



Digest Correction
March 19, 2019

ENGROSSED SENATE BILL No. 363

DIGEST OF SB 363 (Updated March 20, 2019 10:50 am - DI 133)

Citations Affected: IC 14-10; IC 14-19; IC 14-22; IC 14-23; IC 14-28.

Synopsis: Department of natural resources matters. Allows the department of natural resources to adopt emergency rules concerning entomology and pathology. Provides that an individual may not provide hunting guide services without a hunting guide license issued by the director of the department of natural resources. Allows the department of natural resources to construct, rent, lease, license, or operate public service privileges and facilities for recreation in a state forest. Adds a provision that ensures certain improvements are made to the Ferdinand and Morgan-Monroe state forests. Provides for a permit for reconstruction of earthen berms or levees in floodways in rural areas. Requires the person to whom a permit is issued to post and maintain the permit at the site of the reconstruction authorized by the permit. Makes it a Class B infraction for a person to violate a condition or restriction of the permit.

Effective: July 1, 2019.

Raatz, Doriot, Garten

(HOUSE SPONSORS — PRESCOTT, EBERHART, HEATON)

January 10, 2019, read first time and referred to Committee on Natural Resources.
February 12, 2019, amended, reported favorably — Do Pass.
February 19, 2019, read second time, amended, ordered engrossed.
February 20, 2019, engrossed.
February 21, 2019, read third time, passed. Yeas 35, nays 14.

HOUSE ACTION

March 4, 2019, read first time and referred to Committee on Natural Resources.
March 18, 2019, amended, reported — Do Pass.

ES 363—LS 7019/DI 109



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 363

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

1 SECTION 1. IC 14-10-2-5, AS AMENDED BY P.L.195-2017,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 5. (a) The department may adopt emergency rules
4 under IC 4-22-2-37.1 to carry out the duties of the department under
5 the following:
6 (1) IC 14-9.
7 (2) This article.
8 (3) IC 14-11.
9 (4) IC 14-12-2.
10 (5) IC 14-14.
11 (6) IC 14-15.
12 (7) IC 14-17-3.
13 (8) IC 14-18, except IC 14-18-6 and IC 14-18-8.
14 (9) IC 14-19-1 and IC 14-19-8.
15 (10) IC 14-21.
16 (11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
17 (12) IC 14-23-1.

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- 1 **(13) IC 14-24.**
 2 ~~(13)~~ **(14)** IC 14-25, except IC 14-25-8-3 and IC 14-25-13.
 3 ~~(14)~~ **(15)** IC 14-26.
 4 ~~(15)~~ **(16)** IC 14-27.
 5 ~~(16)~~ **(17)** IC 14-28.
 6 ~~(17)~~ **(18)** IC 14-29.
 7 ~~(18)~~ **(19)** IC 14-35-1, IC 14-35-2, and IC 14-35-3.
 8 ~~(19)~~ **(20)** IC 14-37.
 9 ~~(20)~~ **(21)** IC 14-38, except IC 14-38-3.
 10 (b) A rule adopted under subsection (a) expires not later than one
 11 (1) year after the rule is accepted for filing by the publisher of the
 12 Indiana Register.
 13 SECTION 2. IC 14-19-1-2, AS AMENDED BY P.L.246-2005,
 14 SECTION 120, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2019]: Sec. 2. The department may do the
 16 following:
 17 (1) Make available to the public under rules adopted by the
 18 department public parks and other suitable places for recreation,
 19 conservation, and management of natural and cultural resources.
 20 The rules may include a procedure for the establishment of a
 21 schedule of admission fees and service charges adopted by the
 22 commission for the parks and other places of recreation.
 23 (2) Construct, rent, lease, license, or operate public service
 24 privileges and facilities in a state park. An agreement may not be
 25 made to rent, lease, or license a public service privilege or facility
 26 in a state park for longer than four (4) years, except as provided
 27 in section 3 of this chapter.
 28 (3) Acquire other suitable land or park property within Indiana
 29 that is entrusted, donated, or devised to Indiana by the United
 30 States or by a county, a city, a town, a private corporation, or an
 31 individual for the purpose of public recreation or for the
 32 preservation of natural beauty or natural features possessing
 33 historic value.
 34 **(4) Construct, rent, lease, license, or operate public service**
 35 **privileges and facilities for recreation in a state forest. An**
 36 **agreement may not be made to rent, lease, or license a public**
 37 **service privilege or facility in a state forest for longer than**
 38 **four (4) years.**
 39 SECTION 3. IC 14-22-2-10, AS ADDED BY P.L.195-2017,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2019]: Sec. 10. (a) Notwithstanding any law in this article, the
 42 commission may adjust a license and permit fee, including an



1 application fee, in an amount that is above the minimum fee
2 established under the following:

3 (1) Section 4 of this chapter (Licenses and permits written by the
4 director).

