



April 10, 2015

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## ENGROSSED SENATE BILL No. 312

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DIGEST OF SB 312 (Updated April 8, 2015 12:12 pm - DI 69)

**Citations Affected:** IC 13-11; IC 13-18; noncode.

**Synopsis:** Tank reporting and water threat minimization. Requires the owner or operator of an above ground storage tank (AST) that is designed to contain more than 660 gallons of liquid to report certain information about the AST to the department of environmental management (department) before January 1, 2016. Establishes certain exceptions from this reporting requirement. Requires the environmental rules board to adopt rules concerning the reporting requirement. Requires a person who is responsible for operation of a public water system that uses surface water as a source of drinking water to develop a surface water quality threat minimization and response plan for the public water system and to submit the report to the department. Requires the environmental rules board to adopt rules concerning surface water quality threat minimization and response plans.

**Effective:** July 1, 2015.

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### Charbonneau, Eckerty, Stoops, Randolph

(HOUSE SPONSORS — KOCH, BEUMER, HALE)

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January 8, 2015, read first time and referred to Committee on Environmental Affairs.  
February 16, 2015, amended, reported favorably — Do Pass.  
February 23, 2015, read second time, amended, ordered engrossed.  
February 24, 2015, engrossed.  
February 24, 2015, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Environmental Affairs.  
April 9, 2015, amended, reported — Do Pass.

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ES 312—LS 6808/DI 55





April 10, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 312

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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 13-11-2-0.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 0.6. "Above ground storage tank", for purposes of**  
4 **IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-1.**  
5 SECTION 2. IC 13-11-2-48.3 IS ADDED TO THE INDIANA  
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2015]: **Sec. 48.3. "Critical zone of concern",**  
8 **for purposes of IC 13-18-5.5, has the meaning set forth in**  
9 **IC 13-18-5.5-2.**  
10 SECTION 3. IC 13-11-2-55 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 55. "Discharge", for  
12 purposes of IC 13-24-2 **and IC 13-18-5.5**, means any emission or spill,  
13 other than natural seepage, that is intentional or unintentional. The term  
14 includes any of the following:  
15 (1) Spilling.  
16 (2) Leaking.

ES 312—LS 6808/DI 55



- 1 (3) Pumping.  
 2 (4) Pouring.  
 3 (5) Emitting.  
 4 (6) Emptying.  
 5 (7) Dumping.
- 6 SECTION 4. IC 13-11-2-57.7 IS ADDED TO THE INDIANA  
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2015]: **Sec. 57.7. "Disruption", for purposes**  
 9 **of IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-3.**
- 10 SECTION 5. IC 13-11-2-96, AS AMENDED BY P.L.113-2014,  
 11 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2015]: Sec. 96. (a) "Hazardous material", for purposes of  
 13 IC 13-18-5, means any of the following:
- 14 (1) A hazardous chemical (as defined in 42 U.S.C. 11021(e), as  
 15 in effect on January 1, 1990).  
 16 (2) A hazardous waste.  
 17 (3) A hazardous substance (as defined in 42 U.S.C. 9601(14), as  
 18 in effect on January 1, 1990).  
 19 (4) A substance that is on the list of extremely hazardous  
 20 substances published by the Administrator of the United States  
 21 Environmental Protection Agency under 42 U.S.C. 11002(a)(2).  
 22 (5) A material that is identified by the board as potentially  
 23 harmful to surface water or groundwater if accidentally released  
 24 from a storage or handling facility.
- 25 **(b) "Hazardous material", for purposes of IC 13-18-5.5, has the**  
 26 **meaning set forth in IC 13-18-5.5-4.**
- 27 ~~(b)~~ (c) "Hazardous material", for purposes of IC 13-25-6, means a  
 28 material or waste that has been determined to be hazardous or  
 29 potentially hazardous to human health, to property, or to the  
 30 environment by:
- 31 (1) the United States:  
 32 (A) Environmental Protection Agency;  
 33 (B) Nuclear Regulatory Commission;  
 34 (C) Department of Transportation; or  
 35 (D) Occupational Safety and Health Administration; or  
 36 (2) the board.
- 37 The term includes all of the hazardous materials identified in 49 CFR  
 38 172.101.
- 39 SECTION 6. IC 13-11-2-119.5 IS ADDED TO THE INDIANA  
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 41 [EFFECTIVE JULY 1, 2015]: **Sec. 119.5. "Liquid", for purposes of**  
 42 **IC 13-18-5.5, has the meaning set forth in IC 13-18-5.5-5.**



