

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1192 be amended to read as follows:

- 1           Page 4, between lines 27 and 28, begin a new paragraph and insert:
- 2           "SECTION 4. IC 13-30-9-1 IS AMENDED TO READ AS
- 3           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter
- 4           applies to actions brought by the state or a ~~private~~ person. However,
- 5           this chapter does not apply to an action brought by the state if the
- 6           action arises from a site that:
- 7                 (1) is listed on the National Priorities List for hazardous substance
- 8                 response sites (40 CFR 300 et seq.);
- 9                 (2) scores at least twenty-five (25) under the Indiana scoring
- 10                model under 329 IAC 7; or
- 11                (3) is deemed by the commissioner to pose an imminent threat to
- 12                human health or the environment.
- 13           SECTION 5. IC 13-30-9-2 IS AMENDED TO READ AS
- 14           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may,
- 15           bring an environmental legal action against a **regardless of whether**
- 16           the person ~~who~~ caused or contributed to the release of a hazardous
- 17           substance or petroleum into the surface or subsurface soil or
- 18           groundwater that poses a risk to human health and the environment,
- 19           **bring an environmental legal action against a person that caused**
- 20           **or contributed to the release** to recover reasonable costs of a removal
- 21           or remedial action involving the hazardous substances or petroleum.
- 22           SECTION 6. IC 13-30-9-2.5 IS ADDED TO THE INDIANA CODE
- 23           AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 24           UPON PASSAGE]: **Sec. 2.5. IC 34-11-2-11.5 applies to an**
- 25           **environmental legal action brought under section 2 of this chapter.**
- 26           SECTION 7. IC 34-11-2-7 IS AMENDED TO READ AS
- 27           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **Except as**
- 28           **provided in section 11.5 of this chapter**, the following actions must
- 29           be commenced within six (6) years after the cause of action accrues:
- 30                 (1) Actions on accounts and contracts not in writing.
- 31                 (2) Actions for use, rents, and profits of real property.

1 (3) Actions for injuries to property other than personal property,  
2 damages for detention of personal property and for recovering  
3 possession of personal property.

4 (4) Actions for relief against frauds.

5 SECTION 8. IC 34-11-2-11.5 IS ADDED TO THE INDIANA  
6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) Subject to subsection**  
8 **(c), a person that discovered before February 28, 1998, the**  
9 **presence of a hazardous substance or petroleum in soil or**  
10 **groundwater that is the basis for an action under IC 13-30-9-2**  
11 **must bring the action before February 28, 2008.**

12 (b) If subsection (a) does not apply, subject to subsection (c), a  
13 person must bring an action under IC 13-30-9-2 within ten (10)  
14 years after the date the person discovers the presence of a  
15 hazardous substance or petroleum in soil or groundwater that is  
16 the basis for the action.

17 (c) This section does not permit a person to revive an action  
18 brought under IC 13-30-9-2 that was finally adjudicated against  
19 the person.

20 SECTION 9. [EFFECTIVE UPON PASSAGE] (a) IC 34-11-2-11.5,  
21 as added by this act:

22 (1) applies prospectively from the effective date of this act;  
23 and

24 (2) subject to IC 34-11-2-11.5(c), as added by this act, and  
25 notwithstanding IC 34-11-2-7, as in effect before the effective  
26 date of this act, allows a person to maintain an environmental  
27 legal action brought before the effective date of this act.

28 (b) IC 13-30-9-2, as amended by this act, applies:

29 (1) prospectively from the effective date of this act; and

30 (2) to an action that may be maintained under subsection  
31 (a)(2)."

32 Renumber all SECTIONS consecutively.

(Reference is to EHB 1192 as printed March 13, 2007.)

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Senator GARD