5 (2) IC 14-22-9-10 (Aquatic vegetation control).

6 (3) IC 14-22-13-1 (Commercial fishing).

7 (4) IC 14-22-13-2 (Commercial fishing on the Ohio River).

8 (5) IC 14-22-13-2.5 (Roe harvester or dealer).

9 (6) IC 14-22-14-9 (Commercial fishing on Lake Michigan).

10 (7) IC 14-22-14-10 (Commercial fishing on Lake Michigan).

11 (8) IC 14-22-15-2 (Fishing guide).

12 **(9) IC 14-22-15.5-3 (Hunting guide).**

13 ~~(9)~~ **(10)** IC 14-22-16-1 (Bait dealer).

14 ~~(10)~~ **(11)** IC 14-22-19-2 (Fur buyer).

15 ~~(11)~~ **(12)** IC 14-22-20-1 (Game breeder).

16 ~~(12)~~ **(13)** IC 14-22-21-2 (Taxidermist).

17 ~~(13)~~ **(14)** IC 14-22-22-2 (Scientific purposes).

18 ~~(14)~~ **(15)** IC 14-22-23-3 (Falconry).

19 ~~(15)~~ **(16)** IC 14-22-24-2 (Field trials).

20 ~~(16)~~ **(17)** IC 14-22-25-3 (Fish and wild animal importation).

21 ~~(17)~~ **(18)** IC 14-22-26-4 (Wild animal possession).

22 ~~(18)~~ **(19)** IC 14-22-27-2 (Fish stocking).

23 ~~(19)~~ **(20)** IC 14-22-31-2 (Private shooting preserve).

24 (b) Before adopting fees under this section, the commission shall
25 consider the amount that is reasonably necessary to generate revenue
26 sufficient to offset the costs incurred in carrying out the department's
27 responsibilities and operating any related programs.

28 (c) A fee that is submitted with an application for a license or permit
29 listed under subsection (a) is not refundable.

30 SECTION 4. IC 14-22-15.5 IS ADDED TO THE INDIANA CODE
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2019]:

33 **Chapter 15.5. Hunting Guide License**

34 **Sec. 1. (a) As used in this chapter, "hunting guide" refers to an**
35 **individual who holds a license under this chapter to provide**
36 **hunting guide services.**

37 **(b) As used in this chapter, "hunting guide license" means a**
38 **license issued under this chapter.**

39 **(c) As used in this chapter, "hunting guide services" means**
40 **hunting guide or outfitter services that are offered or provided for**
41 **money or other consideration. The term includes services by a**
42 **person who for money or other consideration:**



1 (1) offers or advertises to transport an individual for the
2 purpose of hunting; and

3 (2) transports an individual to a location for the purpose of
4 hunting.

5 The term includes services by a person who for money or other
6 consideration offers or advertises to assist, provide direction, or
7 provide advice to an individual for the purpose of hunting; or
8 assists, provides direction, or provides advice to an individual for
9 the purpose of hunting.

10 Sec. 2. (a) An individual may not provide hunting guide services
11 without a hunting guide license issued under this chapter.

12 (b) The director shall issue a hunting guide license to an
13 applicant upon the applicant's submission of an application that
14 includes all information required by the director and payment of
15 the fee described in section 3 of this chapter.

16 Sec. 3. Subject to IC 14-22-2-10, the minimum annual fee for a
17 hunting guide license for a resident or a nonresident is one hundred
18 dollars (\$100).

19 Sec. 4. A hunting guide license:

20 (1) is valid for one (1) year; and

21 (2) expires March 31 the following year on which the license
22 was issued.

23 Sec. 5. (a) A hunting guide shall keep an accurate record of the
24 following:

25 (1) Each day's harvest of game measured by county and
26 township.

27 (2) Other related information that the director requires by
28 rule.

29 (b) Before the fifteenth day of each month, a hunting guide shall
30 report the previous month's record required under subsection (a)
31 to the director on forms furnished by the director. A hunting guide
32 shall submit the report to the director even if no animals are
33 harvested.

