Reprinted
February 1, 2011

SENATE BILL No. 532

DIGEST OF SB 532 (Updated January 31, 2011 2:49 pm - DI 116)

Citations Affected: IC 14-8; IC 14-15; IC 14-22; IC 14-34.

Synopsis: Various natural resources matters. Makes certain changes to the implied consent law while operating a motorboat. Requires that a portable breath test must be offered to a person who operates a motorboat that was involved in a fatal accident or an accident involving serious bodily injury. Provides that a person who refuses to take a breath test related to the operation of a motorboat must be informed their motor vehicle operation privileges will be suspended. (Current law applies to motorboat operation privileges.) Prohibits certain activities on the swim platform, in the wake, or on a towed device of certain motorboats. Provides that a violation of these prohibitions is a Class C infraction. Allows hides and furs to be transported out of Indiana after open season as allowed by rule. (Current law requires shipment within five days after the end of open season.) Allows the department of natural resources (DNR) to issue combined hunting, fishing, and trapping licenses. Removes DNR's authority to issue a commercial fishing license for the Ohio River to a Kentucky resident.
(Continued next page)

Effective: July 1, 2011.

Mishler, Steele, Young R

January 18, 2011, read first time and referred to Committee on Agriculture and Natural Resources.
January 25, 2011, amended, reported favorably — Do Pass.
January 31, 2011, read second time, amended, ordered engrossed.

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Digest Continued

Establishes a roe harvester and roe dealer's license concerning certain fish species. Allows a person who violates the commercial fishing statutes to have administrative action taken on their license or to be charged with a Class A misdemeanor. Changes the name of "charter fishing boat" licenses to "fishing guide" licenses. Makes certain fishing guide violations a Class C misdemeanor. (Current law is a Class C infraction.) Makes certain changes to the falconry laws. Provides that federal money for restoration of abandoned mine land must be deposited into separate funds. Makes changes in how money in the funds may be used. Creates the acid drainage and treatment fund and the reclamation set aside fund. Makes certain changes to the abandoned mine laws. Repeals a requirement that DNR adopt rules concerning commercial fishing on the Ohio River that conform to Kentucky laws.

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February 1, 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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SENATE BILL No. 532

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

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

SECTION 1. IC 14-8-2-107, AS AMENDED BY P.L.85-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.
(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.
(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.
(10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.
(11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.
(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.
(13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.
(14) For purposes of IC 14-21-4, the meaning set forth in IC 14-21-4-10.
(15) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.
(16) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.
(17) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.
(18) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.
(19) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.
(20) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.
(21) For purposes of IC 14-24-4.5, the meaning set forth in IC 14-24-4.5-2(5).
(22) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.
(23) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.
(24) For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.
(25) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.
(26) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.
(27) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

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(28) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

(29) For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-1.

(30) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

(31) For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.

(32) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

(33) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

(34) For purposes of IC 14-34-19-1.3, the meaning set forth in IC 14-34-19-1.3(a).

(35) For purposes of IC 14-34-19-1.5, the meaning set forth in IC 14-34-19-1.5(a).

~~(34)~~ **(36)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 2. IC 14-8-2-245.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 245.2. "Roe" for purposes of IC 14-22-13-2.5, has the meaning set forth in IC 14-22-13-2.5(b).**

SECTION 3. IC 14-15-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. **(a)** A person who operates a motorboat in water over which Indiana has jurisdiction impliedly consents to submit to the chemical test provisions of this chapter as a condition of operating a motorboat in Indiana. ~~If a person refuses to submit to a chemical test under this chapter, the court shall order the person to not operate a motorboat for at least one (1) year.~~

(b) If a person refuses to submit to a chemical test after having been advised that the refusal will result in the suspension of operating privileges or submits to a chemical test that results in prima facie evidence of intoxication, the arresting law enforcement officer shall do the following:

(1) Obtain the person's driver's license or permit if the person is in possession of the document and issue a receipt valid until the initial hearing of the matter is held under IC 35-33-7-1.

(2) Submit a probable cause affidavit to the prosecuting attorney of the county in which the alleged offense occurred.

