



January 24, 2006

SENATE BILL No. 253

DIGEST OF SB 253 (Updated January 23, 2006 11:26 am - DI 77)

Citations Affected: IC 4-33; IC 14-25; IC 14-26; noncode.

Synopsis: Activities along shorelines. Requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the department of natural resources. Directs the natural resources commission to adopt rules. Makes conforming changes. Repeals superseded laws concerning permits to change water levels, shorelines, and lake beds.

Effective: July 1, 2006.

Weatherwax

January 9, 2006, read first time and referred to Committee on Natural Resources.
January 23, 2006, amended, reported favorably — Do Pass.

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SB 253—LS 6999/DI 77+



January 24, 2006

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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SENATE BILL No. 253

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 4-33-4-19 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The commission
3 shall revoke the license of a licensee who operates a riverboat upon
4 Patoka Lake if that licensee violates any of the following:

- 5 ~~(1) IC 14-26-2-6.~~
6 ~~(2) (1) IC 14-26-2-7.~~
7 **(2) IC 14-26-2-23.**
8 (3) IC 14-28-1.

9 SECTION 2. IC 14-25-10-4 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Fees received by the
11 department under the following statutes shall be deposited in the fund:

- 12 ~~(1) IC 14-26-2-9.~~
13 **(1) IC 14-26-2-23.**
14 (2) IC 14-26-5-4.
15 (3) IC 14-28-1-22.
16 (4) IC 14-29-3-2.
17 (5) IC 14-29-4-4.

SB 253—LS 6999/DI 77+



1 SECTION 3. IC 14-26-2-23 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) Unless a person
3 obtains a permit from the department under this section and
4 conducts the activities according to the terms of the permit, a
5 person may not conduct the following activities:

6 (1) Over, along, or lakeward of the shoreline or waterline of
7 a public freshwater lake:

8 (A) excavate;

9 (B) place fill; or

10 (C) place, modify, or repair a temporary or permanent
11 structure.

12 (2) If the lowest point of a structure or excavation would be
13 below the elevation of the shoreline or waterline:

14 (A) place a permanent structure; or

15 (B) conduct an excavation;

16 within ten (10) feet landward of the shoreline or waterline, as
17 measured perpendicularly from the shoreline or waterline of
18 a public freshwater lake.

19 (3) Change the water level, area, or depth of a public
20 freshwater lake or the location of the shoreline or waterline.

21 (b) An application for a permit for an activity described in
22 subsection (a) must be accompanied by the following:

23 (1) A nonrefundable fee of one hundred dollars (\$100).

24 (2) A project plan that provides the department with
25 sufficient information concerning the proposed excavation,
26 fill, temporary structure, or permanent structure.

27 (3) A written acknowledgment from the landowner that any
28 additional water area created under the project plan is part
29 of the lake and is dedicated to the general public use with the
30 public rights described in section 5 of this chapter.

31 (c) The department may issue a permit after investigating the
32 merits of the application. In determining the merits of the
33 application, the department may consider any factor, including
34 cumulative effects of the proposed activity upon the following:

35 (1) The shoreline, waterline, or bed of the lake.

36 (2) The fish, wildlife, or botanical resources.

37 (3) The public rights described in section 5 of this chapter.

38 (4) The management of watercraft operations under IC 14-15.

39 (5) The interests of a landowner having property rights
40 abutting the lake or rights to access the lake.

41 (d) A contractor or agent of the landowner who engages in an
42 activity described in subsection (a)(1), (a)(2), or (a)(3) must comply

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with the terms of a permit issued under this section.

(e) The commission shall adopt rules ~~in the manner provided in IC 14-10-2-4~~ **under IC 4-22-2** to do the following:

- (1) Assist in the administration of this chapter.
- (2) Provide objective standards for ~~licensing~~:
 - ~~(A) the placement of a temporary or permanent structure or material; or~~
 - ~~(B) the extraction of material;~~**over, along, or within a shoreline or waterline. issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:**
 - (A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the lake or rights to access the lake; and**
 - (B) shall exempt any class of activities from licensing, including temporary structures,** if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.
- (3) Establish a process under IC 4-21.5 for the mediation of disputes among ~~riparian owners~~ **persons with competing interests** or between a ~~riparian owner~~ **person** and the department concerning the usage of an area ~~over, along, or within a shoreline or waterline for a matter within the jurisdiction of this chapter.~~ **The A rule adopted under this subsection** must provide that:
 - (A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and
 - (B) a person affected by the determination of the department may seek administrative review by the commission.

SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 14-26-2-6; IC 14-26-2-9.

SECTION 5. [EFFECTIVE JULY 1, 2006] (a) A permit issued under IC 14-26-2-6 or IC 14-26-2-9, before their repeal by this act, is valid and shall be considered a permit issued under IC 14-26-2-23, as amended by this act. A permit described in this SECTION expires on the date the permit would have expired if IC 14-26-2-6 and IC 14-26-2-9 had not been repealed by this act.

(b) This SECTION expires July 1, 2008.

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 253, 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 3, line 17, after "licensing" insert ", **including temporary structures,**".

and when so amended that said bill do pass.

(Reference is to SB 253 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 6, Nays 0.

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