34 Sec. 6. The director may:

35 (1) refuse under IC 4-21.5-3-5 to grant, renew, or restore; or

36 (2) suspend or revoke under IC 4-21.5-3-6;

37 a hunting guide license of an individual who fails to keep a record
38 or make a report required under section 5 of this chapter.

39 Sec. 7. An individual who acts as a hunting guide without a
40 hunting guide license in violation of section 2 of this chapter
41 commits a Class B infraction.

42 Sec. 8. An individual who:



- 1 **(1) fails to keep accurate records in violation of section 5(a) of**
- 2 **this chapter; or**
- 3 **(2) fails to report monthly to the director in violation of**
- 4 **section 5(b) of this chapter;**
- 5 **shall have the individual's hunting guide license suspended by the**
- 6 **director for one (1) year. The individual may reapply for a hunting**
- 7 **guide license at the discretion of the director.**

8 **Sec. 9. The director shall adopt rules under IC 4-22-2 to**
 9 **implement this chapter.**

10 SECTION 5. IC 14-23-1-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. The department shall
 12 do the following:

- 13 (1) Have the care, custody, and control of the forest land owned
- 14 by the state, exclusive of state parks.
- 15 (2) Adopt necessary rules to properly enforce this chapter.
- 16 (3) Establish, operate, and maintain nurseries for the production
- 17 of trees to be used in reforestation. The trees may be:
- 18 (A) used to reforest land owned by the state;
- 19 (B) supplied to owners of private land at a price not exceeding
- 20 cost of production; or
- 21 (C) used for planting on public roads or land under the terms
- 22 that are considered by the department to be for the public
- 23 benefit.
- 24 (4) Prepare, print, post, or distribute printed matter relating to
- 25 forestry.
- 26 (5) Make investigations or experiments with regard to forestry
- 27 questions.
- 28 (6) Subject to the approval of the governor, purchase land and
- 29 forests. For the purpose of acquiring land and forests, the
- 30 commission may exercise the right of eminent domain in the
- 31 manner provided in IC 14-17-3.
- 32 (7) Receive and accept, in the name of the people of Indiana, by
- 33 gift or devise, the fee or other estate in land or forests.
- 34 (8) Examine the forest land owned by the state or by a state
- 35 institution for the purpose of advising and cooperating in securing
- 36 proper forest management of the land.
- 37 (9) Employ, with approval of the authorities having control of the
- 38 state penal institutions, convicts committed to a penal institution
- 39 for the purpose of producing or planting trees, building roads, or
- 40 doing other work in the forests and in clearing, draining, or
- 41 developing land purchased or acquired by the state for forestry
- 42 purposes.



- 1 (10) Propagate trees and shrubs for state institutions or for
 2 planting along highways. A common carrier may transport trees
 3 or shrubs grown by the state at a rate less than the established
 4 tariff to and from points within Indiana.
 5 (11) Have the custody of all abstracts of title, papers, contracts, or
 6 related memoranda, except original deeds to the state, for land
 7 purchased or received under this section.
 8 (12) Examine private forest land:
 9 (A) upon request of; and
 10 (B) at the expense of;
 11 the owner for the purpose of advising the owner on the proper
 12 methods of forest management.
 13 **(13) Ensure that the following improvements are constructed**
 14 **or installed at the campgrounds located in the Ferdinand**
 15 **State Forest and the Morgan-Monroe State Forest:**
 16 (A) A code approved septic system.
 17 (B) A comfort station.
 18 (C) Running water.
 19 (D) Primitive camping cabins.
 20 (E) Other improvements considered appropriate by the
 21 department.
 22 SECTION 6. IC 14-28-1-24.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2019]: **Sec. 24.5. (a) As used in this section,**
 25 **"qualified entity or authority" means any of the following:**
 26 (1) IC 14-33-1 (conservancy districts).
 27 (2) IC 14-33-19 (levee districts and associations).
 28 (3) IC 14-27-4 (levee associations).
 29 (4) IC 14-27-6 (levee authority in Vanderburgh County).
 30 (5) IC 14-28-1-29 (flood control projects).
 31 (6) IC 14-30 (river basin commissions).
 32 (7) A court.
 33 (8) Any prior law that allowed for the construction or
 34 maintenance of a levee or earthen berm.
 35 (b) A person may not begin the reconstruction of an earthen
 36 berm or levee that is located in a floodway unless the person has
 37 obtained a permit under this section or demonstrated to the
 38 department through the submission of plans and specifications that
 39 the earthen berm or levee meets the requirements set out in
 40 subsection (c), is located in a rural area, and was constructed:
 41 (1) before January 1, 1973, with or without a permit issued
 42 under section 22 of this chapter; or



