IC 16-41

ARTICLE 41. PUBLIC HEALTH MEASURES FOR THE PREVENTION AND CONTROL OF DISEASE

IC 16-41-1

Chapter 1. Communicable Disease: General Provisions

IC 16-41-1-1

Selection of treatment

Sec. 1. This article is not intended to interfere with the right of an individual to select any mode of treatment, including reliance upon spiritual means through prayer alone for healing.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-2

Rules

Sec. 2. The state department may adopt rules under IC 4-22-2 to implement this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-1-4

Rules

Sec. 4. The state department may adopt rules concerning:

(1) sanitation requirements;

(2) requirements for education on sanitation; and

(3) any other health concerns;

associated with threading (as defined in IC 25-8-2-19).

As added by P.L.78-2008, SEC.1.

IC 16-41-2

Chapter 2. Communicable Disease: Reporting of Communicable or Dangerous Diseases

IC 16-41-2-1

Rules

Sec. 1. The state department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, that do the following:

(1) Define and classify the following:

(A) Communicable diseases.

(B) Other diseases that are a danger to health based upon the characteristics of the disease.

(2) Establish reporting, monitoring, and preventive procedures for communicable diseases.

As added by P.L.2-1993, SEC.24. Amended by P.L.8-2008, SEC.2.

IC 16-41-2-2

Reporting of required information

Sec. 2. Each:

(1) licensed physician;

(2) administrator of a hospital licensed under IC 16-21-2 or the administrator's representative; or

(3) director of a medical laboratory or the director's representative;

shall report to the local or state health officer designated by the state department the information required to be reported by the rules adopted under section 1 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-3

Reporting of HIV and AIDS cases

Sec. 3. (a) The following persons shall report to the state department each case of human immunodeficiency virus (HIV) infection, including each confirmed case of acquired immune deficiency syndrome (AIDS):

(1) A licensed physician.

(2) A hospital licensed under IC 16-21.

(3) A medical laboratory.

(4) The department of correction.

The report must comply with rules adopted by the state department.

(b) The records of the state department must indicate, if known:

(1) whether the individual had undergone any blood transfusions before being diagnosed as having AIDS or HIV infection;

(2) the place the transfusions took place;

(3) the blood center that furnished the blood; and

(4) any other known risk factors.

(c) A case report concerning HIV infection that does not involve a confirmed case of AIDS submitted to the state department under

this section that involves an individual:

(1) enrolled in a formal research project for which a written study protocol has been filed with the state department;

(2) who is tested anonymously at a designated counseling or testing site; or

(3) who is tested by a health care provider permitted by rule by the state department to use a number identifier code;

may not include the name or other identifying characteristics of the individual tested.

As added by P.L.2-1993, SEC.24. Amended by P.L.293-2001, SEC.2.

IC 16-41-2-4

Waiver of physician-patient privilege

Sec. 4. A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding information reported to a local or state health officer under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.1-1998, SEC.121.

IC 16-41-2-5

Satisfaction of statutory notification duties

Sec. 5. A person who reports information as required by this chapter does not satisfy the duties that exist under IC 16-41-7-3 or other laws to provide notification to persons identified as being at significant risk of being infected by the individual who is the subject of the report.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-6

Good faith reporting; immunity

Sec. 6. A person who makes a report under this chapter in good faith is not subject to liability in:

(1) a civil;

(2) an administrative;

(3) a disciplinary; or

(4) a criminal;

action.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-7

False reporting; liability

Sec. 7. A person who knowingly or recklessly makes a false report under this chapter is civilly liable for actual damages suffered by a person who is falsely reported and for punitive damages.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-8

Failure to report required information; penalty

Sec. 8. A person who fails to report information as required by this chapter commits a Class A infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-2-9
Violations

Sec. 9. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-3

Chapter 3. Communicable Disease: Compilation of Data for Purposes of Preventing Spread of Disease

IC 16-41-3-1

Rules; procedures; notice

Sec. 1. (a) The state department may adopt rules under IC 4-22-2 concerning the compilation for statistical purposes of information collected under IC 16-41-2.

(b) The state department shall adopt procedures to gather, monitor, and tabulate case reports of incidents involving dangerous communicable diseases or unnatural outbreaks of diseases known or suspected to be used as weapons. The state department shall specifically engage in medical surveillance, tabulation, and reporting of confirmed or suspected cases set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the United States Public Health Service of the United States Department of Health and Human Services.

(c) The state department shall notify the:

(1) department of homeland security;

(2) Indiana State Police; and

(3) county health department and local law enforcement agency having jurisdiction of each unnatural outbreak or reported case described in subsection (b);

as soon as possible after the state department receives a report under subsection (b). Notification under this subsection must be made not more than twenty-four (24) hours after receiving a report.

As added by P.L.2-1993, SEC.24. Amended by P.L.156-2001, SEC.4; P.L.1-2006, SEC.304.

IC 16-41-3-2

Duties of state department of health

Sec. 2. (a) The state department shall tabulate all case reports of tuberculosis and other dangerous communicable diseases reported under this article or under rules adopted under this article. The state department shall determine the prevalence and distribution of disease in Indiana and devise methods for restricting and controlling disease.

(b) The state department shall include the information on the prevalence and distribution of tuberculosis and other dangerous communicable diseases in the state department's annual report.

(c) The state department shall disseminate the information prepared under this section.

(d) The state department shall develop capabilities and procedures to perform preliminary analysis and identification in as close to a real time basis as is scientifically possible of unknown bacterial substances that have been or may be employed as a weapon. The state department shall implement the developed capacity and procedures immediately after the state department achieves a Level B capability as determined by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the

United States Public Health Service of the United States Department of Health and Human Services.
As added by P.L.2-1993, SEC.24. Amended by P.L.156-2001, SEC.5.

IC 16-41-3-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-4
Chapter 4. Communicable Disease: AIDS Literature

IC 16-41-4-1
Content

Sec. 1. The state department must provide information stressing the moral aspects of abstinence from sexual activity in any literature that the state department distributes to school children and young adults concerning available methods for the prevention of acquired immune deficiency syndrome (AIDS). Such literature must state that the best way to avoid AIDS is for young people to refrain from sexual activity until the young people are ready as adults to establish, in the context of marriage, a mutually faithful monogamous relationship.

As added by P.L.2-1993, SEC.24.

IC 16-41-4-2
Distribution to school children

Sec. 2. The state department may not distribute AIDS literature described in section 1 of this chapter to school children without the consent of the governing body of the school corporation the school children attend.

As added by P.L.2-1993, SEC.24.

IC 16-41-4-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-5

Chapter 5. Communicable Disease: Investigation by Health Officers; Examination of Individuals With Communicable Disease

IC 16-41-5-1

Entry upon private property; conditions

Sec. 1. (a) The state department may designate an agent who may enter upon private property to inspect for and investigate possible violations of this article or a rule adopted under this article if all of the following conditions are met:

(1) The agent has probable cause to believe that evidence of a health threat exists on private property.

(2) The agent presents proper credentials.

(3) Emergency circumstances exist or a warrant is issued.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law.

As added by P.L.2-1993, SEC.24.

IC 16-41-5-2

Investigations of carriers; intervention

Sec. 2. The health officer may make an investigation of each carrier of a dangerous communicable disease to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires intervention by the health officer or designated health official to prevent the spread of disease to others.

As added by P.L.2-1993, SEC.24.

IC 16-41-5-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-6

Chapter 6. Communicable Disease: Mandatory Testing of Individuals With Communicable or Dangerous Diseases

IC 16-41-6-0.5

"Standard licensed diagnostic test for HIV"

Sec. 0.5. As used in this chapter, "standard licensed diagnostic test for HIV" means a test recognized by the state department as a standard licensed diagnostic test for the antibody or antigen to HIV. *As added by P.L.237-2003, SEC.5.*

IC 16-41-6-1

HIV screening and testing

Sec. 1. (a) As used in this section, "physician's authorized representative" means:

(1) an advanced practice nurse (as defined by IC 25-23-1-1(b)) who is operating in collaboration with a licensed physician; or

(2) an individual acting under the supervision of a licensed physician and within the individual's scope of employment.

(b) If a physician or the physician's authorized representative determines that it is medically necessary to conduct an HIV test on an individual under the care of a physician, the physician or physician's authorized representative may order the test if the physician or the physician's authorized representative:

(1) informs the patient of the test;

(2) provides an explanation of the test; and

(3) informs the patient of the patient's right to refuse the test.

Subject to subsection (d), if the patient refuses the test, the physician or the physician's authorized representative may not perform the test and shall document the patient's refusal in the patient's medical record.

(c) After ordering an HIV test for a patient, the physician or the physician's authorized representative shall:

(1) discuss with the patient the availability of counseling concerning the test results; and

(2) notify the patient of the test results.

If a test conducted under this section indicates that a patient is HIV infected, in addition to the requirements set forth in IC 16-41-2, the physician or the physician's authorized representative shall inform the patient of treatment and referral options available to the patient.

(d) A physician or a physician's authorized representative may order an HIV test to be performed without informing the patient or the patient's representative (as defined in IC 16-36-1-2) of the test or regardless of the patient's or the patient's representative's refusal of the HIV test if any of the following conditions apply:

(1) If ordered by a physician, consent can be implied due to emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an

individual. A hearing held under this subdivision shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(6) The individual upon whom the test will be performed is described in IC 16-41-8-6 or IC 16-41-10-2.5.

(7) A court has ordered the individual to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(17).

(8) Both of the following are met:

(A) The individual is not capable of providing consent and an authorized representative of the individual is not immediately available to provide consent or refusal of the test.

(B) A health care provider acting within the scope of the health care provider's employment comes into contact with the blood or body fluids of the individual in a manner that has been epidemiologically demonstrated to transmit HIV.

(e) The state department shall make HIV testing and treatment information from the federal Centers for Disease Control and Prevention available to health care providers.

(f) The state department may adopt rules under IC 4-22-2 necessary to implement this section.

As added by P.L.2-1993, SEC.24. Amended by P.L.106-1998, SEC.1; P.L.293-2001, SEC.3; P.L.212-2003, SEC.4; P.L.237-2003, SEC.6; P.L.97-2004, SEC.67; P.L.125-2007, SEC.1; P.L.94-2010, SEC.4; P.L.116-2012, SEC.1; P.L.147-2012, SEC.4.

IC 16-41-6-2

Informed consent; court ordered examinations

Sec. 2. (a) As used in this section, "informed consent" means authorization for physical examination, made without undue inducement or any form of force, fraud, constraint, deceit, duress, or coercion after the following:

(1) A fair explanation of the examination, including the purpose, potential uses, limitations, and the fair meaning of the examination results.

(2) A fair explanation of the procedures to be followed, including the following:

(A) The voluntary nature of the examination.

(B) The right to withdraw consent to the examination process at any time.

(C) The right to anonymity to the extent provided by law with respect to participation in the examination and disclosure of examination results.

(D) The right to confidential treatment to the extent provided by law of information identifying the subject of the examination and the results of the examination.

(b) If the state health commissioner, the state health commissioner's legally authorized agent, or local health official has reasonable grounds to believe that an individual may have a communicable disease or other disease that is a danger to health, the state health commissioner, the state health commissioner's legally authorized agent, or local health officer may ask the individual for written informed consent to be examined to prevent the transmission of the disease to other individuals.

(c) If the individual, when requested, refuses such an examination, the state health commissioner, the state health commissioner's legally authorized agent, or local health officer may compel the examination only upon a court order based on clear and convincing evidence of a serious and present health threat to others posed by the individual.

(d) A hearing held under this section shall be held in camera at the request of the individual.

As added by P.L.2-1993, SEC.24.

IC 16-41-6-2.5
Repealed

(Repealed by P.L.237-2003, SEC.18.)

IC 16-41-6-3
Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-6-4
Testing newborn infants; confidentiality; notice; information on treatment options; objecting; rules; application for funds under Ryan White CARE Amendments

Sec. 4. (a) Subject to subsection (f), if:

(1) the mother of a newborn infant has not had a test performed under section 5 or 6 of this chapter;

(2) the mother of a newborn infant has refused a test for the newborn infant to detect HIV or the antibody or antigen to HIV; and

(3) a physician believes that testing the newborn infant is medically necessary;

the physician overseeing the care of the newborn infant may order a confidential test for the newborn infant in order to detect HIV or the antibody or antigen to HIV. The test must be ordered at the earliest feasible time not exceeding forty-eight (48) hours after the birth of the infant.

(b) If the physician orders a test under subsection (a), the physician must:

(1) notify the mother of the newborn infant of the test; and

(2) provide HIV information and counseling to the mother. The

information and counseling must include the following:

(A) The purpose of the test.

(B) The risks and benefits of the test.

(C) A description of the methods of HIV transmission.

(D) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk.

(E) Referral information to other HIV prevention, health care, and psychosocial services.

(c) The confidentiality provisions of IC 16-41-2-3 apply to this section.

(d) The results of the confidential test ordered under subsection (a) must be released to the mother of the newborn infant.

(e) If a test ordered under subsection (a) is positive, the person who provides the results of the test shall inform the mother of the newborn infant of treatment options or referral options available to the newborn infant.

(f) If a parent of the newborn infant objects in writing for reasons pertaining to religious beliefs, the newborn infant is exempt from the test under subsection (a).

(g) The state department shall adopt rules under IC 4-22-2 to carry out this section.

(h) The results of a test performed under this section are confidential.

(i) The state department shall apply for funds under Section 2625 of the Ryan White CARE Amendments of 1996 (42 U.S.C. 300ff-21 et seq.) to pay for all tests conducted under subsection (a).

As added by P.L.106-1998, SEC.2. Amended by P.L.237-2003, SEC.7; P.L.220-2011, SEC.319.

IC 16-41-6-5

Ordering and submitting a pregnant woman's blood sample for testing

Sec. 5. (a) This section applies to:

(1) a physician licensed under IC 25-22.5; or

(2) an advanced practice nurse licensed under IC 25-23;

who provides prenatal care within the scope of the provider's license.

