



March 24, 2017

ENGROSSED SENATE BILL No. 421

DIGEST OF SB 421 (Updated March 23, 2017 12:43 pm - DI 84)

Citations Affected: IC 13-11; IC 13-18; noncode.

Synopsis: Above ground storage tanks. Repeals the law requiring owners of certain above ground storage tanks to register their tanks with the department of environmental management. Authorizes the person responsible for the operation of a public water system to gather information from potential sources of contamination for the purpose of developing or updating the public water system's threat minimization and response plan. Provides that, depending on the circumstances, the information gathered from potential sources of contamination may be excepted from inspection and copying under the public records law. Urges the legislative council to assign to the interim study committee on environmental affairs for study during the 2017 interim the topic of public water supply protection, including: (1) the potential creation of a central repository for all information about above ground storage tanks that is reported to various agencies; (2) resources available to the operators of public water systems for developing and maintaining emergency plans for responding to threats to the drinking water supply; and (3) whether the information available to emergency responders and environmental regulators concerning above ground storage tanks is sufficient to ensure the protection of public water supplies.

Effective: Upon passage; July 1, 2017.

**Bassler, Charbonneau, Tallian,
Randolph Lonnie M**
(HOUSE SPONSOR — WOLKINS)

January 10, 2017, read first time and referred to Committee on Environmental Affairs.
February 7, 2017, reported favorably — Do Pass.
February 13, 2017, read second time, amended, ordered engrossed.
February 14, 2017, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Environmental Affairs.
March 23, 2017, reported — Do Pass.

ES 421—LS 7300/DI 55



March 24, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 421

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 13-11-2-0.6 IS REPEALED [EFFECTIVE JULY
2 1, 2017]. Sec. 0:6. "Above ground storage tank", for purposes of
3 IC 13-18-5.5; has the meaning set forth in IC 13-18-5.5-1.
4 SECTION 2. IC 13-11-2-2.3 IS REPEALED [EFFECTIVE JULY
5 1, 2017]. Sec. 2:3. "Agribusiness", for purposes of IC 13-18-5.5; has
6 the meaning set forth in IC 13-18-5.5-2.
7 SECTION 3. IC 13-11-2-48.3 IS REPEALED [EFFECTIVE JULY
8 1, 2017]. Sec. 48:3. "Critical zone of concern", for purposes of
9 IC 13-18-5.5; has the meaning set forth in IC 13-18-5.5-3.
10 SECTION 4. IC 13-11-2-55, AS AMENDED BY P.L.112-2015,
11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2017]: Sec. 55. "Discharge", for purposes of IC 13-24-2, and
13 ~~IC 13-18-5.5~~, means any emission or spill, other than natural seepage,
14 that is intentional or unintentional. The term includes any of the
15 following:
16 (1) Spilling.
17 (2) Leaking.

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- 1 (3) Pumping.
 2 (4) Pouring.
 3 (5) Emitting.
 4 (6) Emptying.
 5 (7) Dumping.

6 SECTION 5. IC 13-11-2-57.7 IS REPEALED [EFFECTIVE JULY
 7 1, 2017]. ~~Sec. 57.7: "Disruption", for purposes of IC 13-18-5.5, has the~~
 8 ~~meaning set forth in IC 13-18-5.5-5.~~

9 SECTION 6. IC 13-11-2-96, AS AMENDED BY P.L.112-2015,
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2017]: Sec. 96. (a) "Hazardous material", for purposes of
 12 IC 13-18-5, means any of the following:

- 13 (1) A hazardous chemical (as defined in 42 U.S.C. 11021(e), as
 14 in effect on January 1, 1990).
 15 (2) A hazardous waste.
 16 (3) A hazardous substance (as defined in 42 U.S.C. 9601(14), as
 17 in effect on January 1, 1990).
 18 (4) A substance that is on the list of extremely hazardous
 19 substances published by the Administrator of the United States
 20 Environmental Protection Agency under 42 U.S.C. 11002(a)(2).
 21 (5) A material that is identified by the board as potentially
 22 harmful to surface water or groundwater if accidentally released
 23 from a storage or handling facility.