1 SECTION 7. IC 13-11-2-177.3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 177.3. "Public water  
 3 system", for purposes of this chapter, **IC 13-18-5.5**, IC 13-18-11,  
 4 **IC 13-18-16**, IC 13-18-20.5, IC 13-18-21, and other environmental  
 5 management laws, has the meaning set forth in 42 U.S.C. 300f.

6 SECTION 8. IC 13-11-2-192 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 192. (a) "Responsible  
 8 person", for purposes of IC 13-24-1, means a person who has caused a  
 9 release at a petroleum facility.

10 (b) "Responsible person", for purposes of IC 13-25-4, means a  
 11 person that is:

12 (1) liable to:

13 (A) the United States government;

14 (B) the state; or

15 (C) any other person;

16 under Section 107 of CERCLA (42 U.S.C. 9607); or

17 (2) liable to the state under IC 13-25-4-8.

18 **(c) "Responsible person", for purposes of IC 13-18-16-7.5, has**  
 19 **the meaning set forth in IC 13-18-16-7.5(a).**

20 SECTION 9. IC 13-18-5.5 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2015]:

23 **Chapter 5.5. Reporting of Above Ground Storage Tanks**

24 **Sec. 1. As used in this chapter, "above ground storage tank" or**  
 25 **"AST" means a device:**

26 **(1) at least ten percent (10%) of the outer surface of which is**  
 27 **exposed above the ground; and**

28 **(2) that is designed to contain more than six hundred sixty**  
 29 **(660) gallons above ground of a matter that is a liquid.**

30 **Sec. 2. (a) As used in this chapter, "critical zone of concern"**  
 31 **means:**

32 **(1) an area in which a hazardous material could:**

33 **(A) travel to a water intake of a public water system that**  
 34 **uses surface water as a source of drinking water; and**

35 **(B) cause a disruption; or**

36 **(2) another area designated in subsection (b) as a critical zone**  
 37 **of concern.**

38 **(b) The term includes the following:**

39 **(1) In the case of a flowing stream on which an intake of a**  
 40 **public water system is located, the area:**

41 **(A) within one-quarter (1/4) mile of each bank of the**  
 42 **stream and of every tributary of the stream from the**



