

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1187, 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:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 13-11-2-16.6 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2011]: **Sec. 16.6. "Biomass", for purposes of**
6 **sections 16.7 and 16.8 of this chapter and IC 13-20-10.5, means**
7 **biological material that is available on a renewable recurring basis**
8 **and is used as a source of renewable energy, including the**
9 **following:**
10 **(1) Agricultural crops.**
11 **(2) Agricultural wastes and residues.**
12 **(3) Wood and wood byproducts, including the following:**
13 **(A) Wood residue.**
14 **(B) Forest thinning.**
15 **(C) Mill residue wood.**
16 **(4) Animal wastes and byproducts, including manure.**
17 **(5) Aquatic plants.**
18 **(6) Algae.**
19 **(7) Byproducts of processing agricultural crops.**
20 SECTION 2. IC 13-11-2-16.7 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2011]: **Sec. 16.7. "Biomass anaerobic**
 2 **digestion facility", for purposes of IC 13-20-10.5:**

3 (1) means a facility that incorporates equipment that
 4 promotes the decomposition of biomass to simple organics
 5 and biogas products in the oxygen free environment of a
 6 closed, sealed chamber; and

7 (2) includes a methane recovery system.

8 SECTION 3. IC 13-11-2-16.8 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2011]: **Sec. 16.8. "Biomass gasification**
 11 **facility", for purposes of IC 13-20-10.5, means a facility that**
 12 **incorporates equipment to carry out a thermochemical process**
 13 **that, with little or no oxygen present, converts biomass into a**
 14 **synthesis gas.**

15 SECTION 4. IC 13-11-2-40, AS AMENDED BY P.L.127-2009,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2011]: **Sec. 40. "Confined feeding operation" for purposes of**
 18 **IC 13-18-10, means:**

19 (1) any confined feeding of:

20 (A) at least three hundred (300) cattle;

21 (B) at least six hundred (600) swine or sheep;

22 (C) at least thirty thousand (30,000) fowl; or

23 (D) at least five hundred (500) horses.

24 (2) any animal feeding operation electing to be subject to
 25 IC 13-18-10; or

26 (3) any animal feeding operation that is causing a violation of:

27 (A) water pollution control laws;

28 (B) any rules of the water pollution control board; or

29 (C) IC 13-18-10.

30 A determination by the department under this subdivision is appealable
 31 under IC 4-21.5.

32 SECTION 5. IC 13-11-2-71, AS AMENDED BY P.L.127-2009,
 33 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: **Sec. 71. "Environmental management laws" refers to**
 35 **the following:**

36 (1) IC 13-12-2 and IC 13-12-3.

37 (2) IC 13-13.

38 (3) IC 13-14.

39 (4) IC 13-15.

40 (5) IC 13-16.

41 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

42 (7) IC 13-18-10, **IC 13-18-10.5**, IC 13-18-12, IC 13-18-13-31,

- 1 and IC 13-18-15 through IC 13-18-20.
 2 (8) IC 13-19-1, IC 13-19-4, and IC 13-19-5-17.
 3 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
 4 IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and
 5 IC 13-20-22-21.
 6 (10) IC 13-22.
 7 (11) IC 13-23.
 8 (12) IC 13-24.
 9 (13) IC 13-25-1 through IC 13-25-5.
 10 (14) IC 13-27-8.
 11 (15) IC 13-30, except IC 13-30-1.

12 SECTION 6. IC 13-11-2-79.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2011]: **Sec. 79.5. "Fertilizer material", for**
 15 **purposes of IC 13-18-4-5, has the meaning set forth in**
 16 **IC 15-16-2-11."**

17 Page 2, between lines 6 and 7, begin a new paragraph and insert:

18 "SECTION 7. IC 13-11-2-158, AS AMENDED BY P.L.137-2007,
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2011]: Sec. 158. (a) "Person", for purposes of:

- 21 (1) IC 13-21;
 22 (2) air pollution control laws;
 23 (3) water pollution control laws; and
 24 (4) environmental management laws, except as provided in
 25 subsections (c), (d), (e), and (h);

26 means an individual, a partnership, a copartnership, a firm, a company,
 27 a corporation, an association, a joint stock company, a trust, an estate,
 28 a municipal corporation, a city, a school city, a town, a school town, a
 29 school district, a school corporation, a county, any consolidated unit of
 30 government, political subdivision, state agency, a contractor, or any
 31 other legal entity.

