Reprinted
January 27, 2012

SENATE BILL No. 273

DIGEST OF SB 273 (Updated January 26, 2012 3:17 pm - DI 51)

Citations Affected: IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 36-8.

Synopsis: Regulation of outdoor stage equipment. Prohibits the use of outdoor stage equipment for an outdoor performance without a permit issued by the division of fire and building safety (division) or a county, city, or town acting under a regulatory program approved by the fire prevention and building safety commission (commission). Authorizes the commission to adopt rules governing outdoor stage equipment. Requires an applicant for an outdoor stage equipment permit to agree to operate, maintain, inspect, and use outdoor stage equipment in conformity with applicable standards adopted by the commission. Provides that a person that is required to obtain a permit for a regulated place of amusement or entertainment must comply with the law governing outdoor stage equipment if outdoor stage equipment is installed or used at the regulated place of amusement or entertainment.

Effective: Upon passage.

Lanane, Merritt, Arnold, Wyss, Becker

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.

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Reprinted
January 27, 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.

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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:

SECTION 1. IC 22-12-1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.4. "Approved unit", for the purposes of IC 22-15-8, refers to a county, city, or town that has a program to regulate outdoor stage equipment under IC 36-8-2-14 that is approved by the commission.**

SECTION 2. IC 22-12-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. "Equipment law" means a statute or rule under this article, IC 22-13, or IC 22-15 that applies to the design, manufacture, fabrication, assembly, installation, alteration, repair, maintenance, operation, or inspection of a regulated amusement device, **a** boiler, **a** lifting device, **outdoor stage equipment,** or **a** pressure vessel.

SECTION 3. IC 22-12-1-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. "Installation", as the term applies to outdoor stage equipment, means the following:**

(1) Erection or assembly of outdoor stage equipment at an outdoor location where the outdoor stage equipment is intended to be or is used for an outdoor performance.

(2) Work undertaken to alter outdoor stage equipment or add outdoor stage equipment at an outdoor location where the outdoor stage equipment is intended to be or is used for an outdoor performance.

(3) Work undertaken to relocate any part of an assembly of outdoor stage equipment at an outdoor location where the outdoor stage equipment is intended to be or is used for an outdoor performance.

SECTION 4. IC 22-12-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. "Outdoor performance", as the term applies to outdoor stage equipment, means:**

(1) a movie or show;

(2) an exhibit;

(3) a concert;

(4) a performance of dance;

(5) a musical, dramatic, or comedy performance;

(6) a sporting or athletic match, exhibition, or contest; or

(7) another amusement or entertainment;

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

SECTION 5. IC 22-12-1-17.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.7. (a) "Outdoor stage equipment" means any:**

(1) stage; and

(2) auxiliary towers, booms, ramps, platforms, overhead assemblies, or other structures, including ancillary rigging;

that are used or are intended to be used in connection with an outdoor performance.

(b) The term does not include:

(1) any part of a Class 1 structure, regulated amusement device, or regulated lifting device that is otherwise regulated under this article, IC 22-13, IC 22-14, or IC 22-15 for load bearing capacity or wind resistance, or both, as determined

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under the rules of the commission; or

(2) a small structure or an assembly of structures that does not exceed the maximum size or weight limits (after the addition of all supported equipment) established by the commission.

SECTION 6. IC 22-12-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

(1) Fireworks display permits issued under IC 22-11-14-2.

(2) Explosives magazine permits issued under IC 35-47.5-4.

(3) Design releases issued under IC 22-15-3.

(4) Certification of industrialized building systems and mobile structures under IC 22-15-4.

(5) Inspection of regulated amusement devices under IC 22-15-7.

(6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.

(7) Permitting and inspection of regulated lifting devices under IC 22-15-5.

(8) Permitting and inspection of regulated boiler and pressure vessels under IC 22-15-6.

(9) Licensing of:

(A) boiler and pressure vessel inspectors under IC 22-15-6-5; and

(B) an owner or user boiler and pressure vessel inspection agency under IC 22-15-6-6.

