February 14, 2007

SENATE BILL No. 286

DIGEST OF SB 286 (Updated February 12, 2007 12:57 pm - DI 52)

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

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 Repeals current provisions establishing offenses that are superseded by this bill.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.

Kenley, Bray, Broden, Gard

January 16, 2007, read first time and referred to Committee on Energy and Environmental Affairs.
February 13, 2007, reported favorably — Do Pass.

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February 14, 2007

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:

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

(1) Produce the documentary material for inspection and copying or reproduction.

(2) Answer under oath and in writing written interrogatories.

(3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

SECTION 2. IC 6-1.1-12-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28.5. (a) For purposes of this section:

(1) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a) and includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

(2) "Resource recovery system" means tangible property directly used to dispose of solid waste or hazardous waste by converting it into energy or other useful products.

(3) "Solid waste" has the meaning set forth in IC 13-11-2-205(a) but does not include dead animals or any animal solid or semisolid wastes.

(b) Except as provided in this section, the owner of a resource recovery system is entitled to an annual deduction in an amount equal to ninety-five percent (95%) of the assessed value of the system if:

(1) the system was certified by the department of environmental management for the 1993 assessment year or a prior assessment year; and

(2) the owner filed a timely application for the deduction for the 1993 assessment year.

For purposes of this section, a system includes tangible property that replaced tangible property in the system after the certification by the department of environmental management.

(c) The owner of a resource recovery system that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of any violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or ~~IC 13-30-6~~ **a criminal statute under IC 13;** or

(2) is subject to an order or a consent decree with respect to property located in Indiana based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(d) The certification of a resource recovery system by the department of environmental management for the 1993 assessment year or a prior assessment year is valid through the 1997 assessment year so long as the property is used as a resource recovery system. If the property is no longer used for the purpose for which the property

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

(1) ninety-five percent (95%) for the 1994 assessment year;

(2) ninety percent (90%) for the 1995 assessment year;

(3) seventy-five percent (75%) for the 1996 assessment year; and

(4) sixty percent (60%) for the 1997 assessment year.

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

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

(1) a certification by the department of environmental management for the 1993 assessment year or a prior assessment year as described in subsection (d); or

(2) the certification by the department of environmental management for the 1993 assessment year as described in subsection (g).

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

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

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

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

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

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

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

(2) With respect to:

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

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

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

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(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is reasonable for equipment of that type.

(2) With respect to:

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

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

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose

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

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

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

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

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

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

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

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

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE

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1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%

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8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

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

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deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

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

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a **criminal** violation under **IC 13, including** IC 13-7-13-3 (repealed) **or** IC 13-7-13-4 (repealed); ~~or IC 13-30-6;~~ or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without

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

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

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

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

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

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

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

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

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

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

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

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

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the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) IC 13-18-12, **IC 13-18-13-31,** and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1, ~~and~~ IC 13-19-4, **and IC 13-19-5-17.**

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, ~~and~~ IC 13-20-19 through IC 13-20-21, **and IC 13-20-22-21.**

(10) IC 13-22.

(11) IC 13-23.

(12) IC 13-24.

(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-27-8.

(15) IC 13-30, except IC 13-30-1.

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

(1) IC 13-21;

(2) air pollution control laws;

(3) water pollution control laws; and

(4) environmental management laws, except as provided in subsections (c), (d), (e), and (h);

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

(b) "Person", for purposes of:

(1) IC 13-18-10; and

(2) IC 13-20-17;

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

(c) "Person", for purposes of:

(1) IC 13-20-13;

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

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

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

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

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

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

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

Chapter 6. Criminal Liability of Corporate Officers

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

SECTION 8. IC 13-17-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Violations of air pollution control laws 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 air pollution control laws may lead to criminal prosecution under IC 13-30-10.

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

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(1) Limit the scope of a person's liability for criminal penalties **or for civil penalties** under IC 13-30-4, IC 13-30-5, ~~IC 13-30-6,~~ and IC 13-30-8.

(2) Excuse or prohibit enforcement of violations of any state or federal health based or technology based standard, including national primary and secondary ambient air quality standards.

(3) Excuse a facility or source for failure to obtain in advance a construction permit required by the prevention of significant deterioration or new source review requirements of the federal Clean Air Act under 42 U.S.C. 7470 et seq. (Part C) or 42 U.S.C. 7501 et seq. (Part D).

(4) Apply to an individual facility at a source:

(A) that has potential emissions of more than one hundred (100) tons per year of any regulated pollutant;

(B) to which the board had established permit requirements under rules in effect on January 1, 1994; and

(C) that never received an operating permit under 326 IAC 2-1-4 as in effect on January 1, 1994.

