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April 13, 2011

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**ENGROSSED**  
**SENATE BILL No. 347**

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DIGEST OF SB 347 (Updated April 13, 2011 12:24 pm - DI 69)

**Citations Affected:** IC 13-23.

**Synopsis:** Underground storage tank operators. Requires the department of environmental management to establish an underground storage tank (UST) operator training program: (1) on an Internet web site; and (2) that complies with the requirements of the federal Energy Policy Act of 2005. Provides for the use of excess liability trust fund to be used for expenses incurred in establishing and implementing the UST operator training program. Increases the limit on combined amount of payments from the excess liability trust fund in a fiscal year to 11% percent.

**Effective:** Upon passage; July 1, 2011.

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**Gard, Bray, Tallian**  
(HOUSE SPONSOR — WOLKINS)

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January 11, 2011, read first time and referred to Committee on Energy and Environmental Affairs.  
February 15, 2011, reported favorably — Do Pass.  
February 17, 2011, read second time, amended, ordered engrossed.  
February 18, 2011, engrossed.  
February 22, 2011, read third time, passed. Yeas 48, nays 0.  
HOUSE ACTION  
March 28, 2011, read first time and referred to Committee on Environmental Affairs.  
April 13, 2011, amended, reported — Do Pass.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## ENGROSSED SENATE BILL No. 347

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 13-23-1-3 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 3. (a) The department shall establish a training  
4 program:**  
5 **(1) on an Internet web site; and**  
6 **(2) that complies with the requirements of the federal Energy  
7 Policy Act of 2005 (P.L.109-58).**  
8 **(b) The department may use the excess liability trust fund to pay  
9 expenses related to the training program established under  
10 subsection (a).**  
11 SECTION 2. IC 13-23-7-1, AS AMENDED BY P.L.114-2008,  
12 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 UPON PASSAGE]: Sec. 1. (a) Subject to subsection (b), the  
14 underground petroleum storage tank excess liability trust fund is  
15 established for the following purposes:

ES 347—LS 6828/DI 69+



- 1 (1) Assisting owners and operators of underground petroleum
- 2 storage tanks to establish evidence of financial responsibility as
- 3 required under IC 13-23-4.
- 4 (2) Providing a source of money to satisfy liabilities incurred by
- 5 owners and operators of underground petroleum storage tanks
- 6 under IC 13-23-13-8 for corrective action.
- 7 (3) Providing a source of money for the indemnification of third
- 8 parties under IC 13-23-9-3.
- 9 (4) Providing a source of money to pay for the expenses of the
- 10 department incurred in paying and administering claims against
- 11 the trust fund. Money may be provided under this subdivision
- 12 only for those job activities and expenses that consist exclusively
- 13 of administering the excess liability trust fund.
- 14 (5) Providing a source of money to pay for the expenses of the
- 15 department incurred in inspecting underground storage tanks.
- 16 **(6) Providing a source of money to pay expenses incurred by**
- 17 **the department in establishing and implementing an**
- 18 **underground storage tank operator training program:**
- 19 **(A) on an Internet web site; and**
- 20 **(B) that complies with the requirements of the federal**
- 21 **Energy Policy Act of 2005.**
- 22 (b) The combined amount of payments described in subsection
- 23 (a)(4), ~~and (a)(5)~~, **and (a)(6)** from the underground petroleum storage
- 24 tank excess liability trust fund in a state fiscal year may not exceed ~~ten~~
- 25 **eleven percent (11%)** of the fund income in the immediately
- 26 preceding state fiscal year.
- 27 **SECTION 3. An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 347, 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 347 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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 SENATE MOTION

Madam President: I move that Senate Bill 347 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-23-3-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2011]: **Sec. 5. (a) The department shall establish a training program:**

**(1) on an Internet web site; and**

**(2) that complies with the requirements of the federal Energy Policy Act of 2005 (P.L.109-58).**

**(b) The department may use the excess liability trust fund to pay expenses related to the training program established under subsection (a)."**

Page 2, line 6, delete "for the expenses of" and insert "**expenses incurred by**".

Page 2, line 7, delete "to establish and implement" and insert "**in establishing and implementing**".

Page 2, line 10, after "complies" insert "**with**".

Page 2, line 14, strike "ten" and insert "**eleven**".

Page 2, line 15, strike "(10%)" and insert "**(11%)**".

Page 4, line 7, delete "(h)" and insert "**(i)**".

Page 4, line 19, delete "those costs" and insert "**the reasonable costs of a corrective action, including investigation,**".

Page 4, line 21, after "occurred." insert "**For purposes of this subsection, reasonable costs of a corrective action are subject to the rules adopted by the underground storage tank financial assurance board that relate to reimbursement issued by the excess liability**

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trust fund."

Page 4, line 26, delete "Before a person:" and insert "As soon as practicable after the discovery of a storage tank, a person who:".

Page 4, line 27, delete "significant".

Page 4, line 31, delete "the person must" and insert "shall".

Page 5, line 3, delete "time frames for" and insert "reasonable time frames to complete an".

Page 5, line 4, delete "for".

Page 5, between lines 8 and 9, begin a new paragraph and insert:

**"(g) If a person who provides a notice under subsection (f)(1) rejects a written offer or agreement that satisfies the provisions of subsection (f)(2), the person who submitted the written offer or agreement is entitled to seek a court order that limits the recovery of any attorney's fees, investigation costs, and corrective action costs incurred after the date of the written offer or agreement."**

Page 5, line 9, delete "(g)" and insert "(h)".

Page 5, line 22, delete "(h)" and insert "(i)".

Page 5, line 32, delete "(g)." and insert "(h).".

Page 5, line 35, delete "(i)" and insert "(j)".

Page 5, line 38, delete "(j)" and insert "(k)".

Page 5, line 42, delete "(k)" and insert "(l)".

Renumber all SECTIONS consecutively.

(Reference is to SB 347 as printed February 16, 2011.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 13-23-3-5" and insert "IC 13-23-1-3".

Page 1, line 3, delete "5." and insert "3.".

Page 2, delete lines 27 through 42.

Delete pages 3 through 5.



Page 6, delete lines 1 through 29.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 347 as reprinted February 18, 2011.)

WOLKINS, Chair

Committee Vote: yeas 10, nays 0.

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