



February 21, 2012

**ENGROSSED
SENATE BILL No. 273**

DIGEST OF SB 273 (Updated February 21, 2012 12:05 pm - DI 109)

Citations Affected: IC 2-5; IC 22-12; IC 22-13; IC 22-15.

Synopsis: Regulation of outdoor stage equipment. Specifies that the fire prevention and building safety commission ("commission") may adopt rules to regulate outdoor stage equipment used in connection with an outdoor performance as a Class 1 structure. Specifies that the rules apply to outdoor stage equipment used after the later of June 30, 2012, or 60 days after the commission adopts its initial rules. Permits the commission to exempt or provide alternative requirements for small assemblies of outdoor stage equipment. Validates local programs regulating outdoor stage equipment that were implemented before March 15, 2012. Specifies that a local unit has jurisdiction to require compliance with state requirements on both private and public property, including the state fairgrounds. Provides that state authority over outdoor stage equipment expires on January 1, 2014. Provides for a study committee to study the issues related to the regulation of outdoor stage equipment and recommend permanent legislation to the general assembly to regulate the use of outdoor stage equipment in Indiana for the purpose of protecting the safety of persons at an outdoor performance. Requires copies of reports related to the collapse of an outdoor stage on the state fairgrounds to be submitted to the study committee.

Effective: Upon passage.

**Lanane, Merritt, Arnold, Wyss,
Becker, Miller**

(HOUSE SPONSORS — CHERRY, DELANEY, RICHARDSON, AUSTIN)

January 4, 2012, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.

January 19, 2012, amended, reported favorably — Do Pass.

January 26, 2012, read second time, amended, ordered engrossed.

January 27, 2012, engrossed.

January 31, 2012, read third time, passed. Yeas 45, nays 5.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Veterans Affairs and Public Safety.

February 21, 2012, amended, reported — Do Pass.

ES 273—LS 6202/DI 51+



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February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 273

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 2-5-34.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 34.7. Outdoor Stage Equipment Safety Committee**

5 **Sec. 1. As used in this chapter, "committee" refers to the**
6 **committee established under section 3 of this chapter.**

7 **Sec. 2. As used in this chapter, "outdoor stage equipment" has**
8 **the meaning set forth in IC 22-12-1-17.7.**

9 **Sec. 3. The outdoor stage safety committee is established.**

10 **Sec. 4. The committee shall study the issues related to the**
11 **regulation of outdoor stage equipment and recommend legislation**
12 **to the general assembly for the regulation of the use of outdoor**
13 **stage equipment in Indiana to protect the safety of persons at an**
14 **outdoor performance.**

15 **Sec. 5. The committee consists of the following twelve (12)**
16 **members:**

17 **(1) Four (4) members of the senate appointed by the president**

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- 1 pro tempore of the senate with advice from the minority
 2 leader of the senate. Not more than two (2) members
 3 appointed under this subdivision may be from the same
 4 political party.
- 5 (2) Four (4) members of the house of representatives
 6 appointed by the speaker of the house of representatives with
 7 advice from the minority leader of the house of
 8 representatives. Not more than two (2) members appointed
 9 under this subdivision may be from the same political party.
- 10 (3) The state fire marshal appointed under IC 22-14-2-2 or the
 11 fire marshal's designee.
- 12 (4) The executive director of the department of homeland
 13 security or the executive director's designee.
- 14 (5) The chairman of the fire prevention and building safety
 15 commission appointed under IC 22-12-2-5 or the chairman's
 16 designee.
- 17 (6) The commissioner of the department of labor appointed
 18 under IC 22-1-1-2 or the commissioner's designee.
- 19 **Sec. 6.** The members of the committee serve at the pleasure of
 20 the appointing authority.
- 21 **Sec. 7.** The chairperson of the legislative council shall appoint
 22 the chairperson of the committee from among the members of the
 23 general assembly appointed to the committee. The chairperson of
 24 the committee serves at the pleasure of the appointing authority.
- 25 **Sec. 8. (a)** Each member of the committee who is not a state
 26 employee is entitled to the minimum salary per diem provided by
 27 IC 4-10-11-2.1(b). The member is also entitled to reimbursement
 28 for traveling expenses as provided under IC 4-13-1-4 and other
 29 expenses actually incurred in connection with the member's duties
 30 as provided in the state policies and procedures established by the
 31 Indiana department of administration and approved by the budget
 32 agency.
- 33 (b) Each member of the committee who is a state employee is
 34 entitled to reimbursement for traveling expenses as provided under
 35 IC 4-13-1-4 and other expenses actually incurred in connection
 36 with the member's duties as provided in the state policies and
 37 procedures established by the Indiana department of
 38 administration and approved by the budget agency.
- 39 (c) Each member of the committee who is a member of the
 40 general assembly is entitled to receive the same per diem, mileage,
 41 and travel allowances paid to legislative members of interim study
 42 committees established by the legislative council. Per diem,



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1 mileage, and travel allowances paid under this subsection shall be
2 paid from appropriations made to the legislative council or the
3 legislative services agency.