- 1 (2) after January 1, 1973, with a permit issued under section
2 22 of this chapter.
- 3 (c) An earthen berm or levee described in subsection (b) must be
4 reconstructed:
- 5 (1) to not more than its existing or predamaged height, or
6 design height if the earthen berm or levee was previously
7 permitted under section 22 of this chapter;
- 8 (2) to not more than its existing or predamaged top width and
9 side slopes, or design top width and side slopes if the earthen
10 berm or levee was previously permitted under section 22 of
11 this chapter;
- 12 (3) along the same alignment and footprint of the existing or
13 predamaged levee, or design alignment and footprint if the
14 earthen berm or levee was previously permitted under section
15 22 of this chapter; and
- 16 (4) with similar materials as the existing or pre-damaged
17 levee, or design materials and specifications if the earthen
18 berm or levee was previously permitted under section 22 of
19 this chapter;
- 20 and within six (6) months after project completion the person
21 provides documentation from a land surveyor or professional
22 engineer licensed in Indiana that the earthen berm or levee has
23 been reconstructed in accordance to the plans submitted to the
24 department under this section.
- 25 (d) A person who desires to reconstruct an earthen berm or
26 levee that does not meet the requirements under subsection (c)
27 must file with the director a verified written application for a
28 permit accompanied by a nonrefundable minimum fee of two
29 hundred dollars (\$200). An application submitted under this
30 section must do the following:
- 31 (1) Set forth the material facts concerning the proposed
32 reconstruction.
- 33 (2) Include the plans and specifications for the reconstruction.
- 34 (e) The director shall issue a permit only if in the opinion of the
35 director the applicant has clearly proven that the reconstruction of
36 the earthen berm or levee will not do any of the following:
- 37 (1) Adversely affect the efficiency of or unduly restrict the
38 capacity of the floodway.
- 39 (2) Constitute an unreasonable hazard to the safety of life or
40 property.
- 41 (3) Result in unreasonably detrimental effects upon fish,
42 wildlife, or botanical resources.



1 (f) In deciding whether to issue a permit under this section, the
2 director shall consider the cumulative effects of the proposed
3 reconstruction of an earthen berm or levee.

4 (g) The director may incorporate in and make a part of an order
5 of authorization conditions and restrictions that the director
6 considers necessary for the purposes of this chapter.

7 (h) The department shall not require or recommend as a
8 condition for a permit for a project for the reconstruction of an
9 earthen berm or levee that was originally constructed under a
10 qualified entity or authority mitigation for any trees or woody
11 vegetation removed from the top, side slopes or within ten (10) feet
12 of the toe of the existing earthen berm or levee if constructed
13 before January 1, 1973, or top, side slope, or toe of the design
14 footprint of the earthen berm or levee if previously permitted
15 under section 22 of this chapter.

16 (i) If site conditions have deteriorated to the point that the
17 existing earthen berm or levee described in subsection (h) should
18 be abandoned and reconstructed in another location within the
19 floodway, the footprint, including areas within ten (10) feet of the
20 toe, of the abandoned earthen berm or levee, shall be credited to
21 any mitigation required for a new earthen berm or levee alignment
22 within the floodway.

23 (j) A permit issued under this section is valid for two (2) years
24 after the date of issuance of the permit.

25 (k) A permit issued under this section may be renewed for one
26 (1) additional two (2) year period.

27 (l) The person to whom a permit is issued under this section
28 shall post and maintain the permit at the site of the reconstruction
29 authorized by the permit.

30 (m) A person who knowingly:

31 (1) begins the reconstruction of an earthen berm or levee in
32 violation of subsection (b), (c), or (d);

33 (2) violates a condition or restriction of a permit issued under
34 this section; or

35 (3) fails to post and maintain a permit at a reconstruction site
36 in violation of subsection (l);

37 commits a Class B infraction. Each day that the person is in
38 violation of subsection (b), (c), (d), or (l) constitutes a separate
39 infraction.



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 363, 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 24, delete "who recklessly, knowingly, or" and insert **"who:"**.

Page 3, delete line 25.