(3) Send a copy of the probable cause affidavit submitted under subdivision (2) to the bureau of motor vehicles.

SECTION 4. IC 14-15-8-12.5 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 12.5. (a) A law enforcement officer shall offer a portable breath test or chemical test to any person if the officer has reason to believe the person operated a motorboat that was involved in a fatal accident or an accident involving serious bodily injury. If:**

(1) the results of a portable breath test indicate the presence of alcohol;

(2) the results of a portable breath test do not indicate the presence of alcohol but the law enforcement officer has probable cause to believe the person is under the influence of a controlled substance or another drug; or

(3) the person refuses to submit to a portable breath test;

the law enforcement officer shall offer a chemical test to the person.

(b) A law enforcement officer may offer a person more than one (1) portable breath test or chemical test under this section. However, all chemical tests must be administered within three (3) hours after the fatal accident or the accident involving serious bodily injury.

(c) It is not necessary for a law enforcement officer to offer a portable breath test or chemical test to an unconscious person.

SECTION 5. IC 14-15-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. If a person refuses to submit to a chemical test under this chapter, the law enforcement officer shall inform the person that the person's refusal will result in the suspension of the person's motorboat **and motor vehicle** operation privileges.

SECTION 6. IC 14-15-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 13. Motorboat Watersports

Sec. 1. This chapter does not apply when a motorboat is moored, anchored, docked, or aground.

Sec. 2. The requirements and prohibitions set forth in this chapter are in addition to the requirements and prohibitions set forth in IC 14-15-2, IC 14-15-3, IC 14-15-4, 14-15-8 and IC 14-15-12.

Sec. 3. An individual may not do the following:

(1) Operate a motorboat inboard or have the inboard engine of a motorboat run idle while an individual is holding onto the swim platform, swim deck, swim step, swim ladder or any

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part of the exterior of the transom of a motorboat while the motorboat is underway at any speed.

(2) Operate a motorboat powered by an outboard motor or equipped with an outdrive unit while an individual is:

(A) holding onto the swim platform, swim deck, swim step, swim ladder or any portion of the exterior of the transom of a motorboat while the motorboat is underway at any speed;

(B) swimming, or floating on or in the wake directly behind a motorboat that is underway; or

(C) floating on a board on or in the wake directly behind a motorboat that is underway using the wake itself as the means of propulsion.

(3) Operate a motorboat with the number of individual riders on a towed device that exceeds the listed capacity on the towed device or the owner's manual.

Sec. 4. An individual who violates this chapter commits a Class C infraction.

SECTION 7. IC 14-22-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person may not take, carry, ship, transport, or accept for shipment or transportation outside Indiana a wild animal protected by Indiana law, except as provided in this article.

(b) A person having a license to use a commercial fishing device in Indiana may ship, carry, or transport outside Indiana fish that the person has legally taken or caught by the commercial fishing device.

(c) A person having a license to hunt, trap, or fish in Indiana may do the following:

(1) Carry, transport, or ship outside Indiana, in open season, in one (1) day, a wild animal that the person has legally taken in open season, not to exceed in number the possession limit of the wild animal.

(2) Ship, carry, or take outside Indiana in one (1) week more than two (2) times the possession limit for the wild animal.

(d) Hides and furs of furbearing animals legally taken in open season may be shipped or carried outside Indiana in any number:

(1) during the open season; or

(2) ~~within five (5) days after the last day of the~~ **after** open season **as allowed by rule.**

(e) A person having a breeder's license may ship, carry, or transport outside Indiana a wild animal that the person has legally possessed under the breeder's license in Indiana.

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(f) A person may not ship, carry, or transport or accept for transportation or shipment to a place in Indiana or outside Indiana a wild animal unless the wild animal is enclosed in a package or container on which there is clearly, legibly, and conspicuously marked on the outside of the package or container the following information:

(1) The name and address of the shipper and the consignee.

(2) An accurate statement of the number or quantities and kinds of wild animals contained.

The shipper shall produce the license required under this article authorizing the person to take or possess the wild animal. If the wild animal is carried by the licensee personally, the wild animal shall be carried openly for inspection, together with the license.