24 ~~(b) "Hazardous material", for purposes of IC 13-18-5.5, has the~~
 25 ~~meaning set forth in IC 13-18-5.5-6.~~

26 ~~(c)~~ **(b)** "Hazardous material", for purposes of IC 13-25-6, means a
 27 material or waste that has been determined to be hazardous or
 28 potentially hazardous to human health, to property, or to the
 29 environment by:

- 30 (1) the United States:
 31 (A) Environmental Protection Agency;
 32 (B) Nuclear Regulatory Commission;
 33 (C) Department of Transportation; or
 34 (D) Occupational Safety and Health Administration; or
 35 (2) the board.

36 The term includes all of the hazardous materials identified in 49 CFR
 37 172.101.

38 SECTION 7. IC 13-11-2-119.5 IS REPEALED [EFFECTIVE JULY
 39 1, 2017]. ~~Sec. 119.5: "Liquid", for purposes of IC 13-18-5.5, has the~~
 40 ~~meaning set forth in IC 13-18-5.5-7.~~

41 SECTION 8. IC 13-11-2-177.3, AS AMENDED BY P.L.112-2015,
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2017]: Sec. 177.3. "Public water system", for purposes of this
 2 chapter, ~~IC 13-18-5.5~~, IC 13-18-11, IC 13-18-16, IC 13-18-20.5,
 3 IC 13-18-21, and other environmental management laws, has the
 4 meaning set forth in 42 U.S.C. 300f.

5 SECTION 9. IC 13-18-5.5 IS REPEALED [EFFECTIVE JULY 1,
 6 2017]. (Reporting of Above Ground Storage Tanks).

7 SECTION 10. IC 13-18-16-7.5, AS ADDED BY P.L.112-2015,
 8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2017]: Sec. 7.5. (a) For purposes of this section, "responsible
 10 person" means the person responsible for the operation of a public
 11 water system that uses surface water as a source of drinking water.

12 (b) A responsible person shall do the following or ensure that the
 13 following are done:

14 (1) Develop, maintain, and update a surface water quality threat
 15 minimization and response plan for the public water system for
 16 which the person is responsible. A plan developed under this
 17 subdivision must include the following:

18 (A) An identification of critical drinking water intake
 19 facilities, including specific locations of wells, intake
 20 structures, and critical drinking water distribution
 21 infrastructure.

22 (B) An identification of potential threats to raw water quality.

23 (C) An assessment of the risks posed by potential threats
 24 identified in clause (B).

25 (D) A communication, education, and risk minimization plan.

26 (E) An incident response plan.

27 A plan described in this subdivision, as well as its component
 28 parts, is confidential under IC 5-14-3-4(b)(19).

29 (2) With respect to a plan described in subdivision (1):

30 (A) Submit the plan to the department when the plan is
 31 developed.

32 (B) Submit an updated plan to the department every five (5)
 33 years thereafter.

34 **(c) A responsible person may gather information from potential**
 35 **sources of contamination for the purpose of developing or updating**
 36 **a surface water quality threat minimization and response plan**
 37 **required by subsection (b)(1). The information gathered under this**
 38 **subsection may be exempted from inspection and copying under**
 39 **IC 5-14-3-4(a)(1), IC 5-14-3-4(a)(4), IC 5-14-3-4(a)(8), and**
 40 **IC 5-14-3-4(b)(19), depending on the circumstances pertaining to**
 41 **the information.**

42 SECTION 11. IC 13-18-16-8, AS AMENDED BY P.L.112-2015,



1 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2017]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
3 and IC 13-14-9 establishing requirements for public water systems,
4 including the following:

5 (1) The requirement to obtain a permit for the construction,
6 installation, or modification of facilities, equipment, or devices
7 for any public water system.

8 (2) The requirement to obtain a permit for the operation of
9 sources, facilities, equipment, or devices for any public water
10 system.

11 ~~(3) Requirements for the development of surface water quality~~
12 ~~threat minimization and response plans under section 7.5 of this~~
13 ~~chapter.~~

14 (b) The board shall adopt a permit by rule for water main extensions
15 (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in
16 section 1(a) of this chapter.