Page 3, line 30, delete "commits a Class C misdemeanor." and insert **"shall have the individual's hunting guide license suspended by the director for one (1) year. The individual may reapply for a hunting guide license at the discretion of the director."**

Page 3, delete lines 33 through 36.

and when so amended that said bill do pass.

(Reference is to SB 363 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 7, Nays 1.

 SENATE MOTION

Madam President: I move that Senate Bill 363 be amended to read as follows:

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

"SECTION 1. IC 14-10-2-5, AS AMENDED BY P.L.195-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

- (1) IC 14-9.
- (2) This article.
- (3) IC 14-11.
- (4) IC 14-12-2.
- (5) IC 14-14.
- (6) IC 14-15.
- (7) IC 14-17-3.

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(8) IC 14-18, except IC 14-18-6 and IC 14-18-8.

(9) IC 14-19-1 and IC 14-19-8.

(10) IC 14-21.

(11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.

(12) IC 14-23-1.

(13) IC 14-24.

~~(13)~~ **(14)** IC 14-25, except IC 14-25-8-3 and IC 14-25-13.

~~(14)~~ **(15)** IC 14-26.

~~(15)~~ **(16)** IC 14-27.

~~(16)~~ **(17)** IC 14-28.

~~(17)~~ **(18)** IC 14-29.

~~(18)~~ **(19)** IC 14-35-1, IC 14-35-2, and IC 14-35-3.

~~(19)~~ **(20)** IC 14-37.

~~(20)~~ **(21)** IC 14-38, except IC 14-38-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the publisher of the Indiana Register."

Renumber all SECTIONS consecutively.

(Reference is to SB 363 as printed February 13, 2019.)

RAATZ

SENATE MOTION

Madam President: I move that Senate Bill 363 be amended to read as follows:

Page 2, between lines 33 and 34, begin a new line blocked left and insert:

"The term includes services by a person who for money or other consideration offers or advertises to assist, provide direction, or provide advice to an individual for the purpose of hunting; or assists, provides direction, or provides advice to an individual for the purpose of hunting."

(Reference is to SB 363 as printed February 13, 2019.)

RAATZ



COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 363, 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 2, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 2. IC 14-19-1-2, AS AMENDED BY P.L.246-2005, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The department may do the following:

- (1) Make available to the public under rules adopted by the department public parks and other suitable places for recreation, conservation, and management of natural and cultural resources. The rules may include a procedure for the establishment of a schedule of admission fees and service charges adopted by the commission for the parks and other places of recreation.
- (2) Construct, rent, lease, license, or operate public service privileges and facilities in a state park. An agreement may not be made to rent, lease, or license a public service privilege or facility in a state park for longer than four (4) years, except as provided in section 3 of this chapter.
- (3) Acquire other suitable land or park property within Indiana that is entrusted, donated, or devised to Indiana by the United States or by a county, a city, a town, a private corporation, or an individual for the purpose of public recreation or for the preservation of natural beauty or natural features possessing historic value.
- (4) Construct, rent, lease, license, or operate public service privileges and facilities for recreation in a state forest. An agreement may not be made to rent, lease, or license a public service privilege or facility in a state forest for longer than four (4) years."**

Page 4, after line 25, begin a new paragraph and insert:

"SECTION 4. IC 14-23-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. The department shall do the following:

- (1) Have the care, custody, and control of the forest land owned by the state, exclusive of state parks.
- (2) Adopt necessary rules to properly enforce this chapter.
- (3) Establish, operate, and maintain nurseries for the production of trees to be used in reforestation. The trees may be:



- (A) used to reforest land owned by the state;
 - (B) supplied to owners of private land at a price not exceeding cost of production; or
 - (C) used for planting on public roads or land under the terms that are considered by the department to be for the public benefit.
- (4) Prepare, print, post, or distribute printed matter relating to forestry.
- (5) Make investigations or experiments with regard to forestry questions.
- (6) Subject to the approval of the governor, purchase land and forests. For the purpose of acquiring land and forests, the commission may exercise the right of eminent domain in the manner provided in IC 14-17-3.
- (7) Receive and accept, in the name of the people of Indiana, by gift or devise, the fee or other estate in land or forests.
- (8) Examine the forest land owned by the state or by a state institution for the purpose of advising and cooperating in securing proper forest management of the land.
- (9) Employ, with approval of the authorities having control of the state penal institutions, convicts committed to a penal institution for the purpose of producing or planting trees, building roads, or doing other work in the forests and in clearing, draining, or developing land purchased or acquired by the state for forestry purposes.
- (10) Propagate trees and shrubs for state institutions or for planting along highways. A common carrier may transport trees or shrubs grown by the state at a rate less than the established tariff to and from points within Indiana.
- (11) Have the custody of all abstracts of title, papers, contracts, or related memoranda, except original deeds to the state, for land purchased or received under this section.
- (12) Examine private forest land:
- (A) upon request of; and
 - (B) at the expense of;
- the owner for the purpose of advising the owner on the proper methods of forest management.
- (13) Ensure that the following improvements are constructed or installed at the campgrounds located in the Ferdinand State Forest and the Morgan-Monroe State Forest:**
- (A) A code approved septic system.**
 - (B) A comfort station.**