(g) A person having a mussel buyer's license may ship legally taken mussels or mussel shells outside Indiana.

SECTION 8. IC 14-22-12-1, AS AMENDED BY P.L.46-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The department may issue the following licenses **individually or in combination** and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five cents ($8.75).

(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).

(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).

(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.

(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).

(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents

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($12.75).
(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).
(11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents ($6.75).
(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents ($13.75).
(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).
(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).
(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, one hundred twenty dollars and seventy-five cents ($120.75).
(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).
(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents ($120.75).
(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars ($5).
(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).
(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).
(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.
(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).
(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by

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the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(24) A resident youth yearly consolidated license to hunt, trap, and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt, trap, and fish and all other yearly licenses, stamps, or permits to hunt, trap, and fish for a specific species or by a specific means.

(25) A nonresident youth yearly license to hunt, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(26) A nonresident youth yearly license to trap, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(27) A nonresident youth yearly license to take a turkey, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(28) A nonresident youth license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

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(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(33) A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(34) A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

(c) In addition to the license fees set under this section, the department shall establish a procedure to collect voluntary donations for processing wild game when a hunting license is sold. The minimum suggested donation must be one dollar ($1). The money collected under this section shall be deposited in the Indiana sportsmen's benevolence account (IC 14-9-5-4).

SECTION 9. IC 14-22-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This section applies to the Ohio River waters of Indiana.

(b) The department may issue to an individual who is a resident of Indiana ~~or Kentucky~~ a license to use in, and to possess for use in, the

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water seines, nets, or other commercial fishing gear under rules adopted under IC 4-22-2 upon payment of the following fee:

(1) For an Ohio River commercial fishing license and ten (10) Ohio River commercial gear tags, one hundred twenty-five dollars ($125).

(2) For each block of ten (10) Ohio River commercial fishing gear tags, fifteen dollars ($15).

SECTION 10. IC 14-22-13-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. (a) This section applies to the harvest or sale of the following roe bearing species:**

(1) Shovelnose sturgeon.

(2) Paddlefish

(3) Bowfin.

(b) For the purpose of this subsection, "roe" means the eggs or gametes of a fish listed in subsection (a).

(c) An individual may not harvest, possess, or sell roe without a license issued under this section.

(d) The department may issue to an individual who is a resident of Indiana a license to harvest, possess, and sell the roe under rules adopted under IC 4-22-2. The individual must leave the roe intact and inside the body of the fish until sold to a licensed roe dealer. The individual must sell the roe only to a roe dealer licensed by the department. The department shall limit the number of licenses that are available.

(e) The department may issue a person a roe dealer's license to purchase and process roe. A person may not transport roe outside Indiana except according to the terms of a license issued under this subsection.

(f) The following are the minimum application fees for these licenses:

(1) Roe harvester's license, one thousand dollars ($1,000).

(2) Roe dealer's license, five thousand dollars ($5,000).

(g) The commission may set license fees above the minimum fees established under subsection (f). The amount may not be more than is reasonably necessary to generate revenue sufficient to offset the costs incurred by the department in carrying out its responsibilities under this chapter.

SECTION 11. IC 14-22-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. A license issued under ~~section 1 or 2 of~~ this chapter:

(1) is valid for one (1) year; and

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(2) expires December 31 of the year for which the license is valid.

SECTION 12. IC 14-22-13-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 10. (a) A person who knowingly or intentionally fails to comply with the requirements of:**

(1) a license issued under this chapter;

(2) this chapter; or

(3) rules adopted under this article to implement this chapter; is subject to suspension or revocation of the person's license.

(b) A license revoked under this section may not be reinstated.

(c) A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 13. IC 14-22-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. An individual may not take another individual sport fishing for hire on:

(1) Indiana waters;

(2) waters containing state owned fish; or

(3) boundary waters of Indiana;

without a ~~charter~~ fishing ~~boat operator's~~ **guide's** license issued by the director.

SECTION 14. IC 14-22-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The annual fee for a ~~charter~~ fishing ~~boat operator's~~ **guide's** license for a resident or a nonresident is one hundred dollars ($100).

