



Reprinted
February 22, 2019

SENATE BILL No. 553

DIGEST OF SB 553 (Updated February 21, 2019 4:01 pm - DI 55)

Citations Affected: IC 14-8; IC 14-26.

Synopsis: Right to use Lake Michigan shore for recreation. Defines "Lake Michigan shore" as the land along the edge of Lake Michigan between the water's edge and the ordinary high water mark. Provides that the Lake Michigan shore is held in trust by the state of Indiana for the use of the public. Provides that the department of natural resources (department) has: (1) jurisdiction over the Lake Michigan shore; and (2) the duty to protect the public's exercise of vested public rights in the Lake Michigan shore. Provides that the construction of structures that may extend onto the Lake Michigan shore is subject to regulation and permitting by the department. Provides that the public of Indiana has a vested right to use the Lake Michigan shore for certain recreational activities. Provides that the public of Indiana does not have a right to use the Lake Michigan shore to engage in an activity that: (1) constitutes a public nuisance; or (2) interferes with the exercise by other members of the public of their right to engage in the recreational activities that the public has a right to engage in. Authorizes the department to delegate concurrent authority to a unit of local government to regulate and enforce the right of the public to use the Lake Michigan shore for recreational activities.

Effective: July 1, 2019.

**Tallian, Doriot, Randolph Lonnie M,
Melton**

January 14, 2019, read first time and referred to Committee on Natural Resources.
February 12, 2019, amended, reported favorably — Do Pass.
February 21, 2019, read second time, amended, ordered engrossed.

SB 553—LS 7455/DI 55



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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.

SENATE BILL No. 553

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

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

1 SECTION 1. IC 14-8-2-138 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 138. (a) "Lake
3 Michigan", for purposes of IC 14-22-14, has the meaning set forth in
4 IC 14-22-14-4.

5 (b) "Lake Michigan", for purposes of IC 14-26-9, has the
6 meaning set forth in IC 14-26-9-2.

7 SECTION 2. IC 14-8-2-138.2 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2019]: **Sec. 138.2. "Lake Michigan shore",**
10 **for purposes of IC 14-26-9, has the meaning set forth in**
11 **IC 14-26-9-3.**

12 SECTION 3. IC 14-8-2-190.9 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2019]: **Sec. 190.9. "Ordinary high water**
15 **mark", for purposes of IC 14-26-9, has the meaning set forth in**
16 **IC 14-26-9-4.**

17 SECTION 4. IC 14-8-2-259.3 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2019]: **Sec. 259.3. "Small nonmotorized**
 3 **watercraft", for purposes of IC 14-26-9, has the meaning set forth**
 4 **in IC 14-26-9-5.**

5 SECTION 5. IC 14-26-9 IS ADDED TO THE INDIANA CODE AS
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2019]:

8 **Chapter 9. Public Recreational Rights in the Lake Michigan**
 9 **Shore**

10 **Sec. 1. This chapter does not apply to:**

- 11 (1) commercial or industrial facilities that exist pursuant to a
 12 patent and fill permit issued under IC 14-18-6-5; or
 13 (2) the Port of Indiana at Burns Harbor.

14 **Sec. 2. As used in this chapter, "Lake Michigan" refers to the**
 15 **waters of Lake Michigan that are within Indiana.**

16 **Sec. 3. As used in this chapter, "Lake Michigan shore" means**
 17 **the land along the edge of Lake Michigan between:**

- 18 (1) the waters of Lake Michigan; and
 19 (2) the ordinary high water mark.

20 **Sec. 4. (a) As used in this chapter, "ordinary high water mark"**
 21 **means the natural line on the shore of Lake Michigan that is**
 22 **established by the fluctuations of water and indicated by a**
 23 **combination of the following physical characteristics:**

- 24 (1) A clear and natural line impressed on the shore.
 25 (2) Shelving.
 26 (3) Changes in the character of the soil.
 27 (4) Termination of terrestrial vegetation.
 28 (5) The presence of litter or debris.

29 (b) Where, at a particular site, due to natural conditions or
 30 manmade alterations, the physical characteristics set forth in
 31 subsection (a)(1) through (a)(5) or a sufficient combination of those
 32 characteristics cannot be determined, the location of the ordinary
 33 high water mark may be extrapolated from the location of the
 34 physical characteristics on unaltered neighboring or reasonably
 35 nearby shore.

