

Members

Rep. Robert Cherry, Co-Chairperson
Rep. William Davis
Rep. Terri Austin
Rep. Ed DeLaney
Sen. James Merritt, Co-Chairperson
Sen. Brent Steele
Sen. Timothy Lanane
Sen. Greg Taylor
Joseph Wainscott, Jr.
James Greeson
David Hannum
Jim Kelly



OUTDOOR STAGE EQUIPMENT SAFETY COMMITTEE

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Authority: IC 2-5-34.7

MEETING MINUTES¹

Meeting Date: October 30, 2012
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Senate Chamber
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Robert Cherry, Co-Chairperson; Rep. Terri Austin; Rep. Ed DeLaney; Sen. James Merritt, Co-Chairperson; Sen. Timothy Lanane; Sen. Greg Taylor; Joseph Wainscott, Jr.; James Greeson; David Hannum; Jim Kelly.

Members Absent: Rep. William Davis; Sen. Brent Steele.

Rep. Cherry convened the meeting at 10:10 a.m. Committee member David Hannum was present by his designee Mr. Dean Illingworth. The Committee discussed Preliminary Draft (PD) 3454 (Exhibit A). Sen. Lanane expressed concern that a provision in the PD allowing the Indiana Department of Homeland Security (IDHS) to adopt rules concerning event emergency plans could work against a process in which stakeholders

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

and IDHS work cooperatively. Mr. Joseph Wainscott, Jr., commented that IDHS believes that the rulemaking authority already exists. He explained that IDHS' intent is to provide a framework or template for organizations to use to maintain safety at events that use outdoor stage equipment. Rep. Cherry discussed the need for cooperation between those affected at the local level and the state agency and said that the General Assembly can respond to any abuse of agency power that is reported by constituents. Sen. Merritt commented on the flexibility of the current scheme of regulation which gives IDHS the authority to adopt rules.

The Committee discussed changing all references to "outdoor stage equipment" in PD 3454 to "outdoor event equipment", to reflect that the law applies to other aspects of an event, such as the adoption of an emergency plan. The Committee voted by unanimous voice vote of the ten members present to amend PD 3454 to reflect the proposed change. The Committee voted to recommend PD 3454, as amended, to the General Assembly for consideration, by a unanimous voice vote of the ten members present. Rep. Cherry said that the Committee would now vote to adopt the draft final report. The Committee voted, by a unanimous voice vote of the ten members present, to adopt the Committee's final report.

The Committee meeting adjourned at 10:30 am.



**PRELIMINARY DRAFT
No. 3454**

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2013 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 10-19-3-7; IC 22-12-1; IC 22-13-2-8.5.

Synopsis: Outdoor stage equipment. Makes permanent temporary statutes that authorize the fire prevention and building safety commission ("commission") to adopt rules to regulate outdoor stage equipment used in connection with an outdoor performance as a Class 1 structure. (Under current law the statutes will expire on January 1, 2014.) Provides that temporary rules adopted by the commission governing outdoor stage equipment at outdoor performances will expire on or before January 1, 2016. (Under current law the rules will 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 stage equipment is used.

Effective: Upon passage.

20131422

PD 3454/DI 87+

2013

OUTDOOR STAGE EQUIPMENT SAFETY COMMITTEE
OCTOBER 30, 2012
EXHIBIT A



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:

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

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

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

11 (1) IC 22-11.

12 (2) IC 22-12.

13 (3) IC 22-13.

14 (4) IC 22-14.

15 (5) IC 22-15.

16 (d) The board of firefighting personnel standards and education is
17 the authority that adopts rules under IC 22-14-2-7(c)(7) and
18 IC 36-8-10.5.

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

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

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

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

25 **(g) The executive director may adopt rules governing:**

26 **(1) emergency action plans; or**

27 **(2) emergency response plans;**

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

30 SECTION 2. IC 22-12-1-4, AS AMENDED BY P.L.92-2012,
31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 4. (a) "Class 1 structure" means any part of
2 the following:

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

5 (A) The public.

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

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

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

11 (3) Outdoor stage equipment. ~~This subdivision expires January 1,~~
12 ~~2014.~~

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

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

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

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

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

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

27 (2) is not used for retail trade or is a stand used for retail sales of
28 farm produce for eight (8) or less consecutive months in a
29 calendar year.

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

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

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

34 (1) the structure; or

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

37 SECTION 3. IC 22-12-1-17.5, AS ADDED BY P.L.92-2012,
38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 17.5. (a) "Outdoor performance", as the term
40 applies to outdoor stage equipment, means:

41 (1) a movie or show;

42 (2) an exhibit;

43 (3) a concert;

44 (4) a performance of dance;

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

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



1 (7) another amusement or entertainment;
2 conducted outside another temporary or permanent Class 1 structure
3 that provides reasonable protection from severe weather, as determined
4 under the rules adopted by the commission, regardless of whether the
5 location qualifies as a regulated place of amusement or entertainment.

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

7 SECTION 4. IC 22-12-1-17.7, AS ADDED BY P.L.92-2012,
8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 17.7. ~~(a)~~ "Outdoor stage equipment" means
10 any temporary or permanent towers, booms, ramps, platforms,
11 overhead assemblies, or other structures, including ancillary rigging,
12 that are used or are intended to be used in connection with an outdoor
13 performance and that are not otherwise attached or anchored to, or
14 otherwise a part of, another Class 1 structure.

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

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

22 (1) exempt small assemblies of outdoor stage equipment, as
23 defined by the commission, from some or all fees or other
24 requirements that otherwise would apply to outdoor stage
25 equipment under a rule adopted under this section or another
26 building law; or

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

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

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

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

40 (3) ~~January 1, 2014.~~ 2016.

41 (c) Subject to this section, a city, town, or county that regulated
42 outdoor stage equipment before March 15, 2012, under an ordinance
43 adopted before March 15, 2012, may, if the ordinance is in effect on
44 March 15, 2012, continue to regulate outdoor stage equipment under
45 the ordinance after March 14, 2012, in the same manner that the city,
46 town, or county applied the ordinance before March 15, 2012.



1 However, a statewide code of fire safety laws or building laws
 2 governing outdoor stage equipment that is adopted by the commission
 3 under this section after March 14, 2012, takes precedence over any part
 4 of a city, town, or county ordinance that is in conflict with the
 5 commission's adopted code. The ordinances to which this section
 6 applies include Chapter 536 of the Revised Code of the Consolidated
 7 City and County Indianapolis/Marion, Indiana Codified through
 8 Ordinance No. 36, 2011, passed August 15, 2011. (Supp. No. 27). A
 9 city, town, or county to which this subsection applies need not be
 10 certified or approved under IC 22-15-3-1 or another law to continue to
 11 regulate outdoor stage equipment after March 14, 2012.

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

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

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

29 ~~(e) This section expires January 1, 2014.~~

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



