



January 12, 2011

HOUSE BILL No. 1130

DIGEST OF HB 1130 (Updated January 11, 2011 11:20 am - DI 87)

Citations Affected: IC 4-21.5.

Synopsis: Opportunity to correct violation. Imposes a duty on an agency under certain circumstances to give a person an opportunity to correct an alleged violation of law that is discovered in an inspection.

Effective: July 1, 2011.

Koch

January 6, 2011, read first time and referred to Committee on Government and Regulatory Reform.
January 11, 2011, reported — Do Pass.

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HB 1130—LS 6747/DI 51+



January 12, 2011

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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HOUSE BILL No. 1130



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-21.5-2-7 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2011]: **Sec. 7. IC 4-21.5-2.5 applies to an agency in the executive**
- 4 **department of state government, including the administrative**
- 5 **department, that is otherwise exempt from the application of this**
- 6 **article under section 4, 5, or 6 of this chapter or another law.**
- 7 SECTION 2. IC 4-21.5-2.5 IS ADDED TO THE INDIANA CODE
- 8 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2011]:
- 10 **Chapter 2.5. Opportunity to Correct**
- 11 **Sec. 1. This chapter applies to the resolution of an alleged**
- 12 **violation of a state law or rule or federal law or regulation within**
- 13 **the jurisdiction of an agency that is discovered in an inspection**
- 14 **conducted after June 30, 2011, unless:**
- 15 **(1) the agency conducting the inspection determines that the**
- 16 **alleged violation:**
- 17 **(A) represents intentional misconduct or an act of fraud by**

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1 a responsible person or an agent of the responsible person;
 2 (B) is not correctable within a reasonable time, as
 3 determined by the agency;
 4 (C) demonstrates, by a continuing pattern of conduct, a
 5 willful disregard by the responsible person of the person's
 6 obligation to remedy the errors after the responsible
 7 person becomes aware of the errors; or
 8 (D) constitutes an immediate risk to:
 9 (i) any person;
 10 (ii) the public health, safety, or welfare; or
 11 (iii) the environment;
 12 (2) another statute (including IC 13-30-3) provides a
 13 substantially similar procedure for correction of an alleged
 14 violation of a law, rule, or regulation before the agency:
 15 (A) imposes a sanction on a person; or
 16 (B) terminates a legal right, duty, privilege, immunity, or
 17 other legal interest of a person; or
 18 (3) application of this chapter to a violation would violate a
 19 federal law or regulation.

20 **Sec. 2. If an investigation discloses a possible violation, the**
 21 **agency shall proceed under:**
 22 (1) section 3 of this chapter; or
 23 (2) first section 3 of this chapter and then section 4 of this
 24 chapter.

25 **Sec. 3. (a) The agency shall:**
 26 (1) notify the alleged violator in writing that the agency
 27 believes a violation may exist; and
 28 (2) offer the alleged violator an opportunity to enter into an
 29 agreed order providing for the actions required to correct the
 30 violation.

31 (b) The agency is not required to extend the offer under
 32 subsection (a)(2) for more than sixty (60) days.

33 (c) An alleged violator may enter into an agreed order without
 34 admitting that the violation occurred.

35 (d) An agreed order must require the alleged violator to notify
 36 the agency within the time specified in the agreed order that the
 37 violation has been corrected. Not more than thirty (30) days after
 38 the earlier of receipt of notice or the elapse of the agreed time for
 39 correction, the agency shall determine if the alleged violator has
 40 substantially corrected the violation and notify the person whether
 41 the person is in substantial compliance with the applicable law,
 42 rule, or regulation.

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1 **Sec. 4. If:**
2 **(1) an agreed order is not entered into; or**
3 **(2) an alleged violator fails to substantially correct an alleged**
4 **violation within the time specified in an agreement entered**
5 **into under section 3 of this chapter;**
6 **the agency may issue a notice of violation and take any**
7 **enforcement action authorized by law for the violation.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1130, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

HINKLE, Chair

Committee Vote: yeas 10, nays 0.

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