4 **Sec. 9. The committee shall operate under the policies governing**
5 **study committees adopted by the legislative council.**

6 **Sec. 10. The affirmative votes of a majority of the voting**
7 **members appointed to the committee are required for the**
8 **committee to take action on any measure, including final reports.**

9 **Sec. 11. The legislative services agency shall staff the committee.**

10 **Sec. 12. The department of labor, the occupational safety**
11 **standards commission, the fire prevention and building safety**
12 **commission, and the division of fire and building safety shall**
13 **cooperate with the commission as requested by the commission.**

14 **Sec. 13. The state fair commission shall submit to the committee,**
15 **in an electronic format under IC 5-14-6, as soon as practicable**
16 **after the information is received by the state fair commission or**
17 **another state official or agency, a copy of any final report and**
18 **associated appendices:**

19 **(1) prepared under an agreement with Witt Associates or**
20 **Thornton Tomasetti, Inc.; and**

21 **(2) resulting from a study of the collapse of outdoor stage**
22 **equipment on the grounds of the state fair on August 13, 2011.**

23 **Sec. 14. This chapter expires January 1, 2013.**

24 SECTION 2. IC 22-12-1-4 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) "Class 1
26 structure" means any part of the following:

27 (1) A building or structure that is intended to be or is occupied or
28 otherwise used in any part by any of the following:

29 (A) The public.

30 (B) Three (3) or more tenants.

31 (C) One (1) or more persons who act as the employees of
32 another.

33 (2) A site improvement affecting access by persons with physical
34 disabilities to a building or structure described in subdivision (1).

35 **(3) Outdoor stage equipment. This subdivision expires**
36 **January 1, 2014.**

37 ~~(4)~~ **(4)** Any class of buildings or structures that the commission
38 determines by rules to affect a building or structure described in
39 subdivision (1), except buildings or structures described in
40 subsections (c) through (f).

41 (b) Subsection (a)(1) includes a structure that contains three (3) or
42 more condominium units (as defined in IC 32-25-2-9) or other units

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- 1 that:
- 2 (1) are intended to be or are used or leased by the owner of the
- 3 unit; and
- 4 (2) are not completely separated from each other by an
- 5 unimproved space.
- 6 (c) Subsection (a)(1) does not include a building or structure that:
- 7 (1) is intended to be or is used only for an agricultural purpose on
- 8 the land where it is located; and
- 9 (2) is not used for retail trade or is a stand used for retail sales of
- 10 farm produce for eight (8) or less consecutive months in a
- 11 calendar year.
- 12 (d) Subsection (a)(1) does not include a Class 2 structure.
- 13 (e) Subsection (a)(1) does not include a vehicular bridge.
- 14 (f) Subsection (a)(1) does not include a structure that is intended to
- 15 be or is occupied solely to provide periodic maintenance or repair of:
- 16 (1) the structure; or
- 17 (2) mechanical or electrical equipment located within and affixed
- 18 to the structure.

19 SECTION 3. IC 22-12-1-17.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) "Outdoor**
 22 **performance", as the term applies to outdoor stage equipment,**
 23 **means:**

- 24 (1) a movie or show;
- 25 (2) an exhibit;
- 26 (3) a concert;
- 27 (4) a performance of dance;
- 28 (5) a musical, dramatic, or comedy performance;
- 29 (6) a sporting or athletic match, exhibition, or contest; or
- 30 (7) another amusement or entertainment;

31 **conducted outside another temporary or permanent Class 1**
 32 **structure that provides reasonable protection from severe weather,**
 33 **as determined under the rules adopted by the commission,**
 34 **regardless of whether the location qualifies as a regulated place of**
 35 **amusement or entertainment.**

36 **(b) This section expires January 1, 2014.**

37 SECTION 4. IC 22-12-1-17.7 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: **Sec. 17.7. (a) "Outdoor stage**
 40 **equipment" means any temporary or permanent towers, booms,**
 41 **ramps, platforms, overhead assemblies, or other structures,**
 42 **including ancillary rigging, that are used or are intended to be used**

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1 in connection with an outdoor performance and that are not
 2 otherwise attached or anchored to, or otherwise a part of, another
 3 Class 1 structure.

4 (b) This section expires January 1, 2014.