(b) Subject to section 8 of this chapter, an individual described in subsection (a) who:

(1) diagnoses the pregnancy of a woman; or

(2) is primarily responsible for providing prenatal care to a pregnant woman;

shall order to be taken a sample of the pregnant woman's blood and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.

As added by P.L.237-2003, SEC.8.

IC 16-41-6-6

No written evidence of testing; ordering and submitting sample

Sec. 6. Subject to section 8 of this chapter, if, at the time of

delivery, there is no written evidence that a standard licensed diagnostic test for HIV has been performed under section 5 of this chapter, the physician or advanced practice nurse in attendance at the delivery shall order to be taken a sample of the woman's blood at the time of the delivery and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.
As added by P.L.237-2003, SEC.9.

IC 16-41-6-7
Right to refuse test

Sec. 7. A pregnant woman has a right to refuse a test under section 5 or 6 of this chapter.
As added by P.L.237-2003, SEC.10.

IC 16-41-6-8
Informing pregnant woman of information; documenting information given and a refusal of test; information if test results positive; confidentiality

Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.

(b) An individual described in subsection (a) shall:

(1) inform the pregnant woman that:

(A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and

(B) the pregnant woman has a right to refuse the test; and

(2) explain to the pregnant woman:

(A) the purpose of the test; and

(B) the risks and benefits of the test.

(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).

(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted by an individual described in subsection (a) in the pregnant woman's medical records.

(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):

(1) shall inform the pregnant woman of the test results;

(2) shall inform the pregnant woman of the treatment options or referral options available to the pregnant woman; and

(3) shall:

(A) provide the pregnant woman with a description of the methods of HIV transmission;

(B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and

(C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

(f) The provisions of IC 16-41-2-3 apply to a positive HIV test

under section 5 or 6 of this chapter.

(g) The results of a test performed under section 5 or 6 of this chapter are confidential.

(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard licensed diagnostic test for HIV and to offer and recommend the standard licensed diagnostic test for HIV.

(i) An individual described in subsection (a) shall document:

(1) the oral or written consent of the pregnant woman to be tested; and

(2) that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.

(j) A pregnant woman who refuses a test under this section must do so in writing.

As added by P.L.237-2003, SEC.11. Amended by P.L.97-2004, SEC.68; P.L.112-2011, SEC.1.

IC 16-41-6-9

Information on confidential part of birth certificate

Sec. 9. The state department shall require, on the confidential part of each birth certificate and stillbirth certificate retained by the state department, in addition to the information otherwise required to be included on the certificate, the following information:

(1) Whether a standard licensed diagnostic test for HIV was performed on the woman who bore the child.

(2) If a standard licensed diagnostic test for HIV was performed:

(A) the date the blood specimen was taken; and

(B) whether the test was performed during pregnancy or at the time of delivery.

(3) If a standard licensed diagnostic test for HIV was not performed, the reason the test was not performed.

As added by P.L.237-2003, SEC.12.

IC 16-41-6-10

Distributing information on HIV treatment options

Sec. 10. The state department shall distribute to physicians and to other individuals who are allowed by law to attend a pregnant woman information available from the federal Centers for Disease Control and Prevention that explains the treatment options available to an individual who has a positive test for HIV.

As added by P.L.237-2003, SEC.13.

IC 16-41-6-11

Rules

Sec. 11. (a) The state department shall adopt rules under IC 4-22-2 that include procedures:

(1) to inform the woman of the test results under this chapter, whether they are positive or negative;

(2) for explaining the side effects of any treatment for HIV if the test results under this chapter are positive; and

(3) to establish a process for a woman who tests positive under this chapter to appeal the woman's status on a waiting list on a treatment program for which the woman is eligible. The rule must:

(A) include a requirement that the state department make a determination in the process described in this subdivision not later than seventy-two (72) hours after the state department receives all the requested medical information; and

(B) set forth the necessary medical information that must be provided to the state department and reviewed by the state department in the process described in this subdivision.

(b) The state department shall maintain rules under IC 4-22-2 that set forth standards to provide to women who are pregnant, before delivery, at delivery, and after delivery, information concerning HIV. The rules must include:

(1) an explanation of the nature of AIDS and HIV;

(2) information concerning discrimination and legal protections;

(3) information concerning the duty to notify persons at risk as described in IC 16-41-7-1;

(4) information about risk behaviors for HIV transmission;

(5) information about the risk of transmission through breast feeding;

(6) notification that if the woman chooses not to be tested for HIV before delivery, at delivery the child will be tested subject to section 4 of this chapter;

(7) procedures for obtaining informed, written consent for testing under this chapter;

(8) procedures for post-test counseling by a health care provider when the test results are communicated to the woman, whether the results are positive or negative;

(9) procedures for referral for physical and emotional services if the test results are positive;

(10) procedures for explaining the importance of immediate entry into medical care if the test results are positive; and

(11) procedures for explaining that giving birth by cesarean section may lessen the likelihood of passing on HIV to the child during childbirth, especially when done in combination with medications, if the test results are positive.

As added by P.L.237-2003, SEC.14.

IC 16-41-6-12

Completing HIV test history and assessment form; retaining copy of form in patient's medical file; systemwide evaluation of prenatal HIV testing

Sec. 12. (a) The state department shall provide that an HIV test history and assessment form from the patient's medical records or an interview with the patient must be filled out. The state department shall develop the form to determine if:

(1) the patient is HIV positive and has been informed; or

(2) the patient was tested during the current pregnancy and tested negative or was not tested during the current pregnancy and the HIV status is unknown.

(b) The form required under subsection (a) must identify what special support or assistance for continued medical care the patient might need as a result of a positive test.

(c) A copy of the form must be:

(1) kept in the patient's medical file;

(2) kept in the baby's medical file; and

(3) given to the doctor in the hospital designated to administer the newborn HIV testing program.

(d) The state department must maintain a systemwide evaluation of prenatal HIV testing in Indiana. The state department shall prescribe the HIV test history and assessment form and a newborn blood screening form. The state department shall remove all identifying information from the maternal test history before the state department performs its analyses and shall not maintain HIV test history data with identifying information.

As added by P.L.237-2003, SEC.15.

IC 16-41-6-13

Treatment program access for women who test positive for HIV

Sec. 13. (a) Women who:

(1) meet all qualifications to participate in the children's health insurance program, the AIDS drug assistance program, the health insurance assistance program, or any other health care program of the state; and

(2) test positive under section 5 or 6 of this chapter;

shall be given first priority on a waiting list for the program if a waiting list exists. If a program does not have a waiting list, the woman described in this subsection shall be automatically approved and accepted into the program.

(b) If the state department determines during the process described in section 11(a)(3) of this chapter that the treatment of a woman who tests positive under this chapter should not be interrupted because of medical necessity, the woman may enter a program described in subsection (a) regardless of the existence of a waiting list for the program.

As added by P.L.237-2003, SEC.16.

IC 16-41-7

Chapter 7. Communicable Disease: Duty or Authority to Warn or Notify

IC 16-41-7-1

Carriers' duty to warn persons at risk

Sec. 1. (a) This section applies to the following dangerous communicable diseases:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Human immunodeficiency virus (HIV).

(3) Hepatitis B.

(b) As used in this section, "high risk activity" means sexual or needle sharing contact that has been demonstrated epidemiologically to transmit a dangerous communicable disease described in subsection (a).

(c) As used in this section, "person at risk" means:

(1) past and present sexual or needle sharing partners who may have engaged in high risk activity; or

(2) sexual or needle sharing partners before engaging in high risk activity;

with the carrier of a dangerous communicable disease described in subsection (a).

(d) Carriers who know of their status as a carrier of a dangerous communicable disease described in subsection (a) have a duty to warn or cause to be warned by a third party a person at risk of the following:

(1) The carrier's disease status.

(2) The need to seek health care such as counseling and testing.

As added by P.L.2-1993, SEC.24.

IC 16-41-7-2

Reporting of persons posing serious and present danger or being at risk

Sec. 2. (a) A carrier is a "serious and present danger to the health of others" under the following conditions:

(1) The carrier engages repeatedly in a behavior that has been demonstrated epidemiologically (as defined by rules adopted by the state department under IC 4-22-2) to transmit a dangerous communicable disease or that indicates a careless disregard for the transmission of the disease to others.

(2) The carrier's past behavior or statements indicate an imminent danger that the carrier will engage in behavior that transmits a dangerous communicable disease to others.

(3) The carrier has failed or refused to carry out the carrier's duty to warn under section 1 of this chapter.

(b) A person who has reasonable cause to believe that a person:

(1) is a serious and present danger to the health of others as described in subsection (a);

(2) has engaged in noncompliant behavior; or

(3) is suspected of being a person at risk (as described in section

1 of this chapter);

may report that information to a health officer.

(c) A person who makes a report under subsection (b) in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(d) A person who knowingly or recklessly makes a false report under subsection (b) is civilly liable for actual damages suffered by a person reported on and for punitive damages.

As added by P.L.2-1993, SEC.24.

IC 16-41-7-3

Notification by physician

Sec. 3. (a) A licensed physician who diagnoses, treats, or counsels a patient with a dangerous communicable disease shall inform the patient of the patient's duty under section 1 of this chapter.

(b) A physician described in subsection (a) may notify the following:

(1) A health officer if the physician has reasonable cause to believe that a patient:

(A) is a serious and present danger to the health of others as described in section 2(a) of this chapter;

(B) has engaged in noncompliant behavior; or

(C) is suspected of being a person at risk (as defined in section 1 of this chapter).

(2) A person at risk (as defined in section 1 of this chapter) or a person legally responsible for the patient if the physician:

(A) has medical verification that the patient is a carrier;

(B) knows the identity of the person at risk;

(C) has a reasonable belief of a significant risk of harm to the identified person at risk;

(D) has reason to believe the identified person at risk has not been informed and will not be informed of the risk by the patient or another person; and

(E) has made reasonable efforts to inform the carrier of the physician's intent to make or cause the state department of health to make a disclosure to the person at risk.

(c) A physician who notifies a person at risk under this section shall do the following:

(1) Identify the dangerous communicable disease.

(2) Inform the person of available health care measures such as counseling and testing.

(d) A physician who in good faith provides notification under this section is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

(e) A patient's privilege with respect to a physician under IC 34-46-3-1 is waived regarding:

(1) notification under subsection (b); and

(2) information provided about a patient's noncompliant behavior in an investigation or action under this chapter, IC 16-41-2, IC 16-41-3, IC 16-41-5, IC 16-41-6, IC 16-41-8,

IC 16-41-9, IC 16-41-13, IC 16-41-14, and IC 16-41-16.

(f) A physician's immunity from liability under subsection (d) applies only to the provision of information reasonably calculated to protect an identified person who is at epidemiological risk of infection.

(g) A physician who notifies a person under this section is also required to satisfy the reporting requirements under IC 16-41-2-2 through IC 16-41-2-8.

As added by P.L.2-1993, SEC.24. Amended by P.L.1-1998, SEC.122.

IC 16-41-7-4

Investigation of carriers; notification of persons at risk

Sec. 4. (a) As used in this section, "person at risk" means an individual who in the best judgment of a licensed physician:

(1) has engaged in high risk activity (as defined in section 1 of this chapter); or

(2) is in imminent danger of engaging in high risk activity (as defined in section 1 of this chapter).

(b) If a health officer is notified in writing by a physician under section 3(b)(1)(A) of this chapter of a patient:

(1) for whom the physician has medical verification that the patient is a carrier; and

(2) who, in the best judgment of the physician, is a serious and present danger to the health of others;

the health officer shall make an investigation of the carrier as authorized in IC 16-41-5-2 to determine whether the environmental conditions surrounding the carrier or the conduct of the carrier requires the intervention by the health officer or designated health official to prevent the spread of disease to others.

(c) If the state department is requested in writing by a physician who has complied with the requirements of section 3(b)(2) of this chapter to notify a person at risk, the state department shall notify the person at risk unless, in the opinion of the state department, the person at risk:

(1) has already been notified;

(2) will be notified; or

(3) will otherwise be made aware that the person is a person at risk.

(d) The state department shall establish a confidential registry of all persons submitting written requests under subsection (c).

(e) The state department shall adopt rules under IC 4-22-2 to implement this section. Local health officers may submit advisory guidelines to the state department to implement this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9. The state department shall fully consider such advisory guidelines before adopting a rule under IC 4-22-2-29 implementing this chapter, IC 16-41-1, IC 16-41-3, IC 16-41-5, IC 16-41-8, or IC 16-41-9.

As added by P.L.2-1993, SEC.24.

IC 16-41-7-5

Violations

Sec. 5. (a) Except as provided in IC 35-45-21-3, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense. *As added by P.L.2-1993, SEC.24. Amended by P.L.1-1999, SEC.47; P.L.158-2013, SEC.240.*

IC 16-41-8

Chapter 8. Communicable Disease: Confidentiality Requirements

IC 16-41-8-1

"Potentially disease transmitting offense"

Sec. 1. (a) As used in this chapter, "potentially disease transmitting offense" means any of the following:

(1) Battery (IC 35-42-2-1(b)(2)).

(2) An offense relating to a criminal sexual act (as defined in IC 35-31.5-2-216), if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred.

The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) occurred, and a delinquent act that would be a crime if committed by an adult.

(b) Except as provided in this chapter, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

As added by P.L.2-1993, SEC.24. Amended by P.L.181-1993, SEC.1; P.L.1-1997, SEC.99; P.L.28-2002, SEC.2; P.L.99-2002, SEC.7; P.L.135-2005, SEC.2; P.L.125-2009, SEC.1; P.L.114-2012, SEC.41; P.L.158-2013, SEC.241.

