
SENATE BILL No. 286

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-3-3; IC 6-1.1; IC 6-2.3-5-3; IC 13-11-2; IC 13-12-6; IC 13-17; IC 13-18; IC 13-19-5-17; IC 13-20; IC 13-22; IC 13-23; IC 13-25-4-28; IC 13-30; IC 33-39-2-6; IC 34-24-1-1; IC 35-43-1-5; IC 35-45-3-1.

Synopsis: Environmental crimes. Makes violation of certain environmental statutes or permits a Class D felony if the violation proximately results in specified harm. Requires a court to consider any improper economic benefit received by a defendant, including unjust enrichment, in determining the level of fine to impose. Provides that a person who makes a material misstatement in an application for a permit or for certain forms of financial assistance commits a Class A misdemeanor. Makes falsifying certain data or interfering with monitoring devices a Class A misdemeanor. Makes poisoning a water supply or tampering with a water supply with intent to cause serious bodily injury a Class B felony. Permits a prosecuting attorney to appoint the attorney general or a deputy attorney general as a special deputy prosecuting attorney to assist in criminal proceedings related to a violation of environmental law. Repeals current provisions establishing offenses that are superseded by this bill.

Effective: July 1, 2007.

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January 16, 2007, read first time and referred to Committee on Energy and Environmental Affairs.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 286



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 4-6-3-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 3. If the attorney general has
3 reasonable cause to believe that a person may be in possession,
4 custody, or control of documentary material, or may have knowledge
5 of a fact that is relevant to an investigation conducted to determine if
6 a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10,
7 IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5,
8 ~~IC 13-30-6~~, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7,
9 IC 24-5-8, IC 24-9, IC 25-1-7, IC 32-34-1, or any other statute enforced
10 by the attorney general **or is or has been engaged in a criminal**
11 **violation of IC 13**, only the attorney general may issue in writing, and
12 cause to be served upon the person or the person's representative or
13 agent, an investigative demand that requires that the person served do
14 any combination of the following:
15 (1) Produce the documentary material for inspection and copying
16 or reproduction.
17 (2) Answer under oath and in writing written interrogatories.



1 (3) Appear and testify under oath before the attorney general or
 2 the attorney general's duly authorized representative.
 3 SECTION 2. IC 6-1.1-12-28.5 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28.5. (a) For purposes
 5 of this section:
 6 (1) "Hazardous waste" has the meaning set forth in
 7 IC 13-11-2-99(a) and includes a waste determined to be a
 8 hazardous waste under IC 13-22-2-3(b).
 9 (2) "Resource recovery system" means tangible property directly
 10 used to dispose of solid waste or hazardous waste by converting
 11 it into energy or other useful products.
 12 (3) "Solid waste" has the meaning set forth in IC 13-11-2-205(a)
 13 but does not include dead animals or any animal solid or
 14 semisolid wastes.
 15 (b) Except as provided in this section, the owner of a resource
 16 recovery system is entitled to an annual deduction in an amount equal
 17 to ninety-five percent (95%) of the assessed value of the system if:
 18 (1) the system was certified by the department of environmental
 19 management for the 1993 assessment year or a prior assessment
 20 year; and
 21 (2) the owner filed a timely application for the deduction for the
 22 1993 assessment year.
 23 For purposes of this section, a system includes tangible property that
 24 replaced tangible property in the system after the certification by the
 25 department of environmental management.
 26 (c) The owner of a resource recovery system that is directly used to
 27 dispose of hazardous waste is not entitled to the deduction provided by
 28 this section for a particular assessment year if during that assessment
 29 year the owner:
 30 (1) is convicted of any violation under IC 13-7-13-3 (repealed),
 31 IC 13-7-13-4 (repealed), or ~~IC 13-30-6~~ **a criminal statute under**
 32 **IC 13;** or
 33 (2) is subject to an order or a consent decree with respect to
 34 property located in Indiana based upon a violation of a federal or
 35 state rule, regulation, or statute governing the treatment, storage,
 36 or disposal of hazardous wastes that had a major or moderate
 37 potential for harm.
 38 (d) The certification of a resource recovery system by the
 39 department of environmental management for the 1993 assessment
 40 year or a prior assessment year is valid through the 1997 assessment
 41 year so long as the property is used as a resource recovery system. If
 42 the property is no longer used for the purpose for which the property

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1 was used when the property was certified, the owner of the property
2 shall notify the county auditor. However, the deduction from the
3 assessed value of the system is:

- 4 (1) ninety-five percent (95%) for the 1994 assessment year;
- 5 (2) ninety percent (90%) for the 1995 assessment year;
- 6 (3) seventy-five percent (75%) for the 1996 assessment year; and
- 7 (4) sixty percent (60%) for the 1997 assessment year.

8 Notwithstanding this section as it existed before 1995, for the 1994
9 assessment year, the portion of any tangible property comprising a
10 resource recovery system that was assessed and first deducted for the
11 1994 assessment year may not be deducted for property taxes first due
12 and payable in 1995 or later.

13 (e) In order to qualify for a deduction under this section, the person
14 who desires to claim the deduction must file an application with the
15 county auditor after February 28 and before May 16 of the current
16 assessment year. An application must be filed in each year for which
17 the person desires to obtain the deduction. The application may be filed
18 in person or by mail. If mailed, the mailing must be postmarked on or
19 before the last day for filing. If the application is not filed before the
20 applicable deadline under this subsection, the deduction is waived. The
21 application must be filed on a form prescribed by the department of
22 local government finance. The application for a resource recovery
23 system deduction must include:

- 24 (1) a certification by the department of environmental
25 management for the 1993 assessment year or a prior assessment
26 year as described in subsection (d); or
- 27 (2) the certification by the department of environmental
28 management for the 1993 assessment year as described in
29 subsection (g).

30 Beginning with the 1995 assessment year a person must also file an
31 itemized list of all property on which a deduction is claimed. The list
32 must include the date of purchase of the property and the cost to
33 acquire the property.

34 (f) Before July 1, 1995, the department of environmental
35 management shall transfer all the applications, records, or other
36 material the department has with respect to resource recovery system
37 deductions under this section for the 1993 and 1994 assessment years.
38 The township assessor shall verify each deduction application filed
39 under this section and the county auditor shall determine the deduction.
40 The county auditor shall send to the department of local government
41 finance a copy of each deduction application. The county auditor shall
42 notify the county property tax assessment board of appeals of all

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1 deductions allowed under this section. A denial of a deduction claimed
 2 under this subsection may be appealed as provided in IC 6-1.1-15. The
 3 appeal is limited to a review of a determination made by the township
 4 assessor or the county auditor.

