

# SENATE BILL No. 163

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2; 5IC 13-20-10.

**Synopsis:** Siting of composting facilities. Increases the minimum permissible distance between the active area of a composting facility and a residence from 200 feet to one mile. Establishes a minimum permissible distance of one mile between the active area of a composting facility and a nonpublic or public school. Prohibits a unit of local government from setting such a minimum distance with respect to residences and schools of less than one mile. Allows a unit of local government to set such a minimum distance of more than one mile with respect to residences and schools.

**Effective:** July 1, 2011.

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**Mrvan**

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January 5, 2011, read first time and referred to Committee on Energy and Environmental Affairs.

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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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## SENATE BILL No. 163

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 13-11-2-142.6, AS AMENDED BY P.L.1-2005,  
2 SECTION 141, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2011]: Sec. 142.6. "Nonpublic school", for  
4 purposes of **IC 13-20-10 and IC 13-20-17.5**, has the meaning set forth  
5 in IC 20-18-2-12.

6 SECTION 2. IC 13-11-2-176.5, AS AMENDED BY P.L.178-2009,  
7 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2011]: Sec. 176.5. (a) "Public school", for purposes of  
9 IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.

10 (b) "Public school", for purposes of section 47.7 of this chapter **and**  
11 **IC 13-20-10** means:

- 12 (1) a public school (as defined in IC 20-18-2-15); and
- 13 (2) a charter school (as defined in IC 20-24-1-4).

14 SECTION 3. IC 13-20-10-4 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. Except as provided  
16 in sections 5 and 6 of this chapter, the active area of a composting  
17 facility for vegetative matter:



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- (1) may not be located:
  - (A) within two hundred (200) feet of a well that supplies potable water; ~~or~~
  - (B) within two hundred (200) feet of a residential structure that exists at the time that the composting facility initially registers under this chapter **if the facility is initially registered under this chapter before July 1, 2011;**
  - (C) within one (1) mile of a residential structure that exists at the time that the composting facility initially registers under this chapter if the facility is initially registered under this chapter after June 30, 2011; or**
  - (D) within one (1) mile of:**
    - (i) a nonpublic school; or**
    - (ii) a public school;****that exists at the time the composting facility initially registers under this chapter, if the facility initially registers under this chapter after June 30, 2011.**
- (2) must be located outside the ten (10) year floodplain, except a facility that is either:
  - (A) operated in conjunction with a publicly owned works permitted under IC 13-15-3; or
  - (B) designed and operated to provide adequate controls to prevent ground or surface water contamination in the event a ten (10) year flood occurs;
- (3) must be designed and operated to:
  - (A) prevent compost from being placed within five (5) feet of a water table or provide adequate controls to prevent ground or surface water contamination;
  - (B) adequately control runoff from the composting facility; and
  - (C) manage leachate that is generated by the composting facility; and
- (4) must include controls for the following:
  - (A) Dust.
  - (B) Odor.
  - (C) Noise.

SECTION 4. IC 13-20-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a) Subject to subsections (b) and (c),** a unit of local government may adopt an ordinance providing the distance required between the active area of a composting facility for vegetative matter and **the following:**

- (1) An existing residence.**

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- 1           **(2) An existing nonpublic school.**
- 2           **(3) An existing public school.**
- 3           **(b) An ordinance adopted under this section may not do any of the**
- 4 following:
- 5           (1) Allow the active area of:
- 6               **(A) a composting facility registered under this chapter**
- 7               **before July 1, 2011, to locate less than two hundred (200) feet**
- 8               **from an existing residence; or**
- 9               **(B) a composting facility registered under this chapter**
- 10              **after June 30, 2011, to locate less than one (1) mile from**
- 11              **the following:**
- 12                  **(i) An existing residence.**
- 13                  **(ii) An existing nonpublic school.**
- 14                  **(iii) An existing public school.**
- 15           (2) Require the active area of a composting facility **registered**
- 16               **under this chapter before July 1, 2011, to locate more than six**
- 17               **hundred (600) feet from an existing residence.**
- 18           **(c) An ordinance adopted under this section may require the**
- 19           **active area of a composting facility registered under this chapter**
- 20           **after June 30, 2011, to locate more than one (1) mile from the**
- 21           **following:**
- 22               **(1) An existing residence.**
- 23               **(2) An existing nonpublic school.**
- 24               **(3) An existing public school.**
- 25           SECTION 5. IC 13-20-10-6 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. The active area of a
- 27 composting facility for vegetative matter **registered under this**
- 28 **chapter before July 1, 2011, may be located less than two hundred**
- 29 **(200) feet from a residence if:**
- 30           (1) no unit of local government with jurisdiction over:
- 31               (A) the residence; or
- 32               (B) the composting facility;
- 33           has adopted an ordinance under section 5 of this chapter or
- 34 IC 13-7-35-6(b) (before its repeal); and
- 35           (2) the composting facility obtains written consent from the
- 36           occupant and the owner of the residence.

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