



March 17, 1999

**ENGROSSED
HOUSE BILL No. 1578**

DIGEST OF HB 1578 (Updated March 15, 1999 1:50 pm - DI 78)

Citations Affected: IC 13-11; IC 13-23; noncode.

Synopsis: Underground storage tanks. Allows the Indiana development finance authority to use money in the underground storage tank guaranty fund to award grants to certain underground storage tank owners and operators who closed or removed underground storage tanks after December 31, 1997, and before July 1, 1998. Transfers \$120,000 from the underground petroleum storage tank excess liability trust fund to the underground storage tank guaranty fund to be used by the Indiana development finance authority to award grants to these underground storage tank owners and operators. Requires the auditor
(Continued next page)

Effective: January 1, 1999 (retroactive); July 1, 1999.

Wolkins, Sturtz
(SENATE SPONSOR — GARD)

January 21, 1999, read first time and referred to Committee on Environmental Affairs.
February 10, 1999, reported — Do Pass.
February 15, 1999, read second time, amended, ordered engrossed.
February 16, 1999, engrossed. Read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 22, 1999, read first time and referred to Committee on Environmental Affairs.
March 16, 1999, amended, reported favorably — Do Pass.

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of state to transfer any money remaining in the underground storage tank guaranty fund on July 1, 2000, to the underground petroleum storage tank excess liability trust fund. Excludes a person who fills or gages the product level of an underground storage tank from the definition of operator for purposes of underground storage tank corrective actions if the person does not own or lease the facility or business at which the tank is located and does not participate in the management of the facility or business.

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March 17, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1578

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 13-11-2-148 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
3 Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the
4 person in direct or responsible charge or control of one (1) or more
5 confined feeding operations.
6 (b) "Operator", for purposes of IC 13-18-11 and environmental
7 management laws, means the person in direct or responsible charge and
8 supervising the operation of:
9 (1) a water treatment plant;
10 (2) a wastewater treatment plant; or
11 (3) a water distribution system.
12 (c) "Operator", for purposes of IC 13-20-6, means a corporation, a
13 limited liability company, a partnership, a business association, a unit,
14 or an individual who is a sole proprietor that is one (1) of the following:
15 (1) A broker.
16 (2) A person who manages the activities of a transfer station that

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- 1 receives municipal waste.
 2 (3) A transporter.
 3 (d) "Operator", for purposes of IC 13-23, except as provided in
 4 subsection (e), means a person:
 5 (1) in control of; or
 6 (2) having responsibility for;
 7 the daily operation of an underground storage tank.
 8 (e) "Operator", for purposes of IC 13-23-13, does not include **the**
 9 **following:**
 10 (1) A person who:
 11 (†) (A) does not participate in the management of an
 12 underground storage tank;
 13 (‡) (B) is otherwise not engaged in the:
 14 (A) (i) production;
 15 (B) (ii) refining; and
 16 (C) (iii) marketing;
 17 of regulated substances; and
 18 (‡) (C) holds evidence of ownership, primarily to protect the
 19 owner's security interest in the tank.
 20 (2) A person who:
 21 (A) does not own or lease, directly or indirectly, the facility
 22 or business at which the underground storage tank is
 23 located;
 24 (B) does not participate in the management of the facility
 25 or business described in clause (A); and
 26 (C) is engaged only in:
 27 (i) filling;
 28 (ii) gauging; or
 29 (iii) filling and gauging;
 30 the product level in the course of delivering fuel to an
 31 underground storage tank.
 32 SECTION 2. IC 13-23-10-10 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The authority
 34 may use money in the fund to award grants to owners and operators to
 35 assist in the closure or removal of underground storage tanks.
 36 (b) An owner or operator may receive a grant from the fund if the
 37 owner or operator meets the following requirements:
 38 (1) **The owner or operator closed or removed an underground**
 39 **storage tank:**
 40 (A) **after December 31, 1997; and**
 41 (B) **before July 1, 1998.**
 42 (†) (2) The owner or operator submits an application for a grant