5 SECTION 5. IC 22-13-2-8.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 8.5. (a) The commission shall adopt rules
 8 under IC 4-22-2 for outdoor stage equipment at outdoor
 9 performances to protect the safety of persons at the outdoor
 10 performances. The commission may:

11 (1) exempt small assemblies of outdoor stage equipment, as
 12 defined by the commission, from some or all fees or other
 13 requirements that otherwise would apply to outdoor stage
 14 equipment under a rule adopted under this section or another
 15 building law; or

16 (2) establish alternative procedures, fees, or other
 17 requirements, or any combination, for small assemblies of
 18 outdoor stage equipment, as defined by the commission.

19 (b) The commission may adopt temporary rules in the manner
 20 provided for the adoption of emergency rules under IC 4-22-2-37.1
 21 to carry out subsection (a), including temporary rules concerning
 22 a schedule of fees for design releases or inspections, or both. A
 23 temporary rule adopted under this subsection expires on the
 24 earliest of the following:

25 (1) The date specified in the temporary rule.

26 (2) The date another temporary rule adopted under this
 27 subsection or a rule adopted under IC 4-22-2 supersedes or
 28 repeals the previously adopted temporary rule.

29 (3) January 1, 2014.

30 (c) Subject to this section, a city, town, or county that regulated
 31 outdoor stage equipment before March 15, 2012, under an
 32 ordinance adopted before March 15, 2012, may, if the ordinance is
 33 in effect on March 15, 2012, continue to regulate outdoor stage
 34 equipment under the ordinance after March 14, 2012, in the same
 35 manner that the city, town, or county applied the ordinance before
 36 March 15, 2012. However, a statewide code of fire safety laws or
 37 building laws governing outdoor stage equipment that is adopted
 38 by the commission under this section after March 14, 2012, takes
 39 precedence over any part of a city, town, or county ordinance that
 40 is in conflict with the commission's adopted code. The ordinances
 41 to which this section applies include Chapter 536 of the Revised
 42 Code of the Consolidated City and County Indianapolis/Marion,

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1 Indiana Codified through Ordinance No. 36, 2011, passed August
 2 15, 2011. (Supp. No. 27). A city, town, or county to which this
 3 subsection applies need not be certified or approved under
 4 IC 22-15-3-1 or another law to continue to regulate outdoor stage
 5 equipment after March 14, 2012.

6 (d) This subsection applies to cities, towns, and counties
 7 described in subsection (c) and any other city, town, or county that,
 8 after March 14, 2012, adopts an ordinance governing outdoor stage
 9 equipment that is approved by the commission or a building law
 10 compliance officer. The city, town, or county shall require
 11 compliance with:

- 12 (1) the rules adopted under this section;
- 13 (2) orders issued under IC 22-13-2-11 that grant a variance to
 14 the rules adopted under this section;
- 15 (3) orders issued under IC 22-12-7 that apply the rules
 16 adopted under this section; and
- 17 (4) a written interpretation of the rules adopted under this
 18 section binding on the unit under IC 22-13-5-3 or
 19 IC 22-13-5-4;

20 on both private and public property located within the boundaries
 21 of the city, town, or county, including, in the case of a consolidated
 22 city, the state fairgrounds. This subsection does not limit the
 23 authority of a unit (as defined in IC 36-1-2-23) under IC 36-7-2-9
 24 to enforce building laws and orders and written interpretations
 25 related to building laws.

26 (e) This section expires January 1, 2014.

27 SECTION 6. IC 22-15-3-8 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: Sec. 8. (a) Outdoor stage equipment may be
 30 used for an outdoor performance before the later of:

- 31 (1) July 1, 2012; or
- 32 (2) sixty (60) days after the date the commission adopts its
 33 initial rules under IC 22-13-2-8.5(a) or IC 22-13-2-8.5(b);

34 without a design release (including a conditional design release)
 35 issued under this chapter unless an ordinance of a city, town, or
 36 county adopted before March 15, 2012, requires a design release in
 37 the city, town, or county to which the ordinance applies before the
 38 applicable date under subdivision (1) or (2).

39 (b) If a design release is not required before the applicable date
 40 under subdivision (1) or (2), under an ordinance adopted before
 41 March 15, 2012, by a city, town, or county, installation of outdoor
 42 stage equipment may begin before the later of:



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1 **(1) July 1, 2012; or**
2 **(2) sixty (60) days after the date the commission adopts its**
3 **initial rules under IC 22-13-2-8.5(a) or IC 22-13-2-8.5(b);**
4 **without a design release (including a conditional design release)**
5 **issued under this chapter. However, the outdoor stage equipment**
6 **may not be used for an outdoor performance after June 30, 2012,**
7 **without a design release (including a conditional design release)**
8 **issued under this chapter.**
9 **(c) This section expires January 1, 2014.**
10 **SECTION 7. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 273, 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 2, line 26, delete "commission." and insert "**commission, regardless of whether the location qualifies as a regulated place of amusement or entertainment.**".