5 (g) Notwithstanding subsection (d), the certification for the 1993
 6 assessment year of a resource recovery system in regard to which a
 7 political subdivision is liable for the payment of the property taxes
 8 remains valid at the ninety-five percent (95%) deduction level allowed
 9 before 1994 as long as the political subdivision remains liable for the
 10 payment of the property taxes on the system.

11 SECTION 3. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006,
 12 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2007]: Sec. 4.5. (a) For purposes of this section, "personal
 14 property" means personal property other than inventory (as defined in
 15 IC 6-1.1-3-11(a)).

16 (b) An applicant must provide a statement of benefits to the
 17 designating body. The applicant must provide the completed statement
 18 of benefits form to the designating body before the hearing specified in
 19 section 2.5(c) of this chapter or before the installation of the new
 20 manufacturing equipment, new research and development equipment,
 21 new logistical distribution equipment, or new information technology
 22 equipment for which the person desires to claim a deduction under this
 23 chapter. The department of local government finance shall prescribe a
 24 form for the statement of benefits. The statement of benefits must
 25 include the following information:

26 (1) A description of the new manufacturing equipment, new
 27 research and development equipment, new logistical distribution
 28 equipment, or new information technology equipment that the
 29 person proposes to acquire.

30 (2) With respect to:

31 (A) new manufacturing equipment not used to dispose of solid
 32 waste or hazardous waste by converting the solid waste or
 33 hazardous waste into energy or other useful products; and

34 (B) new research and development equipment, new logistical
 35 distribution equipment, or new information technology
 36 equipment;

37 an estimate of the number of individuals who will be employed or
 38 whose employment will be retained by the person as a result of
 39 the installation of the new manufacturing equipment, new
 40 research and development equipment, new logistical distribution
 41 equipment, or new information technology equipment and an
 42 estimate of the annual salaries of these individuals.

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1 (3) An estimate of the cost of the new manufacturing equipment,
 2 new research and development equipment, new logistical
 3 distribution equipment, or new information technology
 4 equipment.
 5 (4) With respect to new manufacturing equipment used to dispose
 6 of solid waste or hazardous waste by converting the solid waste
 7 or hazardous waste into energy or other useful products, an
 8 estimate of the amount of solid waste or hazardous waste that will
 9 be converted into energy or other useful products by the new
 10 manufacturing equipment.
 11 The statement of benefits may be incorporated in a designation
 12 application. Notwithstanding any other law, a statement of benefits is
 13 a public record that may be inspected and copied under IC 5-14-3-3.
 14 (c) The designating body must review the statement of benefits
 15 required under subsection (b). The designating body shall determine
 16 whether an area should be designated an economic revitalization area
 17 or whether the deduction shall be allowed, based on (and after it has
 18 made) the following findings:
 19 (1) Whether the estimate of the cost of the new manufacturing
 20 equipment, new research and development equipment, new
 21 logistical distribution equipment, or new information technology
 22 equipment is reasonable for equipment of that type.
 23 (2) With respect to:
 24 (A) new manufacturing equipment not used to dispose of solid
 25 waste or hazardous waste by converting the solid waste or
 26 hazardous waste into energy or other useful products; and
 27 (B) new research and development equipment, new logistical
 28 distribution equipment, or new information technology
 29 equipment;
 30 whether the estimate of the number of individuals who will be
 31 employed or whose employment will be retained can be
 32 reasonably expected to result from the installation of the new
 33 manufacturing equipment, new research and development
 34 equipment, new logistical distribution equipment, or new
 35 information technology equipment.
 36 (3) Whether the estimate of the annual salaries of those
 37 individuals who will be employed or whose employment will be
 38 retained can be reasonably expected to result from the proposed
 39 installation of new manufacturing equipment, new research and
 40 development equipment, new logistical distribution equipment, or
 41 new information technology equipment.
 42 (4) With respect to new manufacturing equipment used to dispose

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1 of solid waste or hazardous waste by converting the solid waste
2 or hazardous waste into energy or other useful products, whether
3 the estimate of the amount of solid waste or hazardous waste that
4 will be converted into energy or other useful products can be
5 reasonably expected to result from the installation of the new
6 manufacturing equipment.

7 (5) Whether any other benefits about which information was
8 requested are benefits that can be reasonably expected to result
9 from the proposed installation of new manufacturing equipment,
10 new research and development equipment, new logistical
11 distribution equipment, or new information technology
12 equipment.

13 (6) Whether the totality of benefits is sufficient to justify the
14 deduction.

15 The designating body may not designate an area an economic
16 revitalization area or approve the deduction unless it makes the
17 findings required by this subsection in the affirmative.

18 (d) Except as provided in subsection (h), and subject to subsection
19 (i), an owner of new manufacturing equipment, new research and
20 development equipment, new logistical distribution equipment, or new
21 information technology equipment whose statement of benefits is
22 approved after June 30, 2000, is entitled to a deduction from the
23 assessed value of that equipment for the number of years determined
24 by the designating body under subsection (g). Except as provided in
25 subsection (f) and in section 2(i)(3) of this chapter, and subject to
26 subsection (i), the amount of the deduction that an owner is entitled to
27 for a particular year equals the product of:

28 (1) the assessed value of the new manufacturing equipment, new
29 research and development equipment, new logistical distribution
30 equipment, or new information technology equipment in the year
31 of deduction under the appropriate table set forth in subsection
32 (e); multiplied by

33 (2) the percentage prescribed in the appropriate table set forth in
34 subsection (e).

35 (e) The percentage to be used in calculating the deduction under
36 subsection (d) is as follows:

- 37 (1) For deductions allowed over a one (1) year period:
- | | | |
|----|--------------------|------------|
| 38 | YEAR OF DEDUCTION | PERCENTAGE |
| 39 | 1st | 100% |
| 40 | 2nd and thereafter | 0% |
- 41 (2) For deductions allowed over a two (2) year period:
- | | | |
|----|-------------------|------------|
| 42 | YEAR OF DEDUCTION | PERCENTAGE |
|----|-------------------|------------|

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1	1st	100%
2	2nd	50%
3	3rd and thereafter	0%
4	(3) For deductions allowed over a three (3) year period:	
5	YEAR OF DEDUCTION	PERCENTAGE
6	1st	100%
7	2nd	66%
8	3rd	33%
9	4th and thereafter	0%
10	(4) For deductions allowed over a four (4) year period:	
11	YEAR OF DEDUCTION	PERCENTAGE
12	1st	100%
13	2nd	75%
14	3rd	50%
15	4th	25%
16	5th and thereafter	0%
17	(5) For deductions allowed over a five (5) year period:	
18	YEAR OF DEDUCTION	PERCENTAGE
19	1st	100%
20	2nd	80%
21	3rd	60%
22	4th	40%
23	5th	20%
24	6th and thereafter	0%
25	(6) For deductions allowed over a six (6) year period:	
26	YEAR OF DEDUCTION	PERCENTAGE
27	1st	100%
28	2nd	85%
29	3rd	66%
30	4th	50%
31	5th	34%
32	6th	25%
33	7th and thereafter	0%
34	(7) For deductions allowed over a seven (7) year period:	
35	YEAR OF DEDUCTION	PERCENTAGE
36	1st	100%
37	2nd	85%
38	3rd	71%
39	4th	57%
40	5th	43%
41	6th	29%
42	7th	14%

