

HOUSE BILL No. 1197

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-18-10.

Synopsis: Regulation of confined feeding operations. Prohibits construction of a confined feeding operation (CFO) within two miles of a school or a municipality. Permits application to land of manure generated by a CFO only by incorporation or injection. Requires certification of applicators of manure generated by a CFO.

Effective: Upon passage; July 1, 2007.

Pflum, Saunders

January 11, 2007, read first time and referred to Committee on Agriculture and Rural Development.

C
O
P
Y



First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1197



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

1 SECTION 1. IC 13-11-2-142.6, AS AMENDED BY P.L.1-2005,
2 SECTION 141, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: Sec. 142.6. "Nonpublic school", for
4 purposes of **IC 13-18-10 and IC 13-20-17.5**, has the meaning set forth
5 in IC 20-18-2-12.

6 SECTION 2. IC 13-11-2-176.5, AS AMENDED BY P.L.1-2005,
7 SECTION 142, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2007]: Sec. 176.5. "Public school", for purposes
9 of **IC 13-18-10 and IC 13-20-17.5**, has the meaning set forth in
10 IC 20-18-2-15.

11 SECTION 3. IC 13-18-10-1 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person may not
13 start construction of a confined feeding operation without obtaining the
14 prior approval of the department.

15 (b) **Except as provided in subsection (c)**, obtaining an NPDES
16 permit for a CAFO meets the requirements of subsection (a) and 327
17 IAC 16 to obtain an approval.



1 (c) **Obtaining an NPDES permit for a CAFO does not meet the**
2 **requirements of subsection (a) and 327 IAC 16 that prior approval**
3 **be obtained if the CAFO is subject to the limitation set forth in**
4 **section 1.5 of this chapter.**

5 SECTION 4. IC 13-18-10-1.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. A confined feeding operation**
8 **may not be constructed if any part of the facility would be less than**
9 **two (2) miles from the boundary of any of the following:**

10 (1) **A parcel of land on which either of the following is located:**

11 (A) **A nonpublic school.**

12 (B) **A public school.**

13 (2) **A municipality.**

14 SECTION 5. IC 13-18-10-2.1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.1. (a) The**
16 **department:**

17 (1) shall make a determination on an application not later than
18 ninety (90) days after the date the department receives the
19 completed application, including all required supplemental
20 information, unless the department and the applicant agree to a
21 longer time; ~~and~~

22 (2) may conduct any inquiry or investigation, consistent with the
23 department's duties under this chapter, the department considers
24 necessary before making a determination; **and**

25 (3) **may not approve the application if the limitation in section**
26 **1.5 of this chapter applies to the confined feeding operation**
27 **that is the subject of the application.**

28 (b) If the department fails to make a determination on an application
29 not later than ninety (90) days after the date the department receives
30 the completed application, the applicant may request and receive a
31 refund of an approval application fee paid by the applicant, and the
32 commissioner shall:

33 (1) continue to review the application;

34 (2) approve or deny the application as soon as practicable; and

35 (3) refund the applicant's application fee not later than twenty-five

36 (25) working days after the receipt of the applicant's request.

37 (c) The commissioner may suspend the processing of an application
38 and the ninety (90) day period described under this section if the
39 department determines within thirty (30) days after the department
40 receives the application that the application is incomplete and has
41 mailed a notice of deficiency to the applicant that specifies the parts of
42 the application that:

C
o
p
y



- 1 (1) do not contain adequate information for the department to
- 2 process the application; or
- 3 (2) are not consistent with applicable law.
- 4 (d) The department may establish requirements in an approval
- 5 regarding that part of the confined feeding operation that concerns
- 6 manure handling and application to assure compliance with:
- 7 (1) this chapter;
- 8 (2) rules adopted under this chapter;
- 9 (3) the water pollution control laws;
- 10 (4) rules adopted under the water pollution control laws; and
- 11 (5) policies and statements adopted under IC 13-14-1-11.5
- 12 relative to confined feeding operations.
- 13 (e) The department may amend an approval or revoke an approval:
- 14 (1) for failure to comply with:
- 15 (A) this chapter;
- 16 (B) rules adopted under this chapter;
- 17 (C) the water pollution control laws; or
- 18 (D) rules adopted under the water pollution control laws; and
- 19 (2) as needed to prevent discharges of manure into the
- 20 environment that pollute or threaten to pollute the waters of the
- 21 state.
- 22 SECTION 6. IC 13-18-10-2.4 IS ADDED TO THE INDIANA
- 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2007]: **Sec. 2.4. For purposes of this chapter,**
- 25 **the only permissible methods of application to land of manure**
- 26 **generated from a confined feeding operation are as follows:**
- 27 (1) **Incorporation (as defined in 327 IAC 16-2-19 as in effect**
- 28 **on January 1, 2007).**
- 29 (2) **Injection (as defined in 327 IAC 16-2-20 as in effect on**
- 30 **January 1, 2007).**
- 31 SECTION 7. IC 13-18-10-2.7 IS ADDED TO THE INDIANA
- 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 33 [EFFECTIVE UPON PASSAGE]: **Sec. 2.7. (a) The board shall adopt**
- 34 **rules to establish a department operated training and certification**
- 35 **program for manure applicators concerning the application to land**
- 36 **of manure generated from a confined feeding operation.**
- 37 (b) **After June 30, 2009, the application to land of manure**
- 38 **generated from a confined feeding operation must be supervised by**
- 39 **a manure applicator who is certified under a department program**
- 40 **referred to in subsection (a).**
- 41 (c) **The board shall establish by rule and cause to be collected**
- 42 **fees for the following:**

C
o
p
y



- 1 **(1) Examination of applicants for certification.**
- 2 **(2) Issuance, renewal, or transfer of a certificate.**
- 3 **(3) Restoration of an expired certificate.**
- 4 **(d) A fee established under subsection (c) may not be less than**
- 5 **fifty dollars (\$50) unless the fee is collected under a rule adopted by**
- 6 **the board that sets a fee for miscellaneous expenses incurred by the**
- 7 **department on behalf of the operators the board regulates. The**
- 8 **fees established under subsection (c) may not be less than are**
- 9 **required to pay all of the costs, both direct and indirect, of the**
- 10 **operations of the department under this section.**
- 11 **(e) Unless designated by rule, a fee established under subsection**
- 12 **(c) is not refundable or transferable.**
- 13 **SECTION 8. An emergency is declared for this act.**

C
O
P
Y

