



Reprinted  
February 22, 2000

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# ENGROSSED SENATE BILL No. 262

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DIGEST OF SB 262 (Updated February 21, 2000 5:42 PM - DI 69)

**Citations Affected:** IC 13-17; noncode.

**Synopsis:** Open burning; releases from underground storage tanks. Requires a person who open burns any material to extinguish the fire if a fire chief determines that the fire: (1) creates a fire hazard to the property of another person; or (2) poses a risk to human health. Directs the department of environmental management to develop a nonrule policy document before September 1, 2000, to address circumstances in which a spill or release from an underground storage tank may have migrated offsite. Designates the subjects to be addressed by the document, including: (1) the need for access by a responsible party to the offsite property; (2) the issuance of orders by the department for access to the offsite property; (3) the department's exercising of its discretion in pursuing an enforcement action against a responsible party for failing to determine the extent of offsite contamination; and (4) when the department and its excess liability trust fund may approve reimbursement of a responsible party's costs of investigation and remediation. Directs the department to work with interested stakeholders in developing the document and to keep the environmental quality service council apprised of its efforts to develop the document.

**Effective:** on passage; July 1, 2000.

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(HOUSE SPONSORS — STURTZ, WOLKINS)

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January 10, 2000, read first time and referred to Committee on Environmental Affairs.  
January 25, 2000, amended, reported favorably — Do Pass.  
January 31, 2000, read second time, ordered engrossed. Engrossed.  
February 7, 2000, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 2000, read first time and referred to Committee on Environmental Affairs.  
February 16, 2000, reported — Do Pass.  
February 21, 2000, read second time, amended, ordered engrossed.

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ES 262—LS 6767/DI 69+



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February 22, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## ENGROSSED SENATE BILL No. 262

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 13-17-9-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. All open burning that  
3 is allowed under this chapter must comply with the following  
4 conditions:
- 5 (1) A person who open burns any material shall extinguish the fire  
6 if the fire:
- 7 (A) creates a ~~nuisance or~~ fire hazard to the property of  
8 another person; or  
9 (B) poses a risk to human health;  
10 as determined by a fire chief.
- 11 (2) Burning may not be conducted during unfavorable  
12 meteorological conditions such as high winds, temperature  
13 inversions, or air stagnation.
- 14 (3) All fires must be attended at all times during burning until  
15 completely extinguished.
- 16 (4) All asbestos containing materials must be removed before the  
17 burning of a structure.

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- 1 (5) Asbestos containing materials may not be burned.
- 2 (6) Except as provided under section 1 of this chapter, all burning
- 3 must comply with state and federal laws.
- 4 SECTION 2. [EFFECTIVE ON PASSAGE] (a) As used in this
- 5 SECTION, "department" refers to the department of
- 6 environmental management.
- 7 (b) As used in this SECTION, "excess liability fund" refers to
- 8 the underground petroleum storage tank excess liability trust fund
- 9 established by IC 13-23-7-1.
- 10 (c) Before September 1, 2000, the department shall develop a
- 11 nonrule policy document under IC 13-23 to address the
- 12 circumstances in which a spill or release from an underground
- 13 storage tank may have migrated to real property that is owned or
- 14 operated by a person or entity that does not own or operate the site
- 15 where the underground storage tank is located. The nonrule policy
- 16 document shall address the following:
- 17 (1) Guidance for addressing the need for a responsible party
- 18 to undertake a reasonable, good faith effort to obtain access
- 19 to offsite property impacted by a petroleum release or spill.
- 20 (2) Guidance for addressing:
- 21 (A) when the department may issue an order granting a
- 22 responsible party offsite access; and
- 23 (B) the department's subsequent exercising of its discretion
- 24 in pursuing an enforcement action against a responsible
- 25 party for failing to determine the extent of offsite
- 26 contamination.
- 27 (3) Guidance for addressing when the department and its
- 28 excess liability trust fund may approve for reimbursement
- 29 under that fund the costs of a responsible party's investigation
- 30 and remediation efforts, including an initial site
- 31 characterization and corrective action plan, when offsite
- 32 contamination has not been fully delineated because of lack of
- 33 offsite access.
- 34 (d) The department shall work with interested stakeholders in
- 35 developing the nonrule policy document and keep the
- 36 environmental quality service council apprised of its efforts to
- 37 develop the nonrule policy document.
- 38 (e) This SECTION expires January 1, 2001.
- 39 SECTION 3. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 262, 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, line 1, delete "IC 13-24-1-6 IS AMENDED TO READ AS" and insert "[EFFECTIVE ON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) As used in this SECTION, "excess liability fund" refers to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(c) Before September 1, 2000, the department shall develop a nonrule policy document under IC 13-23 to address the circumstances in which a spill or release from an underground storage tank may have migrated to real property that is owned or operated by a person or entity that does not own or operate the site where the underground storage tank is located. The nonrule policy document shall address the following:

(1) Guidance for addressing the need for a responsible party to undertake a reasonable, good faith effort to obtain access to offsite property impacted by a petroleum release or spill.

(2) Guidance for addressing:

(A) when the department may issue an order granting a responsible party offsite access; and

(B) the department's subsequent exercising of its discretion in pursuing an enforcement action against a responsible party for failing to determine the extent of offsite contamination.

(3) Guidance for addressing when the department and its excess liability trust fund may approve for reimbursement under that fund the costs of a responsible party's investigation and remediation efforts, including an initial site characterization and corrective action plan, when offsite contamination has not been fully delineated because of lack of offsite access.

(d) The department shall work with interested stakeholders in developing the nonrule policy document and keep the environmental quality service council apprised of its efforts to develop the nonrule policy document.

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

Page 1, delete lines 2 through 17.

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Delete page 2.

Page 3, delete line 1.

Page 3, after line 1, begin a new paragraph and insert:  
"SECTION 2. **An emergency is declared for this act.**".

and when so amended that said bill do pass.

(Reference is to SB 262 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 262, 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 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 262 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-17-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. All open burning that is allowed under this chapter must comply with the following conditions:

(1) A person who open burns any material shall extinguish the fire if the fire:

**(A) creates a nuisance or fire hazard to the property of another person; or**

**(B) poses a risk to human health; as determined by a fire chief.**

(2) Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, or air stagnation.

(3) All fires must be attended at all times during burning until completely extinguished.

(4) All asbestos containing materials must be removed before the burning of a structure.

(5) Asbestos containing materials may not be burned.

(6) Except as provided under section 1 of this chapter, all burning must comply with state and federal laws."

Renumber all SECTIONS consecutively.

(Reference is to ESB 262 as printed February 17, 2000.)

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