or operator fails to register an underground  
 23 petroleum storage tank or pay annual registration fees that are  
 24 due under IC 13-23-12. The commissioner must give the  
 25 owner or operator at least thirty (30) days to take corrective  
 26 action to bring the underground storage tank into compliance.

27 **(3) Reissue a temporary order to prohibit the use of an**  
 28 **underground storage tank under this section if the tank**  
 29 **remains ineligible for delivery, deposit, or acceptance of a**  
 30 **regulated substance when the initial order issued under**  
 31 **subdivision (2) expires. The requirements to give the owner or**  
 32 **operator a written warning and a thirty (30) day corrective**  
 33 **action grace period under subdivision (2)(B) do not apply to**  
 34 **the reissuance of an order under this subdivision.**

35 **(4) Require the closure of an underground storage tank that**  
 36 **is subject to delivery prohibition under 42 U.S.C. 6991k and**  
 37 **this section if:**

38 (A) the owner or operator has failed to complete the  
 39 corrective actions required to comply with an order issued  
 40 under this section; and

41 (B) the underground storage tank has been the subject of:

- 42 (i) one (1) temporary order under subdivision (2)



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**prohibiting the use of the underground storage tank; and  
(ii) at least two (2) consecutive actions by the  
commissioner under subdivision (3) reissuing the order  
prohibiting the use of the underground storage tank.**

(c) If ownership of an ineligible underground storage tank is transferred, the new owner must complete the corrective actions required to comply with an order issued by the commissioner to the previous owner.

SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.189-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

- (1) The power to condition or limit its civil liability, except as expressly granted by statute.
- (2) The power to prescribe the law governing civil actions between private persons.
- (3) The power to impose duties on another political subdivision, except as expressly granted by statute.
- (4) The power to impose a tax, except as expressly granted by statute.
- (5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.
- (6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.
- (7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.
- (8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.
- (9) The power to prescribe a penalty of imprisonment for an ordinance violation.
- (10) The power to prescribe a penalty of a fine as follows:
  - (A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.
  - (B) For a violation of any other ordinance:
    - (i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and
    - (ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.



- 1 (11) The power to invest money, except as expressly granted by  
 2 statute.
- 3 (12) The power to order or conduct an election, except as  
 4 expressly granted by statute.
- 5 (13) The power to adopt or enforce an ordinance described in  
 6 section 8.5 of this chapter.
- 7 (14) The power to take any action prohibited by section 8.6 of this  
 8 chapter.
- 9 (15) The power to dissolve a political subdivision, except:  
 10 (A) as expressly granted by statute; or  
 11 (B) if IC 36-1-8-17.7 applies to the political subdivision, in  
 12 accordance with the procedure set forth in IC 36-1-8-17.7.
- 13 **(16) The power to require a solid waste hauler or a person**  
 14 **who operates a vehicle in which recyclable material is**  
 15 **transported for recycling to collect fees authorized by**  
 16 **IC 13-21 and remit the fees to:**  
 17 **(A) a unit; or**  
 18 **(B) the board of a solid waste management district**  
 19 **established under IC 13-21.**
- 20 (b) A township does not have the following, except as expressly  
 21 granted by statute:  
 22 (1) The power to require a license or impose a license fee.  
 23 (2) The power to impose a service charge or user fee.  
 24 (3) The power to prescribe a penalty.
- 25 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an  
 26 ordinance that regulates traffic or parking.



## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 274, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 274 as introduced.)

ECKERTY, Chairperson

Committee Vote: Yeas 9, Nays 0

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 274, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-21-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) The collection of the fees authorized by this chapter may be effectuated through a periodic billing system.

**(b) A solid waste hauler or a person who operates a vehicle in which recyclable material is transported for recycling may not be required to collect fees authorized by this chapter and remit the fees to the board of a district or to a unit (as defined in IC 36-1-2-23)."**

Page 2, after line 41, begin a new paragraph and insert:

"SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.189-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

- (1) The power to condition or limit its civil liability, except as expressly granted by statute.
- (2) The power to prescribe the law governing civil actions between private persons.
- (3) The power to impose duties on another political subdivision, except as expressly granted by statute.
- (4) The power to impose a tax, except as expressly granted by

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statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(13) The power to adopt or enforce an ordinance described in section 8.5 of this chapter.

(14) The power to take any action prohibited by section 8.6 of this chapter.

(15) The power to dissolve a political subdivision, except:

(A) as expressly granted by statute; or

(B) if IC 36-1-8-17.7 applies to the political subdivision, in accordance with the procedure set forth in IC 36-1-8-17.7.

**(16) The power to require a solid waste hauler or a person who operates a vehicle in which recyclable material is transported for recycling to collect fees authorized by IC 13-21 and remit the fees to:**

**(A) a unit; or**

**(B) the board of a solid waste management district established under IC 13-21.**





(b) A township does not have the following, except as expressly granted by statute:

- (1) The power to require a license or impose a license fee.
- (2) The power to impose a service charge or user fee.
- (3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 274 as printed January 23, 2018.)

WOLKINS

Committee Vote: yeas 10, nays 1.

