

HOUSE BILL No. 1241

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-7-14.

Synopsis: Environmental coverage. Specifies the manner in which the meaning of "pollutant", as used in certain liability insurance policies, must be construed.

Effective: July 1, 2014.

Carbaugh

January 14, 2014, read first time and referred to Committee on Insurance.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1241

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

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

1 SECTION 1. IC 27-7-14 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]:
4 **Chapter 14. Pollutant Coverage Exclusions**
5 **Sec. 1. This chapter applies to a claim made under a liability**
6 **insurance policy after June 30, 2014.**
7 **Sec. 2. When used in a liability insurance policy that:**
8 **(1) does not define the term "pollutant"; or**
9 **(2) defines the term:**
10 **(A) "pollutant" as any solid, liquid, gaseous, or thermal**
11 **irritant or contaminant, including smoke, vapor, soot,**
12 **fumes, acids, alkalis, chemicals, and waste; and**
13 **(B) "waste" to include a material that is to be recycled,**
14 **reconditioned, or reclaimed;**
15 **the term "pollutant" must be construed to have the meaning set**
16 **forth in section 3 of this chapter.**



1 **Sec. 3. (a) As used in a liability insurance policy described in**
 2 **section 2 of this chapter, the following apply:**

3 **(1) "Pollutant" means any solid, liquid, gaseous, or thermal**
 4 **irritant or contaminant, including:**

5 **(A) smoke, vapor, soot, fumes, acids, alkalis, chemicals,**
 6 **and waste;**

7 **(B) agents or substances that are recognized in industry or**
 8 **government to be harmful or toxic to an individual or to**
 9 **property; and**

10 **(C) agents or substances that are regulated under or listed**
 11 **in any of the following:**

12 **(i) The Comprehensive Environmental Response,**
 13 **Compensation, and Liability Act (CERCLA) Priority**
 14 **List of Hazardous Substances (1997 and all subsequent**
 15 **editions).**

16 **(ii) The Resource Conservation and Recovery Act**
 17 **(RCRA), including all categories of hazardous waste and**
 18 **all hazardous constituents.**

19 **(iii) The Agency for Toxic Substances And Disease**
 20 **Registry ToxFAQs.**

21 **(iv) The United States Environmental Protection Agency**
 22 **EMCI Chemical References Complete Index.**

23 **(v) The United States Occupational Safety and Health**
 24 **Administration List of Hazardous Chemicals.**

25 **(vi) All successive editions, updates, and successors of**
 26 **items (i) through (v) and similar state and federal**
 27 **statutes, regulations, and indices concerning potentially**
 28 **harmful agents.**

29 **(2) "Waste" includes a material that is to be recycled,**
 30 **reconditioned, or reclaimed.**

31 **(b) The definitions specified in subsection (a):**

32 **(1) shall be presumed to be clear and sufficient notice to an**
 33 **insured under the liability insurance policy; and**

34 **(2) shall not be considered to be ambiguous or unenforceable.**

35 **Sec. 4. An irritant or a contaminant referred to in section 3 of**
 36 **this chapter constitutes a pollutant without regard to the:**

37 **(1) physical form;**

38 **(2) presence, alone or in combination with another irritant or**
 39 **contaminant; or**

40 **(3) use in the insured's general business activities;**

41 **of the irritant or contaminant.**

42 **Sec. 5. This chapter does not preclude an insurer from defining**



1 **"pollutant" in a manner different from the manner specified in**
2 **section 3 of this chapter, subject to any required approval by the**
3 **department of insurance.**