- 1                    location of the intake on the main stream to the point on  
2                    the main stream and on each tributary twenty-five (25)  
3                    miles upstream of the intake; and  
4                    (B) within one-quarter (1/4) mile of each bank of the main  
5                    stream from the intake to fifty (50) feet downstream of the  
6                    intake.
- 7                    (2) In the case of a reservoir or lake other than Lake  
8                    Michigan on which an intake of a public water system is  
9                    located, the area:
- 10                    (A) within one-quarter (1/4) mile of each bank of the  
11                    reservoir or lake; and  
12                    (B) within one-quarter (1/4) mile of each bank of every  
13                    stream or tributary flowing into the lake or reservoir from  
14                    the point where the stream or tributary flows into the lake  
15                    or reservoir to the point twenty-five (25) miles upstream of  
16                    where the stream or tributary flows into the lake or  
17                    reservoir.
- 18                    (3) In the case of a stream or tributary flowing into Lake  
19                    Michigan, the area that is:
- 20                    (A) within one-quarter (1/4) mile of each bank of the  
21                    stream or tributary; and  
22                    (B) within five (5) miles of an intake of a public water  
23                    system.
- 24                    (4) In the case of Lake Michigan, the area of land that is  
25                    within one-quarter (1/4) mile of the ordinary high water mark  
26                    of Lake Michigan.
- 27                    (5) Any other areas established by the board in rules adopted  
28                    by the board under section 9 of this chapter.
- 29                    Sec. 3. As used in this chapter, "discharge" has the meaning set  
30                    forth in IC 13-11-2-55.
- 31                    Sec. 4. As used in this chapter, "disruption" means an  
32                    interruption in the ability of a public water system to provide safe  
33                    drinking water at a rate adequate to meet the demand on the  
34                    public water system for a period exceeding twenty-four (24) hours.
- 35                    Sec. 5. As used in this chapter, "hazardous material" means a  
36                    liquid that:
- 37                    (1) contains a hazardous material (as defined in  
38                    IC 13-11-2-96(a)); and  
39                    (2) is capable of causing a disruption if discharged from an  
40                    above ground storage tank.
- 41                    Sec. 6. As used in this chapter, "liquid" means matter that:
- 42                    (1) is in a nongaseous state; and



1 (2) will, at:

2 (A) sixty (60) degrees Fahrenheit; and

3 (B) ambient atmospheric pressure;

4 take the shape of the interior of a container immediately upon  
5 being placed in the container.

6 Sec. 7. As used in this chapter, "public water system" has the  
7 meaning set forth in IC 13-11-2-177.3.

8 Sec. 8. (a) Except as provided in subsection (c) and sections  
9 9(b)(3) and 10 of this chapter, the owner or operator of an above  
10 ground storage tank shall report to the department the following  
11 information concerning the AST:

12 (1) The location of the AST.

13 (2) The materials stored in the AST.

14 (3) The capacity of the AST.

15 (4) The name and contact information of a person who may be  
16 contacted for information about the AST.

17 The owner or operator shall submit the report before January 1,  
18 2016.

19 (b) After submitting a report under subsection (a), the owner or  
20 operator of an above ground storage tank shall submit to the  
21 department a supplemental report concerning the AST whenever:

22 (1) the location of the AST;

23 (2) the classification of the materials stored in the AST;

24 (3) the capacity of the AST; or

25 (4) the name or contact information of the person who may be  
26 contacted for information about the AST;

27 is changed, so that the information concerning the AST in the  
28 possession of the department will remain accurate.

29 (c) If the owner or operator of an above ground storage tank has  
30 reported the existence of the AST to the department or another  
31 agency of the state pursuant to another statute or administrative  
32 rule, the owner or operator is not required to report to the  
33 department concerning the AST under this chapter.

34 (d) The owner or operator of an above ground storage tank who  
35 is required to report under this chapter shall report to the  
36 department concerning the AST:

37 (1) according to rules adopted by the board under section 9 of  
38 this chapter; and

39 (2) either:

40 (A) on a form adopted by the board or the department; or

41 (B) through an electronic mail or Internet based means  
42 established by the board or the department;



