

# HOUSE BILL No. 1229

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2-30.5; IC 13-17-7-1; IC 13-30-2-1; IC 13-30-3-13.

**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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## Dodge, Niezgodski

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January 12, 2011, read first time and referred to Committee on 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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# HOUSE BILL No. 1229



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 13-11-2-30.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2011]: **Sec. 30.5. "Coal tar pavement**  
4 **product", for purposes of IC 13-30-2-1, means a material that:**  
5 **(1) contains tar formed from distillation of bituminous coal;**  
6 **and**  
7 **(2) is for application on pavement.**  
8 SECTION 2. IC 13-17-7-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. Except as otherwise  
10 provided in this chapter, if a person:  
11 (1) constructed, reconstructed, modified, or operated a facility or  
12 source that emits or is capable of emitting into the atmosphere a  
13 regulated pollutant in an amount for which:  
14 (A) a registration;  
15 (B) a construction permit; or  
16 (C) an operating permit;  
17 is required under ~~IC 13-30-2-1(7)~~ **IC 13-30-2-1(a)(7)** and rules



1 adopted by the board under IC 13-15-1-1;  
 2 (2) fails to obtain the:  
 3 (A) registration;  
 4 (B) construction permit; or  
 5 (C) operating permit;  
 6 as required by Indiana law;  
 7 (3) meets the conditions described in section 2 of this chapter;  
 8 and  
 9 (4) pays a civil penalty described in section 6 of this chapter;  
 10 the person's failure to obtain the registration, construction permit, or  
 11 operating permit does not result in any liability beyond the liability  
 12 described in this chapter.

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

- 16 (1) Discharge, emit, cause, allow, or threaten to discharge, emit,  
 17 cause, or allow any contaminant or waste, including any noxious  
 18 odor, either alone or in combination with contaminants from other  
 19 sources, into:  
 20 (A) the environment; or  
 21 (B) any publicly owned treatment works;  
 22 in any form that causes or would cause pollution that violates or  
 23 would violate rules, standards, or discharge or emission  
 24 requirements adopted by the appropriate board under the  
 25 environmental management laws.  
 26 (2) Increase the quantity or strength of a discharge of  
 27 contaminants into the waters or construct or install a sewer or  
 28 sewage treatment facility or a new outlet for contaminants into the  
 29 waters of Indiana without prior approval of the department.  
 30 (3) Deposit any contaminants upon the land in a place and manner  
 31 that creates or would create a pollution hazard that violates or  
 32 would violate a rule adopted by one (1) of the boards.  
 33 (4) Deposit or cause or allow the deposit of any contaminants or  
 34 solid waste upon the land, except through the use of sanitary  
 35 landfills, incineration, composting, garbage grinding, or another  
 36 method acceptable to the solid waste management board.  
 37 (5) Dump or cause or allow the open dumping of garbage or of  
 38 any other solid waste in violation of rules adopted by the solid  
 39 waste management board.  
 40 (6) Dispose of solid waste in, upon, or within the limits of or  
 41 adjacent to a public highway, state park, state nature preserve, or  
 42 recreation area or in or immediately adjacent to a lake or stream,

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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

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- 1 permit issued by the department under any of the following:
- 2 (A) IC 13-15, except IC 13-15-9.
- 3 (B) IC 13-17-11.
- 4 (C) IC 13-18-18.
- 5 (D) IC 13-20-1.
- 6 (15) Commence construction of a solid waste incinerator without
- 7 first obtaining a permit from the department under IC 13-20-8.
- 8 (16) Commence operation of a solid waste incinerator without
- 9 first obtaining the approval of the department under IC 13-20-8.
- 10 **(17) Except as provided in subsection (b), after June 30, 2011,**
- 11 **apply or sell a coal tar pavement product.**

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

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

25 (b) A landowner described in subsection (a) who in good faith  
 26 provides information to the commissioner concerning:  
 27 (1) a name;  
 28 (2) an address; or  
 29 (3) any other evidence of a responsible person's identity found in  
 30 garbage or other solid waste dumped on the landowner's land;  
 31 is not liable to a person for an action taken by the commissioner against  
 32 the person as a result of the information provided the landowner.

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

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

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- 1 to any other legal or equitable remedy available to the landowner,
- 2 recover from the person responsible for the illegal dumping:
- 3 (1) reasonable expenses incurred by the landowner in disposing
- 4 of the garbage or other solid waste; and
- 5 (2) reasonable attorney's fees.

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