32 (b) "Person", for purposes of:

- 33 (1) IC 13-18-10;
 34 **(2) IC 13-18-10.5;**
 35 **(3) IC 13-20-10.5;** and
 36 ~~(2)~~ **(4) IC 13-20-17;**

37 means an individual, a partnership, a copartnership, a firm, a company,
 38 a corporation, an association, a joint stock company, a trust, an estate,
 39 a political subdivision, a state agency, or other legal entity, or their
 40 legal representative, agent, or assigns.

41 (c) "Person", for purposes of:

- 42 (1) IC 13-20-13;

1 (2) IC 13-20-14;

2 (3) IC 13-20-16; and

3 (4) IC 13-25-6;

4 means an individual, a corporation, a limited liability company, a
5 partnership, or an unincorporated association.

6 (d) "Person", for purposes of IC 13-23, has the meaning set forth in
7 subsection (a). The term includes a consortium, a joint venture, a
8 commercial entity, and the United States government.

9 (e) "Person", for purposes of IC 13-20-17.5 and IC 13-25-3, means
10 an individual, a corporation, a limited liability company, a partnership,
11 a trust, an estate, or an unincorporated association.

12 (f) "Person", for purposes of IC 13-26, means an individual, a firm,
13 a partnership, an association, a limited liability company, or a
14 corporation other than an eligible entity.

15 (g) "Person", for purposes of IC 13-29-1, means any individual,
16 corporation, business enterprise, or other legal entity either public or
17 private and any legal successor, representative, agent, or agency of that
18 individual, corporation, business enterprise, or legal entity.

19 (h) "Person", for purposes of IC 13-30-8-1, has the meaning set forth
20 in IC 35-41-1."

21 Page 2, between lines 23 and 24, begin a new paragraph and insert:

22 "SECTION 8. IC 13-11-2-205 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 205. (a) "Solid waste",
24 for purposes of IC 13-19, IC 13-21, IC 13-20-22, and environmental
25 management laws, except as provided in subsection (b), means any
26 garbage, refuse, sludge from a waste treatment plant, sludge from a
27 water supply treatment plant, sludge from an air pollution control
28 facility, or other discarded material, including solid, liquid, semisolid,
29 or contained gaseous material resulting from industrial, commercial,
30 mining, or agricultural operations or from community activities. The
31 term does not include:

32 (1) solid or dissolved material in:

33 (A) domestic sewage; or

34 (B) irrigation return flows or industrial discharges;

35 that are point sources subject to permits under Section 402 of the
36 Federal Water Pollution Control Act Amendments (33 U.S.C.
37 1342);

38 (2) source, special nuclear, or byproduct material (as defined by
39 the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.));

40 (3) manures or crop residues returned to the soil ~~at the point of~~
41 ~~generation~~ as fertilizers or soil conditioners as part of a total farm
42 operation; or

1 (4) vegetative matter at composting facilities registered under
2 IC 13-20-10.

3 (b) "Solid waste", for purposes of IC 13-20-5, IC 13-20-22, and
4 IC 13-21, does not include the following:

5 (1) A waste that is regulated under the following:

6 (A) IC 13-22-1 through IC 13-22-8.

7 (B) IC 13-22-13 through IC 13-22-14.

8 (2) An infectious waste (as defined in IC 16-41-16-4) that is
9 disposed of at an incinerator permitted under rules adopted by the
10 solid waste management board to dispose of infectious waste.

11 (c) "Solid waste", for purposes of IC 13-26, means all putrescible
12 and nonputrescible solid and semisolid wastes, except human excreta.
13 The term includes garbage, rubbish, ashes, street cleanings, dead
14 animals, offal, and solid commercial, industrial, and institutional
15 wastes.

16 SECTION 9. IC 13-18-4-5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a) Except as**
18 **provided in subsection (b)**, a person may not:

19 (1) throw, run, drain, or otherwise dispose; ~~into any of the streams~~
20 ~~or waters of Indiana;~~ or

21 (2) cause, permit, or suffer to be thrown, run, drained, allowed to
22 seep, or otherwise disposed; ~~into any waters;~~

23 **into any of the streams or waters of Indiana** any organic or inorganic
24 matter that causes or contributes to a polluted condition of any **of the**
25 **streams or waters of Indiana**, as determined by a rule of the board
26 adopted under sections 1 and 3 of this chapter.

