
SENATE BILL No. 282

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-148; IC 13-15-13; IC 13-30-10; IC 14-22-9-10.

Synopsis: DNR aquatic plant management permits. Provides a variety of new procedures relating to the administration of the permit process for water resource related construction activities obtained from the department of natural resources (DNR) and the department of environmental management (IDEM). Requires the joint participation of DNR and IDEM in certain processes and allows cooperation with certain federal government agencies. Provides that the commissioner of IDEM or the commissioner's designated representative may enjoin work on a construction project for violation of rules concerning storm water runoff. Requires the commissioner of IDEM to encourage counties to adopt and enforce erosion and sediment control ordinances, to allocate resources of the department to give priority to implementation and enforcement of the rule concerning storm water runoff in construction activity, and to establish an education program concerning this rule. Provides that the DNR must issue a permit before a person may control aquatic vegetation in the public waters or boundary waters of the state by chemical, mechanical, or physical means. (Current law requires a permit only for chemical treatment.)

Effective: July 1, 2000.

Wolf

January 10, 2000, read first time and referred to Committee on Natural Resources.

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Introduced

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.

SENATE BILL No. 282

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

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

- 1 SECTION 1. IC 13-11-2-148, AS AMENDED BY P.L.212-1999,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2000]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10,
4 means the person in direct or responsible charge or control of one (1)
5 or more 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
17 receives municipal waste.

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- 1 (3) A transporter.
- 2 (d) "Operator", for purposes of IC 13-23, except as provided in
3 subsection (e), means a person:
- 4 (1) in control of; or
- 5 (2) having responsibility for;
6 the daily operation of an underground storage tank.
- 7 (e) "Operator", for purposes of IC 13-23-13, does not include the
8 following:
- 9 (1) A person who:
- 10 (A) does not participate in the management of an underground
11 storage tank;
- 12 (B) is otherwise not engaged in the:
- 13 (i) production;
- 14 (ii) refining; and
- 15 (iii) marketing;
16 of regulated substances; and
- 17 (C) holds evidence of ownership, primarily to protect the
18 owner's security interest in the tank.
- 19 (2) A person who:
- 20 (A) does not own or lease, directly or indirectly, the facility or
21 business at which the underground storage tank is located;
- 22 (B) does not participate in the management of the facility or
23 business described in clause (A); and
- 24 (C) is engaged only in:
- 25 (i) filling;
- 26 (ii) gauging; or
- 27 (iii) filling and gauging;
28 the product level in the course of delivering fuel to an
29 underground storage tank.
- 30 **(f) "Operator", for purposes of IC 13-30-10, means the person**
31 **required to submit the NOI letter under 327 IAC 15 and required**
32 **to comply with the terms of 327 IAC 15-5.**
- 33 SECTION 2. IC 13-15-13 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2000]:
- 36 **Chapter 13. Improving the Administration of Water Resource**
37 **Related Construction Permits**
- 38 **Sec. 1. The commissioner and the director of the department of**
39 **natural resources shall jointly develop, establish, and implement a**
40 **joint permit application process. This joint process must allow an**
41 **individual to submit a permit application at a single location if the**
42 **requested permit:**

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1 (1) is for a construction activity related to water resources;
2 and

3 (2) is issued by the department or the department of natural
4 resources under one (1) or more of the following statutes or
5 rules:

6 (A) IC 14-26-2 (lake preservation).

7 (B) IC 14-26-5 (lowering of ten (10) acre lakes).

8 (C) IC 14-28-1 (flood control).

9 (D) IC 14-29-1 (navigable waterways).

10 (E) IC 14-29-3 (sand and gravel permits).

11 (F) IC 14-29-4 (construction of channels).

12 (G) 310 IAC 6-1 (flood hazard areas).

13 (H) 312 IAC 6 (navigable waterways).

14 (I) 312 IAC 11 (lake construction activities).

15 (J) 327 IAC 2 (state water quality standards).

16 (K) Section 401 of the United States Clean Water Act (33
17 U.S.C. 1341).

18 (L) 327 IAC 2 and 327 IAC 5 (water quality certification).

19 (M) 327 IAC 15-5 (storm water runoff associated with
20 construction activities).

21 **Sec. 2.** The commissioner and the director of the department of
22 natural resources shall ask the United States Army Corps of
23 Engineers and the United States Environmental Protection Agency
24 to participate in the joint permit application process developed
25 under section 1 of this chapter for permits issued by those agencies
26 under the following:

27 (1) Section 404 of the United States Clean Water Act (33
28 U.S.C. 1341).

29 (2) Navigable waters permit program under Section 10 of the
30 United States Rivers and Harbors Act.

31 If either agency of the federal government wishes to participate in
32 the joint permit application process, the commissioner and the
33 director of the department of natural resources shall facilitate and
34 implement that participation.

35 **Sec. 3. (a)** The commissioner and the director of the department
36 of natural resources shall do the following to reduce or eliminate
37 duplicate or conflicting public notice requirements that exist
38 between the two (2) agencies:

39 (1) By joint administrative action, develop and implement
40 procedures to produce the desired effect.