- (C) Running water.
- (D) Primitive camping cabins.
- (E) Other improvements considered appropriate by the department.

SECTION 5. IC 14-28-1-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 24.5. (a) As used in this section, "qualified entity or authority" means any of the following:**

- (1) IC 14-33-1 (conservancy districts).
- (2) IC 14-33-19 (levee districts and associations).
- (3) IC 14-27-4 (levee associations).
- (4) IC 14-27-6 (levee authority in Vanderburgh County).
- (5) IC 14-28-1-29 (flood control projects).
- (6) IC 14-30 (river basin commissions).
- (7) A court.
- (8) Any prior law that allowed for the construction or maintenance of a levee or earthen berm.

(b) A person may not begin the reconstruction of an earthen berm or levee that is located in a floodway unless the person has obtained a permit under this section or demonstrated to the department through the submission of plans and specifications that the earthen berm or levee meets the requirements set out in subsection (c), is located in a rural area, and was constructed:

- (1) before January 1, 1973, with or without a permit issued under section 22 of this chapter; or
- (2) after January 1, 1973, with a permit issued under section 22 of this chapter.

(c) An earthen berm or levee described in subsection (b) must be reconstructed:

- (1) to not more than its existing or predamaged height, or design height if the earthen berm or levee was previously permitted under section 22 of this chapter;
- (2) to not more than its existing or predamaged top width and side slopes, or design top width and side slopes if the earthen berm or levee was previously permitted under section 22 of this chapter;
- (3) along the same alignment and footprint of the existing or predamaged levee, or design alignment and footprint if the earthen berm or levee was previously permitted under section 22 of this chapter; and
- (4) with similar materials as the existing or pre-damaged levee, or design materials and specifications if the earthen



berm or levee was previously permitted under section 22 of this chapter;
and within six (6) months after project completion the person provides documentation from a land surveyor or professional engineer licensed in Indiana that the earthen berm or levee has been reconstructed in accordance to the plans submitted to the department under this section.

(d) A person who desires to reconstruct an earthen berm or levee that does not meet the requirements under subsection (c) must file with the director a verified written application for a permit accompanied by a nonrefundable minimum fee of two hundred dollars (\$200). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed reconstruction.

(2) Include the plans and specifications for the reconstruction.

(e) The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the reconstruction of the earthen berm or levee will not do any of the following:

(1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the proposed reconstruction of an earthen berm or levee.

(g) The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.

(h) The department shall not require or recommend as a condition for a permit for a project for the reconstruction of an earthen berm or levee that was originally constructed under a qualified entity or authority mitigation for any trees or woody vegetation removed from the top, side slopes or within ten (10) feet of the toe of the existing earthen berm or levee if constructed before January 1, 1973, or top, side slope, or toe of the design footprint of the earthen berm or levee if previously permitted under section 22 of this chapter.

(i) If site conditions have deteriorated to the point that the existing earthen berm or levee described in subsection (h) should



be abandoned and reconstructed in another location within the floodway, the footprint, including areas within ten (10) feet of the toe, of the abandoned earthen berm or levee, shall be credited to any mitigation required for a new earthen berm or levee alignment within the floodway.

(j) A permit issued under this section is valid for two (2) years after the date of issuance of the permit.

(k) A permit issued under this section may be renewed for one (1) additional two (2) year period.

(l) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(m) A person who knowingly:

(1) begins the reconstruction of an earthen berm or levee in violation of subsection (b), (c), or (d);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (l);

commits a Class B infraction. Each day that the person is in violation of subsection (b), (c), (d), or (l) constitutes a separate infraction."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 363 as reprinted February 20, 2019.)

EBERHART

Committee Vote: yeas 12, nays 0.