- 1           until rules concerning reporting are adopted under section 9  
2           of this chapter.
- 3           **Sec. 9. (a) The board shall adopt rules under IC 13-14-9 and**  
4           **IC 4-22-2 concerning the reporting required under this chapter.**
- 5           **(b) The rules adopted by the board under this section must do**  
6           **the following:**
- 7           **(1) Establish at least three (3) different classifications of above**  
8           **ground storage tanks for the purposes of this chapter,**  
9           **according to the relative danger of a disruption from an AST**  
10           **discharge, based on:**
- 11           **(A) the liquid stored in the AST;**  
12           **(B) the capacity and location of the AST; and**  
13           **(C) the proximity of the AST to the water intake of a public**  
14           **water system.**
- 15           **(2) Require reports to the department under this chapter**  
16           **concerning all ASTs that:**
- 17           **(A) are used to store hazardous materials; and**  
18           **(B) are located in a critical zone of concern.**
- 19           **(3) Establish certain conditions under which an AST shall be**  
20           **recognized as exempt from the reporting requirements of this**  
21           **chapter because the AST does not pose a threat to cause a**  
22           **disruption from a discharge of the contents of the AST.**
- 23           **(c) The rules adopted under this section must:**
- 24           **(1) provide for the filing of a supplemental report concerning**  
25           **an AST when a change as described in section 8(b) of this**  
26           **chapter occurs so that the information in the possession of the**  
27           **department concerning the AST will remain accurate; and**  
28           **(2) specify the means by which the owner or operator of an**  
29           **AST will comply with the reporting requirements of this**  
30           **chapter, as described in section 8(d)(2) of this chapter.**
- 31           **(d) Notwithstanding subsection (a), the board may adopt**  
32           **emergency rules under IC 4-22-2-37.1 to create a temporary**  
33           **reporting form for use under this chapter.**
- 34           **Sec. 10. The following are exempt from the reporting**  
35           **requirements of this chapter:**
- 36           **(1) An AST used to contain only uncontaminated drinking**  
37           **water, demineralized water, noncontact or circulating cooling**  
38           **water, or water stored for fire or emergency purposes.**
- 39           **(2) An AST located on a farm, the contents of which:**
- 40           **(A) are:**
- 41           **(i) used by the tank owner or operator for farming**  
42           **purposes; and**





- 1                   (ii) not commercially distributed; or  
2                   (B) are produced as an agricultural commodity.
- 3           (3) An AST:
- 4                   (A) that is located on a farm or residential property;  
5                   (B) the capacity of which is not more than two thousand  
6                   five hundred (2,500) gallons; and  
7                   (C) that is used for storing motor fuel for noncommercial  
8                   purposes.
- 9           (4) An AST:
- 10                   (A) the capacity of which is not more than one thousand  
11                   one hundred (1,100) gallons; and  
12                   (B) that is used for storing heating oil for consumption on  
13                   the premises on which the AST is located.
- 14           (5) An AST that is used for storing heating oil, natural gas, or  
15           propane and that is regulated under NFPA 58-30A or NFPA  
16           58-30B of the Liquefied Petroleum Gas Code of the National  
17           Fire Protection Association through 49 CFR 192.11(b).
- 18           (6) An AST that is part of a stormwater or wastewater  
19           collection and treatment system.
- 20           (7) An AST located on a site regulated under IC 14-34.
- 21           (8) Machinery and equipment containing integral operating  
22           fluids that are necessary for the proper operation of the  
23           machinery or equipment, including, but not limited to,  
24           hydraulic reservoirs, lubricating oil reservoirs, electrical  
25           equipment, heating and cooling equipment, and fuel tanks for  
26           emergency generators and fire pumps.
- 27           (9) An AST that is:
- 28                   (A) located inside a building; and  
29                   (B) resting on or elevated above a floor of the building;  
30           a discharge from which would be contained in a secondary  
31           containment structure or would, through other means, be  
32           prevented from escaping in a manner that could cause a  
33           disruption.
- 34           (10) An AST that:
- 35                   (A) is regulated by the United States Department of  
36                   Transportation; and  
37                   (B) is located on a particular site for less than one hundred  
38                   eighty (180) consecutive calendar days.
- 39           (11) A surface impoundment, pit, pond, or lagoon.
- 40           (12) An AST:
- 41                   (A) that is otherwise regulated through individual, site  
42                   specific permits issued under the National Pollutant



