



February 19, 1999

HOUSE BILL No. 1561

DIGEST OF HB 1561 (Updated February 17, 1999 1:12 pm - DI 69)

Citations Affected: IC 13-17; noncode.

Synopsis: Air emissions reduction credit program. Requires the air pollution control board to adopt rules to establish an air emissions reduction credit program that uses market based, economic incentives that minimize the costs associated with required air emission reductions and encourage economic development in a manner that protects human health and the environment. Specifies that the air emissions reduction credit program must: (1) allow air emissions reduction credits to be earned, banked, and traded for nitrogen oxides, particulate matter, volatile organic compounds, sulfur dioxide, carbon monoxide; and (2) allow air emissions reduction credits to be earned by the source of an air contaminant to the extent that the source reduces the emission of the air contaminant below an established baseline level for the air contaminant. Specifies that the owner of air emissions reduction credits may: (1) hold the credits for future use; or (2) trade
(Continued next page)

Effective: July 1, 1999.

Kuzman, Bosma

January 19, 1999, read first time and referred to Committee on Environmental Affairs.
February 18, 1999, amended, reported — Do Pass.

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the credits on an exchange. Specifies that the air emissions reduction credit program: (1) may not interfere with federal acid rain programs or the state implementation plan concerning nitrogen oxides; and (2) must defer to and facilitate federal air emissions credit trading programs to the extent that it is reasonable for the state to defer to and facilitate the federal programs. Requires the rules adopted by the air pollution control board to facilitate interpollutant trading between volatile organic compounds and nitrogen oxides to: (1) control ozone; and (2) facilitate permitting of sources. Requires the department of environmental management to establish a registry program to: (1) register air emissions reduction credits; and (2) act as a repository for all public information concerning air emissions reduction credits and air emissions reduction credits trading. Allows the department to enter into a contract with a person to operate the registry program. Requires the department to adopt rules that provide for the review and approval of protocols to be used to establish an air emissions baseline level for the source of an air contaminant if a baseline level has not been established for the source: (1) in a permit issued to the source; or (2) under a statute or rule. Requires the department to present proposed rules from the air pollution control board to implement the air emissions reduction credit program to the environmental quality service council before July 1, 2000. Requires the environmental quality service council to: (1) recommend to the air pollution control board that the proposed rules should be adopted as final rules; (2) recommend to the air pollution control board that the proposed rules should be modified before the proposed rules are adopted as final rules; or (3) recommend to the general assembly additional legislation that is necessary to implement the air emissions reduction credit program before December 31, 2000.

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February 19, 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.

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HOUSE BILL No. 1561

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 13-17-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:

4 **Chapter 15. Air Emissions Reduction Credit Program**

5 **Sec. 1. The board shall adopt rules under IC 4-22-2 and, if**
6 **applicable, IC 13-14-9 to establish an air emissions reduction credit**
7 **program that uses market based, economic incentives that**
8 **minimize the costs associated with required air emission reductions**
9 **and encourage economic development in a manner that protects**
10 **human health and the environment.**

11 **Sec. 2. The air emissions reduction credit program established**
12 **under this chapter must do the following:**

13 (1) **Allow air emissions reduction credits to be earned,**
14 **banked, and traded for the following criteria air pollutants**
15 **and their precursor emissions:**

