March 6, 2013

ENGROSSED
HOUSE BILL No. 1069

DIGEST OF HB 1069 (Updated March 5, 2013 11:25 am - DI 71)

Citations Affected: IC 10-19; IC 22-12; IC 22-13.

Synopsis: Outdoor event equipment. Makes permanent temporary statutes that authorize the fire prevention and building safety commission (commission) to adopt rules to regulate as a Class 1 structure outdoor event equipment used in connection with an outdoor performance. (Under current law, the statutes expire on January 1, 2014.) Provides that temporary rules adopted by the commission governing outdoor event equipment at outdoor performances expire on or before January 1, 2016. (Under current law, the rules expire on or before January 1, 2014.) Provides that the executive director of the Indiana department of homeland security may adopt rules governing emergency action plans or emergency response plans for outdoor performances where outdoor event equipment is used. (The introduced version of this bill was prepared by the outdoor stage equipment safety committee.)

Effective: Upon passage.

Cherry, DeLaney, Davis, Austin

(SENATE SPONSORS — MERRITT, LANANE)

January 7, 2013, read first time and referred to Committee on Veterans Affairs and Public Safety.
January 15, 2013, amended, reported — Do Pass.
January 22, 2013, read second time, amended, ordered engrossed.
January 23, 2013, engrossed. Read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.
March 5, 2013, reported favorably — Do Pass.

Copy

March 6, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C o p y

ENGROSSED
HOUSE BILL No. 1069

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

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

SECTION 1. IC 10-19-3-7, AS ADDED BY P.L.22-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in this section, for purposes of IC 4-22-2, the executive director is the authority that adopts rules for the department.

(b) The Indiana emergency medical services commission is the authority that adopts rules under IC 16-31.

(c) Except as provided in subsection (e) or (f), the fire prevention and building safety commission is the authority that adopts rules under any of the following:

(1) IC 22-11.
(2) IC 22-12.
(3) IC 22-13.
(4) IC 22-14.
(5) IC 22-15.

(d) The board of firefighting personnel standards and education is the authority that adopts rules under IC 22-14-2-7(c)(7) and

IC 36-8-10.5.

(e) The boiler and pressure vessel rules board established by IC 22-12-4-1 is the authority that adopts:

(1) emergency rules under IC 22-13-2-8(c); and

(2) rules under IC 22-15-6.

(f) The regulated amusement device safety board established by IC 22-12-4.5-2 is the authority that adopts rules under IC 22-15-7.

(g) The executive director may adopt rules governing:

(1) emergency action plans; or

(2) emergency response plans;

for outdoor performances (as defined in IC 22-12-1-17.5) where outdoor event equipment (as defined in IC 22-12-1-17.7) is used.

SECTION 2. IC 22-12-1-4, AS AMENDED BY P.L.92-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) "Class 1 structure" means any part of the following:

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

(A) The public.

(B) Three (3) or more tenants.

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

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

(3) Outdoor ~~stage~~ **event** equipment. ~~This subdivision expires January 1, 2014.~~

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

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

(1) are intended to be or are used or leased by the owner of the unit; and

(2) are not completely separated from each other by an unimproved space.

(c) Subsection (a)(1) does not include a building or structure that:

(1) is intended to be or is used only for an agricultural purpose on the land where it is located; and

(2) is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a

C o p y

calendar year.

(d) Subsection (a)(1) does not include a Class 2 structure.

(e) Subsection (a)(1) does not include a vehicular bridge.

(f) Subsection (a)(1) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

(1) the structure; or

(2) mechanical or electrical equipment located within and affixed to the structure.

SECTION 3. IC 22-12-1-17.5, AS ADDED BY P.L.92-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. ~~(a)~~ "Outdoor performance", as the term applies to outdoor ~~stage~~ **event** 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 another temporary or 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.

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

SECTION 4. IC 22-12-1-17.7, AS ADDED BY P.L.92-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.7. ~~(a)~~ "Outdoor ~~stage~~ **event** equipment" means any temporary or permanent 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 and that are not otherwise attached or anchored to, or otherwise a part of, another Class 1 structure.