IC 16-41-8-2

Voluntary contact notification program information; use as evidence; release

Sec. 2. (a) Identifying information voluntarily given to the health officer or an agent of the health officer through a voluntary contact notification program may not be used as evidence in a court proceeding to determine noncompliant behavior under IC 16-41-1 through IC 16-41-16.

(b) A court may release to:

(1) an individual; or

(2) a representative designated in writing by the individual;

information or records relating to the individual's medical condition if the individual is a party in a pending action involving restriction of the individual's actions under IC 16-41-1 through IC 16-41-16. A person who obtains information under this subsection is subject to section 1 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-8-3

Violations

Sec. 3. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-8-4

Procedure for obtaining medical information concerning a person charged with certain offenses

Sec. 4. (a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.

(b) A:

(1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease transmitting offense; and

(2) defendant who has been charged with a potentially disease transmitting offense may seek access to the medical information of another person if the medical information would be relevant

to the defendant's defense;

by filing a verified petition for the release of medical information with the court.

(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:

(1) the person whose medical information is sought;

(2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and

(3) the provider that maintains the record, or the attorney general if the provider is a state agency;

at the time of filing in accordance with Indiana Trial Rule 4.

(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.

(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.

(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the release of a person's medical information to the petitioner.

(g) In an order issued under subsection (f), the court shall:

(1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order;

(2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and

(3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information.

(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.

(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section.

As added by P.L.125-2009, SEC.2. Amended by P.L.1-2010, SEC.72.

IC 16-41-8-5

Medical screening of a person charged with certain offenses

Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.

(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1(b)(2)), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus

(HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(d) This subsection applies only to a defendant who has been charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (IC 35-42-2-1(b)(2)), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

(e) The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

(f) A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

(g) The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the

transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

(h) As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

(i) An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

(j) The court shall order a petition filed and any order entered under this section sealed.

(k) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

As added by P.L.125-2009, SEC.3. Amended by P.L.94-2010, SEC.5; P.L.158-2013, SEC.242.

IC 16-41-8-6

Right of a victim to require certain defendants to undergo HIV testing; procedures

Sec. 6. (a) If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, the alleged victim of the offense described in the indictment or information may request that the defendant against whom the indictment or information is filed be tested for the human immunodeficiency virus (HIV).

(b) Not later than forty-eight (48) hours after an alleged victim

described in subsection (a) requests that the defendant be tested for the human immunodeficiency virus (HIV), the defendant must be tested for the human immunodeficiency virus (HIV).

(c) As soon as practicable, the results of a test for the human immunodeficiency virus (HIV) conducted under subsection (b) shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim, if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

(d) If follow-up testing of the defendant for the human immunodeficiency virus (HIV) is necessary, the results of follow-up testing of the defendant shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

As added by P.L.94-2010, SEC.6.

IC 16-41-9

Chapter 9. Communicable Disease: Imposition of Restrictions on Individuals With Certain Communicable or Dangerous Communicable Diseases

IC 16-41-9-0.1

Repealed

(Repealed by P.L.63-2012, SEC.23.)

IC 16-41-9-1

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-1.5

Isolation; quarantine; notice; hearing; orders; renewal; crime; rules

Sec. 1.5. (a) If a public health authority has reason to believe that:

(1) an individual:

(A) has been infected with; or

(B) has been exposed to;

a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must be verified and include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(b) Except as provided in subsections (e) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance is likely to expose an uninfected person to a dangerous communicable disease or outbreak.

(c) If an individual is restricted from appearing in person under subsection (b), the court shall hold the hearing in a manner that allows all parties to fully and safely participate in the proceedings under the circumstances.

(d) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the

individual's ability to come into contact with an uninfected individual;

the court may issue an order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(e) If the public health authority has reason to believe that an individual described in subsection (a) is likely to expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard, the public health authority may seek in a circuit or superior court an emergency order of quarantine or isolation by filing a verified petition for emergency quarantine or isolation. The verified petition must include a brief description of the facts supporting the public health authority's belief that:

(1) isolation or quarantine should be imposed on an individual; and

(2) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard.

The verified petition must include a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(f) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak;

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual; and

(3) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard;

the court may issue an emergency order imposing isolation or quarantine on the individual. The court shall establish the duration and other conditions of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(g) A court may issue an emergency order of isolation or quarantine without the verified petition required under subsection (e) if the court receives sworn testimony of the same facts required in the verified petition:

(1) in a nonadversarial, recorded hearing before the judge;

(2) orally by telephone or radio;

(3) in writing by facsimile transmission (fax); or

(4) through other electronic means approved by the court.

If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (2), the court shall direct the public health authority to sign the judge's name and to write the time and date of issuance on the proposed emergency order. If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (3), the court shall direct the public health authority to transmit a proposed emergency order to the court, which the court shall sign, add the date of issuance, and transmit back to the public health authority. A court may modify the conditions of a proposed emergency order.

(h) If an emergency order of isolation or quarantine is issued under subsection (g)(2), the court shall record the conversation on audiotape and order the court reporter to type or transcribe the recording for entry in the record. The court shall certify the audiotape, the transcription, and the order retained by the judge for entry in the record.

(i) If an emergency order of isolation or quarantine is issued under subsection (g)(3), the court shall order the court reporter to retype or copy the facsimile transmission for entry in the record. The court shall certify the transcription or copy and order retained by the judge for entry in the record.

(j) The clerk shall notify the public health authority who received an emergency order under subsection (g)(2) or (g)(3) when the transcription or copy required under this section is entered in the record. The public health authority shall sign the typed, transcribed, or copied entry upon receiving notice from the court reporter.

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective. An immediate order of isolation or quarantine expires after seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. If the immediate order applies to a group of individuals and it is impracticable to provide individual notice, the public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the order.

(l) The public health authority may seek to renew an order of isolation or quarantine or an immediate order of isolation or quarantine issued under this section by doing the following:

(1) By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with:

(A) the court that granted the emergency order of isolation or

quarantine; or

(B) a circuit or superior court, in the case of an immediate order.

The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine and a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(2) By providing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with a copy of the petition and notice of the hearing at least twenty-four (24) hours before the time of the hearing.

(3) By informing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine that the individual has the right to:

(A) appear, unless the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak;

(B) cross-examine witnesses; and

(C) counsel, including court appointed counsel in accordance with subsection (c).

(4) If:

(A) the petition applies to a group of individuals; and

(B) it is impracticable to provide individual notice;

by posting the petition in a conspicuous location on the isolation or quarantine premises.

(m) If the public health authority proves by clear and convincing evidence at a hearing under subsection (l) that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the court may renew the existing order of isolation or quarantine or issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual,

premises, or location to be isolated or quarantined is located; or

(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located.

This subsection does not preclude a change of venue for good cause shown.

(o) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

(1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;

(2) the law and the facts concerning the individuals are similar; and

(3) the individuals have similar rights at issue.

A court may appoint an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented. An individual may retain his or her own counsel or proceed pro se.

(p) A public health authority that imposes a quarantine that is not in the person's home:

(1) shall allow the parent or guardian of a child who is quarantined under this section; and

(2) may allow an adult;

to remain with the quarantined individual in quarantine. As a condition of remaining with the quarantined individual, the public health authority may require a person described in subdivision (2) who has not been exposed to a dangerous communicable disease to receive an immunization or treatment for the disease or condition, if an immunization or treatment is available and if requiring immunization or treatment does not violate a constitutional right.

(q) If an individual who is quarantined under this section is the sole parent or guardian of one (1) or more children who are not quarantined, the child or children shall be placed in the residence of a relative, friend, or neighbor of the quarantined individual until the quarantine period has expired. Placement under this subsection must be in accordance with the directives of the parent or guardian, if possible.

(r) State and local law enforcement agencies shall cooperate with the public health authority in enforcing an order of isolation or quarantine.

(s) The court shall appoint an attorney to represent an indigent individual in an action brought under this chapter or under IC 16-41-6. If funds to pay for the court appointed attorney are not available from any other source, the state department may use the proceeds of a grant or loan to reimburse the county, state, or attorney for the costs of representation.

(t) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating quarantine or isolation, a Class A misdemeanor.

(u) The state department shall adopt rules under IC 4-22-2 to

implement this section, including rules to establish guidelines for:

(1) voluntary compliance with isolation and quarantine;

(2) quarantine locations and logistical support; and

(3) moving individuals to and from a quarantine location.

The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

As added by P.L.138-2006, SEC.6. Amended by P.L.1-2007, SEC.137.

IC 16-41-9-1.6

Actions of public health authority in event of quarantine

Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:

(1) Distribute information to the public concerning:

(A) the risks of the disease;

(B) how the disease is transmitted;

(C) available precautions to reduce the risk of contracting the disease;

(D) the symptoms of the disease; and

(E) available medical or nonmedical treatments available for the disease.

(2) Instruct the public concerning social distancing.

(3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.

(4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.

(5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.

(6) Close schools, athletic events, and other nonessential situations in which people gather.

If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person's home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the rules are not inconsistent with this section.

As added by P.L.138-2006, SEC.7. Amended by P.L.1-2007, SEC.138.

IC 16-41-9-1.7
Immunization programs

Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:

(1) The state department must develop and distribute or post information concerning the risks and benefits of immunization.

(2) No person may be required to receive an immunization without that person's consent. No child may be required to receive an immunization without the consent of the child's parent, guardian, or custodian. The state department may implement the procedures described in section 1.5 of this chapter concerning a person who refuses to receive an immunization or the child of a parent, guardian, or custodian who refuses to consent to the child receiving an immunization.

(b) The state department shall adopt rules to implement this section. The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

As added by P.L.138-2006, SEC.8.

IC 16-41-9-2
Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-3
Infected students; exclusion from school

Sec. 3. (a) The local health officer may exclude from school a student who has a dangerous communicable disease that:

(1) is transmissible through normal school contacts; and

(2) poses a substantial threat to the health and safety of the school community.

(b) If the local health officer subsequently determines that a student who has been excluded from school under subsection (a) does not have a dangerous communicable disease that:

(1) is transmissible through normal school contacts; and

(2) poses a substantial threat to the health and safety of the school community;

the local health officer shall issue a certificate of health to admit or readmit the student to school.

(c) A person who objects to the determination made by the local health officer under this section may appeal to the executive board of the state department, which is the ultimate authority. IC 4-21.5 applies to proceedings under this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-4
Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-5
Mentally ill and dangerous or gravely disabled carriers; detention; reports

Sec. 5. (a) If a designated health official determines that a carrier has a dangerous communicable disease and has reasonable grounds to believe that the carrier is mentally ill and either dangerous or gravely disabled, the designated health official may request:

(1) immediate detention under IC 12-26-4; or

(2) emergency detention under IC 12-26-5;

for the purpose of having the carrier apprehended, detained, and examined. The designated health official may provide to the superintendent of the psychiatric hospital or center or the attending physician information about the carrier's communicable disease status. Communications under this subsection do not constitute a breach of confidentiality.

(b) If the written report required under IC 12-26-5-5 states there is probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, proceedings may continue under IC 12-26.

(c) If the written report required under IC 12-26-5-5 states there is not probable cause to believe the carrier is mentally ill and either dangerous or gravely disabled and requires continuing care and treatment, the carrier shall be referred to the designated health official who may take action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-6
Detained carriers; isolation; unauthorized absences

Sec. 6. (a) The chief medical officer of a hospital or other institutional facility may direct that a carrier detained under this article be placed apart from the others and restrained from leaving the facility. A carrier detained under this article shall observe all the rules of the facility or is subject to further action before the committing court.

(b) A carrier detained under this article who leaves a tuberculosis hospital or other institutional facility without being authorized to leave or who fails to return from an authorized leave without having been formally discharged is considered absent without leave.

(c) The sheriff of the county in which a carrier referred to in subsection (b) is found shall apprehend the carrier and return the carrier to the facility at which the carrier was being detained upon written request of the superintendent of the facility. Expenses incurred under this section are treated as expenses described in section 13 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-7
Voluntarily admitted carriers; unauthorized absences; prevention of health threat

Sec. 7. (a) A carrier who:

(1) poses a serious and present danger to the health of others;
(2) has been voluntarily admitted to a hospital or other facility for the treatment of tuberculosis or another dangerous communicable disease; and
(3) who leaves the facility without authorized leave or against medical advice or who fails to return from authorized leave;

shall be reported to a health officer by the facility not more than twenty-four (24) hours after discovery of the carrier's absence.

(b) If a health officer fails or refuses to institute or complete necessary legal measures to prevent a health threat (as defined in IC 16-41-7-2) by the carrier, the case shall be referred to a designated health official for appropriate action under this article.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-8

Discharge reports; release orders

Sec. 8. (a) A local health officer may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information presented by the local health officer or other sources.

As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.9; P.L.1-2007, SEC.139.

IC 16-41-9-9

Release of carriers from state penal institutions; advanced reports; jurisdiction of health officers

Sec. 9. (a) Not more than thirty (30) days after the proposed release from a state penal institution of a prisoner who is known to have:

(1) tuberculosis in a communicable stage; or
(2) other dangerous communicable disease;

the chief administrative officer of the penal institution shall report to the state department the name, address, age, sex, and date of release of the prisoner.

(b) The state department shall provide the information furnished the state department under subsection (a) to the health officer having jurisdiction over the prisoner's destination address.

(c) Each health officer where the prisoner may be found has jurisdiction over the released prisoner.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-10

Nonresident indigent carriers; transfer to legal residences

Sec. 10. (a) The administrator of a hospital or other facility for the treatment of tuberculosis or other dangerous communicable disease may transfer or authorize the transfer of a nonresident indigent carrier to the carrier's state or county of legal residence if the carrier is able to travel. If the carrier is unable to travel, the administrator may have the carrier hospitalized until the carrier is able to travel.

