

# HOUSE BILL No. 1755

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-1-11-5; IC 25-6.1-9; IC 25-8; IC 25-21.5-7-5.

**Synopsis:** Occupational licensing. Provides that a board that regulates occupations or professions may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license in another jurisdiction or who has practiced without a license in violation of the law. Provides that an auctioneer who seeks to reinstate an inactive auctioneer license must complete the continuing education requirement for the most recent licensure period during which the license was active. Provides that continuing education hours completed to reinstate an inactive auctioneer license may not also be applied toward the next licensure period. Changes the application requirements for the following: cosmetology school licenses, esthetics  
(Continued next page)

**Effective:** Upon passage; July 1, 1999.

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**Budak, Crosby, Ruppel, Mahern**

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January 26, 1999, read first time and referred to Committee on Commerce and Economic Development.

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Digest Continued

instructor licenses, electrology instructor licenses, cosmetologist licenses, manicurist licenses, shampoo operator licenses, and esthetician licenses. Provides that if a student in a cosmetology school presents to the school a valid license issued by the state board of cosmetology examiners, the school shall provide credit toward the student's current program for the hours formerly completed in a cosmetology school in specified subjects. Voids an administrative rule that provides that hours obtained in one course at a cosmetology school may not be credited toward another course. Provides that the required sign at the entrance of a salon must indicate that the establishment is licensed as one of the following: a cosmetology salon, an electrology salon, a manicuring salon, or an esthetic salon. Allows a manicurist to operate a mobile salon from which the manicurist serves customers at the customers' homes or businesses, if the manicurist maintains a permanent base where the manicurist stores and sanitizes the salon's equipment. Prohibits a cosmetology professional from using products containing methyl methacrylate (MMA). Provides that a cosmetology professional who uses products containing MMA is subject to disciplinary sanctions. Changes the registration fee for a land surveyor from a minimum of \$50 to a maximum of \$50.

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Introduced

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. 1755

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A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 25-1-11-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A practitioner  
3 shall comply with the standards established by the board regulating a  
4 profession. A practitioner is subject to the exercise of the disciplinary  
5 sanctions under section 12 of this chapter if, after a hearing, the board  
6 finds that:  
7 (1) a practitioner has:  
8 (A) engaged in or knowingly cooperated in fraud or material  
9 deception in order to obtain a license to practice, including  
10 cheating on a licensing examination;  
11 (B) engaged in fraud or material deception in the course of  
12 professional services or activities; or  
13 (C) advertised services or goods in a false or misleading  
14 manner;  
15 (2) a practitioner has been convicted of a crime that has a direct



- 1 bearing on the practitioner's ability to continue to practice  
 2 competently;
- 3 (3) a practitioner has knowingly violated a state statute or rule or  
 4 federal statute or regulation regulating the profession for which  
 5 the practitioner is licensed;
- 6 (4) a practitioner has continued to practice although the  
 7 practitioner has become unfit to practice due to:
- 8 (A) professional incompetence;
- 9 (B) failure to keep abreast of current professional theory or  
 10 practice;
- 11 (C) physical or mental disability; or
- 12 (D) addiction to, abuse of, or severe dependency on alcohol or  
 13 other drugs that endanger the public by impairing a  
 14 practitioner's ability to practice safely;
- 15 (5) a practitioner has engaged in a course of lewd or immoral  
 16 conduct in connection with the delivery of services to the public;
- 17 (6) a practitioner has allowed the practitioner's name or a license  
 18 issued under this chapter to be used in connection with an  
 19 individual or business who renders services beyond the scope of  
 20 that individual's or business's training, experience, or  
 21 competence;
- 22 (7) a practitioner has had disciplinary action taken against the  
 23 practitioner or the practitioner's license to practice in another  
 24 state or jurisdiction on grounds similar to those under this  
 25 chapter;
- 26 (8) a practitioner has assisted another person in committing an act  
 27 that would constitute a ground for disciplinary sanction under this  
 28 chapter; or
- 29 (9) a practitioner has allowed a license issued by a board to be:
- 30 (A) used by another person; or
- 31 (B) displayed to the public when the license has expired, is  
 32 inactive, or has been revoked or suspended.
- 33 (b) If an applicant or a practitioner has engaged in or knowingly  
 34 cooperated in fraud or material deception to obtain a license to  
 35 practice, including cheating on the licensing examination, the board  
 36 may rescind the license if it has been granted, void the examination or  
 37 other fraudulent or deceptive material, and prohibit the applicant from  
 38 reapplying for the license for a length of time established by the board.  
 39 An applicant who is aggrieved by a decision of the board under this  
 40 section is entitled to hearing and appeal rights under the Indiana  
 41 administrative rules and procedures act (IC 4-21.5).
- 42 (c) **The board may deny licensure to an applicant who has had**

