

January 29, 1998

HOUSE BILL No. 1255

DIGEST OF HB1255 (Updated January 27, 1998 6:31 pm - DI 02)

Citations Affected: IC 14-8-2-117.3; IC 14-22-10-2; IC 14-22-10-2.5.

Synopsis: Hunter, angler, or trapper as recreational user. 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.

Effective: July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Natural Resources.
January 28, 1998, reported — Do Pass.

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January 29, 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.

HOUSE BILL No. 1255

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
5 IC 14-22-10-2(a).
6 SECTION 2. IC 14-22-10-2, AS AMENDED BY P.L.138-1997,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 1998]: Sec. 2. (a) As used in this section **and section 2.5 of**
9 **this chapter**, "governmental entity" means any of the following:
10 (1) The government of the United States of America.
11 (2) The state of Indiana.
12 (3) A county.
13 (4) A city.
14 (5) A town.
15 (6) A township.
16 (7) The following, if created by the Constitution of the United
17 States, the Constitution of the State of Indiana, a statute, an

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

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1 possessors of premises with respect to the following:

2 (A) Business invitees in commercial establishments.

3 (B) Invited guests.

4 (2) The attractive nuisance doctrine.

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

8 SECTION 3. IC 14-22-10-2.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. (a) A person who goes upon
11 or through the premises, including caves, of another:**

12 (1) with or without permission; and

13 (2) either:

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

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

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

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

22 (1) assume responsibility; or

23 (2) incur liability;

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

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

29 (1) Business invitees in commercial establishments.

30 (2) The attractive nuisance doctrine.

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

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1255, 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.

LYTLE, Chair

Committee Vote: yeas 12, nays 0.

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