(b) Costs for the travel and hospitalization authorized by this section shall be paid by the:

(1) carrier under section 13 of this chapter; or

(2) state department if the carrier cannot pay the full cost.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-11

Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-12

Refusal of admission to facilities; actions against persons and licensed facilities

Sec. 12. (a) The superintendent or the chief executive officer of the facility to which a carrier has been ordered under this chapter may decline to admit a patient if the superintendent or chief executive officer determines that there is not available adequate space, treatment staff, or treatment facilities appropriate to the needs of the patient.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per violation per day against a person who:

(1) fails to comply with IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under IC 16-41-1 through IC 16-41-3, IC 16-41-5 through IC 16-41-9, IC 16-41-13, IC 16-41-14, or IC 16-41-16 or a rule adopted under these chapters.

(c) The state department may commence an action against a facility licensed by the state department under either subsection (b) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.

As added by P.L.2-1993, SEC.24.

IC 16-41-9-13

Costs of care or treatment

Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or

(2) later becomes able to pay the full cost of care;

the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 1.5 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

As added by P.L.2-1993, SEC.24. Amended by P.L.138-2006, SEC.10.

IC 16-41-9-14
Repealed

(Repealed by P.L.138-2006, SEC.14.)

IC 16-41-9-15
Cooperation to implement least restrictive but medically necessary procedures to protect public health

Sec. 15. In carrying out its duties under this chapter, a public health authority shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

As added by P.L.16-2009, SEC.26.

IC 16-41-10

Chapter 10. Communicable Disease: Exposure Notification for Emergency Care Providers

IC 16-41-10-1

"Emergency medical services provider" defined

Sec. 1. As used in this chapter, "emergency medical services provider" means a firefighter, a law enforcement officer, a paramedic, an emergency medical technician, a physician licensed under IC 25-22.5, a nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.15; P.L.212-2003, SEC.5.

IC 16-41-10-2

Notification of emergency medical services providers

Sec. 2. (a) An emergency medical services provider who is exposed to blood or body fluids while providing emergency medical services to a patient may request notification concerning exposure to a dangerous communicable disease under this chapter if the exposure is of a type that has been demonstrated epidemiologically to transmit a dangerous communicable disease.

(b) If an emergency medical services provider desires to be notified of results of testing following a possible exposure to a dangerous communicable disease under this chapter, the emergency medical services provider shall notify the emergency medical services provider's employer not more than twenty-four (24) hours after the emergency medical services provider is exposed on a form that is prescribed by the state department and the Indiana emergency medical services commission.

(c) The emergency medical services provider shall distribute a copy of the completed form required under subsection (b) to the following:

(1) If applicable, the medical director of the emergency department of the medical facility:

(A) to which the patient was admitted following the exposure; or

(B) in which the patient was located at the time of the exposure.

(2) The emergency medical services provider's employer.

(3) The state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.16; P.L.212-2003, SEC.6.

IC 16-41-10-2.5

Consent by patient to testing and release of testing results; refusing testing; petitioning court

Sec. 2.5. (a) A patient (including a patient who is unable to consent due to physical or mental incapacity) to whose blood or body

fluids an emergency medical services provider is exposed as described in section 2 of this chapter is considered to have consented to:

(1) testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a dangerous communicable disease, the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

(1) of the patient's residence; or

(2) where the employer of the exposed emergency medical services provider has the employer's principal office;

for an order requiring that the patient provide a blood or body fluid specimen.

As added by P.L.212-2003, SEC.7.

IC 16-41-10-3

Notification of facilities

Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:

(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(B) notify the medical director of the emergency medical services provider's employer; or

(2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the

patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) The medical director or physician described in this section shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.17; P.L.212-2003, SEC.8; P.L.97-2004, SEC.69.

IC 16-41-10-3.5

Prohibiting physical restraint; releasing patient; immunity

Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous communicable disease.

(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:

(1) a test is performed under section 2.5 or 3 of this chapter; or

(2) the results of a test are released under section 3 of this chapter.

(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

As added by P.L.212-2003, SEC.9.

IC 16-41-10-4

Disclosure of exposure to infectious disease; treatment and counseling

Sec. 4. (a) A medical director or physician notified under section 3 of this chapter shall, not more than forty-eight (48) hours after receiving the notification under section 3 of this chapter, contact the emergency medical services provider described in section 2 of this chapter to do the following:

(1) Explain, without disclosing information about the patient, the dangerous communicable disease to which the emergency medical services provider was exposed.

(2) Provide for any medically necessary treatment and counseling to the emergency medical services provider.

(b) Expenses of testing or treatment and counseling are the responsibility of the emergency medical services provider or the provider's employer.

As added by P.L.2-1993, SEC.24. Amended by P.L.186-1995, SEC.18; P.L.212-2003, SEC.10.

IC 16-41-10-5

Disclosure of medical or epidemiological information; penalties

Sec. 5. (a) Except as otherwise provided in this chapter, the medical information referred to in this chapter is confidential, and a person may not disclose or be compelled to disclose medical or epidemiological information referred to in this chapter.

(b) A person responsible for recording, reporting, or maintaining information referred to in this chapter who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiological information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to the penalty prescribed by subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

As added by P.L.2-1993, SEC.24. Amended by P.L.212-2003, SEC.11.

IC 16-41-10-6

Good faith reports; immunity

Sec. 6. A person who makes a report under this chapter in good faith is not subject to liability in a civil, an administrative, a disciplinary, or a criminal action.

As added by P.L.2-1993, SEC.24.

IC 16-41-10-7

Violations

Sec. 7. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-10-8

Rules

Sec. 8. The state department shall adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11

Chapter 11. Communicable Disease: Training in Health Precautions for Communicable Diseases

IC 16-41-11-1

Employer

Sec. 1. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-2

Facility

Sec. 2. As used in this chapter, "facility" means a building where an individual handles blood or other body fluids in the regular course of the individual's employment.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-3

Universal precautions

Sec. 3. As used in this chapter, "universal precautions" means procedures specified by rule adopted by the state department under IC 4-22-2 that are used to prevent the transmission of dangerous communicable diseases, including acquired immune deficiency syndrome (AIDS), through blood or other body fluids.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-4

Use of universal precautions

Sec. 4. An individual who has professional, employment, or volunteer duties that require the individual to have direct contact with blood or body fluids in the scope of the individual's duties must use universal precautions.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-5

Training and equipment

Sec. 5. An employer shall provide training and the necessary equipment to each employee and student trainee who has duties that require the employee to have direct contact with blood or body fluids in the scope of the employee's employment. The employer shall comply with the following:

(1) The training must be provided before the individual is given an assignment where contact with blood or body fluids is likely.

(2) The training must include training in the universal precautions and other infection control measures that the state department adopts by rule under IC 4-22-2.

(3) An attendance record must be maintained of an individual's participation in the training that is provided. The record must be made available to the state department for inspection under section 7 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-6
Personnel policy

Sec. 6. An employer who is required to provide training under section 5 of this chapter shall develop a written personnel policy that does the following:

(1) Requires the use of universal precautions when an individual has direct contact with blood or other body fluids.

(2) Provides sanctions, including discipline and dismissal if warranted, for failure to use universal precautions.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-7
Inspections; compliance orders; civil penalties; reports of violations

Sec. 7. (a) The state department may designate an agent who, upon presentation of proper credentials, may enter a facility to inspect for possible violations of this chapter or rules adopted under this chapter.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and civil penalty not to exceed one thousand dollars ($1,000) per violation per day against a person who does any of the following:

(1) Fails to comply with this chapter or rules adopted under this chapter.

(2) Interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter.

(c) The state department may commence an action against a facility under either:

(1) subsection (b); or

(2) the licensure statute for the facility;

if the facility is licensed by the state department. However, the state department may not bring an action arising out of one (1) incident under both statutes.

(d) The state department may report to any other board or agency responsible for licensure, registration, or certification of health care providers, facilities, or other health care workers an individual or facility that is found to be operating in violation of this chapter or rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-8
Complaints

Sec. 8. (a) A person who believes that this chapter or rules adopted under this chapter have been violated may file a complaint with the state department. A complaint must be in writing unless the violation complained of constitutes an emergency. The state department shall reduce an oral complaint to writing. The state department shall maintain the confidentiality of the person who files the complaint.

(b) The state department shall promptly investigate all complaints

received under this section.

(c) The state department shall not disclose the name or identifying characteristics of the person who files a complaint under this section unless:

(1) the person consents in writing to the disclosure; or

(2) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.

(d) The state department shall give a person who files a complaint under this section the opportunity to withdraw the complaint before disclosure.

(e) An employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employer or the ethics commission. However, an employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under any procedure otherwise available to the employee by employment contract, collective bargaining agreement, or, if the employee is an employee of the state, IC 4-15-2.2-42.

(f) The employer of an employee who files a complaint in good faith with the state department under this section may not, solely in retaliation for filing the complaint, do any of the following:

(1) Dismiss the employee.

(2) Withhold salary increases or employment related benefits from the employee.

(3) Transfer or reassign the employee.

(4) Deny a promotion that the employee would have received.

(5) Demote the employee.

As added by P.L.2-1993, SEC.24. Amended by P.L.222-2005, SEC.31; P.L.6-2012, SEC.121.

IC 16-41-11-9

Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-11-10

Expert review panels

Sec. 10. (a) This section does not apply to a medical review panel created under IC 34-18-10 (or IC 27-12-10 before its repeal) or a peer review committee (as defined in IC 34-6-2-99).

(b) The state department may authorize by rule expert review panels to provide confidential consultation and advice to health care workers who are:

(1) infected with the human immunodeficiency virus (HIV); or

(2) infected with the hepatitis-B virus (HBV) and are hepatitis-Be antigen (HBeAg) positive.

(c) All proceedings and communications of an authorized expert

review panel are confidential and privileged communications.

(d) A member or a member of the staff of an authorized expert review panel is immune from any civil liability for any act, statement, determination, or recommendation made in good faith in the scope of the panel's duties.

As added by P.L.95-1994, SEC.3. Amended by P.L.1-1998, SEC.123.

IC 16-41-12

Chapter 12. Communicable Disease: Precautionary Measures for Use of Human Tissues and Blood Products; Regulation of Blood Centers

IC 16-41-12-1

Autologous donation

Sec. 1. As used in this chapter, "autologous donation" means the removal and storage of blood from a donor or patient for an intended transfusion to the same donor or patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.4.

IC 16-41-12-2

Bank

Sec. 2. As used in this chapter, "bank" has the meaning set forth in IC 29-2-16.1-1.

As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.5.

IC 16-41-12-2.5

Blood

Sec. 2.5. (a) As used in this chapter, "blood" means any of the following:

(1) Human blood.

(2) Human blood components.

(3) Human blood derivatives.

(b) The term does not include human cells, tissues, or cellular or tissue-based products (HCT/Ps).

As added by P.L.213-2013, SEC.5.

IC 16-41-12-3

Blood center

Sec. 3. As used in this chapter, "blood center" includes a blood bank, a blood storage facility, a plasma center, a hospital, or other facility where blood is collected.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.6.

IC 16-41-12-4

Confirmatory test

Sec. 4. As used in this chapter, "confirmatory test" means a laboratory test or a series of tests approved by the state department and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

As added by P.L.2-1993, SEC.24.

IC 16-41-12-5

Directed donation

Sec. 5. As used in this chapter, "directed donation" means a donation of blood collected from an individual on behalf of an

intended recipient of the transfusion.
As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.7.

IC 16-41-12-5.5
Distributed for use

Sec. 5.5. (a) As used in this chapter, "distributed for use" refers to a blood center releasing or shipping blood for use in a blood inventory intended for or made available for transfusion or injection to a patient.

(b) The term does not include the release or shipment of blood:

(1) to a researcher; or

(2) for further manufacturing;

as approved in writing by the federal Food and Drug Administration.
As added by P.L.213-2013, SEC.8.

IC 16-41-12-6
Hospital

Sec. 6. As used in this chapter, "hospital" has the meaning set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.6.

IC 16-41-12-6.5
Human cells, tissues, or cellular or tissue-based products

Sec. 6.5. As used in this chapter, "human cells, tissues, or cellular or tissue-based products" or "HCT/Ps" has the meaning set forth in 21 CFR 1271.3(d).
As added by P.L.213-2013, SEC.9.

IC 16-41-12-7
Physician

Sec. 7. As used in this chapter, "physician" has the meaning set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.7.

IC 16-41-12-8
Screening test

Sec. 8. As used in this chapter, "screening test" means a laboratory screening test or a series of tests approved by the federal Food and Drug Administration and required by the state department to be performed on blood collected under this chapter, including the following:

(1) Tests for antibodies to the human immunodeficiency virus (HIV).

(2) Other tests determined by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.10.

IC 16-41-12-9
Storage facility

Sec. 9. As used in this chapter, "storage facility" has the meaning

set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.8.

IC 16-41-12-10
Surgeon

Sec. 10. As used in this chapter, "surgeon" has the meaning set forth in IC 29-2-16.1-1.
As added by P.L.2-1993, SEC.24. Amended by P.L.147-2007, SEC.9.

IC 16-41-12-11
Implied warranties; strict liability; screening tests; specification of blood use; distributions by foreign blood centers

Sec. 11. (a) The:

(1) procurement, processing, distribution, or use of:

(A) blood;

(B) plasma;

(C) human cells, tissues, or cellular or tissue-based products; or

(D) other human tissue, such as corneas, bones, or organs;

by a bank, storage facility, or hospital; and

(2) injection, transfusion, or transplantation of any of the human tissue listed in subdivision (1) into the human body by a hospital, physician, or surgeon, whether or not any remuneration is paid;

is the rendition of a service and not the sale of a product. Such services do not give rise to an implied warranty of merchantability or fitness for a particular purpose, nor do the services give rise to strict liability in tort.

(b) A hospital, physician, or other person is not required to perform another screening test on blood or plasma that:

(1) is provided by a blood center if the blood or plasma is labeled indicating that the blood or plasma has been tested as required under section 13(b) of this chapter; or

(2) is provided by a blood center under section 13(j) of this chapter and is labeled as required by 21 CFR 606.121(h).