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1	8th and thereafter	0%
2	(8) For deductions allowed over an eight (8) year period:	
3	YEAR OF DEDUCTION	PERCENTAGE
4	1st	100%
5	2nd	88%
6	3rd	75%
7	4th	63%
8	5th	50%
9	6th	38%
10	7th	25%
11	8th	13%
12	9th and thereafter	0%
13	(9) For deductions allowed over a nine (9) year period:	
14	YEAR OF DEDUCTION	PERCENTAGE
15	1st	100%
16	2nd	88%
17	3rd	77%
18	4th	66%
19	5th	55%
20	6th	44%
21	7th	33%
22	8th	22%
23	9th	11%
24	10th and thereafter	0%
25	(10) For deductions allowed over a ten (10) year period:	
26	YEAR OF DEDUCTION	PERCENTAGE
27	1st	100%
28	2nd	90%
29	3rd	80%
30	4th	70%
31	5th	60%
32	6th	50%
33	7th	40%
34	8th	30%
35	9th	20%
36	10th	10%
37	11th and thereafter	0%

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38 (f) With respect to new manufacturing equipment and new research
 39 and development equipment installed before March 2, 2001, the
 40 deduction under this section is the amount that causes the net assessed
 41 value of the property after the application of the deduction under this
 42 section to equal the net assessed value after the application of the



1 deduction under this section that results from computing:
 2 (1) the deduction under this section as in effect on March 1, 2001;
 3 and
 4 (2) the assessed value of the property under 50 IAC 4.2, as in
 5 effect on March 1, 2001, or, in the case of property subject to
 6 IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

7 (g) For an economic revitalization area designated before July 1,
 8 2000, the designating body shall determine whether a property owner
 9 whose statement of benefits is approved after April 30, 1991, is entitled
 10 to a deduction for five (5) or ten (10) years. For an economic
 11 revitalization area designated after June 30, 2000, the designating body
 12 shall determine the number of years the deduction is allowed. However,
 13 the deduction may not be allowed for more than ten (10) years. This
 14 determination shall be made:
 15 (1) as part of the resolution adopted under section 2.5 of this
 16 chapter; or
 17 (2) by resolution adopted within sixty (60) days after receiving a
 18 copy of a property owner's certified deduction application from
 19 the county auditor. A certified copy of the resolution shall be sent
 20 to the county auditor.

21 A determination about the number of years the deduction is allowed
 22 that is made under subdivision (1) is final and may not be changed by
 23 following the procedure under subdivision (2).

24 (h) The owner of new manufacturing equipment that is directly used
 25 to dispose of hazardous waste is not entitled to the deduction provided
 26 by this section for a particular assessment year if during that
 27 assessment year the owner:
 28 (1) is convicted of a **criminal** violation under **IC 13, including**
 29 **IC 13-7-13-3 (repealed) or IC 13-7-13-4 (repealed); or**
 30 ~~IC 13-30-6~~; or
 31 (2) is subject to an order or a consent decree with respect to
 32 property located in Indiana based on a violation of a federal or
 33 state rule, regulation, or statute governing the treatment, storage,
 34 or disposal of hazardous wastes that had a major or moderate
 35 potential for harm.

36 (i) For purposes of subsection (d), the assessed value of new
 37 manufacturing equipment, new research and development equipment,
 38 new logistical distribution equipment, or new information technology
 39 equipment that is part of an owner's assessable depreciable personal
 40 property in a single taxing district subject to the valuation limitation in
 41 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:
 42 (1) the assessed value of the equipment determined without

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1 regard to the valuation limitation in 50 IAC 4.2-4-9 or 50
2 IAC 5.1-6-9; multiplied by

3 (2) the quotient of:
4 (A) the amount of the valuation limitation determined under
5 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's
6 depreciable personal property in the taxing district; divided by
7 (B) the total true tax value of all of the owner's depreciable
8 personal property in the taxing district that is subject to the
9 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9
10 determined:

11 (i) under the depreciation schedules in the rules of the
12 department of local government finance before any
13 adjustment for abnormal obsolescence; and

14 (ii) without regard to the valuation limitation in 50
15 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

16 SECTION 4. IC 6-2.3-5-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Except as
18 provided in subsection (b), if:

19 (1) for federal income tax purposes a taxpayer is allowed a
20 depreciation deduction for a particular taxable year with respect
21 to a resource recovery system; and

22 (2) the resource recovery system processes solid waste or
23 hazardous waste;

24 the taxpayer is entitled to a deduction from the taxpayer's gross receipts
25 for that same taxable year. The amount of the deduction equals the total
26 depreciation deductions that the taxpayer is allowed, with respect to the
27 system, for that taxable year under Sections 167 and 179 of the Internal
28 Revenue Code.

29 (b) A taxpayer is not entitled to the deduction provided by this
30 section for a particular taxable year with respect to a resource recovery
31 system that is directly used to dispose of hazardous waste if during that
32 taxable year the taxpayer:

33 (1) is convicted of any **criminal** violation under **IC 13, including**
34 **IC 13-7-13-3** (before its repeal) **or IC 13-7-13-4** (before its
35 repeal); ~~or IC 13-30-6~~; or

36 (2) is subject to an order or consent decree based upon a violation
37 of a federal or state rule, regulation, or statute governing the
38 treatment, storage, or disposal of hazardous wastes that had a
39 major or moderate potential for harm.

40 SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.170-2006,
41 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2007]: Sec. 71. "Environmental management laws" refers to

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- 1 the following:
- 2 (1) IC 13-12-2 and IC 13-12-3.
- 3 (2) IC 13-13.
- 4 (3) IC 13-14.
- 5 (4) IC 13-15.
- 6 (5) IC 13-16.
- 7 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- 8 (7) IC 13-18-12, **IC 13-18-13-31**, and IC 13-18-15 through
- 9 IC 13-18-20.
- 10 (8) IC 13-19-1, ~~and~~ IC 13-19-4, **and IC 13-19-5-17.**
- 11 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
- 12 IC 13-20-17.7, ~~and~~ IC 13-20-19 through IC 13-20-21, **and**
- 13 **IC 13-20-22-21.**
- 14 (10) IC 13-22.
- 15 (11) IC 13-23.
- 16 (12) IC 13-24.
- 17 (13) IC 13-25-1 through IC 13-25-5.
- 18 (14) IC 13-27-8.
- 19 (15) IC 13-30, except IC 13-30-1.