SECTION 10. IC 13-18-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The commissioner may extend the time fixed in a final order issued under the water pollution control laws or IC 13-1-3 (before its repeal) within which any offender is ordered to correct or abate a condition of pollution of any water upon written petition filed with the department not less than thirty (30) days before the time fixed in the order if it appears that:

(1) a good faith effort to comply with the order is being made; and

(2) it will be impossible for the offender to complete the project of work undertaken within the time fixed.

(b) A person who fails or refuses to correct or abate the polluted condition in compliance with the order:

(1) within the time fixed; or

(2) within the time additionally granted under this section;

is subject to the penalties imposed by IC 13-30-4, IC 13-30-5, ~~IC 13-30-6,~~ and IC 13-30-8, **and may be subject to criminal prosecution under IC 13-30-10.**

SECTION 11. IC 13-18-9-6 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.

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

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

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

SECTION 18. IC 13-20-13-17 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 defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or grant from the fund commits a Class A misdemeanor.**

SECTION 19. IC 13-20-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) 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.

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

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

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

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

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

(A) Recycling and the use of recycled materials.

(B) Waste reduction.

(C) Management of yard waste.

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

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

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

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

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

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

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

(3) Appropriations made by the general assembly.

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

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

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

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

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

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

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

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

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

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

(1) convicted of a violation of the environmental management laws or IC 13-7 (before its repeal); and

(2) fined or imprisoned; ~~under IC 13-30-6;~~

may not be issued a permit to own or operate a hazardous waste facility.

SECTION 24. IC 13-22-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. ~~Violations~~ **A violation of a provision** of IC 13-22-2 through IC 13-22-8 ~~and~~ **or** IC 13-22-13 ~~are~~ **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 violation of a provision of IC 13-22-2 through IC 13-22-8 or IC 13-22-13 may lead to criminal prosecution under IC 13-30-10.

SECTION 25. IC 13-23-7-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. 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 26. IC 13-23-9-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with a request for payment from the excess liability trust fund commits a Class A misdemeanor.**

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

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(1) is required to pay the fee under section 1 of this chapter; and

(2) fails to pay the fee when due as established under section 2 of this chapter;

shall be assessed a penalty of not more than two thousand dollars ($2,000) per underground storage tank for each year that passes after the fee becomes due and before the fee is paid.

(b) Except as provided in subsection (c), each penalty assessed under this section and collected from the owner of an underground petroleum storage tank shall be deposited as follows:

(1) Fifty percent (50%) shall be deposited in the petroleum trust fund.

(2) Fifty percent (50%) shall be deposited in the excess liability trust fund.

(c) Penalties assessed under this section and collected from owners of underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

(d) The penalty set forth in this section is in addition to the penalties that may be imposed **for the violation of a criminal law or** under the following:

(1) IC 13-23-14-2.

(2) IC 13-23-14-3.

(3) IC 13-23-14-4.

(4) IC 13-30-4.

(5) IC 13-30-5.

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

~~(7)~~ **(6)** IC 13-30-8.

(e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter:

(1) in connection with the underground storage tank; and

(2) that was due before January 1, 2004.

SECTION 28. IC 13-23-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This article shall be enforced under IC 13-30-3.

(b) Except as provided in sections 2, 3, and 4 of this chapter, violations of this article are subject to the penalties imposed by the following:

(1) IC 13-30-4.

(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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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 substance discharged into waters or into a public sewer 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 per 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. 4. (a) A person who:

(1) knowingly, intentionally, or recklessly violates:

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

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

(2) discharges a contaminant into the environment, 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 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

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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 substance discharged into the environment 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. 5. (a) A person who:

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

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

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

(2) discharges a contaminant into the environment, 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 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

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to know that the substance discharged into the environment 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. 6. (a) A person who:

(1) knowingly, intentionally, or recklessly violates:

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

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

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

(A) cannot be mitigated; or

(B) the person refuses to mitigate;

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 harm described in subsection (a)(2).

(c) 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.

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

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

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

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

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

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

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

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

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(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

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(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) an owner of the motor vehicle; or

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

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

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

(1) water supply;

(2) water treatment plant (as defined in IC 13-11-2-264); or

(3) water distribution system (as defined in IC 13-11-2-259);

commits tampering with a water supply, a Class B felony. However, the offense is a Class A felony if it results in the death of any person.

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

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

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SENATE MOTION

Madam President: I move that Senator Bray be added as second author, Senator Broden be added as third author, and Senator Gard be added as coauthor of Senate Bill 286.

KENLEY

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 286, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 286 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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