(c) An autologous blood donor may specify that the donor's blood must be used for the donor. Blood that is donated under this section must be tested for the human immunodeficiency virus (HIV). The blood center shall reserve the donor's blood for the purposes specified by the donor and shall label the blood accordingly.

(d) A directed blood donor may specify that the donor's blood is to be used for another person. The blood center shall consider the medical suitability and the wishes of the donor and recipient in making final distribution of the blood.

(e) The blood center is subject to penalties under this chapter if the blood center knowingly fails to reserve the blood for the purposes specified by the recipient under this section or if the blood center fails to comply with subsections (c) through (d).

(f) A blood center located outside Indiana may not distribute:

(1) blood; or

(2) plasma;

in Indiana unless the blood center has certified to the state department that the blood has undergone a screening test as required under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.11.

IC 16-41-12-12

Rules

Sec. 12. The state department shall adopt rules under IC 4-22-2 to carry out the purposes of this chapter. In formulating the rules, the state department shall consider:

(1) present medical and scientific practices in the field;

(2) rules and regulations of the federal Food and Drug Administration; and

(3) any other procedure that should be followed to reasonably ensure the safety of the donor and recipient of blood.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.12.

IC 16-41-12-13

Screening tests; blood labeling; confirmatory tests; disposal of blood; notification and referral of donors; records; violations; medical emergencies

Sec. 13. (a) Except as provided in subsection (j), a blood center shall perform a screening test on a donor's blood and obtain the results of the test before blood or plasma is distributed for use.

(b) The blood center shall label blood or plasma before distribution for use by the blood center to indicate the results of the screening tests required by this chapter. The blood center shall also label each blood sample according to the regulations of the federal Food and Drug Administration.

(c) The blood center shall perform a confirmatory test on a blood donation from a donor when the screening test performed under subsection (a) yields repeatedly reactive results.

(d) Except for:

(1) a sample retained to perform a confirmatory test;

(2) blood or plasma units used for research purposes or in the production of pharmaceutical products if the blood center or the manufacturer of the pharmaceutical products has obtained approval from the federal Food and Drug Administration;

(3) an autologous donation for stem cell transplantation; or

(4) other autologous donations of blood or HCT/Ps, if:

(A) the blood center agrees to distribute the blood or HCT/Ps for use; and

(B) the attending physician has been informed of the screening test results;

the blood center shall dispose of a blood donation after an inconclusive or repeatedly reactive screening test has been performed. The disposal must be made under rules adopted by the

state department under this chapter and IC 16-41-16.

(e) A blood center shall report to the state department the results of each positive confirmatory test conducted under subsection (c).

(f) A blood center shall attempt to notify a donor and refer the donor to counseling when the confirmatory test on the donor's blood is inconclusive or indicates the presence of antibodies to the human immunodeficiency virus (HIV).

(g) Each health care provider that administers blood transfusions shall keep a record of the following:

(1) Blood center that furnished the blood.

(2) Unit number assigned to the blood.

(h) An employee who is responsible for conducting the screening test required under this section who knowingly or intentionally fails to conduct the screening test commits a Class A misdemeanor.

(i) A blood center may not ship any blood or plasma before the completion of the screening test except in a documented medical emergency, as described in subsection (j).

(j) This subsection applies when:

(1) a health care provider has determined that a patient is in imminent danger of death;

(2) the results of the screening test performed on the blood described in subsection (a) are not available at the time that the blood is to be used;

(3) the patient or the patient's representative has been provided notice that the results of the screening test performed on the blood are not available and has consented in writing to the use of the blood; and

(4) no other appropriate blood is available.

Subject to 21 CFR 610.40(g), a blood center may distribute for use blood or plasma before the completion of the screening test in a documented medical emergency. However, upon completion of the screening test, the blood center shall immediately provide the test results to the physician or hospital that received the blood or plasma and the physician who is responsible for the patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.59-2012, SEC.1; P.L.213-2013, SEC.13.

IC 16-41-12-14

Confidentiality of information; violations

Sec. 14. (a) A person may not disclose or be compelled to disclose information collected under this chapter or under rules adopted under this chapter. This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) For statistical purposes if done in a manner that does not identify any individual.

(2) With the written consent of all individuals identified in the information released.

(3) To the extent necessary to enforce public health laws or to protect the health or life of a named person.

(b) Except as provided in subsection (a), a person responsible for recording, reporting, or maintaining information required to be reported under this chapter who recklessly, knowingly, or intentionally discloses or fails to protect information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-15

Donor information; informed consent

Sec. 15. (a) A blood center shall require a blood donor to provide to the blood center the following information:

(1) Name.

(2) Address.

(3) Date of birth.

(4) The blood donor's Social Security number, if the blood donor is receiving monetary compensation for the donation.

(b) A blood center shall report the name and address of a blood donor to the state department when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(c) A blood center shall provide to a blood donor information to enable the blood donor to give informed consent to the procedures required by this chapter or IC 16-36. The information required by this subsection must be in the following form:

NOTICE

(1) This blood center performs a screening test for the human immunodeficiency virus (HIV) on every donor's blood.

(2) This blood center reports to the state department of health the name and address of a blood donor when a confirmatory test of the blood donor's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who recklessly, knowingly, or intentionally donates (excluding self-donations for stem cell transplantation, other autologous donations, or donations not intended by the blood center for distribution or use), sells, or transfers blood that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated blood, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.59-2012, SEC.2; P.L.213-2013, SEC.14; P.L.158-2013, SEC.243; P.L.168-2014, SEC.31.

IC 16-41-12-16

Blood center licensing; inspections

Sec. 16. (a) It is unlawful to operate a blood center in Indiana without a license issued by the state department under this chapter.

A blood center that applies for a license in Indiana must also be licensed or appropriately registered by the federal Food and Drug Administration and remain in compliance with all applicable federal regulations.

(b) An application for a license must be made on a form prescribed by the state department and must be accompanied by a license fee established by the state department.

(c) After inspection of an applicant's facility, if the state department finds that the applicant has complied with this chapter and the rules adopted under this chapter, the state department shall issue a license to the applicant.

(d) A license expires one (1) year after the date of issuance unless the license is renewed. A blood center may submit a renewal application on a form prescribed by the state department. The procedure and conditions for renewal are the same as the procedure and conditions established for the issuance of the original license.

(e) A person who inspects an applicant's facility under this section must have knowledge in blood banking and the nationally accepted standards of practice.

(f) For the purposes of this chapter, a hospital licensed under IC 16-21-2 that operates a blood center within the facility is subject to the rules adopted under this chapter concerning the operation of the blood center. However, the hospital may be licensed only under IC 16-21-2 and shall be surveyed concurrently, for licensure purposes, as a blood center and a hospital.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-17

Rules

Sec. 17. The state department may adopt rules under IC 4-22-2, after considering the guidelines of the federal Food and Drug Administration, for the minimum standards and specific requirements for operation of a blood center, including the following:

(1) Physical facilities, including refrigeration, lighting, construction, and equipment of the blood center to ensure the operation of the blood center in a manner that protects the public health.

(2) Testing procedures for communicable diseases transmitted by blood.

(3) Standards for collection, processing, storage, distribution, and proper conduct of the blood transfusion service of blood.

(4) Identification and screening of donors.

(5) Qualifications for medical and laboratory personnel employed in a blood center.

(6) Restrictions on the use of blood and plasma donations.

(7) System of identifying the donor of the blood at all times, including after the blood has been administered to the recipient.

(8) Establishment of a system for determining the inventory level of blood in all blood centers and the coordination of the distribution of blood.

(9) Proficiency testing.

(10) All sanitary conditions within the blood center and the blood center's surroundings needed to protect the public and the employees.

(11) A quality assurance program.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.15.

IC 16-41-12-18

Blood shortage emergencies

Sec. 18. (a) This section does not apply to a blood center when the blood center declares a blood shortage emergency for a specific or unusual blood type for a specific patient.

(b) A blood center must have written criteria for a blood shortage emergency before the blood center may declare a blood shortage emergency. The criteria required under this section must be based on quantitative factors within the geographic region served by the blood center.

(c) A blood center must file the written criteria required under this section with the state department.

(d) Unless an emergency is declared by another regional blood center, a blood center may not declare a blood shortage emergency for the sole purpose of selling or transferring blood to another center.

(e) Whenever a blood center declares a blood shortage emergency, the blood center shall notify the state department and affirm that a blood shortage emergency exists.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-19

Transfusion records; financial information; proficiency demonstrations; operation reports

Sec. 19. (a) A health care provider that administers blood transfusions shall keep a record of the following:

(1) Blood center that furnished the blood.

(2) Unit number assigned to the blood.

The record must be made available to the state department for inspection.

(b) The state department may require a blood center to submit financial information on allegations of financial impropriety involving the blood supply.

(c) The state department may require the demonstration of proficiency in the performance of the tests offered by the blood center.

(d) The state department may require the owner and director of a blood center to submit reports under oath that contain information and data concerning the technical operation of the blood center.

As added by P.L.2-1993, SEC.24.

IC 16-41-12-20

Blood center supervision; medical directors

Sec. 20. (a) Except as provided in subsection (c), a responsible head (as defined in 21 CFR 600.10(a)) shall supervise the operations of a blood center.

(b) Except as provided in subsection (d), each blood center must employ a medical director who is a licensed physician and who:

(1) is certified or eligible for certification in:

(A) clinical pathology; or

(B) the operation of a blood bank;

by the American Board of Pathology; or

(2) has:

(A) received a minimum of one (1) year of specialized training in blood banking; or

(B) equivalent experience and training.

(c) The medical director shall supervise and is responsible for the following:

(1) The proper performance of all medical procedures in the blood center.

(2) The continuous application of quality assurance procedures in the blood center.

(d) A blood center collecting blood exclusively for further manufacturing or research purposes under programs subject to and licensed by the federal Food and Drug Administration must employ a medical director who is a licensed physician to supervise the donor screening process. A blood center that utilizes blood for a purpose other than manufacturing or research under this subsection is subject to the penalties described in section 21 of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.213-2013, SEC.16.

IC 16-41-12-21

Inspections; violations

Sec. 21. (a) The state department may designate an agent who may, upon presentation of proper credentials, enter a facility to inspect for possible violations of this chapter or rules adopted under this chapter.

(b) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and civil penalty not to exceed ten thousand dollars ($10,000) per violation per day against a person who:

(1) fails to comply with this chapter or rules adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter.

(c) The state department may commence an action to suspend or revoke a blood center's license under IC 4-21.5-3-8 or IC 4-21.5-4 if the licensee has done any of the following:

(1) Made false statements concerning material information on the license application or any other document required by the state department.

(2) Permitted unauthorized persons to perform medical or technical procedures (as defined by the state department by rule adopted under this chapter) when a licensed physician licensed to practice medicine in Indiana is not available for consultation.
(3) Demonstrated incompetence in the performance of any procedure.
(4) Performed a procedure for which approval was not granted.
(5) Operated the center in a manner considered hazardous to public health.
(6) Violated this chapter or rules adopted under this chapter.

(d) The state department may report to any other board or agency responsible for licensure, registration, or certification of health care providers, facilities, or other health care workers an individual or facility that is found to be operating in violation of this chapter or rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-13

Chapter 13. Communicable Disease: Body Fluid Precautions With Respect to Handling of Dead Bodies

IC 16-41-13-1

Notice requirement

Sec. 1. (a) The attending physician or health care provider shall prepare and attach to the body of a deceased individual a conspicuous notice with the statement: "Observe Body Fluid Precautions" whenever the physician or provider knows that at least one (1) of the following disease processes was present in the deceased at the time of death:

(1) Hepatitis (Types B, non A, non B).
(2) Human immunodeficiency virus (HIV) infection (acquired immune deficiency syndrome and AIDS related complex).
(3) Tuberculosis.
(4) Herpes.
(5) Gonorrhea.
(6) Syphilis (primary and secondary).
(7) Burkett's lymphoma.
(8) Kaposi's sarcoma.
(9) Arthropod-borne viral diseases.
(10) Babesiosis.
(11) Creutzfeldt-Jakob disease.
(12) Leptospirosis.
(13) Malaria.
(14) Rat-bite fever.
(15) Relapsing fever.
(16) Y. Pestis.
(17) Hemorrhagic fevers.
(18) Rabies.
(19) Any other communicable disease (as defined in IC 16-41-2).

(b) The notice required in this chapter must accompany the body when the body is picked up for disposition.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-2

Presentation of notice

Sec. 2. A person who:

(1) picks up or transports a body for disposition; and
(2) has received notice of a communicable disease under this chapter;

shall present the notice described in section 1 of this chapter to the embalmer, funeral director, or other person taking possession of the body.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-3

Confidentiality of information

Sec. 3. (a) Information regarding a deceased individual's communicable disease contained in the notice required by this chapter shall be kept confidential by the attending physician, health care provider, funeral director, or other person in possession of the body. Such information may be disclosed only if the information is required by state or federal law or under a court order based on circumstances described in IC 16-41-8-1.

(b) An attending physician, health care provider, or other person in possession of the body who discloses information in violation of this chapter commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-4

Refusal or failure to give notice; penalty

Sec. 4. A person who knowingly refuses or fails to give notice under section 1 of this chapter to persons disposing of a body that the deceased individual was known to have been diagnosed as having a communicable disease listed in section 1 of this chapter commits a Class C misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-5

Use of universal precautions

Sec. 5. The provisions of IC 16-41-11 requiring the use of universal precautions apply to embalmers, funeral directors, and other persons who take possession of or handle a body.

As added by P.L.2-1993, SEC.24.

IC 16-41-13-6

Violations

Sec. 6. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-14

Chapter 14. Communicable Disease: Testing of Semen Used in Artificial Insemination for Communicable and Sexually Transmitted Diseases

IC 16-41-14-0.2

Application of certain amendments to prior law

Sec. 0.2. P.L.184-1989 does not apply to semen donations that are provided to a practitioner (as defined in IC 16-8-7.5-5, before its repeal, now codified at section 4 of this chapter and at IC 16-18-2-288) before July 1, 1989.