27 **(b) Subsection (a) does not apply to organic or inorganic matter**
28 **that consists of fertilizer material contained in:**

29 **(1) runoff from a storm event; or**

30 **(2) irrigation return flow;**

31 **entering the waters of Indiana as a result of land application of**
32 **fertilizer material in compliance with rules adopted by the state**
33 **chemist under IC 15-16-2-44.**

34 **(c) The department shall request documentation of compliance**
35 **with subsection (b) before a notice of violation can be issued.**

36 **(d) A person has thirty (30) days to submit documentation after**
37 **receiving a request under subsection (c).**

38 **(e) The department may issue a notice of violation for failure to**
39 **comply with subsection (d). No notice of violation can be issued if**
40 **the department determines that a person complied with subsection**
41 **(b).**

42 **(f) Before the rules for land application of fertilizer materials**

1 adopted under IC 15-16-2-44 by the state chemist take effect, a
 2 person may meet the requirements under subsection (b) if the
 3 person maintains documentation of compliance with:

4 (1) the conditions for land application of manure
 5 requirements under IC 13-18-10; or

6 (2) the National Resources Conservation Services land
 7 application standards.

8 (g) Subsection (b) does not affect liability for killing wild
 9 animals under IC 14-22-10-6."

10 Page 2, after line 35, begin a new paragraph and insert:

11 "SECTION 10. IC 13-20-10.5 IS ADDED TO THE INDIANA
 12 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2011]:

14 **Chapter 10.5. Biomass Anaerobic Digestion Facilities and**
 15 **Biomass Gasification Facilities**

16 **Sec. 1. (a) A person may not after June 30, 2011, start:**

17 (1) construction of:

18 (A) a biomass anaerobic digestion facility; or

19 (B) a biomass gasification facility; or

20 (2) expansion of:

21 (A) a biomass anaerobic digestion facility; or

22 (B) a biomass gasification facility;

23 without obtaining prior approval of the department.

24 (b) A person who proposes to construct or expand a biomass
 25 anaerobic digestion facility or a biomass gasification facility on the
 26 premises of a confined feeding operation must obtain the prior
 27 approval required under subsection (a) through the approval
 28 process for confined feeding operations under IC 13-18-10 and
 29 rules implementing that chapter.

30 **Sec. 2. Except as provided in section 3 of this chapter, a biomass**
 31 **anaerobic digestion facility or a biomass gasification facility for**
 32 **which the only input is biomass is not subject to regulation as a**
 33 **solid waste processing facility.**

34 **Sec. 3. (a) The department may determine that a biomass**
 35 **anaerobic digestion facility or a biomass gasification facility for**
 36 **which the input is a combination of biomass and solid waste is**
 37 **subject to regulation as a solid waste processing facility.**

38 (b) Anaerobic digestion and gasification facilities required to
 39 maintain a permit under IC 13-17 are not required to seek
 40 approval under this chapter.

41 **Sec. 4. The board may adopt rules under IC 4-22-2 and**
 42 **IC 13-14-9 to implement this chapter.**

1 SECTION 11. IC 15-16-2-44, AS AMENDED BY P.L.81-2009,
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 44. (a) The state chemist may adopt rules under
4 IC 4-22-2 concerning the following:

5 (1) The distribution and use of fertilizer material, **including**
6 **standards to protect waters of the state.**

7 (2) The distribution and storage of bulk fertilizers, including
8 standards for the storage of bulk fertilizers to protect the waters
9 of the state.

10 (b) The state chemist shall adopt rules under IC 4-22-2 concerning
11 the following:

12 (1) Subject to subsection ~~(d)~~, **(e)**, the establishment of
13 certification and educational programs, as determined by the state
14 chemist, relating to the application of fertilizer material, the
15 transportation of fertilizer material, or both for the following:

16 (A) Persons who apply fertilizer material for hire, transport
17 fertilizer material for hire, or both.

18 (B) Persons who apply fertilizer material, transport fertilizer
19 material, or both from the following:

20 (i) Confined feeding operations (as defined in
21 IC 13-11-2-40).

22 (ii) Operations outside Indiana that would be confined
23 feeding operations (as defined in IC 13-11-2-40) if they
24 were located in Indiana.

25 (2) The establishment of fees for the certification and education
26 programs established under subdivision (1).

27 **(c) The state chemist shall adopt rules under IC 4-22-2 before**
28 **July 1, 2012, concerning the staging, management, and land**
29 **application of fertilizer material.**

30 ~~(c)~~ **(d)** Any fees collected for a certification and educational
31 programs under subsection (b)(1) shall be collected by the state
32 chemist and deposited and administered under section 44.5 of this
33 chapter.

34 ~~(d)~~ **(e)** The state chemist may waive all or part of the certification
35 requirements established under subsection (b)(1) on a reciprocal basis

1 with any state agency or federal agency that has substantially the same
2 certification standards."

3 Renumber all SECTIONS consecutively.
(Reference is to HB 1187 as printed January 28, 2011.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 0.

Senator Gard, Chairperson