# SENATE BILL No. 437

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2-30.5; IC 13-17-7-1; IC 13-30.

**Synopsis:** Ban on use or sale of coal tar pavement products. Prohibits the application or sale of a coal tar pavement product, unless the product is required for research on the effect of a coal tar pavement product on the environment.

**Effective:** July 1, 2011.

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January 12, 2011, read first time and referred to Committee on Energy and Environmental Affairs.

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Introduced

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.

C o p y

# SENATE BILL No. 437

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 13-11-2-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 30.5. "Coal tar pavement product", for purposes of IC 13-30-2-1, means a material that:**

**(1) contains tar formed from distillation of bituminous coal; and**

**(2) is for application on pavement.**

SECTION 2. IC 13-17-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. Except as otherwise provided in this chapter, if a person:

(1) constructed, reconstructed, modified, or operated a facility or source that emits or is capable of emitting into the atmosphere a regulated pollutant in an amount for which:

(A) a registration;

(B) a construction permit; or

(C) an operating permit;

is required under ~~IC 13-30-2-1(7)~~ **IC 13-30-2-1(a)(7)** and rules

adopted by the board under IC 13-15-1-1;

(2) fails to obtain the:

(A) registration;

(B) construction permit; or

(C) operating permit;

as required by Indiana law;

(3) meets the conditions described in section 2 of this chapter; and

(4) pays a civil penalty described in section 6 of this chapter;

the person's failure to obtain the registration, construction permit, or operating permit does not result in any liability beyond the liability described in this chapter.

SECTION 3. IC 13-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** A person may not do any of the following:

(1) Discharge, emit, cause, allow, or threaten to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources, into:

(A) the environment; or

(B) any publicly owned treatment works;

in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

(2) Increase the quantity or strength of a discharge of contaminants into the waters or construct or install a sewer or sewage treatment facility or a new outlet for contaminants into the waters of Indiana without prior approval of the department.

(3) Deposit any contaminants upon the land in a place and manner that creates or would create a pollution hazard that violates or would violate a rule adopted by one (1) of the boards.

(4) Deposit or cause or allow the deposit of any contaminants or solid waste upon the land, except through the use of sanitary landfills, incineration, composting, garbage grinding, or another method acceptable to the solid waste management board.

(5) Dump or cause or allow the open dumping of garbage or of any other solid waste in violation of rules adopted by the solid waste management board.

(6) Dispose of solid waste in, upon, or within the limits of or adjacent to a public highway, state park, state nature preserve, or recreation area or in or immediately adjacent to a lake or stream,

C o p y

except:

(A) in proper containers provided for sanitary storage of the solid waste; or

(B) as a part of a sanitary landfill operation or other land disposal method approved by the department.

(7) Construct, install, operate, conduct, or modify, without prior approval of the department, any equipment or facility of any type that may:

(A) cause or contribute to pollution; or

(B) be designed to prevent pollution.

However, the commissioner or the appropriate board may approve experimental uses of any equipment, facility, or pollution control device that is considered necessary for the further development of the state of the art of pollution control.

(8) Conduct any salvage operation or open dump by open burning or burn, cause, or allow the burning of any solid waste in a manner that violates either:

(A) the air pollution control laws; or

(B) the rules adopted by the air pollution control board.

(9) Commence construction of a proposed hazardous waste facility without having first:

(A) filed an application for; and

(B) received;

a permit from the department.

(10) Commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

(11) Deliver any hazardous waste to a hazardous waste facility that:

(A) is not approved; or

(B) does not hold a permit from the department.

(12) Cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

(13) Violate any:

(A) condition;

(B) limitation; or

(C) stipulation;

placed upon a certificate of environmental compatibility by the hazardous waste facility site approval authority or any other provision of IC 13-22-10.

(14) Apply or allow the application of used oil to any ground surface, except for purposes of treatment in accordance with a

C o p y

permit issued by the department under any of the following:

(A) IC 13-15, except IC 13-15-9.

(B) IC 13-17-11.

(C) IC 13-18-18.

(D) IC 13-20-1.

(15) Commence construction of a solid waste incinerator without first obtaining a permit from the department under IC 13-20-8.

(16) Commence operation of a solid waste incinerator without first obtaining the approval of the department under IC 13-20-8.

**(17) Except as provided in subsection (b), after June 30, 2011, apply or sell a coal tar pavement product.**

**(b) Subsection (a)(17) does not apply to a coal tar pavement product that is required for research on the effect of a coal tar pavement product on the environment.**

SECTION 4. IC 13-30-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) Except as provided in subsection (c), an enforcement action may not be taken under this chapter for a violation of ~~IC 13-30-2-1(5)~~ **IC 13-30-2-1(a)(5)** against a landowner on whose land garbage or other solid waste, except hazardous waste, has been illegally dumped without the landowner's consent unless the commissioner has made a diligent and good faith effort to identify, locate, and take enforcement action against a person who appears likely to have committed or caused the illegal dumping.

(b) A landowner described in subsection (a) who in good faith provides information to the commissioner concerning:

(1) a name;

(2) an address; or

(3) any other evidence of a responsible person's identity found in garbage or other solid waste dumped on the landowner's land;

is not liable to a person for an action taken by the commissioner against the person as a result of the information provided the landowner.

(c) The commissioner may include the owner of land on which a violation of ~~IC 13-30-2-1(5)~~ **IC 13-30-2-1(a)(5)** has apparently occurred as a party in any enforcement action against a person who allegedly committed the violation of ~~IC 13-30-2-1(5)~~ **IC 13-30-2-1(a)(5)** so that the commissioner may order the landowner to allow the alleged violator access to the land to remove and dispose of the solid waste allegedly dumped on the land in violation of ~~IC 13-30-2-1(5).~~ **IC 13-30-2-1(a)(5).**

(d) A landowner on whose land garbage or other solid waste has been illegally dumped without the landowner's consent may, in addition

C o p y

to any other legal or equitable remedy available to the landowner, recover from the person responsible for the illegal dumping:

(1) reasonable expenses incurred by the landowner in disposing of the garbage or other solid waste; and

(2) reasonable attorney's fees.

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