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1 **disciplinary action taken against the applicant or the applicant's**  
 2 **license to practice in another state or jurisdiction or who has**  
 3 **practiced without a license in violation of the law.**

4 (e) **(d)** A certified copy of the record of disciplinary action is  
 5 conclusive evidence of the other jurisdiction's disciplinary action under  
 6 subsection (a)(7) **or subsection (c).**

7 SECTION 2. IC 25-6.1-9-1 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Except as  
 9 provided in sections 7 and 9 of this chapter, an individual who applies  
 10 for license renewal under IC 25-6.1-3-2 must complete twelve (12)  
 11 actual hours of continuing education from course providers that are  
 12 approved by the commission.

13 (b) The continuing education requirement is as follows:

14 (1) At least six (6) actual hours of courses in any of the following  
 15 core subjects:

16 (A) Indiana rules and statutes governing auctioneering.

17 (B) Federal statutes governing auctioneering.

18 (C) Auctioneering ethics.

19 (D) Escrow and trust funds.

20 (E) Contracts.

21 (F) Any other subject matter approved by the commission.

22 (2) At least six (6) actual hours of courses in any of the following  
 23 elective subjects:

24 (A) Agency.

25 (B) Business courses related to auctioneering.

26 (C) Auction management.

27 (D) Bid calling.

28 (E) Public speaking.

29 (F) Advertising.

30 (G) Specialty auction topics.

31 (H) Any other subject matter approved by the commission.

32 **(3) An individual who seeks to reinstate an inactive license**  
 33 **under section 10 of this chapter must complete the continuing**  
 34 **education requirement for the most recent licensure period**  
 35 **during which the license was active if the individual has not**  
 36 **already completed the requirement. However, continuing**  
 37 **education hours that are completed and applied to reinstate**  
 38 **an inactive license may not also be applied to the licensure**  
 39 **period during which the license is reinstated.**

40 SECTION 3. IC 25-6.1-9-10 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The commission  
 42 may grant an applicant an inactive auctioneer license if the auctioneer

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1 submits a written application to the commission requesting that the  
2 auctioneer license be classified as inactive.

3 (b) An auctioneer granted an inactive license under this section may  
4 not perform an act that requires an auctioneer license.

5 (c) If a disciplinary or suspension hearing is pending against an  
6 auctioneer, the individual may not be granted an inactive license  
7 without the approval of the commission.

8 (d) An individual granted an inactive license must continue to pay  
9 the same fees that a licensee is required to pay.

10 (e) An inactive licensee is not required to complete the continuing  
11 education requirement while the license is inactive.

12 (f) An individual may reinstate an inactive auctioneer license if the  
13 individual:

14 (1) submits a written application to the commission requesting  
15 that the inactive auctioneer license be classified as active; ~~and~~

16 (2) ~~fulfills~~ **completes** the applicable continuing education  
17 requirement for the **most recent** licensure period during which  
18 the license is ~~reinstated~~ **was active, if the individual has not**  
19 **already completed the requirement.**

20 SECTION 4. IC 25-8-2-9.5 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9.5. (a) "Esthetician"  
22 means a person who engages solely in one (1) or more of the following  
23 practices:

24 (1) Giving facials, applying makeup, **and** giving skin care. ~~and~~  
25 ~~removing hair by tweezing, depilatory, or waxing.~~

26 (2) Beautifying, massaging, or cleaning the body with the use of  
27 cosmetic preparations, antiseptics, tonics, lotions, or creams.

28 (3) Removing superfluous hair from the body by the use of  
29 depilatories, waxing, or tweezers.