- 1           **Discharge Elimination System or another regulatory**  
 2           **program; or**  
 3           **(B) for which appropriate containment and diversionary**  
 4           **structures or equipment to prevent unregulated discharge**  
 5           **of materials from reaching the waters of Indiana are in**  
 6           **place in compliance with law or administrative rules.**  
 7           **(13) An AST that is regulated under section 1321 of the**  
 8           **federal Water Pollution Control Act (section 311 of the**  
 9           **federal Clean Water Act, 33 U.S.C. 1321) and the regulations**  
 10           **adopted thereunder, 40 CFR 112, et seq.**  
 11           **(14) Any flow-through or process AST, including, but not**  
 12           **limited to, a pressure vessel and oil and water separators.**  
 13           **(15) A pipeline facility, including gathering lines, that:**  
 14               **(A) is regulated under the Natural Gas Pipeline Safety Act**  
 15               **of 1968 (49 U.S.C. 1671 et seq.);**  
 16               **(B) is regulated under the Hazardous Liquid Pipeline**  
 17               **Safety Act of 1979 (49 U.S.C. 60101 et seq.); or**  
 18               **(C) is an intrastate pipeline facility regulated under state**  
 19               **laws comparable to the laws identified in clauses (A) and**  
 20               **(B).**  
 21           **(16) Electrical equipment such as transformers, circuit**  
 22           **breakers, and voltage regulators.**  
 23           **(17) An AST used in a process operation:**  
 24               **(A) in which liquids are altered through biological,**  
 25               **chemical, or physical means; or**  
 26               **(B) that is used strictly to regulate liquid volumes in a**  
 27               **process operation.**  
 28           **(18) An AST containing pesticides or fertilizers regulated by**  
 29           **the state chemist under 355 IAC.**  
 30           **(19) An emergency spill or overflow containment AST that is**  
 31           **maintained to preserve its capacity.**  
 32           **(20) An AST that contains a de minimis concentration of**  
 33           **hazardous material.**  
 34           **(21) An AST that is used for the storage of products that are**  
 35           **regulated under the federal Food, Drug, and Cosmetic Act, 21**  
 36           **U.S.C. 301 et seq.**  
 37           **(22) A device that is subject to IC 13-23 or other laws, rules,**  
 38           **or regulations concerning underground storage tanks (as**  
 39           **defined in IC 13-11-2-241).**  
 40           **(23) Any other AST exempted by a rule adopted by the board**  
 41           **under section 9(b)(3) of this chapter.**  
 42           **Sec. 11. Information about above ground storage tanks that is**



1 reported to the department under this chapter may be considered  
 2 confidential under IC 5-14-3-4(b)(19) for purposes of public  
 3 disclosure. However, the information may be disclosed to a  
 4 responsible person developing or updating a surface water quality  
 5 threat minimization and response plan for a public water system  
 6 under IC 13-18-16-7.5.

7 SECTION 10. IC 13-18-16-6 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) All public water  
 9 systems shall be continuously operated and maintained so that water is:

- 10 (1) safe in quality;  
 11 (2) clean and adequate in quantity; and  
 12 (3) chemically satisfactory for ordinary domestic consumption.

13 (b) The person responsible for the operation of a public water  
 14 system shall take all measures that are necessary to carry out the  
 15 requirements of subsection (a) so as to protect the quality and quantity  
 16 of the raw water supply from actual or threatened contamination. These  
 17 measures include the relocation of the point of raw water collection to  
 18 a site that is not contaminated or threatened by contamination.

19 (c) **The person responsible for the operation of a public water**  
 20 **system that uses surface water as a source of drinking water shall**  
 21 **implement the surface water quality threat minimization and**  
 22 **response plan developed and maintained under section 7.5 of this**  
 23 **chapter immediately upon discovering:**

- 24 (1) **the contamination; or**  
 25 (2) **a threat of contamination;**

26 **of the surface water used by the public water system as a source of**  
 27 **drinking water.**

28 ~~(c)~~ (d) The failure to carry out a duty set forth in subsection (a) or  
 29 (b) constitutes a violation subject to the penalties imposed under this  
 30 chapter. Each day a violation occurs under this section constitutes a  
 31 separate violation.