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- 1 (A) Nitrogen oxides.
 2 (B) Particulate matter.
 3 (C) Volatile organic compounds.
 4 (D) Sulfur dioxide.
 5 (E) Carbon monoxide.
 6 (2) Allow air emissions reduction credits to be earned by:
 7 (A) a point;
 8 (B) an area; or
 9 (C) a stationary;
 10 source of an air contaminant to the extent that the source
 11 reduces the emission of the air contaminant below the baseline
 12 level for the air contaminant established under this chapter.
 13 (3) Provide for maximum participation by:
 14 (A) persons that are sources of air emissions; and
 15 (B) potential purchasers and sellers of air emissions
 16 credits;
 17 to obtain the maximum and most cost effective benefit.
 18 **Sec. 3. The air emissions reduction credit program:**
 19 (1) may not interfere with federal acid rain programs or the
 20 state implementation plan concerning nitrogen oxides; and
 21 (2) must defer to and facilitate federal air emissions credit
 22 trading programs to the extent that it is reasonable for the
 23 state to defer to and facilitate the federal programs.
 24 **Sec. 4. (a) Air emissions reduction credits may only be revoked**
 25 **or discounted following a hearing conducted in accordance with**
 26 **IC 4-21.5.**
 27 (b) Air emissions reduction credits earned:
 28 (1) reflect air emissions reduced by the use of additional
 29 emissions controls, shutting down facilities or equipment, or
 30 any other means; and
 31 (2) may not be subject to any test of financial loss or gain
 32 associated with the air emission reduction action.
 33 (c) Air emissions reduction credits may be:
 34 (1) held for future use; or
 35 (2) traded on an exchange;
 36 by the owner of the credits.
 37 (d) Air emissions reduction credits may be bought or sold within
 38 air quality control areas that have been classified as attainment,
 39 transitional, or unclassified areas under the federal Clean Air Act
 40 (42 U.S.C. 7401 et seq.).
 41 (e) Air emissions reduction credits may be bought or sold within
 42 air quality control areas that have been classified as nonattainment

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1 areas under the federal Clean Air Act (42 U.S.C. 7401 et seq.).
 2 However, the credits may only be purchased from:

- 3 (1) within the nonattainment area; or
 4 (2) air emissions sources that affect the air quality within the
 5 nonattainment area.

6 (f) Air emissions reduction credits that have not been used or
 7 traded on an exchange expire fifteen (15) years after the date the
 8 credits are first registered with the registry program described in
 9 section 5 of this chapter.

10 (g) The board shall adopt rules that facilitate interpollutant
 11 trading between volatile organic compounds and nitrogen oxides
 12 to:

- 13 (1) control ozone; and
 14 (2) facilitate permitting of sources.

15 Sec. 5. (a) The department shall establish a registry program to
 16 do the following:

- 17 (1) Register air emissions reduction credits.
 18 (2) Act as a repository for all public information concerning:
 19 (A) air emissions reduction credits; and
 20 (B) air emissions reduction credits trading.

21 (b) Air emissions reductions that have not been used to comply
 22 with any applicable federal or state law may be registered with the
 23 registry program established in subsection (a) regardless of when
 24 the air emission reductions occurred.

25 (c) The registry program shall charge a fee to register air
 26 emissions reduction credits in an amount necessary to fund the
 27 administration of the registry.

28 (d) The records of the registry are public records subject to
 29 public inspection under IC 5-14-3.

30 (e) The department may enter into a contract with a person to
 31 operate the registry program.

32 Sec. 6. (a) Air emissions baseline levels shall be established for
 33 the source of an air contaminant:

- 34 (1) in a permit issued to the source; or
 35 (2) under a statute or rule.

36 (b) If an air emissions baseline level has not been established for
 37 the source of an air contaminant as provided under subsection (a),
 38 the department shall adopt rules under IC 4-22-2 that provide for
 39 the review and approval of protocols to be used to establish an air
 40 emissions baseline level for the source.

41 SECTION 2. [EFFECTIVE JULY 1, 1999] (a) The air pollution
 42 control board shall adopt rules as required under IC 13-17-15, as

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1 added by this act, before July 1, 2001.
2 (b) This SECTION expires July 31, 2001.
3 SECTION 3. [EFFECTIVE JULY 1, 1999] (a) Before July 1, 2000,
4 the department of environmental management shall present
5 proposed rules from the air pollution control board to implement
6 IC 13-17-15, as added by this act, to the environmental quality
7 service council.
8 (b) Before December 31, 2000, the environmental quality service
9 council shall do at least one (1) of the following:
10 (1) Recommend to the air pollution control board that the
11 proposed rules should be adopted as final rules.
12 (2) Recommend to the air pollution control board that the
13 proposed rules should be modified before the proposed rules
14 are adopted as final rules.
15 (3) Recommend to the general assembly additional legislation
16 that is necessary to implement IC 13-17-15, as added by this
17 act.
18 (c) This SECTION expires January 1, 2001.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1561, 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, delete lines 1 through 7.

