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**SENATE BILL No. 414**

**AM041401 has been incorporated into January 31, 2023 printing.**

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**Synopsis:** Onsite sewage systems and holding tanks.

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SB 414—LS 7217/DI 55



**DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY**

January 31, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

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## SENATE BILL No. 414

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 13-11-2-144.7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 144.7. (a) For purposes  
3 of IC 13-18-12, "onsite residential sewage discharging disposal system"  
4 means a sewage disposal system that:  
5 (1) is located on a site with and serves a one (1) or two (2) family  
6 residence; and  
7 (2) discharges effluent offsite.  
8 (b) **The term includes a system that employs advanced  
9 treatment components not used in standard septic systems, such as  
10 a disinfection component that uses chlorine, ultraviolet light, or  
11 ozone, to reduce the concentration of the pathogenic constituents  
12 of the effluent to an acceptable level before the effluent is  
13 discharged.**  
14 SECTION 2. IC 13-18-12-3, AS AMENDED BY P.L.159-2011,  
15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2023]: Sec. 3. (a) The board shall initiate, in accordance with  
 2 IC 13-15, a septage management permit program for all persons who  
 3 offer to perform or are performing septage management services.

4 **(b) A permit from the department may not be required for the**  
 5 **ownership or operation of one (1) or more holding tanks described**  
 6 **in IC 16-41-25-9 in which septage originating from a residential or**  
 7 **commercial source is held until it is removed and transported from**  
 8 **the site of the holding tanks by septage management vehicles.**  
 9 **However:**

10 **(1) the board may adopt rules under IC 4-22-2 and**  
 11 **IC 13-14-9; or**

12 **(2) the department may establish guidelines;**  
 13 **concerning the reports to be provided to the department by local**  
 14 **health departments under IC 16-41-25-9(h). The rules or guidelines**  
 15 **may specify the content to be included in the reports and the**  
 16 **frequency at which the reports must be provided.**

17 SECTION 3. IC 13-18-12-9, AS AMENDED BY P.L.104-2022,  
 18 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2023]: Sec. 9. (a) This section applies only in a county ~~having~~  
 20 ~~a population of more than three hundred fifty thousand (350,000) and~~  
 21 ~~less than four hundred thousand (400,000): onsite waste management~~  
 22 **district established under IC 36-11.**

23 (b) Except as provided in subsection (c), the point source  
 24 discharge of sewage, treated or untreated, from a dwelling or its  
 25 associated residential sewage disposal system to waters is prohibited.

26 (c) The point source discharge of treated sewage from an onsite  
 27 residential sewage discharging disposal system to waters is permitted  
 28 if:

29 (1) the local health department for the jurisdiction in which the  
 30 system is located issues an operating permit for the system under  
 31 subsection (d); and

32 (2) the discharge is authorized under a general permit issued  
 33 under 40 CFR 122.28.

34 (d) In a county onsite waste management district established under  
 35 IC 36-11 that performs all the functions related to onsite waste  
 36 management listed in IC 36-11-2-1, the local health department for the  
 37 jurisdiction in which the system is located may issue an operating  
 38 permit for an onsite residential sewage discharging disposal system if  
 39 the system is installed to repair **or replace** a sewage disposal system  
 40 that fails to meet public health and environmental standards and if:

41 (1) the local health department adopts procedural rules for  
 42 monitoring onsite residential sewage discharging disposal

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- 1 systems in the jurisdiction, including fines or penalties, or both,
- 2 for noncompliance, to ensure that:
  - 3 (A) required maintenance is performed on the systems; and
  - 4 (B) the systems do not discharge effluent that violates water
  - 5 quality standards;
- 6 (2) the local health department certifies, with respect to the
- 7 system for which the permit is issued, that:
  - 8 (A) the system is capable of operating properly;
  - 9 (B) the system does not discharge effluent that violates
  - 10 water quality standards;
  - 11 (C) an acceptable septic tank soil absorption system cannot
  - 12 be located on the property served by the system because of:
    - 13 (i) soil characteristics;
    - 14 (ii) size; or
    - 15 (iii) topographical conditions;
  - 16 of the property;
  - 17 (D) the system:
    - 18 (i) was properly installed by a qualified installer; and
    - 19 (ii) provides the best available technology for
    - 20 residential discharging onsite sewage disposal systems;
    - 21 and
  - 22 (E) the local health department has:
    - 23 (i) investigated all technologies available for repair of
    - 24 the sewage disposal system that fails to meet public
    - 25 health and environmental standards other than the use
    - 26 of an onsite residential sewage discharging disposal
    - 27 system; and
    - 28 (ii) determined that an onsite residential sewage
    - 29 discharging disposal system is the only possible
    - 30 technology that can be used to effect a repair of the
    - 31 sewage disposal system that fails to meet public health
    - 32 and environmental standards without causing
    - 33 unreasonable economic hardship to the system owner;
    - 34 and
- 35 (3) the system for which the permit is issued cannot be
- 36 connected to a sanitary sewer because:
  - 37 (A) there is not a **local, municipal, or regional** sanitary
  - 38 sewer connection available;
  - 39 (B) the sanitary sewer operator refuses connection; or
  - 40 (C) unreasonable economic hardship would result to the
  - 41 system owner because of:
    - 42 (i) the connection requirements of the sanitary sewer