32 SECTION 11. IC 13-18-16-7.5 IS ADDED TO THE INDIANA  
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2015]: Sec. 7.5. (a) **For purposes of this**  
 35 **section, "responsible person" means the person responsible for the**  
 36 **operation of a public water system that uses surface water as a**  
 37 **source of drinking water.**

38 (b) **A responsible person shall do the following or ensure that**  
 39 **the following are done:**

- 40 (1) **Develop, maintain, and update a surface water quality**  
 41 **threat minimization and response plan for the public water**  
 42 **system for which the person is responsible. A plan developed**



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**under this subdivision must include the following:**

**(A) An identification of critical drinking water intake facilities, including specific locations of wells, intake structures, and critical drinking water distribution infrastructure.**

**(B) An identification of potential threats to raw water quality.**

**(C) An assessment of the risks posed by potential threats identified in clause (B).**

**(D) A communication, education, and risk minimization plan.**

**(E) An incident response plan.**

**A plan described in this subdivision, as well as its component parts, is confidential under IC 5-14-3-4(b)(19).**

**(2) With respect to a plan described in subdivision (1):**

**(A) Submit the plan to the department when the plan is developed.**

**(B) Submit an updated plan to the department every five (5) years thereafter.**

SECTION 12. IC 13-18-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements for the issuance of permits to control public water systems, including the following:

**(1) The requirement to obtain a permits permit** for the construction, installation, or modification of facilities, equipment, or devices for any public water system.

**(2) The requirement to obtain a permits permit** for the operation of sources, facilities, equipment, or devices for any public water system.

**(3) Requirements for the development of surface water quality threat minimization and response plans under section 7.5 of this chapter.**

(b) The board shall adopt a permit by rule for water main extensions (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in section 1(a) of this chapter.

SECTION 13. [EFFECTIVE JULY 1, 2015] **(a) As used in this SECTION, "above ground storage tank" or "AST" means a device:**

**(1) at least ten percent (10%) of the outer surface of which is exposed above the ground; and**

**(2) that is designed to contain more than six hundred sixty**



- 1           **(660) gallons of a matter that is a liquid above ground.**
- 2           **(b) The department of environmental management established**
- 3 **by IC 13-13-1-1 shall do the following before November 1, 2015:**
- 4           **(1) Compile a list of all requirements for the reporting of**
- 5 **information about above ground storage tanks that exist**
- 6 **under federal law, federal regulations, Indiana law, and**
- 7 **Indiana administrative rules.**
- 8           **(2) Obtain:**
- 9           **(A) copies of all publicly available forms for the reporting**
- 10 **of information about above ground storage tanks in**
- 11 **compliance with the requirements described in subdivision**
- 12 **(1); or**
- 13           **(B) a representative sample of the forms described in**
- 14 **clause (A).**
- 15           **(3) Submit a report containing the list of requirements and the**
- 16 **copies of forms to the legislative council in an electronic**
- 17 **format under IC 5-14-6.**
- 18           **(c) The report submitted under subsection (b)(3) must include**
- 19 **an analysis of the existing requirements for the reporting of**
- 20 **information about above ground storage tanks described in**
- 21 **subsection (b)(1) that identifies:**
- 22           **(1) instances in which reporting requirements might be**
- 23 **considered insufficient; and**
- 24           **(2) instances in which the reporting of information is already**
- 25 **adequate.**
- 26           **(d) This SECTION expires January 1, 2016.**



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 312, 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:

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 312 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 312 be amended to read as follows:

Page 3, line 19, delete "IC 13-18-5.5 and".