SECTION 15. IC 14-22-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A ~~charter~~ fishing ~~boat operator's~~ **guide's** license:

(1) is valid for one (1) year; and

(2) expires December 31 of the year for which the license is issued.

SECTION 16. IC 14-22-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) An individual having a ~~charter~~ fishing ~~boat operator's~~ **guide's** license shall keep an accurate record of the following:

(1) Each day's catch of fish.

(2) Other related information that the department requires by rule.

(b) Before the fifteenth day of each month, the ~~charter~~ fishing ~~boat operator~~ **guide** shall report the previous month's record required under subsection (a) to the department on forms furnished by the department. The report shall be made even if no fish are caught.

SECTION 17. IC 14-22-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. ~~A person~~ **An**

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individual who acts as a ~~charter~~ fishing ~~boat operator~~ **guide** without a license in violation of section 1 of this chapter commits a Class B infraction.

SECTION 18. IC 14-22-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. ~~A person~~ **An individual** who **recklessly, knowingly, or intentionally:**

(1) fails to keep accurate records in violation of section 4(a) of this chapter; or

(2) fails to report monthly to the department in violation of section 4(b) of this chapter;

commits a Class C ~~infraction.~~ **misdemeanor.**

SECTION 19. IC 14-22-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. ~~A person~~ **An individual** may not practice falconry in Indiana without a license issued ~~by the department.~~ **under this chapter.**

SECTION 20. IC 14-22-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. ~~The department may issue a falconry license to a person~~ **An individual** who:

~~(1) possesses; or~~

(1) resides in a state other than Indiana; and

(2) has ~~applied for;~~ a valid ~~federal falconry~~ license **to practice falconry in the individual's state of residence;**

is not required to obtain a license under this chapter.

SECTION 21. IC 14-22-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. To take wildlife in the practice of falconry, ~~a person~~ **an individual** must:

(1) hold a license issued under this chapter;

(2) have in the ~~person's~~ **individual's** possession the type of hunting license required under this article for the taking of the wildlife; and

(3) have in the ~~person's~~ **individual's** possession the stamp required by IC 14-22-7 or IC 14-22-8 for the taking of the wildlife if a stamp is required.

SECTION 22. IC 14-34-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Money received by the department from the federal government for use in the restoration of abandoned mine land under this chapter shall be deposited in ~~a~~ separate dedicated ~~fund~~ **funds** administered by the department. The ~~fund~~ **funds** may only be used to effect the restoration of abandoned mine land under this chapter.

(b) Federal money received is considered appropriated and allotted at the time of grant approval for specific projects included in the

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approved grant.

SECTION 23. IC 14-34-19-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.3. (a) As used in this section, "fund" refers to the acid mine drainage abatement and treatment fund established by subsection (b).**

(b) The acid mine drainage abatement and treatment fund is established for the purpose of the abatement of the causes and the treatment of the effects of acid mine drainage. The department shall administer the fund.

(c) The fund consists of the following:

(1) Accrued interest and other investment earnings of the fund.

(2) Gifts, grants, donations, or appropriations from any source.

(d) Money in the fund does not revert to the state general fund at the end of a fiscal year.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 24. IC 14-34-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. (a) As used in this section, "fund" refers to the reclamation set-aside fund established by subsection (b).**

(b) The reclamation set-aside fund is established for following purposes:

(1) The protection of public health and property from the extreme danger of the adverse effects of coal mining practices.

(2) The assurance that safety and general welfare are not affected by the extreme danger of adverse effects of coal mining practices.

(3) The protection of public health from the adverse effects of coal mining practices.

(4) The assurance that safety and general welfare are not affected by the adverse effects of coal mining practices.

(5) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and

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agricultural productivity.

(c) The department shall administer the fund.

(d) The fund consists of the following:

(1) Accrued interest and other investment earnings of the fund.

(2) Gifts, grants, donations, or appropriations from any source.

(e) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 25. IC 14-34-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a)** Expenditure of money from the fund created by section 1 of this chapter on lands and water eligible under section 2 of this chapter must reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.