Page 2, line 32, after "platforms," insert "**overhead assemblies,**".

Page 5, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 10. IC 22-14-3-3, AS AMENDED BY P.L.1-2006, SECTION 374, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. To qualify for an amusement and entertainment permit, an applicant must:

- (1) submit an application sworn or affirmed under penalties of perjury on forms provided by the division upon request;
- (2) provide:
 - (A) the applicant's full name and address;
 - (B) the full name and address of each of the applicant's partners (if the applicant is a partnership), members or managers, if any (if the applicant is a limited liability company), and principal officers (if the applicant is a corporation);
 - (C) an indication of whether the applicant is an owner, lessee, occupant, or agent for the place covered by the application;
 - (D) a description of the place covered by the application, including a description of every building and room covered by the application; and
 - (E) any information required under the commission's rules;
- (3) demonstrate through an inspection that the place covered by the application complies with applicable fire safety laws; ~~and~~
- (4) pay the fee set under IC 22-12-6-7; ~~and~~
- (5) after June 30, 2012, comply with IC 22-15-8, if an outdoor performance will be conducted with outdoor stage equipment at the place covered by the application.**

SECTION 11. IC 22-14-3-4, AS AMENDED BY P.L.1-2006, SECTION 375, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The division may modify an amusement and entertainment permit with a special event endorsement that covers one (1) or more events not specified in the



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initial permit.

- (b) To qualify for a special event endorsement, an applicant must:
- (1) provide the information required by the commission;
 - (2) demonstrate through an inspection that the special events covered by the application will be conducted in compliance with applicable fire safety laws; ~~and~~
 - (3) pay the inspection fee set under IC 22-12-6-7; **and**
 - (4) after June 30, 2012, comply with IC 22-15-8, if the special event is an outdoor performance that will be conducted with outdoor stage equipment at the place covered by the application."**

Page 6, line 6, delete "and".

Page 6, line 9, after "engineer" insert **"(if section 3 of this chapter applies) or another qualified person, as determined under the commission's rules (if section 3 of this chapter does not apply)"**.

Page 6, line 12, delete "division." and insert **"division;**

(G) states that the outdoor stage equipment will be operated, maintained, and inspected in conformity with applicable equipment laws after the outdoor stage equipment is installed; and

(H) states that an outdoor performance will not be conducted with outdoor stage equipment under weather or other conditions that exceed the limitations specified in applicable equipment laws and in the permit issued for the outdoor stage equipment."

Page 7, delete lines 4 through 15, begin a new paragraph and insert:

"Sec. 8. (a) To assure the safety of the public and persons operating or using outdoor stage equipment, the commission shall require the person to whom a permit is issued to provide for inspection of the installation, maintenance, and operation of outdoor stage equipment at appropriate intervals by qualified personnel, as determined under the commission's rules to assure compliance with applicable equipment laws and the terms and conditions of a permit issued by the division under this chapter or by an approved unit under IC 36-8-2-14. The commission shall require that inspections be conducted in conformity with the standards specified by the commission. The commission may require that verification of inspection be provided to the division in the form and under the conditions specified in the commission's rules.

(b) An inspector for the division shall be allowed entry and access to every place where outdoor stage equipment is installed

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(including outdoor stage equipment installed under a permit issued by a county, city, or town under a regulatory program approved by the commission) to determine compliance with applicable equipment laws."

Page 9, line 9, delete "IC 22-12-1-17.5." and insert "IC 22-12-1-17.7."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 273 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 5, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 273 be amended to read as follows:

Page 2, line 24, delete "or Class 2".

Page 2, line 25, delete "structure".

Page 4, line 13, delete "(a)." and insert "**(a) or to adopt a schedule of fees related to an application or an inspection for outdoor stage equipment, or both.**".

Page 6, line 32, after "engineer" insert "**or architect**".

Page 7, line 10, after "engineer" insert "**or an architect**".

Page 7, delete lines 33 through 36, begin a new line block indented and insert:

"(1) be prepared by:

(A) a professional engineer registered under IC 25-31; or

(B) an architect registered under IC 25-4;

who is competent to design the installation covered by the application as determined by the division;".

Page 7, line 38, after "engineer" insert "**or architect**".

Page 7, line 39, after "engineer's" insert "**or architect's**".

Page 7, line 41, after "engineer" insert "**or architect**".

Page 7, line 42, after "engineer's" insert "**or architect's**".

Page 10, line 7, after "or" insert "**by**".

Page 10, line 11, after "or" insert "**by**".

(Reference is to SB 273 as printed January 20, 2012.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Senate Bill 273, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 273 as reprinted January 27, 2012.)

BORDERS, Chair

Committee Vote: yeas 12, nays 0.

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