Page 3, line 33, delete "hazardous material,".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

**"(f) "Release", for purposes of IC 13-18-5.5, means any:**

- (1) spilling;**
- (2) leaking;**
- (3) pumping;**
- (4) pouring;**
- (5) emitting;**
- (6) emptying;**
- (7) discharging;**
- (8) injecting;**
- (9) escaping;**
- (10) leaching;**
- (11) dumping; or**
- (12) disposing;**

**into the environment of any hazardous material."**

Page 4, delete lines 27 through 40, begin a new paragraph and insert:

"SECTION 8. IC 13-11-2-192 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 192. (a) "Responsible person", for purposes of IC 13-24-1, means a person who has caused a

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release at a petroleum facility.

(b) "Responsible person", for purposes of IC 13-25-4, means a person that is:

- (1) liable to:
  - (A) the United States government;
  - (B) the state; or
  - (C) any other person;
 under Section 107 of CERCLA (42 U.S.C. 9607); or
- (2) liable to the state under IC 13-25-4-8.

**(c) "Responsible person", for purposes of IC 13-18-16-7.5, has the meaning set forth in IC 13-18-16-7.5(a)."**

Page 5, line 15, delete "means an area in which a hazardous material could:" and insert "**means:**

- (1) an area in which a hazardous material could:**
  - (A) travel to a water intake of a public water system that uses surface water as a source of drinking water; and**
  - (B) cause a disruption; or**
- (2) another area designated in subsection (b) as a critical zone of concern."**

Page 5, delete lines 16 through 18.

Page 6, between lines 4 and 5, begin a new line block indented and insert:

**"(4) In the case of Lake Michigan, the area of land that is within one-quarter (1/4) mile of the ordinary high water mark of Lake Michigan."**

Page 6, line 27, delete "13-11-2-184(c)." and insert "**13-11-2-184(f)."**

Page 6, line 33, delete "classification of the".

Page 6, between lines 34 and 35, begin a new line block indented and insert:

**"(4) The name and contact information of a person who may be contacted for information about the AST."**

Page 6, line 40, delete "(A)" and insert "**(1)**".

Page 6, line 41, delete "(B)" and insert "**(2)**".

Page 6, line 41, delete "or".

Page 6, line 42, delete "(C)" and insert "**(3)**".

Page 6, line 42, after "AST;" insert "**or**".

Page 6, after line 42, begin a new line block indented and insert:

**"(4) the name or contact information of the person who may be contacted for information about the AST;"**

Page 7, line 11, after "to" delete "the".

Page 9, line 5, delete "mobile".



Page 11, delete lines 25 through 26.  
Page 11, line 27, delete "(3)" and insert "(2)".  
Page 12, delete lines 7 through 42.  
Page 13, delete lines 1 through 21.  
Page 13, line 22, delete "UPON PASSAGE]" and insert "JULY 1, 2015]".  
Page 14, delete line 17.  
Renumber all SECTIONS consecutively.  
(Reference is to SB 312 as printed February 17, 2015.)

CHARBONNEAU

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 312, 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 1, between lines 9 and 10, begin a new paragraph and insert:  
"SECTION 3. IC 13-11-2-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 55. "Discharge", for purposes of IC 13-24-2 **and IC 13-18-5.5**, means any emission or spill, other than natural seepage, that is intentional or unintentional. The term includes any of the following:

- (1) Spilling.
- (2) Leaking.
- (3) Pumping.
- (4) Pouring.
- (5) Emitting.
- (6) Emptying.
- (7) Dumping."

Page 2, delete lines 36 through 42.

Delete page 3.

Page 4, delete lines 1 through 38.

Page 5, line 18, after "ground;" insert "**and**

**(2) that is designed to contain more than six hundred sixty (660) gallons above ground of a matter that is a liquid."**

Page 5, delete lines 19 through 25.

Page 6, between lines 22 and 23, begin a new line block indented and insert:





**"(5) Any other areas established by the board in rules adopted by the board under section 9 of this chapter.**

**Sec. 3. As used in this chapter, "discharge" has the meaning set forth in IC 13-11-2-55."**

Page 6, line 23, delete "3." and insert "4."