Page 1, line 12, delete "authority and the".

Page 1, line 15, delete "to reduce or prevent emissions of air" and insert "**that minimize the costs associated with required air emission reductions and encourage economic development in a manner that protects human health and the environment.**".

Page 2, delete line 1.

Page 2, line 5, delete "at least the following air" and insert "**the following criteria air pollutants and their precursor emissions:**".

Page 2, delete line 6.

Page 2, line 7, delete "oxide." and insert "**oxides.**".

Page 2, delete lines 12 through 14.

Page 2, delete line 16.

Page 2, line 17, delete "(B)" and insert "**(A)**".

Page 2, line 18, delete "(C)" and insert "**(B)**".

Page 2, line 19, delete "(D)" and insert "**(C)**".

Page 2, line 27, delete "environmental".

Page 2, delete lines 29 through 42.

Page 3, delete lines 1 through 15, begin a new paragraph and insert: "**Sec. 3. The air emissions reduction credit program:**

- (1) may not interfere with federal acid rain programs or the state implementation plan concerning nitrogen oxides; and
- (2) must defer to and facilitate federal air emissions credit trading programs to the extent that it is reasonable for the state to defer to and facilitate the federal programs.

Sec. 4. (a) Air emissions reduction credits may only be revoked or discounted following a hearing conducted in accordance with IC 4-21.5.

(b) Air emissions reduction credits earned:

- (1) reflect air emissions reduced by the use of additional emissions controls, shutting down facilities or equipment, or any other means; and
- (2) may not be subject to any test of financial loss or gain associated with the air emission reduction action.

(c) Air emissions reduction credits may be:

- (1) held for future use; or
- (2) traded on an exchange;



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by the owner of the credits.

(d) Air emissions reduction credits may be bought or sold within air quality control areas that have been classified as attainment, transitional, or unclassified areas under the federal Clean Air Act (42 U.S.C. 7401 et seq.).

(e) Air emissions reduction credits may be bought or sold within air quality control areas that have been classified as nonattainment areas under the federal Clean Air Act (42 U.S.C. 7401 et seq.). However, the credits may only be purchased from:

- (1) within the nonattainment area; or
- (2) air emissions sources that affect the air quality within the nonattainment area.

(f) Air emissions reduction credits that have not been used or traded on an exchange expire fifteen (15) years after the date the credits are first registered with the registry program described in section 5 of this chapter.

(g) The board shall adopt rules that facilitate interpollutant trading between volatile organic compounds and nitrogen oxides to:

- (1) control ozone; and
- (2) facilitate permitting of sources."

Page 3, line 16, delete "4." and insert "5."

Page 3, line 16, delete "authority" and insert "department".

Page 3, line 18, delete "Identify and register" and insert "Register".

Page 3, delete lines 22 through 27, begin a new paragraph and insert:

"(b) Air emissions reductions that have not been used to comply with any applicable federal or state law may be registered with the registry program established in subsection (a) regardless of when the air emission reductions occurred."

Page 3, line 33, delete "authority" and insert "department".

Page 3, line 35, delete "5." and insert "6."

Page 4, line 2, delete "Indiana".

Page 4, line 3, delete "development finance authority and the".

Page 4, line 5, delete "January 15," and insert "July 1,".

Page 4, line 6, delete "January 31," and insert "July 31,".

Page 4, after line 6, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 1999] (a) Before July 1, 2000, the department of environmental management shall present proposed rules from the air pollution control board to implement IC 13-17-15, as added by this act, to the environmental quality service council.



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(b) Before December 31, 2000, the environmental quality service council shall do at least one (1) of the following:

(1) Recommend to the air pollution control board that the proposed rules should be adopted as final rules.

(2) Recommend to the air pollution control board that the proposed rules should be modified before the proposed rules are adopted as final rules.

(3) Recommend to the general assembly additional legislation that is necessary to implement IC 13-17-15, as added by this act.

(c) This SECTION expires January 1, 2001."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1561 as introduced.)

STURTZ, Chair

Committee Vote: yeas 13, nays 1.

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