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1 operator; or  
 2 (ii) the distance to the sanitary sewer.  
 3 **(e) For purposes of providing guidance to local health**  
 4 **departments in taking the actions and making the determinations**  
 5 **described in subsection (d):**  
 6 **(1) the technical review panel established under**  
 7 **IC 16-19-3-27.5 may adopt guidelines;**  
 8 **(2) the Indiana department of health, with guidance provided**  
 9 **by the technical review panel established under**  
 10 **IC 16-19-3-27.5, may issue rules under IC 4-22-2 or adopt**  
 11 **guidelines; or**  
 12 **(3) the environmental rules board may adopt rules under**  
 13 **IC 4-22-2 and IC 13-14-9 or adopt guidelines;**  
 14 **concerning onsite residential sewage discharging disposal systems.**  
 15 SECTION 4. IC 13-18-12-9.5 IS ADDED TO THE INDIANA  
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. If the amendment of the**  
 18 **National Pollutant Discharge Elimination System (NPDES) general**  
 19 **permit issued by the department for the purposes of IC 36-11 is**  
 20 **necessary or advisable to enable county onsite waste management**  
 21 **districts established under IC 36-11 after June 30, 2023, to function**  
 22 **properly and effectively, the department shall amend the general**  
 23 **permit as soon as reasonably possible after June 30, 2023.**  
 24 SECTION 5. IC 16-41-25-9 IS ADDED TO THE INDIANA  
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2023]: **Sec. 9. (a) As used in this section,**  
 27 **"septage" means human excreta, wastewater, scum, sludge, and**  
 28 **other content introduced through incidental or accidental seepage**  
 29 **that is removed from domestic septic tanks, holding tanks, privies,**  
 30 **seepage pits, cesspools, compost toilets, or portable sanitary units.**  
 31 **(b) As used in this section, "septage management vehicle"**  
 32 **means a vehicle that is:**  
 33 **(1) used for:**  
 34 **(A) the removal of septage from holding tanks or sewage**  
 35 **disposal systems; and**  
 36 **(B) the transportation of the septage to wastewater**  
 37 **treatment plants or other facilities for treatment,**  
 38 **temporary storage, or disposal; and**  
 39 **(2) subject to regulation under IC 13-18-12 and 327 IAC 7.1.**  
 40 **(c) Septage that originates from a residential or commercial**  
 41 **source may be held in one (1) or more holding tanks until it is**  
 42 **removed and transported from the site of the holding tanks by a**

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1 septage management vehicle. A holding tank to which this  
 2 subsection applies may not have a capacity of more than ten  
 3 thousand (10,000) gallons.

4 (d) A holding tank used under this section must be:

5 (1) designed and equipped so that septage can be cleanly and  
 6 efficiently pumped from the tank into a septage management  
 7 vehicle to be transported from the site of the tank; and

8 (2) equipped with a device that will produce an audio and  
 9 visual alarm when the septage in the tank reaches two-thirds  
 10 (2/3) of the tank's capacity.

11 (e) A holding tank described in this section may not be used to  
 12 hold septage unless the tank owner has obtained a permit from the  
 13 local health department of the county, city, or multiple county unit  
 14 in which the holding tank is located. To obtain a permit, the owner  
 15 of a holding tank must:

16 (1) enter into a written contract with an operator of septage  
 17 management vehicles providing for the removal of septage  
 18 from the holding tank at regular intervals;

19 (2) provide a copy of the contract to the local health  
 20 department; and

21 (3) commit to providing to the local health department copies  
 22 of receipts or other records proving that the holding tank  
 23 owner is regularly paying the septage management vehicle  
 24 operator a fee for the removal of septage from the holding  
 25 tank.

26 (f) A permit issued to the owner of a holding tank may be  
 27 suspended or revoked, or renewal of the permit may be denied, for:

28 (1) a violation of:

29 (A) this section;

30 (B) a condition stated in the permit; or

31 (C) a requirement established under subsection (g); or

32 (2) a problem involving the holding tank or the operation of  
 33 the holding tank that creates a risk of harm to human health  
 34 or the environment.

35 (g) The local health department of a county, city, or multiple  
 36 county unit may establish requirements:

37 (1) concerning the issuance, term, and renewal of permits  
 38 required under subsection (e);

39 (2) concerning the design, construction, location, and  
 40 operation of holding tanks described in this section; and

41 (3) determining:

42 (A) the ways in which a holding tank owner may provide

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the proof; and

(B) how often the tank owner must provide the proof; required under subsection (e)(3).

**(h) In accordance with any rules or guidelines adopted under IC 13-18-12-3(b), a local health department that issues permits for the use of holding tanks under this section shall report to the department of environmental management concerning the holding tanks.**

SECTION 6. IC 36-11-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. "Governing body" means:

(1) the county executive of the county in which the district is located or proposed to be located; or

**(2) the county executive of a county that enters into an interlocal cooperation agreement under IC 36-11-3-1(d) to establish a district containing territory located in two (2) or more counties.**

SECTION 7. IC 36-11-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The establishment of a district may be initiated only by the governing body.

(b) The dissolution of a district may be initiated only by the governing body.

(c) A notice of intent to establish or dissolve a district must be filed in:

(1) the office of the executive of each governmental entity having territory within the proposed district or the district proposed for dissolution;

(2) the department of environmental management; and

(3) the state department of health.

**(d) The governing bodies of two (2) or more counties may establish a single district containing territory located in both or all of the counties by entering into an interlocal cooperation agreement.**

SECTION 8. **An emergency is declared for this act.**

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