As added by P.L.220-2011, SEC.321.

IC 16-41-14-1

Application of chapter to husbands

Sec. 1. This chapter does not apply to a donor who is the husband of the recipient.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-2

Artificial insemination

Sec. 2. As used in this chapter, "artificial insemination" means the introduction of semen into the vagina or cervix of a woman by means other than through the act of coitus.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-3

Donor insemination

Sec. 3. As used in this chapter, "donor insemination" means artificial insemination by a donor.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-4

Practitioner

Sec. 4. As used in this chapter, "practitioner" means a person who:

(1) performs donor insemination; or

(2) receives, processes, or stores semen intended for donor insemination.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-5

Disease testing; reports; pretesting donation

Sec. 5. (a) Except as provided in subsection (e) and section 7 of this chapter, a practitioner shall test each donor of semen for the following diseases before the donor provides a donation:

(1) Syphilis.

(2) Hepatitis B surface antigen and core antibody.

(3) HIV antibody.

(b) Except as provided in section 7 of this chapter, a practitioner shall test each recipient initially and at least annually as long as

artificial insemination procedures are continuing for the following diseases:

(1) Syphilis.

(2) Hepatitis B surface antigen.

(3) HIV antibody.

(c) A practitioner shall perform or arrange for a confirmatory test for HIV antibody if the initial screening test for HIV antibody yields positive results.

(d) The practitioner shall report the information required under IC 16-41-2 when a test performed under subsection (c) confirms the presence of a disease required to be reported to the state department.

(e) If a practitioner states in writing that a person has a disease or will soon undergo medical treatment that may damage the person's:

(1) ability to donate semen; or

(2) semen;

the practitioner shall allow the person to donate semen before performing the tests required under subsection (a).

As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.14.

IC 16-41-14-6

Testing rules

Sec. 6. The state department shall adopt rules under IC 4-22-2 to provide for testing for communicable and sexually transmitted diseases under this chapter, including the identification of the diseases to be tested and the type of test to be used.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-7

Use of semen; conditions; HIV testing

Sec. 7. (a) Except as provided in subsection (b), a practitioner may not use a donation of semen until the following conditions are met:

(1) The specimen has been frozen and quarantined for at least one hundred eighty (180) days.

(2) The donor is retested after one hundred eighty (180) days for the HIV antibody.

(b) If the recipient indicates that the donor is in a mutually monogamous relationship with the recipient, the practitioner:

(1) shall perform the HIV test required under this chapter for the donor at least annually as long as artificial insemination procedures are continuing; and

(2) may not perform artificial insemination unless the tests for HIV antibody performed under this chapter produce negative results.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-8

Disposal of HIV infected semen

Sec. 8. A practitioner shall dispose of a donation of semen after a confirmatory test indicates the presence of the HIV antibody. The

disposal must be made according to the rules concerning the disposal of infectious waste.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-9
Reporting of diseases; notification of donors

Sec. 9. (a) A practitioner shall report the name and address of a donor or recipient to the state department if a required test shows the presence of a disease required to be reported under IC 16-41-2.

(b) A practitioner shall attempt to notify a donor or recipient if a required test indicates the presence of a disease that must be reported under IC 16-41-2.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-10
Referral of HIV infected donors to counseling

Sec. 10. A practitioner shall refer a donor or recipient to appropriate counseling if a confirmatory test indicates the presence of the HIV antibody.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-11
Additional testing

Sec. 11. A practitioner or other person is not required to perform a test on the donor's semen if the following conditions are met:

(1) The semen is labeled indicating that the semen has been previously tested as required by this chapter.

(2) Evidence is submitted that the donor has been tested as required by this chapter and all tests were negative.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-12
Donor information

Sec. 12. (a) A practitioner shall require a semen donor to provide the following information:

(1) Name.

(2) Address.

(3) Date of birth.

(b) A practitioner shall request a semen donor to provide the semen donor's Social Security number.
As added by P.L.2-1993, SEC.24.

IC 16-41-14-13
Informed consent

Sec. 13. A practitioner shall provide information to a semen donor to enable the semen donor to give informed consent to the procedures required by this chapter. The information required by this section must be in the following form:

NOTICE

(1) This facility performs a screening test for the human

immunodeficiency virus (HIV) on every donor's blood.

(2) This facility reports to the state department of health the name and address of a semen donor or recipient when a confirmatory test of the semen donor's blood or the recipient's blood confirms the presence of antibodies to the human immunodeficiency virus (HIV).

(3) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.244.

IC 16-41-14-14

Practitioners' records; inspections

Sec. 14. (a) A practitioner shall keep the following:

(1) A record of the information required under this chapter.

(2) The results of tests required under sections 5 and 7 of this chapter.

(3) A writing required under section 5(e) of this chapter.

(b) Records kept under this section shall be made available to the state department for inspection.

(c) The state department may enter and inspect a practitioner's facility to investigate the premises, books, and records as necessary to carry out this chapter.

(d) A person may not interfere with the performance of the state department of health under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.15.

IC 16-41-14-15

Confidentiality of information; violations

Sec. 15. (a) A person may not disclose or be compelled to disclose information collected under this chapter or rules adopted under this chapter. This information may not be released or made public on subpoena or otherwise, except under the following circumstances:

(1) Release may be made of the information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of the information with the written consent of all individuals identified in the information released.

(3) Release may be made of the information to the extent necessary to enforce public health laws or to protect the health or life of a named person.

(b) Except as provided in subsection (a), a person who:

(1) is responsible for recording, reporting, or maintaining information required to be reported under this chapter; and

(2) recklessly, knowingly, or intentionally discloses or fails to protect information classified as confidential under this section;

commits a Class A misdemeanor.

(c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-16

Failure to conduct tests; penalty

Sec. 16. A practitioner who:

(1) is responsible for conducting a screening test required under this chapter; and

(2) knowingly or intentionally fails to conduct the screening test;

commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-17

Donation, sale, or transfer of HIV infected semen; penalties

Sec. 17. (a) This section does not apply to a person who transfers for research purposes semen that contains antibodies for the human immunodeficiency virus (HIV).

(b) A person who, for the purpose of artificial insemination, recklessly, knowingly, or intentionally donates, sells, or transfers semen that contains antibodies for the human immunodeficiency virus (HIV) commits transferring contaminated semen, a Level 5 felony. The offense is a Level 4 felony if the offense results in the transmission of the virus to another person.

As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.245.

IC 16-41-14-18

Inspections on private property

Sec. 18. (a) The state department may designate an agent who:

(1) if the agent has probable cause to believe that evidence of a health threat exists on private property;

(2) upon presentation of proper credentials; and

(3) under emergency circumstances or on issuance of a warrant;

may enter upon private property to inspect for and investigate possible violations of this chapter or rules adopted under this chapter.

(b) This section does not impair the authority of the state department to enter public or private property as authorized by law.

As added by P.L.2-1993, SEC.24.

IC 16-41-14-19

Orders of compliance; civil penalties

Sec. 19. (a) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per

violation per day against any person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter or a rule adopted under this chapter.

(b) The state department may commence an action against a facility licensed by the state department under either subsection (a) or the licensure statute for the facility, but the state department may not bring an action arising out of one (1) incident under both statutes. *As added by P.L.2-1993, SEC.24.*

IC 16-41-14-20
Violations

Sec. 20. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with section 18 or 19 of this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense. *As added by P.L.2-1993, SEC.24.*

IC 16-41-15

Chapter 15. Communicable Disease: Prevention and Control of Venereal Diseases

IC 16-41-15-1

Approved laboratory

Sec. 1. As used in this chapter, "approved laboratory" means a laboratory approved by the state department for making serological tests.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-2

Standard serological test for syphilis

Sec. 2. As used in this chapter, "standard serological test for syphilis" means a test recognized as a standard serological test for syphilis by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-3

Venereal disease prevention and control programs; appropriation requests

Sec. 3. The local board of health or health officer may request from the appropriate body an appropriation for a venereal disease prevention and control program, which may include hospitalization and quarantine, when the local board of health or health officer determines that either of the following conditions exist:

(1) There is a prevalency of venereal disease inimical to the public health, safety, and welfare of the citizens.

(2) Venereal disease is causing economic interference with any phase of public welfare in the local health board's or health officer's jurisdiction.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-4

Appropriations

Sec. 4. The local health officer shall transmit the request for funds to establish the venereal disease prevention and control program to the appropriate governing body, which may appropriate, out of any money that may be available in the governing body's general fund, an amount the governing body considers necessary and advisable to properly carry out the program as an emergency appropriation.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-5

Tax levies; collection; credit

Sec. 5. The appropriate governing body may levy annually a tax of not more than one cent ($0.01) on each one hundred dollars ($100) of taxable property for the control and prevention of venereal disease. The tax is in addition to other taxes of the local governing body. The tax shall be collected in the same manner as other taxes and shall be

credited to the local board of health venereal disease prevention and control fund.
As added by P.L.2-1993, SEC.24. Amended by P.L.6-1997, SEC.178.

IC 16-41-15-6
Infant eye examinations; treatment

Sec. 6. A person in professional attendance at a birth shall carefully examine the eyes of the infant and if there is reason for suspecting infection in one (1) or both eyes, the person in professional attendance at the birth shall apply such prophylactic treatment as may be prescribed by the state department.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-7
Birth certificates; ophthalmia neonatorum precaution information

Sec. 7. The state department shall require in each birth certificate, in addition to information otherwise required in the certificate, an answer to the question "Were precautions taken against ophthalmia neonatorum?".
As added by P.L.2-1993, SEC.24.

IC 16-41-15-8
Duty to provide ophthalmia neonatorum precaution information

Sec. 8. It is unlawful for any person in professional attendance at a birth to fail to include an answer to the question on a birth certificate: "Were precautions taken against ophthalmia neonatorum?".
As added by P.L.2-1993, SEC.24.

IC 16-41-15-9
Infant eye inflammation, swelling, or discharge; reports; treatment

Sec. 9. (a) If:

(1) one (1) or both eyes of an infant become inflamed, swollen, or show an unnatural discharge or secretion at any time within two (2) weeks after birth; and

(2) there is no legally qualified person in professional attendance;

the parent or other person who is in charge of the care of the infant shall immediately report in writing the infection or unnatural discharge not more than six (6) hours after discovery to the health officer.

(b) If treatment has not been secured by the time the report on the infection or unnatural discharge is made, the local health officer shall direct the person to secure adequate medical service and to make a report to the local health officer when the treatment has been secured.

(c) If the person who is in charge of the care of the infant is unable to pay for medical treatment for the infant, the local health officer may direct the person to place the infant in the charge of the proper agency or official responsible for the medical care of indigents.
As added by P.L.2-1993, SEC.24.

IC 16-41-15-10
Syphilis testing during pregnancy; duty of physician

Sec. 10. A physician who diagnoses a pregnancy of a woman shall take or cause to be taken a sample of blood:

(1) at the time of diagnosis of pregnancy; and

(2) during the third trimester of pregnancy, if the woman belongs to a high risk population for which the Centers for Disease Control "Sexually Transmitted Diseases Treatment Guidelines" recommend a third trimester syphilis testing;

and shall submit each sample to an approved laboratory for a standard serological test for syphilis.

As added by P.L.2-1993, SEC.24. Amended by P.L.255-1996, SEC.16.

IC 16-41-15-11
Syphilis testing during pregnancy; duty of attendant

Sec. 11. A person other than a physician who is permitted by law to attend a pregnant woman, but who is not permitted by law to take blood specimens, shall cause a sample of the blood of the pregnant woman to be taken by a licensed physician, who shall submit the sample to an approved laboratory for a standard serological test for syphilis.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-12
Syphilis testing at time of delivery

Sec. 12. If at the time of delivery positive evidence is not available to show that standard serological tests for syphilis have been made in accordance with section 10 of this chapter, the person in attendance at the delivery shall take or cause to be taken a sample of the blood of the woman at the time of the delivery and shall submit the sample to an approved laboratory for a standard serological test for syphilis.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-13
Syphilis testing information; inclusion in birth and stillbirth certificates

Sec. 13. (a) The state department shall require in each birth certificate and stillbirth certificate, in addition to information otherwise required in the certificate, the following information:

(1) Whether a serological test for syphilis was made for the woman who bore the child.

(2) If a serological test for syphilis was made, the date the blood specimen was taken.

(3) If a serological test for syphilis was made, whether the test was made during pregnancy or at the time of delivery.

(4) If a serological test for syphilis was not made, the reason why the test was not made.

(b) A person who prepares a birth certificate or a stillbirth certificate shall include the information required in subsection (a).

As added by P.L.2-1993, SEC.24.

IC 16-41-15-14
Admission of infected persons to charitable and penal institutions

Sec. 14. The fact that a person has a venereal disease may not bar the person's admission to a benevolent, charitable, or penal institution or correctional facility supported and maintained in any part by state funds.

As added by P.L.2-1993, SEC.24. Amended by P.L.12-1996, SEC.12.

IC 16-41-15-15
Treatment of infected persons admitted to charitable and penal institutions

Sec. 15. Whenever a person with a venereal disease is admitted to a benevolent, charitable, or penal institution or correctional facility of Indiana, the superintendent or official in charge of the institution or correctional facility shall institute and provide the proper treatment for the person and shall carry out laboratory tests necessary to determine the nature, course, duration, and results of the treatment.

As added by P.L.2-1993, SEC.24. Amended by P.L.12-1996, SEC.13.

IC 16-41-15-16
Free laboratory service for charitable and penal institutions

Sec. 16. The services of the laboratory of the state department shall be available without charge for the laboratory diagnoses and tests as may be necessary to carry out sections 14 and 15 of this chapter. The state institutions and the state department shall cooperate in every reasonable way in the prevention and suppression of venereal diseases.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-17
Application of chapter to spiritual and prayer healing

Sec. 17. Sections 10 through 12 of this chapter do not apply to the following:

(1) A person who administers to or treats the sick or suffering by spiritual means or prayer.

