
ENGROSSED HOUSE BILL No. 1074

DIGEST OF HB 1074 (Updated February 16, 1998 12:10 pm - DI 78)

Citations Affected: IC 14-16.

Synopsis: Snowmobile registration. Increases the fee from \$15 to \$30 for the registration of a snowmobile with the department of natural resources. Increases the duration of a certificate of registration which is currently 3 years to 6 years.

Effective: July 1, 1998.

Mangus

(SENATE SPONSORS — WHEELER, ZAKAS)

January 6, 1998, read first time and referred to Committee on Natural Resources.
January 28, 1998, reported — Do Pass.
February 2, 1998, read second time, ordered engrossed. Engrossed.
February 3, 1998, read third time, passed. Yeas 61, nays 36.

SENATE ACTION

February 9, 1998, read first time and referred to Committee on Natural Resources.
February 16, 1998, amended, reported favorably — Do Pass.

C
O
P
Y

HEA 1074—CC.No.01+



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 ENROLLED ACT No. 1074

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

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

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 14-22-10-2, 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:

- (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.

HEA 1074—CC.No.01+



C
O
P
Y

- (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 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.



C
O
P
Y

(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 3. 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.

SECTION 4. IC 14-27-7-4, AS ADDED BY P.L.1-1995, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 4. (a) The department shall make an engineering inspection of all dams, levees, dikes, and floodwalls and appurtenant works:**

(1) at least one (1) time every two (2) years or at more frequent intervals if the exigencies of the case require; or

(2) upon the written request of an affected person or agency.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) This chapter does not apply to the following:

(1) A dam that meets the following conditions:

(A) Is built for the sole purpose of erosion control, watering

C
O
P
Y



livestock, recreation, or providing a haven or refuge for fish or wildlife.

(B) Has a drainage area above the dam of not more than one (1) square mile.

(C) Does not exceed twenty (20) feet in height from the natural stream bed to spillway level.

(D) Does not impound more than one hundred (100) acre-feet of water.

(2) A levee, dike, or floodwall that meets the following conditions:

(A) Is under a single private ownership.

(B) Provides protection only to land or other property under the single private ownership.

(3) A dam, dike, floodwall, or levee that is regulated under the federal Mine Safety and Health Act of 1977, unless the dam, dike, floodwall, or levee is proposed to be retained as a permanent structure after bond release.

SECTION 5. IC 14-34-4-18, AS ADDED BY P.L.1-1995, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 18. (a) Each permit issued by the director is subject to conditions imposed by the director. The conditions must include at a minimum a requirement for the operator to pay to the federal Office of Surface Mining all fees owed under 30 CFR Part 870.

(b) The director may issue a permit subject to the condition that the permittee obtain or maintain in force other licenses or permits required for the surface coal mining and reclamation operation. However, the imposition of a condition under this subsection does not authorize or require the director to administer or enforce the requirements of any federal law or of any state law other than this article.

SECTION 6. IC 14-34-5-7, AS ADDED BY P.L.1-1995, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) The director may approve an application for a revision of a permit submitted under section 5 of this chapter if the application is based only on nonsignificant revisions of the permit: (as defined in the rules adopted under section 6 of this chapter): **A change in mining or reclamation operations from the approved mining and reclamation plans that would adversely affect the permittee's compliance with this article is a permit revision subject to review and approval as provided in this section and sections 8 through 8.4 of this chapter.**

(b) The director may approve an application under subsection (a)



C
O
P
Y

without notice and a hearing. A permit revision is either:

- (1) a significant revision subject to sections 8 and 8.1 of this chapter;
- (2) a nonsignificant revision subject to sections 8.2 and 8.3 of this chapter; or
- (3) a minor field revision subject to section 8.4 of this chapter.

(c) Permit revisions may be approved by:

- (1) the director; or
- (2) the director's designated representative.

(d) A permit revision may not be approved unless the permittee demonstrates and the director or the director's designated representative finds the following:

- (1) That reclamation as required by this article and by the rules adopted by the commission under IC 14-34-2-1 can be accomplished.
- (2) That applicable requirements of IC 14-34-4-7 that are pertinent to the permit revision are met.
- (3) That the permit revision complies with all applicable requirements of this article and the rules adopted by the commission under IC 14-34-2-1.

SECTION 7. IC 14-34-5-8, AS ADDED BY P.L. 1-1995, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) Unless an application for revision of a permit submitted under section 5 of this chapter is based only on nonsignificant revisions (as defined in the rules adopted under section 6 of this chapter); or minor field revisions, the application may be approved only after the notice and hearing requirements of this article for issuance of a permit have been fulfilled.

(b) The director may impose other conditions for approval of the application.

SECTION 8. IC 14-34-5-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 8.1. For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is significant if any of the following conditions exists:**

- (1) The changes may result in an adverse impact beyond that previously considered, affecting cultural resources that are listed on or eligible to be listed on:
 - (A) the National Register of Historic Places; or
 - (B) the register of Indiana historic sites and historic structures established under IC 14-21-1.
- (2) Blasting will be used in a manner that is likely to cause



C
O
P
Y

adverse impacts beyond that previously considered to persons or property outside the permit area.

(3) The changes may result in an adverse impact beyond that previously considered, affecting a water supply to which IC 14-25-4 applies.

(4) The changes:

(A) require the identification, disturbance, or handling of toxic forming or acid forming materials different from those previously considered; and

(B) have the potential for causing an additional impact not previously considered.

(5) The changes may result in an adverse impact on fish, wildlife, and related environmental values beyond that previously considered.