(10) Licensing of elevator contractors, elevator inspectors, and elevator mechanics under IC 22-15-5-6 through IC 22-15-5-16.

(11) Permitting and inspecting outdoor stage equipment under IC 22-15-8.

(b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

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(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

SECTION 7. IC 22-13-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) The commission shall adopt rules under IC 4-22-2 to establish equipment laws for outdoor stage equipment to protect the safety of performers and the audience at an outdoor performance.**

(b) The commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out subsection (a) or to adopt a schedule of fees related to an application or an inspection for outdoor stage equipment, or both. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date specified in the temporary rule.

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

(3) January 1, 2014.

This subsection expires January 1, 2014.

SECTION 8. IC 22-13-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Except as provided in section 10 of this chapter, political subdivisions do not have the power to regulate regulated:

(1) amusement devices;

(2) boilers;

(3) lifting devices; ~~and~~

(4) pressure vessels; **and**

(5) outdoor stage equipment.

SECTION 9. IC 22-13-2-10, AS AMENDED BY P.L.22-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A county, city, or town may regulate regulated lifting devices **or outdoor stage equipment,** if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices **or outdoor stage equipment** to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

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(c) A unit may issue permits **for lifting devices** only to applicants who qualify under IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the division of fire and building safety of the department of homeland security as a regulated lifting device inspector.

(e) A unit may elect to regulate outdoor state equipment under a regulatory program approved by the commission. The regulatory program must comply with IC 36-8-2-14.

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 initial permit.

(b) To qualify for a special event endorsement, an applicant must:

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(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.

SECTION 12. IC 22-15-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Outdoor Stage Equipment Permits; Inspection

Sec. 1. The division shall carry out a program to issue permits for the installation of outdoor stage equipment in accordance with applicable equipment laws. An approved unit may issue permits for the division under IC 36-8-2-14 to the extent authorized by the commission.

Sec. 2. To qualify for a permit to install outdoor stage equipment under this chapter, an applicant must meet the following requirements:

(1) Be a person with control over the installation of the outdoor stage equipment.
(2) Apply to the division on the forms and in the manner specified by the division.
(3) Demonstrate through the submission of specifications, drawings, and other information that the installation will comply with applicable equipment laws, including any equipment laws specifying the minimum qualifications for persons installing the outdoor stage equipment.
(4) Submit a certificate that is prepared on a form provided by the division and signed under oath or affirmed subject to the penalty for perjury by the applicant or (if section 3 of this chapter applies) the professional engineer or architect described in section 3 of this chapter and that:
(A) describes the outdoor place where the outdoor stage equipment will be installed;
(B) provides an estimate of the cost of the installation covered by the application, its square footage, and any other information required under the rules of the commission;
(C) states that the plans and specifications submitted for

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the application were prepared either by or under the immediate supervision of the person making the statement;

(D) states that the plans and specifications submitted for the application provide for an installation that will meet all applicable equipment laws;

(E) states the period of time during which the outdoor stage equipment will be installed at the outdoor place where the outdoor stage equipment will be used for an outdoor performance;

(F) states that the installation covered by the application will be subject to inspection at intervals appropriate to the stage of the installation by a professional engineer or an architect (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) identified in the statement for the purpose of determining in general if work is proceeding in accordance with the plans and specifications approved by the 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.

(5) Provide any other information specified in the rules adopted by the commission.

(6) Pay the fee specified under IC 22-12-6-6.

Sec. 3. The commission may require that plans and specifications submitted under section 2(3) of this chapter for installation of one (1) or more sizes or other classes of outdoor stage equipment:

(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;

(2) include on each page of all drawings and on the title page of all specifications the seal of the professional engineer or architect described by subdivision (1) or the professional

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engineer's or architect's technical or professional staff; and (3) be filed by the professional engineer or architect described by subdivision (1) or the professional engineer's or architect's technical or professional staff.

Sec. 4. Pending completion of the review of an application, the division may issue a provisional installation permit subject to the terms and conditions specified by the division.

