
ENGROSSED SENATE BILL No. 177

DIGEST OF SB 177 (Updated February 20, 1998 6:03 pm - DI 69)

Citations Affected: IC ; IC 14-22.

Synopsis: Natural resources matters. Prohibits a person from shooting with any kind of firearm from that part of a river that lies between: (1) the corporate boundaries of Mishawaka; and (2) the county line between St. Joseph County and Elkhart County. Amends the general recreational user statute (which provides that a person who goes through the premises of another for a recreational purpose does not have an assurance that the premises are safe for that purpose) to create separate provisions applying exclusively to an individual who enters a premises for the purpose of hunting, fishing, trapping, or preparing to hunt, fish, or trap. Makes the separate provisions for hunting, fishing, and trapping substantively identical to the general recreational user statute with the exception of not providing that the special provisions are not intended to affect existing Indiana case law on the liability of a land owner with respect to invited guests. Creates an exception to the
(Continued next page)

Effective: July 1, 1998.

Wheeler, Lewis, Skillman

(HOUSE SPONSORS — LYTLE, HOFFMAN, MANGUS)

January 6, 1998, read first time and referred to Committee on Natural Resources.
January 13, 1998, reported favorably — Do Pass.
January 20, 1998, read second time, ordered engrossed. Engrossed.
January 27, 1998, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

January 29, 1998, read first time and referred to Committee on Natural Resources.
February 16, 1998, amended, reported — Do Pass.
February 20, 1998, read second time, amended, ordered engrossed.

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hunting license requirement for an individual who is less than 13 years of age, does not possess a bow or firearm, and is accompanying an adult who holds a valid hunting license. (The introduced version of this bill was prepared for the natural resources study commission.)

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Reprinted
February 23, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED SENATE BILL No. 177

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 14-8-2-117.3, AS ADDED BY P.L.178-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 117.3. "Governmental entity", for the purposes of
4 IC 14-22-10-2 and IC 14-22-10-2.5, has the meaning set forth in IC
5 14-22-10-2(a).
6 SECTION 2. IC 14-9-8-28, AS ADDED BY P.L.2-1996, SECTION
7 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 1998]: Sec. 28. (a) The natural resources commission shall
9 categorize salaries of enforcement officers within each rank based upon
10 the rank held and the number of years of service in the department
11 through the tenth year. The salary ranges that the commission assigns
12 to each rank shall be divided into a base salary and ten (10) increments
13 above the base salary with:
14 (1) the base salary in the rank paid to a person with less than one
15 (1) year of service in the department; and

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- 1 (2) the highest salary in the rank paid to a person with at least ten
- 2 (10) years of service in the department.
- 3 (b) For purposes of creating the salary matrix prescribed by this
- 4 section, the natural resources commission may not approve salary
- 5 ranges for any rank that are less than the salary ranges effective for that
- 6 rank on January 1, 1995.
- 7 (c) The salary matrix prescribed by this section shall be reviewed
- 8 and approved by the state budget agency before implementation.
- 9 (d) The money needed to fund the salaries resulting from the matrix
- 10 prescribed by this section shall come from the appropriation from the
- 11 professional and technical equity fund.
- 12 SECTION 3. IC 14-22-10-1, AS ADDED BY P.L.1-1995,
- 13 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 1998]: Sec. 1. (a) A person may not:
- 15 (1) fish, hunt, trap, or chase; or
- 16 (2) shoot with any kind of firearm;
- 17 upon privately owned land without having the consent of the owner or
- 18 tenant of the land.
- 19 (b) **A person may not shoot with any kind of firearm from that**
- 20 **part of a river that lies between:**
- 21 (1) **the corporate boundaries of a city having a population of**
- 22 **more than forty thousand (40,000) but less than forty-three**
- 23 **thousand (43,000); and**
- 24 (2) **the county line between the county in which a city**
- 25 **described in subsection (1) is located and a county having a**
- 26 **population of more than one hundred fifty thousand (150,000)**
- 27 **but less than one hundred sixty thousand (160,000).**
- 28 SECTION 4. IC 14-22-10-2, AS AMENDED BY P.L.138-1997,
- 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 1998]: Sec. 2. (a) As used in this section **and section 2.5 of**
- 31 **this chapter**, "governmental entity" means any of the following:
- 32 (1) The government of the United States of America.
- 33 (2) The state of Indiana.
- 34 (3) A county.
- 35 (4) A city.
- 36 (5) A town.
- 37 (6) A township.
- 38 (7) The following, if created by the Constitution of the United
- 39 States, the Constitution of the State of Indiana, a statute, a
- 40 ordinance, a rule, or an order:
- 41 (A) An agency.
- 42 (B) A board.