30 (b) The term does not include performing any of the acts described  
31 in subsection (a):

32 (1) in treating an illness or a disease;

33 (2) as a student in a cosmetology school that complies with the  
34 notice requirements under IC 25-8-5-6;

35 (3) without compensation; or

36 (4) incident to the retail sale of cosmetics.

37 SECTION 5. IC 25-8-2-10 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. "Cosmetology  
39 "Instructor" means a person licensed under IC 25-8-6 to teach **in a**  
40 cosmetology **school.**

41 SECTION 6. IC 25-8-2-17 IS ADDED TO THE INDIANA CODE  
42 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



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1 1, 1999]: **Sec. 17. "Shampoo operation" means performing any of**  
 2 **the following acts on the head only:**

3 (1) **Applying shampoo, conditioner, or rinses.**

4 (2) **Massaging the scalp.**

5 (3) **Rinsing the hair and scalp.**

6 SECTION 7. IC 25-8-2-18 IS ADDED TO THE INDIANA CODE  
 7 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 8 **1, 1999]: Sec. 18. "Shampoo operator" means a person licensed**  
 9 **under IC 25-8-12 to perform shampoo operation.**

10 SECTION 8. IC 25-8-5-3 IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 1999]: Sec. 3. The application described in  
 12 section 2 of this chapter must state that:

13 (1) **as a requirement for graduation**, the proposed school will  
 14 require its students to successfully complete at least ~~one thousand~~  
 15 ~~five hundred (1,500)~~ **the minimum number of** hours of course  
 16 work as a requirement for graduation; **required to be eligible to**  
 17 **sit for the licensing examination;**

18 (2) no more than eight (8) hours of course work may be taken by  
 19 a student during one (1) day;

20 (3) the course work will instruct the students in all theories and  
 21 practical application of ~~cosmetology including the:~~

22 (A) ~~histology of hair, skin, muscles, and nerves;~~

23 (B) ~~structure of the head, face, neck, arms, and hands;~~

24 (C) ~~structure of legs and feet for electrologists and pedicurists;~~

25 (D) ~~elementary chemistry of sterilization and antiseptics; and~~

26 (E) ~~diseases of the skin, hair, and glands; the students'~~  
 27 **specific course of study;**

28 (4) the school will provide one (1) instructor for each twenty (20)  
 29 students or any fraction of that number;

30 (5) the school will be operated under the personal supervision of  
 31 a licensed cosmetologist instructor;

32 (6) the person has obtained any building permit, certificate of  
 33 occupancy, or other planning approval required under IC 22-15-3  
 34 and IC 36-7-4 to operate the school;

35 (7) the school, if located in the same building as a residence, will:

36 (A) be separated from the residence by a substantial floor to  
 37 ceiling partition; and

38 (B) have a separate entry; and

39 (8) the applicant has paid the fee set forth in IC 25-8-13-3.

40 SECTION 9. IC 25-8-5-4.5 IS ADDED TO THE INDIANA CODE  
 41 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 42 **UPON PASSAGE]: Sec. 4.5. (a) If a student in a cosmetology school**



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1 presents to the school a valid license issued by the board, the school  
 2 shall accept and provide credit toward the student's current  
 3 program for the hours completed in a cosmetology school in the  
 4 theory and demonstration, or actual practice, of any of the  
 5 following subjects:

- 6 (1) Electricity (basic electricity).
- 7 (2) Facials.
- 8 (3) Hair coloring (color rinses).
- 9 (4) Hair removal.
- 10 (5) Makeup.
- 11 (6) Manicuring.
- 12 (7) Pedicuring.
- 13 (8) Salesmanship (salesmanship and marketing).
- 14 (9) Sanitation (infection control or bacteriology).
- 15 (10) Scalp treatment.
- 16 (11) Skin (skincare).
- 17 (12) Shampooing (shampoo rinsing).
- 18 (13) Hair coloring (weekly rinses).
- 19 (14) Other areas as determined by the board.

20 (b) The school shall credit the appropriate subject areas on a  
 21 student's transcript for the hours transferred under subsection (a).

22 (c) A student may not transfer any hours of credit above the  
 23 amount required in each subject area under the student's current  
 24 program.

25 (d) The student may receive credit for the number of hours that  
 26 the student's current program requires in the subject areas  
 27 covered by the student's license, even if the number of hours  
 28 required under the current program is greater than the actual  
 29 number of hours completed when the student's license was earned.