(6) The addition of:

(A) a coal processing facility; or

(B) a permanent support facility;

is proposed, and the addition of the facility will cause an impact not previously considered, except that the addition of a temporary coal processing facility used exclusively for crushing and screening need not be considered a significant revision.

(7) The changes will cause:

(A) a new or an updated probable hydrologic consequences determination; or

(B) a cumulative hydrologic impact analysis to be required under IC 14-34-3-3.

(8) A postmining land use will be changed to any of the following:

(A) A residential land use.

(B) A commercial or industrial land use.

(C) A recreational land use.

(D) Developed water resources as defined in rules adopted by the commission under IC 14-34-2-1 that meets the size criteria of 30 CFR 77.216(a).

SECTION 9. IC 14-34-5-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8.2. For purposes of sections 7, 8, and 8.3 of this chapter, a proposed permit revision is nonsignificant if any of the following conditions exist:

(1) For surface mines, changes of the:

(A) direction of mining; or

C
O
P
Y



**(B) location of mining equipment;
within the permit area.**

(2) The substitution of mining equipment designed for the same purpose, the use of which is not detrimental to the achievement of final reclamation or subsidence control.

(3) For underground mines, any change in the direction or location of mining within the permit area or shadow area in response to unanticipated events.

(4) A postmining land use change other than a change described in section 8.1(8) of this chapter.

(5) Any other change in the mining or reclamation plan that the director reasonably determines:

(A) will not have a significant effect:

(i) on the achievement of final reclamation plans under IC 14-34-3-12;

(ii) on subsidence control plans; and

(iii) on the surrounding area;

(B) does not involve significant delay in achieving final reclamation or significant change in the land use; or

(C) is necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other causes beyond the reasonable control of the permittee, if all steps specified by the director to maximize environmental protection are taken.

SECTION 10. IC 14-34-5-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 8.3. A nonsignificant revision in a mining or reclamation plan must be:**

(1) reviewed; and

(2) approved in writing;

by the director before it may be implemented.

SECTION 11. IC 14-34-5-8.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 8.4. (a) For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is a minor field revision if the proposed change:**

(1) does not require technical review or design analysis; and

(2) is capable of being evaluated in the field by the director's designated delegate for compliance with the requirements of section 7(d) of this chapter.

(b) A minor field revision may be approved by a field inspector in an inspection report or on a form signed in the field.



C
O
P
Y

- (c) A minor field revision approved under this section:
- (1) must be properly documented and separately filed; and
 - (2) may include the following:
 - (A) Soil stockpile location and configurations.
 - (B) As-built pond certifications.
 - (C) Minor transportation facilities changes.
 - (D) Any of the following for a pond:
 - (i) Depth.
 - (ii) Shape.
 - (iii) Orientation.
 - (E) An area for temporary drainage control or temporary water storage.
 - (F) Equipment changes.
 - (G) Explosive storage areas.
 - (H) Minor mine management or support facility locations (except for the disposal or storage of refuse).
 - (I) Adding United States Natural Resources Conservation Service conservation practices.
 - (J) Methods of erosion protection on diversions.
 - (K) Temporary cessation of mining.
 - (L) Minor diversion location changes.

SECTION 12. IC 14-34-5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 8.5. An extension of the area covered by a permit, except for an incidental boundary revision under section 8.6 of this chapter, must be made by applying for a new permit.**

SECTION 13. IC 14-34-5-8.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 8.6. (a) For the area covered by a permit to be extended under this section as an incidental boundary revision, all of the following must apply:**

- (1) The extension may not constitute a significant revision to the method of conduct of mining or reclamation operations contemplated by the original permit.
- (2) The extension must be required for the orderly and continuous mining and reclamation operation.
- (3) The extension must adjoin the permit or shadow area acreage.
- (4) The extended area must be mined and reclaimed in conformity with the approved permit plans.
- (5) The area of the extension may not exceed the lesser of:



(A) ten percent (10%) of the area originally covered by the permit; or

(B) twenty (20) acres.

(b) The aggregate of all incidental boundary revisions of a permit under this section may not exceed the area originally covered by the permit by more than fifteen percent (15%). However, the director may waive the limitation under this subsection if the director finds that:

(1) all other provisions of this section are met; and

(2) the interests of the public are not adversely affected.

(c) The aggregate of all incidental boundary revisions of a permit under this section that involve coal removal may not exceed the area originally covered by the permit by more than ten percent (10%).

(d) To obtain an incidental boundary revision under this section, a permittee must submit to the director an application containing the following:

(1) A statement of the size of:

(A) the original permit area; and

(B) the additional area that would be added by the boundary revision.

(2) A statement of the uses that:

(A) were made of the land before mining; and

(B) will be made of the land after mining.

(3) A showing that the requirements of subsection (a) are met.

(4) A map showing the additional area to be added by the boundary revision.

(5) Proof of the permittee's legal right to enter and conduct surface coal mining and reclamation operations on the additional area to be added by the boundary revision.

(6) Any necessary plans that are not contained in the permit already approved.

(7) A statement indicating whether any areas unsuitable for mining are contained in the permit already approved.

(e) An application for an incidental boundary revision may not be approved unless the applicant demonstrates and the director finds the following:

(1) That reclamation of the area as required by this article can be accomplished.

(2) That the application complies with all requirements of this article.

(f) The director shall approve or deny an incidental boundary

C
O
P
Y



revision of a permit under this section within thirty (30) days after the application for the proposed boundary revision is submitted to the director, unless the director finds that more than thirty (30) days are needed to adequately review the application and make the findings required by subsection (e).

(g) This section does not alter the general requirements of this article for the submission of fees and bonds.

SECTION 14. IC 14-34-5-6 IS REPEALED [EFFECTIVE JULY 1, 1998].

C
o
p
y