(2) A person who, because of the person's religious belief, in good faith selects and depends upon spiritual means or prayer for treatment or cure of diseases.

As added by P.L.2-1993, SEC.24.

IC 16-41-15-18
Violations

Sec. 18. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-16

Chapter 16. Communicable Disease: Treatment of Infectious Waste

IC 16-41-16-1

Application of chapter

Sec. 1. (a) This chapter applies to persons and facilities that handle infectious waste, including the following:

(1) Hospitals.
(2) Ambulatory surgical facilities.
(3) Medical laboratories.
(4) Diagnostic laboratories.
(5) Blood centers.
(6) Pharmaceutical companies.
(7) Academic research laboratories.
(8) Industrial research laboratories.
(9) Health facilities.
(10) Offices of health care providers.
(11) Diet or health care clinics.
(12) Offices of veterinarians.
(13) Veterinary hospitals.
(14) Emergency medical services providers.
(15) Mortuaries.

(b) Except as provided in sections 2, 4, and 7.5 of this chapter, this chapter does not apply to:

(1) home health agencies; or
(2) hospice services delivered in the home of a hospice patient.

As added by P.L.2-1993, SEC.24. Amended by P.L.146-1996, SEC.5.

IC 16-41-16-2

Contaminated sharp

Sec. 2. (a) As used in this chapter, "contaminated sharp" means an object that meets the following conditions:

(1) Is capable of cutting or penetrating the skin.
(2) Has been in contact with blood or body fluids.

(b) The term includes a hypodermic or suture needle, syringe, scalpel blade, pipette, lancet, or broken glass.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-3

Effective treatment

Sec. 3. (a) As used in this chapter, "effective treatment" means treatment that meets the following conditions:

(1) Reduces the pathogenic qualities of infectious waste to a point where the waste is safe to handle.
(2) Is designed for the specific waste involved.
(3) Is carried out in a manner consistent with rules adopted by the state department under section 8 of this chapter.

(b) The term includes the following:

(1) Incineration.

(2) Steam sterilization.
(3) Chemical disinfection.
(4) Thermal inactivation.
(5) Irradiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-4
Infectious waste

Sec. 4. (a) Except as provided in subsection (c), as used in this chapter, "infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease (as defined by rule adopted under IC 16-41-2-1).

(b) The term includes the following:
(1) Pathological wastes.
(2) Biological cultures and associated biologicals.
(3) Contaminated sharps.
(4) Infectious agent stock and associated biologicals.
(5) Blood and blood products in liquid or semiliquid form.
(6) Laboratory animal carcasses, body parts, and bedding.
(7) Wastes (as described under section 8 of this chapter).

(c) "Infectious waste", as the term applies to a:
(1) home health agency; or
(2) hospice service delivered in the home of a hospice patient;
includes only contaminated sharps.

As added by P.L.2-1993, SEC.24. Amended by P.L.146-1996, SEC.6.

IC 16-41-16-5
Pathological waste

Sec. 5. As used in this chapter, "pathological waste" includes:
(1) tissues;
(2) organs;
(3) body parts; and
(4) blood or body fluids in liquid or semiliquid form;
that are removed during surgery, biopsy, or autopsy.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-6
Secure area

Sec. 6. As used in this chapter, "secure area" means an area that is designed and maintained to prevent the entry of unauthorized persons.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-7
Treatment of infectious waste

Sec. 7. (a) Before infectious waste is placed in an area that is not a secure area and before the waste is sent for final disposal, all infectious waste must be:
(1) effectively treated on site; or
(2) transported off site for effective treatment;

according to rules adopted under section 8 of this chapter.

(b) A facility shall treat liquid infectious waste or excreta that are infectious waste as required by subsection (a) or flush the liquid infectious waste or excreta that are infectious waste in compliance with rules adopted under IC 4-22-2.

As added by P.L.2-1993, SEC.24.

IC 16-41-16-7.5

Treatment of noninfectious waste

Sec. 7.5. Any waste that is not infectious waste (as defined in section 4(c) of this chapter) must be double bagged and tied to protect handlers.

As added by P.L.146-1996, SEC.7.

IC 16-41-16-8

Rules

Sec. 8. (a) After consulting with an advisory committee composed of representatives of persons or facilities that handle infectious wastes, the state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The state department shall adopt rules under this section after considering the guidelines of the following:

(1) United States Environmental Protection Agency.

(2) United States Centers for Disease Control.

(3) United States Occupational Safety and Health Administration.

(4) State department of labor.

(5) State department of environmental management.

(c) The state department shall adopt rules under this section that establish an alternative to 410 IAC 1-3-28 to allow a person or facility that transports infectious waste offsite to label each container of infectious waste in a manner that:

(1) does not specifically identify the generating facility or treatment facility; and

(2) ensures that the identity of the generating facility or treatment facility may be readily obtained based on the label information.

As added by P.L.2-1993, SEC.24. Amended by P.L.128-1997, SEC.9.

IC 16-41-16-9

Inspections on private property

Sec. 9. (a) The state department may designate an agent who may enter on private property to inspect for and investigate possible violations of this chapter or rules adopted under this chapter if the following conditions are met:

(1) The agent has probable cause to believe that evidence of a health threat exists on private property.

(2) The agent presents proper credentials.

(3) Emergency circumstances exist or a warrant is issued.

(b) This section does not impair the authority of the state

department to enter public or private property as authorized by law.
As added by P.L.2-1993, SEC.24.

IC 16-41-16-10
Orders of compliance; civil penalties

Sec. 10. (a) The state department may commence an action under IC 4-21.5-3-6 or IC 4-21.5-4 for issuance of an order of compliance and a civil penalty not to exceed one thousand dollars ($1,000) per violation per day against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of official duties under this chapter or a rule adopted under this chapter.

(b) The state department may commence an action against a facility licensed by the state department under either subsection (a) or the licensure statute for that facility, but the state department may not bring an action arising out of one (1) incident under both statutes.
As added by P.L.2-1993, SEC.24.

IC 16-41-16-11
Violations

Sec. 11. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-17

Chapter 17. Prevention and Treatment Programs: Examination of Infants for Phenylketonuria, Hypothyroidism, and Other Disorders

IC 16-41-17-1

Waste blood specimen

Sec. 1. As used in this chapter, "waste blood specimen" means a blood sample or a solid, liquid, or semiliquid blood product that:

(1) has served the intended purpose under section 4 of this chapter; or

(2) has served the natural, biological, medical, or intended purpose and has been discarded or accumulated for discard from a use other than as provided under section 10(a)(5) of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-2

Examinations; religious exemption

Sec. 2. (a) Subject to subsection (d), every infant shall be given examinations at the earliest feasible time for the detection of the following disorders:

(1) Phenylketonuria.

(2) Hypothyroidism.

(3) Hemoglobinopathies, including sickle cell anemia.

(4) Galactosemia.

(5) Maple Syrup urine disease.

(6) Homocystinuria.

(7) Inborn errors of metabolism that result in mental retardation and that are designated by the state department.

(8) Congenital adrenal hyperplasia.

(9) Biotinidase deficiency.

(10) Disorders detected by tandem mass spectrometry or other technologies with the same or greater detection capabilities as tandem mass spectrometry, if the state department determines that the technology is available for use by a designated laboratory under section 7 of this chapter.

(b) Subject to subsection (d), every infant shall be given a physiologic hearing screening examination at the earliest feasible time for the detection of hearing impairments.

(c) Beginning January 1, 2012, and subject to subsection (d), every infant shall be given a pulse oximetry screening examination at the earliest feasible time for the detection of low oxygen levels. Section 10(a)(2) of this chapter does not apply to this subsection.

(d) If a parent of an infant objects in writing, for reasons pertaining to religious beliefs only, the infant is exempt from the examinations required by this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.2; P.L.149-2001, SEC.3; P.L.229-2011, SEC.165.

IC 16-41-17-3
Educational program

Sec. 3. The state department shall conduct an intensive educational program among physicians, hospitals, public health nurses, and the public concerning the disorders listed in section 2 of this chapter. The educational program must include information about:

(1) the nature of the disorders; and

(2) examinations for the detection of the disorders in infancy;

so that measures may be taken to prevent the mental retardation, medical complications, or mortality resulting from the disorders.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-4
Tests

Sec. 4. After consultation with medical authorities, the state department shall require appropriate tests to be used in the detection of disorders listed in section 2 of this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-5
Detection plans and procedures

Sec. 5. The state department and all local boards of health shall encourage and promote the development of plans and procedures for the detection of the disorders listed in section 2 of this chapter in all local health jurisdictions of Indiana.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-6
Reports

Sec. 6. (a) The state department shall provide forms on which the results of tests performed on each child for the disorders listed in section 2 of this chapter shall be reported to the state department by physicians and hospitals.

(b) The state department shall ascertain at least quarterly the extent of such testing and the findings shall be reported to all hospitals, physicians, and other groups interested in child welfare.
As added by P.L.2-1993, SEC.24.

IC 16-41-17-7
Testing laboratories

Sec. 7. (a) The state department shall designate at least one (1) laboratory for testing for disorders listed in section 2(a) of this chapter.

(b) The designated laboratories shall perform tests on all infants for the detection of disorders under section 2(a) of this chapter.

(c) This section does not prevent other facilities from conducting tests for disorders under this chapter.
As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.3.

IC 16-41-17-8

Blood samples

Sec. 8. Each hospital and physician shall:

(1) take or cause to be taken a blood sample from every infant born under the hospital's and physician's care; and

(2) transport or cause to be transported each blood sample described in subdivision (1) to a laboratory designated under section 7 of this chapter;

for testing for the disorders listed in section 2(a) of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.91-1999, SEC.4.

IC 16-41-17-9

Rules

Sec. 9. The state department shall adopt rules under IC 4-22-2 to carry out this chapter, including rules to ensure the following:

(1) Proper and timely sample collection and transportation under section 8 of this chapter.

(2) Quality testing procedures at the laboratories designated under section 7 of this chapter.

(3) Uniform reporting procedures.

(4) Centralized coordination, tracking, and follow-up.

(5) Appropriate diagnosis and management of affected newborns and counseling and support programs for newborns' families.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-10

Follow-up programs; newborn screening fees; waste blood specimen confidentiality

Sec. 10. (a) The state department shall develop the following:

(1) A registry for tracking and follow-up of all newborns and individuals for screening.

(2) A centralized program that provides follow-up, diagnosis, management, and family counseling and support, including equipment, supplies, formula, and other materials, for all infants and individuals identified as having one (1) of the disorders listed in section 2 of this chapter.

(3) A laboratory quality assurance program, including proficiency testing.

(4) A statewide network of genetic evaluation and counseling services.

(5) A system for using, for epidemiological survey and research purposes, any waste blood specimen generated under this chapter.

(b) The program described in subsection (a) shall be funded by collection of a newborn screening fee for each newborn screened by a designated laboratory.

(c) The state department shall set the fee and procedures for disbursement under rules adopted under IC 4-22-2. The fee must be based upon the projected cost of the program. The proposed fee must be approved by the budget agency before the rule is adopted.

(d) The designated laboratory shall assess, collect, and deposit the fees established under subsection (c) in the newborn screening fund established under section 11 of this chapter.

(e) The state department shall annually review the newborn screening fee.

(f) Waste blood specimens used for the purpose of implementing the system described under subsection (a)(5) may not include the name or other identifying characteristics that would identify the individual submitting the specimen.

As added by P.L.2-1993, SEC.24.

IC 16-41-17-11

Newborn screening fund

Sec. 11. (a) The newborn screening fund is established for the purpose of carrying out this chapter. The state department shall administer the fund.

(b) The expenses of the newborn screening program shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-1993, SEC.24.

IC 16-41-18

Chapter 18. Prevention and Treatment Programs: Hemophilia Care and Treatment Program

IC 16-41-18-1

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-18-2

Hemophilia

Sec. 2. As used in this chapter, "hemophilia" means a bleeding tendency resulting from a genetically determined deficiency factor in the blood.

As added by P.L.2-1993, SEC.24.

IC 16-41-18-3

Care and treatment programs

Sec. 3. (a) The state department shall establish a program for the care and treatment of persons suffering from hemophilia.

(b) The program established under subsection (a) shall assist persons who:

(1) require continuing treatment with blood and blood derivatives to avoid crippling, extensive hospitalization, and other effects associated with the critical, chronic bleeding condition; and

(2) are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital medical insurance coverage, Medicare, Medicaid, other government assistance programs, and private charitable assistance programs.

As added by P.L.2-1993, SEC.24.

IC 16-41-18-4

Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-18-5

Development of care and treatment programs

Sec. 5. The state department may do the following:

(1) Develop standards for determining eligibility for care and treatment under the hemophilia program established under this chapter.

(2) Assist in the development and expansion of programs for the care and treatment of persons suffering from hemophilia, including the following:

(A) Self-administration.

(B) Prevention.

(C) Home care.

(D) Other medical and dental procedures and techniques designed to provide maximum control over bleeding

episodes typical of the condition.

(3) Extend financial assistance to persons suffering from hemophilia in obtaining blood, blood derivatives and concentrates, and other efficacious agents for use in hospital, medical, and dental facilities and at home or participate in the cost of blood processing to the extent that such support will facilitate the supplying of blood, blood derivatives and concentrates, and other efficacious agents to hemophiliac patients at an economical cost, thus increasing the effectiveness of the money appropriated to carry out this chapter.

(4) Adopt rules necessary to carry out this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-1994, SEC.10.

IC 16-41-18-6

Violations

Sec. 6. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-18.5

Chapter 18.5. Lupus Education

IC 16-41-18.5-1

State department working with national lupus organization in educating the public

Sec. 1. The state department may work with a national lupus organization in educating the public about the following concerning lupus:

(1) The symptoms and nature of lupus.