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- 1 (C) A commission.
 2 (D) A committee.
 3 (E) A council.
 4 (F) A department.
 5 (G) A district.
 6 (H) A public body corporate and politic.
- 7 (b) As used in this section **and section 2.5 of this chapter**,
 8 "monetary consideration" means a fee or other charge for permission
 9 to go upon a tract of land. The term does not include:
 10 (1) the gratuitous sharing of game, fish, or other products of the
 11 recreational use of the land;
 12 (2) services rendered for the purpose of wildlife management; or
 13 (3) contributions in kind made for the purpose of wildlife
 14 management.
- 15 (c) As used in this section **and section 2.5 of this chapter**, "owner"
 16 means a governmental entity or another person that:
 17 (1) has a fee interest in;
 18 (2) is a tenant, a lessee, or an occupant of; or
 19 (3) is in control of;
 20 a tract of land.
- 21 (d) A person who goes upon or through the premises, including
 22 caves, of another:
 23 (1) with or without permission; and
 24 (2) either:
 25 (A) without the payment of monetary consideration; or
 26 (B) with the payment of monetary consideration directly or
 27 indirectly on the person's behalf by an agency of the state or
 28 federal government;
 29 for the purpose of ~~hunting~~, ~~fishing~~, swimming, ~~trapping~~, camping,
 30 hiking, sightseeing, or any other purpose (**other than the purposes**
 31 **described in section 2.5 of this chapter**) does not have an assurance
 32 that the premises are safe for the purpose.
- 33 (e) The owner of the premises does not:
 34 (1) assume responsibility; or
 35 (2) incur liability;
 36 for an injury to a person or property caused by an act or failure to act
 37 of other persons using the premises.
- 38 (f) This section does not affect the following:
 39 (1) Existing Indiana case law on the liability of owners or
 40 possessors of premises with respect to the following:
 41 (A) Business invitees in commercial establishments.
 42 (B) Invited guests.

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1 (2) The attractive nuisance doctrine.

2 (g) This section does not excuse the owner or occupant of premises
3 from liability for injury to a person or property caused by a malicious
4 or an illegal act of the owner or occupant.

5 SECTION 5. IC 14-22-10-2.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. (a) A person who goes upon
8 or through the premises, including caves, of another:**

9 (1) with or without permission; and

10 (2) either:

11 (A) without the payment of monetary consideration; or

12 (B) with the payment of monetary consideration directly or
13 indirectly on the person's behalf by an agency of the state
14 or federal government;

15 **for the purpose of hunting, fishing, trapping, or preparing to hunt,
16 fish, or trap, does not have an assurance that the premises are safe
17 for that purpose.**

18 (b) The owner of the premises does not:

19 (1) assume responsibility; or

20 (2) incur liability;

21 **for an injury to a person or property caused by an act or failure to
22 act of other persons using the premises.**

23 (c) This section does not affect Indiana case law on the liability
24 of owners or possessors of premises with respect to the following:

25 (1) Business invitees in commercial establishments.

26 (2) The attractive nuisance doctrine.

27 (d) This section does not excuse the owner or occupant of
28 premises from liability for injury to a person or property caused
29 by a malicious or an illegal act of the owner or occupant.

30 SECTION 6. IC 14-22-11-1, AS AMENDED BY P.L.139-1997,
31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 1998]: **Sec. 1. (a) An individual may not take or chase, with
33 or without dogs, a wild animal without having a license, except as
34 follows:**

35 (1) An individual who is a resident or nonresident of Indiana
36 while participating in a field trial that has been sanctioned by the
37 director is not required to possess a license while participating in
38 the trial.

39 (2) Subject to subsection (c), an owner of farmland located in
40 Indiana who is a resident or nonresident of Indiana and the spouse
41 and children living with the owner may hunt, fish, and trap
42 without a license on the land that the owner owns.

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- 1 (3) A lessee of farmland who farms that land and is a resident of
 2 Indiana and the spouse and children living with the lessee may
 3 hunt, fish, and trap without a license on the leased land. This
 4 subdivision does not apply to land that is:
 5 (A) owned, leased, or controlled by; and
 6 (B) leased from;
 7 the department.
- 8 **(4) An individual who:**
 9 **(A) is less than thirteen (13) years of age;**
 10 **(B) does not possess a bow or firearm; and**
 11 **(C) is accompanying an individual who:**
 12 **(i) is at least eighteen (18) years of age; and**
 13 **(ii) holds a valid license;**
 14 **may chase a wild animal without having a license.**
- 15 (b) The exceptions provided in this section do not apply to a
 16 commercial license issued under this article.
- 17 (c) The right of a nonresident who owns farmland in Indiana (and
 18 of the spouse and children who reside with the nonresident) to hunt,
 19 fish, and trap on the farmland without a license under subsection (a)(2)
 20 is subject to the following conditions:
- 21 (1) The nonresident may hunt, fish, and trap on the farmland
 22 without a license only if the state in which the nonresident resides
 23 allows residents of Indiana who own land in that state to hunt,
 24 fish, and trap on their land without a license.
- 25 (2) While hunting, fishing, or trapping on the farmland, the
 26 nonresident must keep proof that the nonresident owns the
 27 farmland (for example, a tax receipt identifying the nonresident
 28 as owner) in a place where the proof is readily accessible by the
 29 nonresident.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred Senate Bill 177, 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 made to Senate Bill 177 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author of Senate Bill 177.