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

SECTION 5. IC 22-13-2-8.5, AS ADDED BY P.L.92-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) The commission shall adopt rules under IC 4-22-2 for outdoor ~~stage~~ **event** equipment at outdoor performances to protect the safety of persons at the outdoor performances. The commission may:

(1) exempt small assemblies of outdoor ~~stage~~ **event** equipment, as defined by the commission, from some or all fees or other requirements that otherwise would apply to outdoor ~~stage~~ **event**

C o p y

equipment under a rule adopted under this section or another building law; or

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

(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), including temporary rules concerning a schedule of fees for design releases or inspections, 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.~~ **2016.**

(c) Subject to this section, a city, town, or county that regulated outdoor ~~stage~~ **event** equipment before March 15, 2012, under an ordinance adopted before March 15, 2012, may, if the ordinance is in effect on March 15, 2012, continue to regulate outdoor ~~stage~~ **event** equipment under the ordinance after March 14, 2012, in the same manner that the city, town, or county applied the ordinance before March 15, 2012. However, a statewide code of fire safety laws or building laws governing outdoor ~~stage~~ **event** equipment that is adopted by the commission under this section after March 14, 2012, takes precedence over any part of a city, town, or county ordinance that is in conflict with the commission's adopted code. The ordinances to which this section applies include Chapter 536 of the Revised Code of the Consolidated City and County Indianapolis/Marion, Indiana Codified through Ordinance No. 36, 2011, passed August 15, 2011. (Supp. No. 27). A city, town, or county to which this subsection applies need not be certified or approved under IC 22-15-3-1 or another law to continue to regulate outdoor ~~stage~~ **event** equipment after March 14, 2012.

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

(1) the rules adopted under this section;

(2) orders issued under IC 22-13-2-11 that grant a variance to the rules adopted under this section;

C o p y

(3) orders issued under IC 22-12-7 that apply the rules adopted under this section; and

(4) a written interpretation of the rules adopted under this section binding on the unit under IC 22-13-5-3 or IC 22-13-5-4;

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

~~(c) This section expires January 1, 2014.~~

SECTION 6. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1069, 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:

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. IC 22-12-1-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. (a) "Inflatable amusement device" means a flexible fabric device that is:**

(1) inflated with air or other inert gas and kept operational with one (1) or more blowers; and

(2) intended for use in activities, including climbing, bouncing, or sliding.

(b) The term does not include a device that is used in connection with an event adjoining or adjacent to a Class 2 structure.".

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 6. IC 22-12-1-19.1, AS AMENDED BY P.L.32-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.1. (a) "Regulated amusement device" means a device designed to carry or convey one (1) or more persons in one (1) or more planes or degrees of motion for the purpose of amusement, recreation, or entertainment.

(b) The term includes the following:

(1) An amusement ride.

(2) A ski lift.

(3) A passenger tramway.

(4) An aerial tramway or lift.

(5) A surface lift or tow.

(6) A bull ride simulator.

(7) A bungee jump facility.

(8) An inflatable amusement device.

(c) The term does not include a passenger operated device or an inflatable amusement chamber.

SECTION 7. IC 22-13-2-8, AS AMENDED BY P.L.123-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) Except as provided in subsection (c), subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to

C o p y

create equipment laws applicable to regulated boilers and pressure vessels.

(c) Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:

(1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

(2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.

(4) Any subsequent editions of the codes listed in subdivisions (1) through (3).

(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the publisher of the Indiana Register.

(2) The date a permanent rule is adopted under IC 4-22-2.

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.

(f) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 may adopt temporary rules to create equipment laws applicable to regulated amusement devices that are inflatable amusement devices (as defined in IC 22-12-1-14.1). The rules may be adopted in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1. 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 under IC 4-22-2 supersedes or repeals the previously adopted temporary rule.

(3) January 1, 2015.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1069 as introduced.)

FRYE R, Chair

Committee Vote: yeas 12, nays 0.

C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1069 be amended to read as follows:

Page 3, delete lines 9 through 18.
Page 4, delete lines 2 through 42.
Page 5, delete lines 1 through 18.
Renumber all SECTIONS consecutively.

(Reference is to HB 1069 as printed January 15, 2013.)

CHERRY

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1069, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1069 as reprinted January 23, 2013.)

WYSS, Chairperson

Committee Vote: Yeas 6, Nays 1.

C o p y