(2) The protection of public health **and** safety ~~and general welfare~~ from adverse effects of coal mining practices.

(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

~~(4) Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques.~~

~~(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.~~

~~(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired under this chapter for recreation, historic, conservation, and reclamation purposes and open space benefits.~~

(b) Not more than thirty percent (30%) of money from funds under section 1 of this chapter that is received from the federal

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government on an annual basis may be expended on water supply restoration projects.

SECTION 26. IC 14-34-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies if the director makes a finding of fact that:

(1) land or water resources have been adversely affected by past coal mining practices;

(2) the adverse effects of past coal mining practices are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices:

(A) are not known or readily available; or

(B) will not give permission for:

(i) the United States;

(ii) the state;

(iii) a political subdivision; or

(iv) an agent, an employee, or a contractor of the United States, the state, or the political subdivision;

to enter upon the property to restore, reclaim, rebate, control, or prevent the adverse effects of past coal mining practices.

(b) The director may, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising one (1) time in a newspaper of general circulation in the county in which the land lies, do the following:

(1) Enter upon the property adversely affected by past coal mining practices and any other property to have access to that property.

(2) Do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) Entry under this section is:

(1) an exercise of the police power for the protection of public health **and** safety; ~~and general welfare;~~ and

(2) not an act of:

(A) condemnation of property; or

(B) trespass.

(d) The money expended for the work and the benefits accruing to the premises entered under this section:

(1) is chargeable against the land; and

(2) mitigates or offsets:

(A) a claim in; or

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(B) an action brought by an owner of;

an interest in the premises for alleged damages by virtue of the entry.

However, this subsection does not create new rights of action or eliminate existing immunities.

SECTION 27. IC 14-34-19-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the director:

(1) shall itemize the money expended; and

(2) may, subject to subsection (b), file a statement with the county recorder in the county in which the land lies together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the money expended results in a significant increase in property value. The statement constitutes a lien upon the land. The lien may not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) A lien may not be filed against the property of a person under subsection (a) who

~~(1) owned the surface before May 2, 1977, and~~

~~(2)~~ did not:

~~(A)~~ **(1)** consent to;

~~(B)~~ **(2)** participate in; or

~~(C)~~ **(3)** exercise control over;

the mining operation that necessitated the reclamation performed under this chapter.

(c) The landowner may petition within sixty (60) days of the filing of the lien to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises constitutes the amount of the lien and shall be recorded with the statement filed under subsection (a). A party aggrieved by the decision may appeal as provided by law.

(d) The director shall record the lien with the county recorder in the county in which the land is located. The statement:

(1) constitutes a lien upon the land as of the date of the

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expenditure of the money; and

(2) has priority as a lien second only to the lien of real estate taxes imposed upon the land.

SECTION 28. IC 14-22-13-6 IS REPEALED [EFFECTIVE JULY 1, 2011].

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Natural Resources, to which was referred Senate Bill No. 532, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 23 through 42.
Page 4, delete lines 1 through 20.
Page 6, delete lines 15 through 17.
Page 13, delete lines 38 through 42.
Page 14, delete lines 1 through 32.
Page 16, delete lines 7 through 9.
Page 17, delete lines 2 through 4.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 532 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 532 be amended to read as follows:

Page 13, delete lines 17 through 22.
Page 17, delete lines 35 through 42.
Page 18, delete line 1.
Renumber all SECTIONS consecutively.

(Reference is to SB 532 as printed January 26, 2011.)

MISHLER

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SENATE MOTION

Madam President: I move that Senate Bill 532 be amended to read as follows:

Page 10, delete lines 2 through 20.

Renumber all SECTIONS consecutively.

(Reference is to SB 532 as printed January 26, 2011.)

WATERMAN

SENATE MOTION

Madam President: I move that Senate Bill 532 be amended to read as follows:

Page 5, delete lines 17 through 22.

Page 5, line 23, delete "Sec. 5." and insert "**Sec. 4.**".

(Reference is to SB 532 as printed January 26, 2011.)

MISHLER

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