36 (c) If the physical characteristics set forth in subsection (a)(1)
 37 through (a)(5) cannot be determined on a particular site and also
 38 cannot be determined on any unaltered neighboring or reasonably
 39 nearby shore, the department may determine that the ordinary
 40 high water mark is one (1) of the following:

- 41 (1) The line on the shore of Lake Michigan that is five
 42 hundred eighty-one and five-tenths (581.5) feet above sea



- 1 level.
- 2 (2) If the commission or the United States Army Corps of
- 3 Engineers determines that the ordinary high water mark is a
- 4 line on the shore of Lake Michigan at an elevation above sea
- 5 level different from the line described in subdivision (1), the
- 6 line on the shore of Lake Michigan at the elevation
- 7 determined by the commission or the United States Army
- 8 Corps of Engineers.
- 9 Sec. 5. (a) As used in this chapter, "small nonmotorized
- 10 watercraft" means a boat or other device that:
- 11 (1) may be used for recreation;
- 12 (2) does not have a motor; and
- 13 (3) is not placed in the waters of Lake Michigan with the use
- 14 of a trailer attached to a motor vehicle.
- 15 (b) The term includes the following:
- 16 (1) A canoe.
- 17 (2) A kayak.
- 18 (3) A stand-up paddle board.
- 19 (4) A rowboat.
- 20 (5) A surf board.
- 21 (6) Any other, similar watercraft.
- 22 Sec. 6. Notwithstanding any provision of this chapter, the
- 23 construction of structures such as piers, seawalls, revetments,
- 24 ramps, walkways, marina or port facilities, any part of which may
- 25 extend onto the Lake Michigan shore, is subject to regulation and
- 26 permitting by the department.
- 27 Sec. 7. The Lake Michigan shore is held in trust by the state of
- 28 Indiana for the use of the public. The department has:
- 29 (1) jurisdiction over the Lake Michigan shore; and
- 30 (2) the duty to protect the public's exercise of vested public
- 31 rights in the Lake Michigan shore below the ordinary high
- 32 water mark.
- 33 Sec. 8. (a) The public of Indiana has a vested right to use the
- 34 Lake Michigan shore for recreational activities, including the
- 35 following:
- 36 (1) Fishing and shore activities associated with fishing.
- 37 (2) Boating, swimming, wading, and other water sports and
- 38 shore activities associated with those water sports.
- 39 (3) Walking, running, and other nonmotorized travel.
- 40 (4) Sitting, reclining, picnicking, sunbathing, and similar
- 41 activities.
- 42 (5) Birdwatching or other observation of nature and other



1 associated shore activities.
2 (6) Launching, landing, and temporarily resting small
3 nonmotorized watercraft and associated shore activities.
4 (7) Throwing and catching a ball or disk, playing volleyball or
5 a similar game, and associated shore activities.
6 (8) Any other temporary recreational beach activity.
7 (b) The public of Indiana does not have a vested right to engage
8 in any activity that:
9 (1) constitutes a public nuisance; or
10 (2) interferes with the exercise by other members of the public
11 of the right to engage in the recreational activities set forth in
12 subsection (a).
13 Sec. 9. Pursuant to a memorandum of understanding or other
14 written contract with an Indiana unit of local government
15 bordering the Lake Michigan shore, the department may delegate
16 to the unit of local government concurrent authority to regulate
17 and enforce the reasonable time, place, and manner of the exercise
18 by the public of the right to use the Lake Michigan shore for
19 recreational activities, as set forth in section 8(a) of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 553, 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 38, delete "As used".

Page 3, delete lines 39 through 40.

and when so amended that said bill do pass.

(Reference is to SB 553 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 5, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 553 be amended to read as follows:

Page 2, line 39, after "determine" insert "**that**".

Page 2, line 40, delete "location by reference to a fixed elevation." and insert "**is one (1) of the following:**

(1) The line on the shore of Lake Michigan that is five hundred eighty-one and five-tenths (581.5) feet above sea level.

(2) If the commission or the United States Army Corps of Engineers determines that the ordinary high water mark is a line on the shore of Lake Michigan at an elevation above sea level different from the line described in subdivision (1), the line on the shore of Lake Michigan at the elevation determined by the commission or the United States Army Corps of Engineers."

(Reference is to SB 553 as printed February 13, 2019.)

TALLIAN