Page 6, delete lines 27 through 34, begin a new paragraph and insert:

**"Sec. 5. As used in this chapter, "hazardous material" means a liquid that:**

**(1) contains a hazardous material (as defined in IC 13-11-2-96(a)); and**

**(2) is capable of causing a disruption if discharged from an above ground storage tank."**

Page 6, line 35, delete "5." and insert "6."

Page 6, line 42, delete "6." and insert "7."

Page 7, delete lines 2 through 3.

Page 7, line 37, delete "Internet-based" and insert "**Internet based**".

Page 7, line 39, delete "according to the" and insert "**until**".

Page 7, line 39, after "rules" insert "**concerning reporting are**".

Page 8, line 5, delete "release" and insert "**discharge**".

Page 8, line 12, delete "or" and insert "**and**".

Page 8, line 17, delete "release" and insert "**discharge**".

Page 8, between lines 25 and 26, begin a new paragraph and insert:

**"(d) Notwithstanding subsection (a), the board may adopt emergency rules under IC 4-22-2-37.1 to create a temporary reporting form for use under this chapter."**

Page 8, line 28, after "only" insert "**uncontaminated**".

Page 8, line 28, delete "surface".

Page 8, line 29, delete "water, raw groundwater,".

Page 9, line 22, delete "an impermeable floor" and insert "**a floor of the building;**".

Page 9, delete line 23.

Page 9, line 24, delete "release" and insert "**discharge**".

Page 9, line 24, delete "entirely".

Page 9, line 26, delete "escaping." and insert "**escaping in a manner that could cause a disruption.**".

Page 9, line 27, delete "A tank, rail car, or truck:" and insert "**An AST that:**

**(A) is regulated by the United States Department of Transportation; and**

**(B) is located on a particular site for less than one hundred eighty (180) consecutive calendar days."**



Page 9, delete lines 28 through 33.

Page 9, line 37, delete "site-specific" and insert "**site specific**".

Page 10, line 2, delete "oil-filled tank" and insert "AST".

Page 10, line 6, after "flow-through" insert "**or**".

Page 10, line 6, delete "tank," and insert "AST,".

Page 10, delete lines 18 through 33, begin a new line block indented and insert:

**"(17) An AST used in a process operation:**

**(A) in which liquids are altered through biological, chemical, or physical means; or**

**(B) that is used strictly to regulate liquid volumes in a process operation.**

**(18) An AST containing pesticides or fertilizers regulated by the state chemist under 355 IAC.**

**(19) An emergency spill or overflow containment AST that is maintained to preserve its capacity.**

**(20) An AST that contains a de minimis concentration of hazardous material.**

**(21) An AST that is used for the storage of products that are regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.**

**(22) A device that is subject to IC 13-23 or other laws, rules, or regulations concerning underground storage tanks (as defined in IC 13-11-2-241).**

**(23) Any other AST exempted by a rule adopted by the board under section 9(b)(3) of this chapter."**

Page 10, line 35, delete "is declared" and insert "**may be considered**".

Page 10, line 36, delete "IC 5-14-3-4(a)(1)" and insert "**IC 5-14-3-4(b)(19)**".

Page 10, line 37, delete "disclosure, but it" and insert "**disclosure. However, the information**".

Page 11, line 12, after "water" insert "**quality**".

Page 11, line 29, delete "following:" and insert "**following or ensure that the following are done:**".

Page 12, line 4, delete "IC 5-14-3-4." and insert "**IC 5-14-3-4(b)(19)**".



Page 12, line 31, after "ground;" insert "**and  
(2) that is designed to contain more than six hundred sixty  
(660) gallons of a matter that is a liquid above ground.**".

Page 12, delete lines 32 through 38.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 312 as reprinted February 24, 2015.)

WOLKINS

Committee Vote: yeas 10, nays 0.