20 SECTION 6. IC 13-11-2-158 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 158. (a) "Person", for
 22 purposes of:

- 23 (1) IC 13-21;
- 24 (2) air pollution control laws;
- 25 (3) water pollution control laws; and
- 26 (4) environmental management laws, except as provided in
- 27 subsections (c), (d), (e), and (h);

28 means an individual, a partnership, a copartnership, a firm, a company,
 29 a corporation, an association, a joint stock company, a trust, an estate,
 30 a municipal corporation, a city, a school city, a town, a school town, a
 31 school district, a school corporation, a county, any consolidated unit of
 32 government, political subdivision, state agency, a contractor, or any
 33 other legal entity.

34 (b) "Person", for purposes of:

- 35 (1) IC 13-18-10; and
- 36 (2) IC 13-20-17;

37 means an individual, a partnership, a copartnership, a firm, a company,
 38 a corporation, an association, a joint stock company, a trust, an estate,
 39 a political subdivision, a state agency, or other legal entity, or their
 40 legal representative, agent, or assigns.

41 (c) "Person", for purposes of:

- 42 (1) IC 13-20-13;

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1 (2) IC 13-20-14;
2 (3) IC 13-20-16; and
3 (4) IC 13-25-6;
4 means an individual, a corporation, a limited liability company, a
5 partnership, or an unincorporated association.

6 (d) "Person", for purposes of IC 13-23, has the meaning set forth in
7 subsection (a). The term includes a consortium, a joint venture, a
8 commercial entity, and the United States government.

9 (e) "Person", for purposes of IC 13-20-17.5 and IC 13-25-3, means
10 an individual, a corporation, a limited liability company, a partnership,
11 a trust, an estate, or an unincorporated association.

12 (f) "Person", for purposes of IC 13-26, means an individual, a firm,
13 a partnership, an association, a limited liability company, or a
14 corporation other than an eligible entity.

15 (g) "Person", for purposes of IC 13-29-1, means any individual,
16 corporation, business enterprise, or other legal entity either public or
17 private and any legal successor, representative, agent, or agency of that
18 individual, corporation, business enterprise, or legal entity.

19 (h) "Person", for purposes of
20 ~~(1) IC 13-30-6-6;~~
21 ~~(2) IC 13-30-6-7; and~~
22 ~~(3) IC 13-30-8-1,~~
23 has the meaning set forth in IC 35-41-1.

24 SECTION 7. IC 13-12-6 IS ADDED TO THE INDIANA CODE AS
25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2007]:

27 **Chapter 6. Criminal Liability of Corporate Officers**

28 **Sec. 1. A responsible corporate officer may be prosecuted for a**
29 **criminal offense under this title in accordance with IC 35-41-2-4.**

30 SECTION 8. IC 13-17-3-5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Violations of air
32 pollution control laws are subject to the penalties imposed by the
33 following:

- 34 (1) IC 13-30-4.
- 35 (2) IC 13-30-5.
- 36 ~~(3) IC 13-30-6.~~
- 37 ~~(4) (3) IC 13-30-8.~~

38 **In addition, a violation of air pollution control laws may lead to**
39 **criminal prosecution under IC 13-30-10.**

40 SECTION 9. IC 13-17-7-3 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. This chapter does not
42 do any of the following:

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- 1 (1) Limit the scope of a person's liability for criminal penalties **or**
- 2 **for civil penalties** under IC 13-30-4, IC 13-30-5, ~~IC 13-30-6~~, and
- 3 IC 13-30-8.
- 4 (2) Excuse or prohibit enforcement of violations of any state or
- 5 federal health based or technology based standard, including
- 6 national primary and secondary ambient air quality standards.
- 7 (3) Excuse a facility or source for failure to obtain in advance a
- 8 construction permit required by the prevention of significant
- 9 deterioration or new source review requirements of the federal
- 10 Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C.
- 11 7501 et seq. (Part D).
- 12 (4) Apply to an individual facility at a source:
- 13 (A) that has potential emissions of more than one hundred
- 14 (100) tons per year of any regulated pollutant;
- 15 (B) to which the board had established permit requirements
- 16 under rules in effect on January 1, 1994; and
- 17 (C) that never received an operating permit under 326
- 18 IAC 2-1-4 as in effect on January 1, 1994.
- 19 SECTION 10. IC 13-18-8-8 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The
- 21 commissioner may extend the time fixed in a final order issued under
- 22 the water pollution control laws or IC 13-1-3 (before its repeal) within
- 23 which any offender is ordered to correct or abate a condition of
- 24 pollution of any water upon written petition filed with the department
- 25 not less than thirty (30) days before the time fixed in the order if it
- 26 appears that:
- 27 (1) a good faith effort to comply with the order is being made; and
- 28 (2) it will be impossible for the offender to complete the project
- 29 of work undertaken within the time fixed.
- 30 (b) A person who fails or refuses to correct or abate the polluted
- 31 condition in compliance with the order:
- 32 (1) within the time fixed; or
- 33 (2) within the time additionally granted under this section;
- 34 is subject to the penalties imposed by IC 13-30-4, IC 13-30-5,
- 35 ~~IC 13-30-6~~, and IC 13-30-8, **and may be subject to criminal**
- 36 **prosecution under IC 13-30-10.**
- 37 SECTION 11. IC 13-18-9-6 IS AMENDED TO READ AS
- 38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. A person who
- 39 violates this chapter is subject to the penalties imposed by the
- 40 following:
- 41 (1) IC 13-30-4.
- 42 (2) IC 13-30-5.

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~~(3) IC 13-30-6.~~

~~(4) (3) IC 13-30-8.~~

In addition, a person who violates this chapter may be subject to criminal prosecution under IC 13-30-10.

SECTION 12. IC 13-18-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. A person who violates this chapter is subject to the penalties imposed by the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

~~(3) IC 13-30-6.~~

~~(4) (3) IC 13-30-8.~~

In addition, a person who violates this chapter may be subject to criminal prosecution under IC 13-30-10.

SECTION 13. IC 13-18-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This chapter shall be enforced under IC 13-30-3.

(b) Violations of this chapter are subject to the penalties imposed by the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

~~(3) IC 13-30-6.~~

~~(4) (3) IC 13-30-8.~~

In addition, a violation of this chapter may lead to criminal prosecution under IC 13-30-10.