41 (2) Annually make joint recommendations to the legislative
42 council for statutory changes to produce the desired effect.



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1 (b) The commissioner and the director of the department of
2 natural resources shall jointly cooperate with the United States
3 Army Corps of Engineers to reduce or eliminate duplicate or
4 conflicting public notice requirements that exist among the
5 agencies and the Corps.

6 Sec. 4. The commissioner and the director of the department of
7 natural resources shall annually make joint recommendations to
8 the legislative council for statutory changes to increase the
9 effectiveness of public hearings by ensuring an efficient and
10 appropriate response to timely requests for hearings under the
11 jurisdiction of the two (2) agencies.

12 Sec. 5. The commissioner and the director of the department of
13 natural resources shall budget the resources of their respective
14 agencies to allow the efficient management of the permitting
15 process as it relates to permits for all water resource related
16 construction activities.

17 SECTION 3. IC 13-30-10 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2000]:

20 **Chapter 10. Enforcement of Storm Water Runoff Violations**
21 **Associated With Construction Activity**

22 Sec. 1. (a) In addition to the other remedies under this article
23 and for a violation of 327 IAC 15-5 or 327 IAC 15-2-6 concerning
24 storm water runoff associated with construction activity, the
25 commissioner or the commissioner's designated representative
26 may enjoin further work on the construction project without prior
27 notice or hearing by delivering a notice to:

- 28 (1) the operator engaged in the construction activity; or
29 (2) an agent or representative of the operator.

30 (b) A notice issued under this section must:

- 31 (1) specify the violations of law that are occurring in the
32 construction activity; and
33 (2) prohibit further work on the construction activity until the
34 violations specified under subdivision (1) cease and the notice
35 is rescinded by the commissioner or the commissioner's
36 designated representative.

37 (c) Not later than ten (10) days after receiving written
38 notification from an operator that the violations specified in a
39 notice issued under this section have been corrected, the
40 commissioner or the commissioner's designated representative
41 shall issue a determination regarding rescission of the notice.

42 (d) An operator or any other person aggrieved or adversely



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1 affected by the issuance of a notice under subsection (a) may obtain
 2 a review under IC 4-21.5 of the action of the commissioner or the
 3 commissioner's designated representative.

4 **Sec. 2. The commissioner or the commissioner's designated**
 5 **representative shall do the following:**

6 (1) Encourage counties to adopt and enforce erosion and
 7 sediment control ordinances.

8 (2) Allocate resources of the department in order to give
 9 priority to the following:

10 (A) **Implementing and enforcing 327 IAC 15-5.**

11 (B) **Developing and implementing an education program**
 12 **concerning:**

13 (i) **storm water runoff in association with construction**
 14 **activity; and**

15 (ii) **327 IAC 15-5.**

16 SECTION 4. IC 14-22-9-10 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) This section
 18 does not apply to the following:

19 (1) A privately owned lake, farm pond, or public or private
 20 drainage ditch.

21 (2) A landowner or tenant adjacent to public waters or boundary
 22 waters of the state, who chemically, ~~treats~~ **mechanically, or**
 23 **physically controls** aquatic vegetation in the immediate vicinity
 24 of a boat landing or bathing beach on or adjacent to the real
 25 property of the landowner or tenant if the following conditions
 26 exist:

27 (A) The area ~~where vegetation is to be chemically treated~~
 28 **controlled** does not exceed:

29 (i) ~~one-half (1/2) acre; or~~

30 (ii) ~~fifty percent (50%) of the existing area of aquatic~~
 31 ~~vegetation;~~

32 ~~whichever is less:~~

33 (i) **twenty-five (25) feet along the shoreline; or**

34 (ii) **a water depth of six (6) feet.**

35 (B) ~~Treatment Control of vegetation~~ does not occur in a
 36 public waterway of the state.

37 (b) A person may not chemically, ~~treat~~ **mechanically, or physically**
 38 **control** aquatic vegetation in the public waters or boundary waters of
 39 the state without a permit issued by the department. All procedures to
 40 ~~chemically treat control~~ aquatic vegetation **under this section** shall be
 41 conducted in accordance with rules adopted by the department under
 42 IC 4-22-2.



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1 (c) Upon receipt of an application for a permit to ~~chemically treat~~
2 **control** aquatic vegetation and the payment of a fee of five dollars (\$5),
3 the department may issue a permit to the applicant. **However**, if the
4 **water vegetation** proposed to be ~~treated is used as controlled is~~
5 **present in** a public water supply, the department may not, without prior
6 written approval from the state department of health, approve a permit
7 for chemical ~~treatment control~~ of aquatic vegetation.

8 (d) This section does not do any of the following:

9 (1) Act as a bar to a suit or cause of action by a person or
10 governmental agency.

11 (2) Relieve the permittee from liability, rules, restrictions, or
12 permits that may be required of the permittee by any other
13 governmental agency.

14 (3) Affect water pollution control laws (as defined in
15 IC 13-11-2-261) and the rules adopted under water pollution
16 control laws (as defined in IC 13-11-2-261).

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