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- 1 to the authority on a form provided by the authority.
- 2 ~~(2)~~ (3) The owner or operator owns or operates not more than
- 3 twelve (12) underground storage tanks.
- 4 ~~(3)~~ (4) The owner or operator:
- 5 (A) had an adjusted gross income of less than fifty thousand
- 6 dollars (\$50,000) per year for the five (5) years immediately
- 7 preceding the year the owner or operator submits an
- 8 application for a grant; or
- 9 (B) is a nonprofit corporation.
- 10 ~~(4)~~ (5) The owner or operator has complied with the following:
- 11 (A) This article or IC 13-7-20 (before its repeal).
- 12 (B) Rules adopted under this article or IC 13-7-20 (before its
- 13 repeal).
- 14 (C) 42 U.S.C. 6991 through 6991i.
- 15 (D) Regulations adopted under 42 U.S.C. 6991 through 6991i.
- 16 ~~(5)~~ (6) The owner or operator has paid all registration fees that are
- 17 required under IC 13-23-12.
- 18 ~~(6)~~ (7) The owner or operator verifies that the:
- 19 (A) grant will be used to ~~close or remove~~ **compensate the**
- 20 **owner or operator for closing or removing** an underground
- 21 storage tank and will not be used to upgrade an underground
- 22 storage tank; and
- 23 (B) owner or operator will not be involved in the distribution
- 24 of motor fuels after the underground storage tank is closed or
- 25 removed.
- 26 ~~(7)~~ (8) The owner or operator submits any other information as
- 27 required by the authority.
- 28 (c) The authority shall consider applications submitted under this
- 29 section in the order the applications are received.
- 30 (d) The authority, department, and underground storage tank
- 31 financial assurance board shall develop guidelines for awarding grants
- 32 under this section.
- 33 SECTION 3. [EFFECTIVE JULY 1, 1999] (a) **On July 1, 1999, the**
- 34 **auditor of state shall transfer one hundred twenty thousand dollars**
- 35 **(\$120,000) from the underground petroleum storage tank excess**
- 36 **liability trust fund established by IC 13-23-7-1 to the underground**
- 37 **storage tank guaranty fund established by IC 13-23-10-1. The**
- 38 **Indiana development finance authority shall use money transferred**
- 39 **to the underground storage tank guaranty fund under this**
- 40 **SECTION to carry out the purposes of IC 13-23-10-10, as amended**
- 41 **by this act.**
- 42 (b) **On July 1, 2001, the auditor of state shall transfer any**

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1 **money remaining in the underground storage tank guaranty fund**
2 **established by IC 13-23-10-1 to the underground petroleum storage**
3 **tank excess liability trust fund established by IC 13-23-7-1.**

4 **(c) This SECTION expires July 2, 2001.**

5 **SECTION 4. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:**
6 **IC 13-11-2-148(e), as amended by this act, shall not be construed**
7 **to affect any litigation filed before January 1, 1999.**

8 **SECTION 5. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1578, 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.

STURTZ, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1578 be amended to read as follows:

Page 2, delete line 36, begin a new paragraph and insert:

"(b) On July 1, 2001, the auditor of state shall transfer any money remaining in the underground storage tank guaranty fund established by IC 13-23-10-1 to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(c) This SECTION expires July 2, 2001."

(Reference is to HB 1578 as printed February 11, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1578, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-148 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.
- (2) A person who manages the activities of a transfer station that receives municipal waste.
- (3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsection (e), means a person:

- (1) in control of; or
- (2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include **the following:**

- (1) A person who:
 - (~~1~~) (A) does not participate in the management of an underground storage tank;
 - (~~2~~) (B) is otherwise not engaged in the:
 - (~~A~~) (i) production;
 - (~~B~~) (ii) refining; and
 - (~~C~~) (iii) marketing;
 of regulated substances; and
 - (~~3~~) (C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

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(2) A person who:

(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;

(B) does not participate in the management of the facility or business described in clause (A); and

(C) is engaged only in:

(i) filling;

(ii) gauging; or

(iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank."

Page 2, after line 40, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: **IC 13-11-2-148(e), as amended by this act, shall not be construed to affect any litigation filed before January 1, 1999.**

SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1578 as reprinted February 16, 1999.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 9.

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