Sec. 5. A permit issued under this chapter must specify the terms and conditions under which the outdoor stage equipment may be installed and used for a performance, including the maximum load bearing and wind conditions under which the outdoor stage equipment may be used.

Sec. 6. A permit issued under this chapter expires on the date specified in the rules adopted by the commission.

Sec. 7. A copy of a permit issued under this chapter must be prominently posted at the location where the outdoor stage equipment is intended to be used or is used for an outdoor performance, in accordance with the rules adopted by the commission.

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 (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.

Sec. 9. (a) This section applies to the following:

(1) Each person that engages in installation of outdoor stage equipment at an outdoor location where the outdoor stage

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equipment is intended to be or is used for an outdoor performance.

(2) Each person that has control over the installation of outdoor stage equipment at an outdoor location where it is intended to be or is used for an outdoor performance.

(3) Each person that has control over outdoor stage equipment at an outdoor location where it is intended to be or is used for an outdoor performance.

(4) Each person that has control over the outdoor location where outdoor stage equipment is intended to be or is used for an outdoor performance.

(b) Subject to section 11 of this chapter, a person described in subsection (a) commits a Class C infraction if:

(1) outdoor stage equipment is installed, or installation is begun, at an outdoor location where the outdoor stage equipment is to be used or is used for a performance; and

(2) no permit (including a conditional permit) issued under this chapter or IC 36-8-2-14 covers the installation, or a permit issued under this chapter or IC 36-8-2-14 is not prominently posted in conformity with the rules adopted by the commission.

Sec. 10. (a) This section applies to the following:

(1) Each person that has control over outdoor stage equipment at an outdoor location where it is intended to be or is used for an outdoor performance.

(2) Each person that has control over the outdoor location where outdoor stage equipment is intended to be or is used for an outdoor performance.

(3) Each person that has control over an outdoor performance where outdoor stage equipment is intended to be used or is used.

(b) Subject to section 11 of this chapter, a person described in subsection (a) commits a Class C infraction if:

(1) outdoor stage equipment is used for an outdoor performance:

(A) in a configuration; or

(B) under conditions;

that have not been approved under a permit (including a conditional permit) issued under this chapter or IC 36-8-2-14; or

(2) any member of the audience for an outdoor performance is permitted to assemble at a location where the member is at

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risk of bodily injury from outdoor stage equipment:

(A) in a configuration; or

(B) under conditions;

that have not been approved by the division under a permit (including a conditional permit) issued under this chapter or by an approved unit under a permit (including a conditional permit) issued under IC 36-8-2-14.

Sec. 11. (a) Outdoor stage equipment may be used for an outdoor performance before July 1, 2012, without a permit (including a conditional permit) issued under this chapter or by an approved unit under IC 36-8-2-14.

(b) Installation of outdoor stage equipment may begin before July 1, 2012, without a permit (including a conditional permit) issued under this chapter or by an approved unit under IC 36-8-2-14. However, the outdoor stage equipment may not be used for an outdoor performance after June 30, 2012, without a permit (including a conditional permit) issued by the division under this chapter or by an approved unit under IC 36-8-2-14.

SECTION 13. IC 36-8-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The following definitions apply throughout this section:**

(1) "Approved unit" refers to a unit that has been approved by the commission to regulate outdoor stage equipment.

(2) "Commission" refers to the fire prevention and building safety commission.

(3) "Equipment law" means an equipment law (as defined in IC 22-12-1-11) that applies to the installation or use of outdoor stage equipment.

(4) "Installation" has the meaning set forth in IC 22-12-1-14.5.

(5) "Outdoor stage equipment" has the meaning set forth in IC 22-12-1-17.7.

(b) A unit may regulate outdoor stage equipment within the boundaries of the unit after June 30, 2012, only under a program approved by the commission. The legislative body of a unit that becomes an approved unit shall establish the unit's regulatory program by ordinance. If a unit becomes an approved unit, the approved unit shall require compliance with the equipment laws.

SECTION 14. **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.)

LANANE

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