30 SECTION 10. IC 25-8-6.1-3 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application  
 32 described in section 2 of this chapter must require that the applicant:

- 33 (1) be at least eighteen (18) years of age;
- 34 (2) has graduated from high school or received the equivalent of  
 35 a high school education;
- 36 (3) hold an esthetician license issued under this article;
- 37 (4) has completed the education and experience requirements  
 38 subject to the rules adopted by the board;
- 39 (5) has not committed an act for which the applicant could be  
 40 disciplined under IC 25-8-14;
- 41 (6) has received a satisfactory grade (as defined in IC 25-8-4-9)  
 42 on an examination for ~~esthetics~~ instructor license applicants



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1 prescribed by the board; and

2 (7) has paid the fee under IC 25-8-13-4 for the issuance of a  
3 license under this chapter.

4 SECTION 11. IC 25-8-6.2-3 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application  
6 described in section 2 of this chapter must require that the applicant:

7 (1) be at least eighteen (18) years of age;

8 (2) has graduated from high school or received the equivalent of  
9 a high school education;

10 (3) hold an electrologist license issued under this article;

11 (4) has completed the education and experience requirements  
12 subject to the rules adopted by the board;

13 (5) has not committed an act for which the applicant could be  
14 disciplined under IC 25-8-14;

15 (6) has received a satisfactory grade (as defined in IC 25-8-4-9)  
16 on an examination for ~~electrology~~ instructor license applicants  
17 prescribed by the board; and

18 (7) has paid the fee under IC 25-8-13-4 for the issuance of a  
19 license under this chapter.

20 SECTION 12. IC 25-8-7-8 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A person holding  
22 a license issued under IC 25-8-7, IC 25-8-7.1, ~~or~~ IC 25-8-7.2, **or**  
23 **IC 25-8-12.6** shall display a sign complying with standards prescribed  
24 by the board at the main public entrance to the ~~cosmetology~~ salon.

25 (b) The sign must:

26 (1) be clearly visible to a customer entering the establishment at  
27 that entrance; and

28 (2) state in legible printing that the establishment is a structure  
29 licensed as one (1) of the following:

30 (A) Cosmetology salon.

31 (B) Electrology salon.

32 (C) Manicuring salon.

33 **(D) Esthetic salon.**

34 SECTION 13. IC 25-8-7.1-2 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A person who  
36 desires to obtain a manicurist salon license must do the following:

37 (1) Select a site for the salon that:

38 (A) if located in the same building as a residence:

39 ~~(A)~~ (i) is separated from the residence by a substantial floor  
40 to ceiling partition; and

41 ~~(B)~~ (ii) has a separate entry; **or**

42 **(B) if operated as a mobile salon from which a manicurist**

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1 serves customers at the customers' homes or businesses,  
 2 has a permanent base where the manicurist stores and  
 3 sanitizes the salon's equipment.

4 (2) Obtain:

5 (A) a building permit;

6 (B) a certificate of occupancy; or

7 (C) other approval action required under IC 22-15-3 and  
 8 IC 36-7-4;

9 to operate the manicurist salon.

10 (3) Install the furnishings and obtain the salon equipment required  
 11 under rules adopted by the board.

12 (4) Submit a verified statement on a form prescribed by the board  
 13 that the manicurist salon will be under the personal supervision  
 14 of a person who has at least six (6) months active experience as  
 15 a:

16 (A) manicurist under IC 25-8-11; or

17 (B) cosmetologist under IC 25-8-9;

18 before the application was submitted under this chapter.

19 SECTION 14. IC 25-8-9-3 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application  
 21 described in section 2 of this chapter must state that the applicant:

22 (1) is at least eighteen (18) years of age;

23 (2) has successfully completed the tenth grade or received the  
 24 equivalent of tenth grade education;

25 (3) has graduated from a **cosmetologist program in a**  
 26 cosmetology school;

27 (4) has received a satisfactory grade (as defined by IC 25-8-4-9)  
 28 on an examination for cosmetologist license applicants prescribed  
 29 by the board;

30 (5) has not committed an act for which the applicant could be  
 31 disciplined under IC 25-8-14; and

32 (6) has paid the fee set forth in IC 25-8-13-7 for the issuance of a  
 33 license under this chapter.