17 **(c) The board may adopt rules under IC 4-22-2 and IC 13-14-9**
18 **establishing requirements for the development of surface water**
19 **quality threat minimization and response plans under section 7.5**
20 **of this chapter.**

21 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
22 **SECTION, "committee" refers to the interim study committee on**
23 **environmental affairs established by IC 2-5-1.3-4(9).**

24 (b) **As used in this SECTION, "emergency response**
25 **commission" refers to the Indiana emergency response commission**
26 **established by IC 13-25-1-1.**

27 (c) **As used in this SECTION, "interim" has the meaning set**
28 **forth in IC 2-5-1.3-1.**

29 (d) **As used in this SECTION, "legislative council" refers to the**
30 **legislative council created by IC 2-5-1.1-1.**

31 (e) **As used in this SECTION, "local emergency planning**
32 **committee" refers to a committee established under Title III of the**
33 **federal Superfund Amendments and Reauthorization Act of 1986**
34 **(42 U.S.C. 11001 et seq.) for a local emergency planning district.**

35 (f) **As used in this SECTION, "public water system" has the**
36 **meaning set forth in IC 13-11-2-177.3.**

37 (g) **The legislative council is urged to assign to the committee for**
38 **study during the 2017 interim the topic of public water supply**
39 **protection, including:**

40 (1) **the potential creation of a central repository for all**
41 **information about above ground storage tanks that is**
42 **reported to various agencies by the owners and operators of**



1 the above ground storage tanks;

2 (2) the potential ability of the operators of public water
3 systems to access the central repository described in
4 subdivision (1) to aid in planning and threat assessment;

5 (3) resources available to the operators of public water
6 systems for developing and maintaining emergency plans for
7 responding to threats to the drinking water supply, including
8 the role that:

9 (A) the emergency response commission; and

10 (B) local emergency planning committees;

11 may play in assisting the operators of public water systems
12 with information gathering, incident response planning, and
13 public education and outreach; and

14 (4) in view of:

15 (A) the nature and extent of the legal requirements
16 applying to above ground storage tanks under the various
17 state and federal laws and regulations serving as the basis
18 for above ground storage tanks to be exempted from
19 reporting requirements under IC 13-18-5.5-11, as added by
20 P.L.112-2015, SEC.10; and

21 (B) the exemptions from planning and disclosure
22 requirements applying to above ground storage tanks
23 under IC 13-18-5-2 and other state and federal laws;

24 whether the information available to emergency responders
25 and environmental regulators concerning the location,
26 capacity, and contents of above ground storage tanks is
27 sufficient to ensure the protection of public water supplies.

28 (h) If the topic set forth in subsection (g) is assigned to the
29 committee, the committee shall issue a final report to the legislative
30 council containing the committee's findings and recommendations
31 in an electronic format under IC 5-14-6 not later than November
32 1, 2017.

33 (i) This SECTION expires December 31, 2017.

34 SECTION 13. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 421, 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 421 as introduced.)

ECKERTY, Chairperson

Committee Vote: Yeas 8, Nays 0

 SENATE MOTION

Madam President: I move that Senate Bill 421 be amended to read as follows:

Page 5, line 4, after "assessment;" delete "and".

Page 5, line 13, delete "outreach." and insert "**outreach; and**

(4) in view of:

(A) the nature and extent of the legal requirements applying to above ground storage tanks under the various state and federal laws and regulations serving as the basis for above ground storage tanks to be exempted from reporting requirements under IC 13-18-5.5-11, as added by P.L.112-2015, SEC.10; and

(B) the exemptions from planning and disclosure requirements applying to above ground storage tanks under IC 13-18-5-2 and other state and federal laws; whether the information available to emergency responders and environmental regulators concerning the location, capacity, and contents of above ground storage tanks is sufficient to ensure the protection of public water supplies."

(Reference is to SB 421 as printed February 8, 2017.)

TALLIAN



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 421, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 421 as reprinted February 14, 2017.)

WOLKINS

Committee Vote: Yeas 8, Nays 0