(c) The commissioner may make inspections under this chapter in accordance with IC 13-14-2-2 and IC 13-14-5.

SECTION 14. IC 13-18-13-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Class A misdemeanor.**

SECTION 15. IC 13-18-21-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Class A misdemeanor.**

SECTION 16. IC 13-19-5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. A person who, with intent to**

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1 **defraud, knowingly or intentionally makes a material misstatement**
2 **in connection with an application for a loan or other financial**
3 **assistance from the fund commits a Class A misdemeanor.**

4 SECTION 17. IC 13-20-8-7 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) This chapter shall
6 be enforced under IC 13-30-3.

7 (b) A violation of this chapter or a rule adopted under this chapter
8 is subject **to criminal prosecution and** to the penalties set forth in the
9 following:

- 10 (1) IC 13-30-4.
- 11 (2) IC 13-30-5.
- 12 ~~(3) IC 13-30-6.~~
- 13 ~~(4)~~ **(3)** IC 13-30-8.

14 SECTION 18. IC 13-20-13-17 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2007]: **Sec. 17. A person who, with intent to**
17 **defraud, knowingly or intentionally makes a material misstatement**
18 **in connection with an application for a loan or grant from the fund**
19 **commits a Class A misdemeanor.**

20 SECTION 19. IC 13-20-15-7 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A person who
22 violates this chapter is subject to the penalties imposed by the
23 following:

- 24 (1) IC 13-30-4.
- 25 (2) IC 13-30-5.
- 26 ~~(3) IC 13-30-6.~~
- 27 ~~(4)~~ **(3)** IC 13-30-8.

28 **In addition, a person who violates this chapter may be subject to**
29 **criminal prosecution under IC 13-30-10.**

30 (b) This chapter may be enforced under IC 13-30-3 or IC 13-14-2-6.

31 SECTION 20. IC 13-20-17.7-8, AS ADDED BY P.L.170-2006,
32 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2007]: Sec. 8. (a) This chapter shall be enforced under
34 IC 13-30-3.

35 (b) A violation of this chapter or a rule adopted under this chapter
36 is subject to the penalties set forth in the following:

- 37 (1) IC 13-30-4.
- 38 (2) IC 13-30-5.
- 39 ~~(3) IC 13-30-6.~~
- 40 ~~(4)~~ **(3)** IC 13-30-8.

41 **In addition, a violation of this chapter may lead to criminal**
42 **prosecution under IC 13-30-10.**

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1 SECTION 21. IC 13-20-22-2, AS AMENDED BY P.L.170-2006,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 2. (a) The state solid waste management fund is
4 established to provide money for the following:

5 (1) Programs that provide grants and loans that provide education
6 and promote the following:

7 (A) Recycling and the use of recycled materials.

8 (B) Waste reduction.

9 (C) Management of yard waste.

10 (2) Providing grants to implement household hazardous waste
11 source reduction or recycling projects.

12 (3) Providing grants for household hazardous waste and
13 conditionally exempting small quantity generator waste
14 collection, recycling, or disposal projects under IC 13-20-20.

15 (4) Payments by the department under IC 13-20-17.7-6.

16 (b) The expenses of administering the fund shall be paid from
17 money in the fund.

18 (c) The sources of money for the fund are the following:

19 (1) All fees deposited into the fund under section 12(2) of this
20 chapter.

21 (2) Accrued interest and other investment earnings of the fund.

22 (3) Appropriations made by the general assembly.

23 (4) Gifts and donations from any person to the fund.

24 (5) Civil penalties imposed under IC 13-30-4 ~~and fines imposed~~
25 ~~under IC 13-30-6~~ for violations of IC 13-20-17.7 **and proceeds**
26 **received following a criminal conviction in connection with a**
27 **violation of IC 13-20-17.7.**

28 (6) Subject to subsection (f), assets assigned and other
29 contributions made by persons.

30 (7) Transfers from the Indiana recycling promotion and assistance
31 fund under IC 4-23-5.5-14(i).

32 (8) Money credited to the fund from the environmental
33 management special fund under IC 13-14-12-1(c).

34 (d) The treasurer of state shall invest the money in the fund not
35 currently needed to meet the obligations of the fund in the same
36 manner as other public money may be invested.

37 (e) Money in the fund at the end of a state fiscal year does not revert
38 to the state general fund.

39 (f) Money in the fund resulting from assets assigned and other
40 contributions made under subsection (c)(6) may be used only by the
41 department of environmental management to make payments under
42 IC 13-20-17.7-6.

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1 SECTION 22. IC 13-20-22-21 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 21. A person who, with intent to**
4 **defraud, knowingly or intentionally makes a material misstatement**
5 **in connection with an application for a loan or grant from the fund**
6 **commits a Class A misdemeanor.**

7 SECTION 23. IC 13-22-3-7 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. An individual, a
9 partnership, a limited liability company, or a corporation who or that
10 has been:

- 11 (1) convicted of a violation of the environmental management
12 laws or IC 13-7 (before its repeal); and
 - 13 (2) fined or imprisoned; ~~under IC 13-30-6;~~
- 14 may not be issued a permit to own or operate a hazardous waste
15 facility.

16 SECTION 24. IC 13-22-14-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. ~~Violations A~~
18 **violation of a provision** of IC 13-22-2 through IC 13-22-8 ~~and or~~
19 IC 13-22-13 ~~are is~~ subject to the penalties imposed by the following:

- 20 (1) IC 13-30-4.
- 21 (2) IC 13-30-5.
- 22 ~~(3) IC 13-30-6.~~
- 23 ~~(4)~~ (3) IC 13-30-8.

24 **In addition, a violation of a provision of IC 13-22-2 through**
25 **IC 13-22-8 or IC 13-22-13 may lead to criminal prosecution under**
26 **IC 13-30-10.**

27 SECTION 25. IC 13-23-7-9 IS ADDED TO THE INDIANA CODE
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2007]: **Sec. 9. A person who, with intent to defraud, knowingly**
30 **or intentionally makes a material misstatement in connection with**
31 **an application for financial assistance from the fund commits a**
32 **Class A misdemeanor.**

33 SECTION 26. IC 13-23-9-6 IS ADDED TO THE INDIANA CODE
34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2007]: **Sec. 6. A person who, with intent to defraud, knowingly**
36 **or intentionally makes a material misstatement in connection with**
37 **a request for payment from the excess liability trust fund commits**
38 **a Class A misdemeanor.**

39 SECTION 27. IC 13-23-12-7 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Except as
41 provided in subsection (e), an owner of an underground storage tank
42 who:

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1 (1) is required to pay the fee under section 1 of this chapter; and
 2 (2) fails to pay the fee when due as established under section 2 of
 3 this chapter;
 4 shall be assessed a penalty of not more than two thousand dollars
 5 (\$2,000) per underground storage tank for each year that passes after
 6 the fee becomes due and before the fee is paid.
 7 (b) Except as provided in subsection (c), each penalty assessed
 8 under this section and collected from the owner of an underground
 9 petroleum storage tank shall be deposited as follows:
 10 (1) Fifty percent (50%) shall be deposited in the petroleum trust
 11 fund.
 12 (2) Fifty percent (50%) shall be deposited in the excess liability
 13 trust fund.
 14 (c) Penalties assessed under this section and collected from owners
 15 of underground storage tanks used to contain regulated substances
 16 other than petroleum shall be deposited in the hazardous substances
 17 response trust fund.
 18 (d) The penalty set forth in this section is in addition to the penalties
 19 that may be imposed **for the violation of a criminal law or** under the
 20 following:
 21 (1) IC 13-23-14-2.
 22 (2) IC 13-23-14-3.
 23 (3) IC 13-23-14-4.
 24 (4) IC 13-30-4.
 25 (5) IC 13-30-5.
 26 ~~(6) IC 13-30-6.~~
 27 ~~(7)~~ **(6)** IC 13-30-8.
 28 (e) If an owner described in subsection (a) registered an
 29 underground storage tank before January 1, 2004, the penalty
 30 established in subsection (a) may not be assessed against the owner for
 31 any failure to pay an annual registration fee under section 1 of this
 32 chapter:
 33 (1) in connection with the underground storage tank; and
 34 (2) that was due before January 1, 2004.
 35 SECTION 28. IC 13-23-14-1 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article shall
 37 be enforced under IC 13-30-3.
 38 (b) Except as provided in sections 2, 3, and 4 of this chapter,
 39 violations of this article are subject to the penalties imposed by the
 40 following:
 41 (1) IC 13-30-4.
 42 (2) IC 13-30-5.

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~~(3) IC 13-30-6.~~

~~(4) (3) IC 13-30-8.~~

In addition, a violation of this article may lead to criminal prosecution under IC 13-30-10.

SECTION 29. IC 13-25-4-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for financial assistance from the fund commits a Class A misdemeanor.**

SECTION 30. IC 13-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. A vehicle that is used to transport hazardous waste in the commission of an offense described in ~~IC 13-30-6-6~~ IC 13-30-10-4 is subject to forfeiture under IC 34-24-1.**

SECTION 31. IC 13-30-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 10. Crimes

Sec. 1. (a) A person who knowingly or intentionally makes a material misstatement in connection with an application for a permit submitted to the department commits a Class A misdemeanor.

(b) A person who knowingly or intentionally destroys, alters, conceals, or falsely certifies a record that:

(1) is required to be maintained under the terms of a permit issued by the department; and

(2) may be used to determine the status of compliance; commits a Class A misdemeanor.

(c) A person who knowingly or intentionally renders inaccurate or inoperative a recording device or a monitoring device required to be maintained by a permit issued by the department commits a Class A misdemeanor.

(d) A person who knowingly or intentionally falsifies testing or monitoring data required by a permit issued by the department commits a Class A misdemeanor.

Sec. 2. (a) A person who:

(1) knowingly, intentionally, or recklessly violates:

(A) the terms of a permit relating to air pollution control issued by the department; or

(B) an air pollution control law; and

(2) discharges a contaminant into the air, if the discharge

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results in:

- (A) a substantial risk of serious bodily injury;
- (B) serious bodily injury to an individual;
- (C) the death of a vertebrate animal; or
- (D) damage to the environment that renders the environment unfit for human or vertebrate animal life, or causes damage to an endangered, an at risk, or a threatened species;

commits a Class D felony.

(b) In a prosecution under this section, the state has the burden of proving that the violation described in subsection (a)(1) is the proximate cause of the discharge described in subsection (a)(2).

(c) It is a defense to a prosecution under this section that the person did not know and could not reasonably have been expected to know that the contaminant released into the air was capable of causing a result described in subsection (a)(2).

(d) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or IC 35-50-3-2, the court may order a person convicted under this section to pay:

- (1) a fine of at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) for each day of violation; or
- (2) if the person has a prior unrelated conviction for an offense under this title that may be punished as a felony, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation.

In determining the amount of a fine imposed for a violation of this section, the court shall consider any improper economic benefit, including unjust enrichment, received by the defendant as a result of the unlawful conduct.

Sec. 3. (a) A person who:

- (1) knowingly, intentionally, or recklessly violates:
 - (A) the terms of a permit relating to water pollution control issued by the department; or
 - (B) a water pollution control law; and
- (2) discharges any substance into waters or into a public sewer, if the discharge results in:
 - (A) a substantial risk of serious bodily injury;
 - (B) serious bodily injury to an individual;
 - (C) the death of a vertebrate animal; or
 - (D) damage to the environment that renders the environment unfit for human or vertebrate animal life, or

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1 causes damage to an endangered, an at risk, or a
 2 threatened species;
 3 commits a Class D felony.

4 (b) In a prosecution under this section, the state has the burden
 5 of proving that the violation described in subsection (a)(1) is the
 6 proximate cause of the discharge described in subsection (a)(2).

7 (c) It is a defense to a prosecution under this section that the
 8 person did not know and could not reasonably have been expected
 9 to know that the substance discharged into waters or into a public
 10 sewer was capable of causing a result described in subsection
 11 (a)(2).

12 (d) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or
 13 IC 35-50-3-2, the court may order a person convicted under this
 14 section to pay:

15 (1) a fine of at least five thousand dollars (\$5,000) and not
 16 more than fifty thousand dollars (\$50,000) for each day of
 17 violation; or

18 (2) if the person has a prior unrelated conviction for an
 19 offense under this title that may be punished as a felony, a fine
 20 of not more than one hundred thousand dollars (\$100,000) for
 21 each per day of violation.

22 In determining the amount of a fine imposed for a violation of this
 23 section, the court shall consider any improper economic benefit,
 24 including unjust enrichment, received by the defendant as a result
 25 of the unlawful conduct.

26 Sec. 4. (a) A person who:

27 (1) knowingly, intentionally, or recklessly violates:

28 (A) the terms of a permit that relates to solid or hazardous
 29 waste issued by the department; or

30 (B) an Indiana statute that relates to solid waste or
 31 hazardous waste; and

32 (2) discharges a contaminant into the environment, if the
 33 discharge results in:

34 (A) a substantial risk of serious bodily injury;

35 (B) serious bodily injury to an individual;

36 (C) the death of a vertebrate animal; or

37 (D) damage to the environment that renders the
 38 environment unfit for human or vertebrate animal life, or
 39 causes damage to an endangered, an at risk, or a
 40 threatened species;

41 commits a Class D felony.