34 SECTION 15. IC 25-8-11-4 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The application  
 36 described in section 3 of this chapter must state that the applicant:

37 (1) is at least ~~seventeen (17) years and six (6) months~~ **eighteen**  
 38 **(18) years** of age;

39 (2) has successfully completed the eighth grade or received the  
 40 equivalent of an eighth grade education;

41 (3) has ~~successfully completed at least three hundred (300) hours~~  
 42 ~~of instruction in the theory and practice of manicuring as a~~

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1 ~~student in graduated from a manicurist program in a~~  
2 cosmetology school;

3 (4) has received a satisfactory grade (as defined by IC 25-8-4-9)  
4 on an examination for manicurist license applicants prescribed by  
5 the board;

6 (5) has not committed an act for which the applicant could be  
7 disciplined under IC 25-8-14; and

8 (6) has paid the fee set forth in IC 25-8-13-9 for the issuance of a  
9 license under this chapter.

10 SECTION 16. IC 25-8-11-7 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 1999]: **Sec. 7. (a) A person licensed under this article may not use**  
13 **products containing methyl methacrylate (MMA).**

14 **(b) A person who violates subsection (a) may be disciplined**  
15 **under IC 25-1-11.**

16 SECTION 17. IC 25-8-12-3 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The application  
18 described in section 2 of this chapter must state that the applicant:

19 (1) is at least ~~seventeen (17) years and six (6) months~~ **eighteen**  
20 **(18) years** of age;

21 (2) has successfully completed the eighth grade or received the  
22 equivalent of an eighth grade education;

23 (3) has ~~successfully completed at least three hundred (300) hours~~  
24 ~~of instruction in the theory and practice of shampoo operation as~~  
25 ~~a student graduated from a shampooing program in a~~  
26 cosmetology school;

27 (4) has received a satisfactory grade (as defined by IC 25-8-4-9)  
28 on the examination for shampoo operator license applicants  
29 prescribed by the board;

30 (5) has not committed an act for which the applicant could be  
31 disciplined under IC 25-8-14; and

32 (6) has paid the fee set forth in IC 25-8-13-10 for the issuance of  
33 a license under this chapter.

34 SECTION 18. IC 25-8-12.5-4 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~(a) Subject to~~  
36 ~~subsection (b) and~~ Except as provided in section 7 of this chapter, to  
37 receive a license issued under this chapter, a person must:

38 (1) be at least eighteen (18) years of age;

39 (2) have successfully completed the tenth grade or received the  
40 equivalent of a tenth grade education;

41 (3) have ~~successfully completed at least seven hundred (700)~~  
42 ~~hours of instruction in the theory and practice of esthetics as a~~

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1            **student graduated from an esthetics program** in a cosmetology  
 2            school;  
 3            (4) have received a satisfactory grade (as defined by IC 25-8-4-9)  
 4            on an examination for esthetician license applicants prescribed by  
 5            the board;  
 6            (5) not have committed an act for which the person could be  
 7            disciplined under IC 25-8-14; and  
 8            (6) pay the fee set forth in IC 25-8-13-11 for the issuance of a  
 9            license under this chapter.  
 10          ~~(b) If an applicant demonstrates acceptable experience or~~  
 11          ~~knowledge in the theory and practice of esthetics; the board may waive~~  
 12          ~~or modify the requirements of subsection (a)(3):~~  
 13          SECTION 19. IC 25-21.5-7-5 IS AMENDED TO READ AS  
 14          FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The board shall  
 15          determine the amount of registration fees for a land surveyor and  
 16          certification fees for a land-surveyor-in-training. Except as provided  
 17          under IC 25-21.5-8-7, the registration and renewal fee for a land  
 18          surveyor ~~must be at least~~ **may be not more than** fifty dollars (\$50) per  
 19          year.  
 20          SECTION 20. [EFFECTIVE UPON PASSAGE] **(a) 820 IAC 4-4-3**  
 21          **is void.**  
 22          **(b) The publisher of the Indiana Administrative Code and**  
 23          **Indiana Register shall remove this section from the Indiana**  
 24          **Administrative Code before August 1, 1999.**  
 25          **(c) This SECTION expires on September 1, 1999.**  
 26          SECTION 21. **An emergency is declared for this act.**

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