WHEELER

SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author and Senator Skillman be added as coauthor of Senate Bill 177.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 177, 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 14-8-2-117.3, AS ADDED BY P.L.178-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 117.3. "Governmental entity", for the purposes of IC 14-22-10-2 and IC 14-22-10-2.5, has the meaning set forth in IC 14-22-10-2(a).

SECTION 2. IC 14-9-8-28, AS ADDED BY P.L.2-1996, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 28. (a) The natural resources commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges that the commission assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

- (1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.

(b) For purposes of creating the salary matrix prescribed by this section, the natural resources commission may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the state budget agency before implementation.

(d) Notwithstanding any other law, the salaries for law enforcement officers of the law enforcement division of the department shall be equal to the salaries of police employees of the state police department based upon years of service in the department and rank held.

(~~d~~) (e) The money needed to fund the salaries resulting from the matrix prescribed by this section shall come from the appropriation from the professional and technical equity fund.

SECTION 3. IC 14-22-10-2, AS AMENDED BY P.L.138-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) As used in this section and section 2.5 of this chapter, "governmental entity" means any of the following:

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- (1) The government of the United States of America.
- (2) The state of Indiana.
- (3) A county.
- (4) A city.
- (5) A town.
- (6) A township.
- (7) The following, if created by the Constitution of the United States, the Constitution of the State of Indiana, a statute, an ordinance, a rule, or an order:
 - (A) An agency.
 - (B) A board.
 - (C) A commission.
 - (D) A committee.
 - (E) A council.
 - (F) A department.
 - (G) A district.
 - (H) A public body corporate and politic.

(b) As used in this section **and section 2.5 of this chapter**, "monetary consideration" means a fee or other charge for permission to go upon a tract of land. The term does not include:

- (1) the gratuitous sharing of game, fish, or other products of the recreational use of the land;
- (2) services rendered for the purpose of wildlife management; or
- (3) contributions in kind made for the purpose of wildlife management.

(c) As used in this section **and section 2.5 of this chapter**, "owner" means a governmental entity or another person that:

- (1) has a fee interest in;
- (2) is a tenant, a lessee, or an occupant of; or
- (3) is in control of;

a tract of land.

(d) A person who goes upon or through the premises, including caves, of another:

- (1) with or without permission; and
- (2) either:
 - (A) without the payment of monetary consideration; or
 - (B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government;

for the purpose of ~~hunting, fishing, swimming, trapping,~~ camping, hiking, sightseeing, or any other purpose (**other than the purposes described in section 2.5 of this chapter**) does not have an assurance



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that the premises are safe for the purpose.

(e) The owner of the premises does not:

- (1) assume responsibility; or
- (2) incur liability;

for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(f) This section does not affect the following:

- (1) Existing Indiana case law on the liability of owners or possessors of premises with respect to the following:
 - (A) Business invitees in commercial establishments.
 - (B) Invited guests.
- (2) The attractive nuisance doctrine.

(g) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant.

SECTION 4. IC 14-22-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. (a) A person who goes upon or through the premises, including caves, of another:**

- (1) with or without permission; and
- (2) either:
 - (A) without the payment of monetary consideration; or
 - (B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government;

for the purpose of hunting, fishing, trapping, or preparing to hunt, fish, or trap, does not have an assurance that the premises are safe for that purpose.

(b) The owner of the premises does not:

- (1) assume responsibility; or
- (2) incur liability;

for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(c) This section does not affect Indiana case law on the liability of owners or possessors of premises with respect to the following:

- (1) Business invitees in commercial establishments.
- (2) The attractive nuisance doctrine.

(d) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to Senate Bill 177 as printed January 14, 1998.)

STILWELL, Acting Chair

Committee Vote: yeas 14, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 177 be amended to read as follows:

Page 2, delete lines 9 through 13.

Page 2, line 14, delete "(e)".

Page 2, line 14, reset in roman "(d)".

(Reference is to Engrossed Senate bill 177 as printed February 17, 1998.)

LYTLE

HOUSE MOTION

Mr. Speaker: I move that Senate Bill 177 be amended to read as follows:

Page 2, between lines 16 and 17, begin a new paragraph and insert: SECTION 3. IC 14-22-10-1, AS ADDED BY P.L.1-1995, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) A person may not:

(1) fish, hunt, trap, or chase; or

(2) shoot with any kind of firearm;

upon privately owned land without having the consent of the owner or tenant of the land.

(b) A person may not shoot with any kind of firearm from that part of a river that lies between:

(1) the corporate boundaries of a city having a population of more than forty thousand (40,000) but less than forty-three thousand (43,000); and

(2) the county line between the county in which a city described in subsection (1) is located and a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred sixty thousand (160,000).

Re-number all SECTIONS consecutively.

(Reference is to Senate Bill 177 as printed February 17, 1998.)

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