42 (b) In a prosecution under this section, the state has the burden

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1 of proving that the violation described in subsection (a)(1) is the
2 proximate cause of the discharge described in subsection (a)(2).

3 (c) It is a defense to a prosecution under this section that the
4 person did not know and could not reasonably have been expected
5 to know that the substance discharged into the environment was
6 capable of causing a result described in subsection (a)(2).

7 (d) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or
8 IC 35-50-3-2, the court may order a person convicted under this
9 section to pay:

10 (1) a fine of at least five thousand dollars (\$5,000) and not
11 more than fifty thousand dollars (\$50,000) for each day of
12 violation; or

13 (2) if the person has a prior unrelated conviction for an
14 offense under this title that may be punished as a felony, a fine
15 of not more than one hundred thousand dollars (\$100,000) for
16 each day of violation.

17 In determining the amount of a fine imposed for a violation of this
18 section, the court shall consider any improper economic benefit,
19 including unjust enrichment, received by the defendant as a result
20 of the unlawful conduct.

21 Sec. 5. (a) A person who:

22 (1) operates an underground storage tank and knowingly,
23 intentionally, or recklessly violates:

24 (A) the terms of a permit issued by the department that
25 relates to the operation of an underground storage tank; or

26 (B) an Indiana statute that relates to the operation of an
27 underground storage tank; and

28 (2) discharges a contaminant into the environment, if the
29 discharge results in:

30 (A) a substantial risk of serious bodily injury;

31 (B) serious bodily injury to an individual;

32 (C) the death of a vertebrate animal; or

33 (D) damage to the environment that renders the
34 environment unfit for human or vertebrate animal life, or
35 causes damage to an endangered, an at risk, or a
36 threatened species;

37 commits a Class D felony.

38 (b) In a prosecution under this section, the state has the burden
39 of proving that the violation described in subsection (a)(1) is the
40 proximate cause of the discharge described in subsection (a)(2).

41 (c) It is a defense to a prosecution under this section that the
42 person did not know and could not reasonably have been expected

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1 to know that the substance discharged into the environment was
2 capable of causing a result described in subsection (a)(2).

3 (d) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or
4 IC 35-50-3-2, the court may order a person convicted under this
5 section to pay:

6 (1) a fine of at least five thousand dollars (\$5,000) and not
7 more than fifty thousand dollars (\$50,000) for each day of
8 violation; or

9 (2) if the person has a prior unrelated conviction for an
10 offense under this title that may be punished as a felony, a fine
11 of not more than one hundred thousand dollars (\$100,000) for
12 each day of violation.

13 In determining the amount of a fine imposed for a violation of this
14 section, the court shall consider any improper economic benefit,
15 including unjust enrichment, received by the defendant as a result
16 of the unlawful conduct.

17 Sec. 6. (a) A person who:

18 (1) knowingly, intentionally, or recklessly violates:

19 (A) the terms of a permit issued under IC 13-18-22 that
20 relates to state regulated wetlands; or

21 (B) a statute that relates to state regulated wetlands; and

22 (2) causes substantial harm to a state regulated wetland that:

23 (A) cannot be mitigated; or

24 (B) the person refuses to mitigate;

25 commits a Class D felony.

26 (b) In a prosecution under this section, the state has the burden
27 of proving that the violation described in subsection (a)(1) is the
28 proximate cause of the harm described in subsection (a)(2).

29 (c) Notwithstanding IC 35-50-2-6(a), IC 35-50-2-7(a), or
30 IC 35-50-3-2, the court may order a person convicted under this
31 section to pay:

32 (1) a fine of at least five thousand dollars (\$5,000) and not
33 more than fifty thousand dollars (\$50,000) for each day of
34 violation; or

35 (2) if the person has a prior unrelated conviction for an
36 offense under this title that may be punished as a felony, a fine
37 of not more than one hundred thousand dollars (\$100,000) for
38 each day of violation.

39 In determining the amount of a fine imposed for a violation of this
40 section, the court shall consider any improper economic benefit,
41 including unjust enrichment, received by the defendant as a result
42 of the unlawful conduct.

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1 SECTION 32. IC 33-39-2-6, AS ADDED BY P.L.222-2005,
2 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 6. **(a) With the consent of the inspector general,**
4 a prosecuting attorney may appoint the inspector general or a deputy
5 inspector general who is licensed to practice law in Indiana as a special
6 deputy prosecuting attorney to assist in any criminal proceeding
7 involving public misconduct.

8 **(b) With the consent of the attorney general, a prosecuting**
9 **attorney may appoint the attorney general or a deputy attorney**
10 **general who is licensed to practice law in Indiana as a special**
11 **deputy prosecuting attorney to assist in any criminal proceeding**
12 **involving environmental law.**

13 SECTION 33. IC 34-24-1-1, AS AMENDED BY P.L.151-2006,
14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2007]: Sec. 1. (a) The following may be seized:

16 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
17 intended for use by the person or persons in possession of them to
18 transport or in any manner to facilitate the transportation of the
19 following:

20 (A) A controlled substance for the purpose of committing,
21 attempting to commit, or conspiring to commit any of the
22 following:

- 23 (i) Dealing in or manufacturing cocaine or a narcotic drug
24 (IC 35-48-4-1).
- 25 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 26 (iii) Dealing in a schedule I, II, or III controlled substance
27 (IC 35-48-4-2).
- 28 (iv) Dealing in a schedule IV controlled substance
29 (IC 35-48-4-3).
- 30 (v) Dealing in a schedule V controlled substance
31 (IC 35-48-4-4).
- 32 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 33 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- 34 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
- 35 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 36 (x) Dealing in marijuana, hash oil, or hashish
37 (IC 35-48-4-10).

38 (B) Any stolen (IC 35-43-4-2) or converted property
39 (IC 35-43-4-3) if the retail or repurchase value of that property
40 is one hundred dollars (\$100) or more.

41 (C) Any hazardous waste in violation of ~~IC 13-30-6-6.~~
42 **IC 13-30-10-4.**

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- 1 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
 2 destruction (as defined in IC 35-41-1-29.4) used to commit,
 3 used in an attempt to commit, or used in a conspiracy to
 4 commit an offense under IC 35-47 as part of or in furtherance
 5 of an act of terrorism (as defined by IC 35-41-1-26.5).
 6 (2) All money, negotiable instruments, securities, weapons,
 7 communications devices, or any property used to commit, used in
 8 an attempt to commit, or used in a conspiracy to commit an
 9 offense under IC 35-47 as part of or in furtherance of an act of
 10 terrorism or commonly used as consideration for a violation of
 11 IC 35-48-4 (other than items subject to forfeiture under
 12 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 13 (A) furnished or intended to be furnished by any person in
 14 exchange for an act that is in violation of a criminal statute;
 15 (B) used to facilitate any violation of a criminal statute; or
 16 (C) traceable as proceeds of the violation of a criminal statute.
 17 (3) Any portion of real or personal property purchased with
 18 money that is traceable as a proceed of a violation of a criminal
 19 statute.
 20 (4) A vehicle that is used by a person to:
 21 (A) commit, attempt to commit, or conspire to commit;
 22 (B) facilitate the commission of; or
 23 (C) escape from the commission of;
 24 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 25 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 26 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 27 under IC 35-47 as part of or in furtherance of an act of terrorism.
 28 (5) Real property owned by a person who uses it to commit any of
 29 the following as a Class A felony, a Class B felony, or a Class C
 30 felony:
 31 (A) Dealing in or manufacturing cocaine or a narcotic drug
 32 (IC 35-48-4-1).
 33 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 34 (C) Dealing in a schedule I, II, or III controlled substance
 35 (IC 35-48-4-2).
 36 (D) Dealing in a schedule IV controlled substance
 37 (IC 35-48-4-3).
 38 (E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 39 (6) Equipment and recordings used by a person to commit fraud
 40 under IC 35-43-5-4(10).
 41 (7) Recordings sold, rented, transported, or possessed by a person
 42 in violation of IC 24-4-10.

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- 1 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
2 defined by IC 35-45-6-1) that is the object of a corrupt business
3 influence violation (IC 35-45-6-2).
- 4 (9) Unlawful telecommunications devices (as defined in
5 IC 35-45-13-6) and plans, instructions, or publications used to
6 commit an offense under IC 35-45-13.
- 7 (10) Any equipment used or intended for use in preparing,
8 photographing, recording, videotaping, digitizing, printing,
9 copying, or disseminating matter in violation of IC 35-42-4-4.
- 10 (11) Destructive devices used, possessed, transported, or sold in
11 violation of IC 35-47.5.
- 12 (12) Tobacco products that are sold in violation of IC 24-3-5,
13 tobacco products that a person attempts to sell in violation of
14 IC 24-3-5, and other personal property owned and used by a
15 person to facilitate a violation of IC 24-3-5.
- 16 (13) Property used by a person to commit counterfeiting or
17 forgery in violation of IC 35-43-5-2.
- 18 (14) After December 31, 2005, if a person is convicted of an
19 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
20 following real or personal property:
- 21 (A) Property used or intended to be used to commit, facilitate,
22 or promote the commission of the offense.
- 23 (B) Property constituting, derived from, or traceable to the
24 gross proceeds that the person obtained directly or indirectly
25 as a result of the offense.
- 26 (15) Except as provided in subsection (e), a motor vehicle used by
27 a person who operates the motor vehicle:
- 28 (A) while intoxicated, in violation of IC 9-30-5-1 through
29 IC 9-30-5-5, if in the previous five (5) years the person has two
30 (2) or more prior unrelated convictions:
- 31 (i) for operating a motor vehicle while intoxicated in
32 violation of IC 9-30-5-1 through IC 9-30-5-5; or
33 (ii) for an offense that is substantially similar to IC 9-30-5-1
34 through IC 9-30-5-5 in another jurisdiction; or
- 35 (B) on a highway while the person's driver's license is
36 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
37 if in the previous five (5) years the person has two (2) or more
38 prior unrelated convictions:
- 39 (i) for operating a motor vehicle while intoxicated in
40 violation of IC 9-30-5-1 through IC 9-30-5-5; or
41 (ii) for an offense that is substantially similar to IC 9-30-5-1
42 through IC 9-30-5-5 in another jurisdiction.

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1 If a court orders the seizure of a motor vehicle under this
 2 subdivision, the court shall transmit an order to the bureau of
 3 motor vehicles recommending that the bureau not permit a motor
 4 vehicle to be registered in the name of the person whose motor
 5 vehicle was seized until the person possesses a current driving
 6 license (as defined in IC 9-13-2-41).

7 (b) A vehicle used by any person as a common or contract carrier in
 8 the transaction of business as a common or contract carrier is not
 9 subject to seizure under this section, unless it can be proven by a
 10 preponderance of the evidence that the owner of the vehicle knowingly
 11 permitted the vehicle to be used to engage in conduct that subjects it to
 12 seizure under subsection (a).

13 (c) Equipment under subsection (a)(10) may not be seized unless it
 14 can be proven by a preponderance of the evidence that the owner of the
 15 equipment knowingly permitted the equipment to be used to engage in
 16 conduct that subjects it to seizure under subsection (a)(10).

17 (d) Money, negotiable instruments, securities, weapons,
 18 communications devices, or any property commonly used as
 19 consideration for a violation of IC 35-48-4 found near or on a person
 20 who is committing, attempting to commit, or conspiring to commit any
 21 of the following offenses shall be admitted into evidence in an action
 22 under this chapter as prima facie evidence that the money, negotiable
 23 instrument, security, or other thing of value is property that has been
 24 used or was to have been used to facilitate the violation of a criminal
 25 statute or is the proceeds of the violation of a criminal statute:

26 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 27 narcotic drug).

28 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

29 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 30 substance).

31 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

32 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 33 as a Class B felony.

34 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 35 Class A felony, Class B felony, or Class C felony.

36 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class
 37 A felony, Class B felony, or Class C felony.

38 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
 39 a Class C felony.

40 (e) A motor vehicle operated by a person who is not:

41 (1) an owner of the motor vehicle; or

42 (2) the spouse of the person who owns the motor vehicle;

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1 is not subject to seizure under subsection (a)(15) unless it can be
2 proven by a preponderance of the evidence that the owner of the
3 vehicle knowingly permitted the vehicle to be used to engage in
4 conduct that subjects it to seizure under subsection (a)(15).

5 SECTION 34. IC 35-43-1-5 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2007]: **Sec. 5. (a) A person who, with the intent to cause serious
8 bodily injury, tampers with a:**

- 9 (1) water supply;
 - 10 (2) water treatment plant (as defined in IC 13-11-2-264); or
 - 11 (3) water distribution system (as defined in IC 13-11-2-259);
- 12 **commits tampering with a water supply, a Class B felony.**
13 **However, the offense is a Class A felony if it results in the death of**
14 **any person.**

15 (b) **A person who recklessly, knowingly, or intentionally poisons**
16 **a public water supply commits poisoning, a Class B felony.**

17 SECTION 35. THE FOLLOWING ARE REPEALED [EFFECTIVE
18 JULY 1, 2007]: IC 13-30-6; IC 35-45-3-1.

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