(2) Personal risk factors.

(3) Options for diagnosing and treating lupus.

(4) Populations with elevated risk for lupus, including women and communities of color.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-2

State department promoting national organization's lupus education initiatives; distribution of health information on state department web site

Sec. 2. (a) The state department may promote a national lupus organization's initiatives to educate and train physicians, other health care providers, and human services providers on the most current and accurate scientific and medical information regarding the following concerning lupus:

(1) Diagnosis.

(2) Treatment.

(3) Risks and benefits of medications.

(4) Research advances.

(5) Therapeutic decision making, including medical best practices for diagnosing and treatment.

(b) The state department may distribute medically sound health information on the state department's Internet web site for review by the following:

(1) Local health departments.

(2) Schools.

(3) The division of aging.

(4) Employer wellness programs.

(5) Physicians and other health care providers.

(6) Hospitals.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-3

Participation in identifying partners for lupus education

Sec. 3. The state department may participate in identifying the appropriate partners to aid in the education components of this chapter, including the following:

(1) Local health departments.

(2) Schools.

(3) Division of aging.

(4) Area agencies on aging.
(5) Employer wellness programs.
(6) Physicians and other health care providers.
(7) Accident and sickness insurance companies and health maintenance organizations.
(8) Hospitals.
(9) Women's health organizations.
(10) Nonprofit entities.
(11) Community organizations.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.5-4

Acceptance of grants, services, and property for national education programs; seeking federal waivers

Sec. 4. The state department may accept grants, services, and property from the federal government, public entities, and private entities for the purpose of participating in national education programs. The state department may seek any federal waiver needed to maximize federal funds to educate the public about lupus.

As added by P.L.108-2011, SEC.1.

IC 16-41-18.6

Chapter 18.6. Parkinson's Disease Education

IC 16-41-18.6-1

State department working with national Parkinson's disease organization in educating public

Sec. 1. The state department may work with a national Parkinson's disease organization in educating the public about the following concerning Parkinson's disease:

(1) The symptoms and nature of Parkinson's disease.
(2) Personal risk factors.
(3) Options for diagnosing and treating Parkinson's disease.
(4) Populations with elevated risk for Parkinson's disease.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-2

State department promoting national organization education initiatives; distribution of health information on state department web site

Sec. 2. (a) The state department may promote a national Parkinson's disease organization's initiatives to educate and train physicians, other health care providers, and human services providers on the most current and accurate scientific and medical information regarding the following concerning Parkinson's disease:

(1) Diagnosis.
(2) Treatment.
(3) Risks and benefits of medications.
(4) Research advances.
(5) Therapeutic decision making, including medical best practices for diagnosing and treatment.

(b) The state department may distribute medically sound health information on the state department's Internet web site for review by the following:

(1) Local health departments.
(2) Schools.
(3) The division of aging.
(4) Employer wellness programs.
(5) Physicians and other health care providers.
(6) Hospitals.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-3

Participation in identifying partners for Parkinson's disease education

Sec. 3. The state department may participate in identifying the appropriate partners to aid in the education components of this chapter, including the following:

(1) Local health departments.
(2) Schools.
(3) Division of aging.

(4) Area agencies on aging.
(5) Employer wellness programs.
(6) Physicians and other health care providers.
(7) Accident and sickness insurance companies and health maintenance organizations.
(8) Hospitals.
(9) Women's health organizations.
(10) Nonprofit entities.
(11) Community organizations.

As added by P.L.108-2011, SEC.2.

IC 16-41-18.6-4

Acceptance of grants, services, and property for national education programs; seeking federal waivers

Sec. 4. The state department may accept grants, services, and property from the federal government, public entities, and private entities for the purpose of participating in national education programs. The state department may seek any federal waiver needed to maximize federal funds to educate the public about Parkinson's disease.

As added by P.L.108-2011, SEC.2.

IC 16-41-19

Chapter 19. Prevention and Treatment Programs: Provision of Free Drugs and Vaccines to Indigents

IC 16-41-19-1

Biologicals

Sec. 1. As used in this chapter, "biologicals" means drugs and vaccines.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-2

Antitoxins and vaccines

Sec. 2. All counties, cities, and towns shall supply without charge diphtheria, scarlet fever, and tetanus (lockjaw) antitoxin and rabies vaccine to persons financially unable to purchase the antitoxin or vaccine, upon the application of a licensed physician.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-3

Application forms

Sec. 3. The state department shall supply the necessary application forms to all local health officers for the administration of section 2 of this chapter and IC 12-20-16-14. The local health officers shall supply physicians with the forms on request. The application forms shall be designed to provide the statistical information required by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-4

Physicians' affirmation

Sec. 4. The physician or advanced practice nurse applying for free biologicals as provided in this chapter and IC 12-20-16-14 shall sign in ink the following affirmation printed on the application form:

> I solemnly affirm that the free biologicals applied for will be administered to the person named above, and it is my belief after inquiry that the person is financially unable to pay for the biologicals.

As added by P.L.2-1993, SEC.24. Amended by P.L.262-2003, SEC.8.

IC 16-41-19-5

Supply of biologicals

Sec. 5. On receipt of an official form properly filled out and signed in ink by a physician, any dealer may supply the biologicals called for in the application form.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-6

Payment claims

Sec. 6. When the application form is filed with the proper financial officer, the application form constitutes a legal claim for the market

price of the furnished biologicals against the appropriate county, township, city, or town in which biologicals are used and against which the application form is issued.
As added by P.L.2-1993, SEC.24.

IC 16-41-19-7
Costs

Sec. 7. (a) Except as provided in subsection (b), all costs that are incurred in furnishing biologicals under this chapter, IC 12-20-16-2(c)(13), or IC 12-20-16-14 shall be paid by:

(1) the appropriate county, city, or town against which the application form is issued from general funds; and

(2) the appropriate township against which the application form is issued from funds in the township assistance fund;

not otherwise appropriated without appropriations.

(b) A township is not responsible for paying for biologicals as provided in subsection (a)(2) if the township trustee has evidence that the individual has the financial ability to pay for the biologicals.

(c) After being presented with a legal claim for insulin being furnished to the same individual a second time, a township trustee may require the individual to complete and file a standard application for township assistance in order to investigate the financial condition of the individual claiming to be indigent. The trustee shall immediately notify the individual's physician that:

(1) the financial ability of the individual claiming to be indigent is in question; and

(2) a standard application for township assistance must be filed with the township.

The township shall continue to furnish insulin under this section until the township trustee completes an investigation and makes a determination as to the individual's financial ability to pay for insulin.

(d) For purposes of this section, the township shall consider an adult individual needing insulin as an individual and not as a member of a household requesting township assistance.
As added by P.L.2-1993, SEC.24. Amended by P.L.259-2001, SEC.9; P.L.73-2005, SEC.169.

IC 16-41-19-8
Records

Sec. 8. Each local health officer shall make official records of all cases in which free biologicals are furnished in the local health officer's jurisdiction. The local health officer shall, by the fifth day of each month, send information concerning the preceding month as required by the state department.
As added by P.L.2-1993, SEC.24.

IC 16-41-19-9
Preventive biologicals

Sec. 9. (a) The state department may supply without charge, in the interest of disease prevention and control, preventive biologicals to

local health officers for immunization of individuals financially unable to purchase the biologicals.

(b) The state department shall determine the procedures necessary for the proper administration of this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-19-10

Violations

Sec. 10. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-19.5

Chapter 19.5. Prevention and Treatment Programs: Post-Organ Transplant Program

IC 16-41-19.5-1

"Post-organ transplant program" defined

Sec. 1. As used in this chapter, "post-organ transplant program" refers to a program established by the state department to pay recipients eligible under this chapter for costs of immunosuppressive drugs prescribed exclusively for the maintenance of individuals who undergo the transplant of an internal organ, including a heart, lung, liver, or kidney, if the costs of the drugs are not reimbursed from other sources.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-2

Establishment

Sec. 2. The state department shall establish a post-organ transplant program.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-3

Eligibility

Sec. 3. An individual who meets the following requirements is eligible for the post-organ transplant program:

(1) The individual has submitted a properly completed application on a form supplied by the state department.

(2) The individual has a household income that is not more than two hundred fifty percent (250%) of the federal poverty level as determined by the federal Office of Management and Budget.

(3) The individual is a resident of Indiana and has resided in Indiana for twelve (12) months before submitting the application. An individual is not excluded from the program for receiving an organ transplant outside Indiana.

(4) The individual meets any other eligibility standards adopted by the state department.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-4

Amount paid by state department to applicants

Sec. 4. (a) The state department shall determine the maximum amount the state department will pay each eligible post-organ transplant program applicant based on the following criteria:

(1) Available money.

(2) Covered immunosuppressive drugs.

(3) The terms of any contract between the state department and the patient's health care provider.

(4) The reimbursement rate for a post-organ transplant drug may not be greater than the Medicaid reimbursement rate for the drug, minus a copayment by the recipient.

(b) The state health commissioner may restrict or categorize payments for post-organ transplant drugs to meet budgetary limitations.
As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-5
Reimbursement of recipients by state department

Sec. 5. (a) Except as provided in subsection (b), the state department may not reimburse an eligible recipient under the post-organ transplant program for drug costs that are reimbursed or eligible for reimbursement by a governmental entity or other third party, including Medicaid, Medicare, the Veterans Administration, a health insurance company, or a health maintenance organization.

(b) The state health commissioner may waive the requirements of subsection (a) on a case by case basis if the commissioner determines that enforcement of subsection (a) will deny services to a class of post-organ transplant patients because of conflicting state or federal law.

(c) The state department shall adopt rules under IC 4-22-2 to ensure that all required benefit payments for post-organ transplant drugs under subsection (a) are properly paid.
As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-6
Duties of state department

Sec. 6. The state department shall:

(1) maintain an immunosuppressive drug formulary that includes the drugs that are eligible for reimbursement under the post-organ transplant program;

(2) establish an internal review procedure for updating the formulary that includes procedures for adding and deleting drugs from the formulary; and

(3) review the formulary at least quarterly each year.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-7
Post-organ transplant program fund

Sec. 7. (a) The post-organ transplant program fund is established for the purpose of providing payment of immunosuppressive drugs to eligible organ transplant recipients under this chapter. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund consists of appropriations, gifts, grants, and donations from public or private sources. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.27-1999, SEC.2.

IC 16-41-19.5-8
Rules

Sec. 8. The state department may adopt rules under IC 4-22-2 that are necessary to implement this chapter.
As added by P.L.27-1999, SEC.2.

IC 16-41-20

Chapter 20. Health, Sanitation, and Safety: Dwellings Unfit for Human Habitation

IC 16-41-20-1

Dwellings unfit for human habitation

Sec. 1. A dwelling is unfit for human habitation when the dwelling is dangerous or detrimental to life or health because of any of the following:

(1) Want of repair.

(2) Defects in the drainage, plumbing, lighting, ventilation, or construction.

(3) Infection with contagious disease.

(4) The existence on the premises of an unsanitary condition that is likely to cause sickness among occupants of the dwelling.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-2

Powers of local inspectors of buildings

Sec. 2. The inspector of buildings in a city or town may exercise all the powers granted the inspector in the following:

(1) A city or town ordinance dealing with housing.

(2) This chapter to boards of health.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-3

Exercise of powers by the state health department

Sec. 3. The state department may not exercise a power granted in this chapter without giving to the local board of health or county health officer having jurisdiction a notice setting forth the conditions that have been certified to the state department or of which the state department has knowledge. If the local board of health or county health officer fails to act not more than three (3) days after the notice, the state department may exercise the granted powers.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-4

Orders to vacate dwellings

Sec. 4. Whenever the state department, the local board of health, or county health officer determines that a dwelling is unfit for human habitation, the state department, local board of health, or county health officer may issue an order requiring all persons living in the dwelling to vacate the dwelling within not less than five (5) days and not more than fifteen (15) days. The order must mention at least one (1) reason for the order.

As added by P.L.2-1993, SEC.24.

IC 16-41-20-5

Extension or revocation of orders to vacate dwellings

Sec. 5. (a) The state department, local board of health, or county

health officer that issued an order to vacate under section 4 of this chapter shall, for a good reason, extend the time within which to comply with the order.

(b) The state department, local board of health, or county health officer may revoke the order if satisfied that the danger from the dwelling has ceased to exist and that the dwelling is fit for habitation.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-6
Public nuisances

Sec. 6. The state department, local board of health, or county health officer may declare a dwelling that is unfit for human habitation a public nuisance. The state department, local board of health, or county health officer may order to be removed, abated, suspended, altered, improved, or purified a dwelling, structure, excavation, business, pursuit, or thing in or about the dwelling or the dwelling's lot, or the plumbing, sewerage, drainage, light, or ventilation of the dwelling.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-7
Orders for cleaning, repairing, or improving

Sec. 7. The state department, local board of health, or county health officer may order purified, cleansed, disinfected, renewed, altered, repaired, or improved a dwelling, excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, or thing in or about a dwelling that is found to be unfit for human habitation or the dwelling's lot.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-8
Service of orders

Sec. 8. An order issued under this chapter shall be served on the tenant and the owner of the dwelling or the owner's rental agent. The order may be served on a person who by contract has assumed the duty of doing the things that the order specifies to be done.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-9
Judicial review of orders

Sec. 9. (a) A person aggrieved by an order of a local board of health or county health officer issued under this chapter may, not more than ten (10) days after the making of the order, file with the circuit or superior court a petition seeking a review of the order.

(b) The court shall hear the appeal. The court's decision is final.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-10
Appeal bonds

Sec. 10. The person appealing to the circuit or superior court shall

file with the court a bond in an amount to be fixed by the court with sureties to be approved by the judge and conditioned to pay all the costs on the appeal if the person fails to sustain the appeal or the appeal is dismissed.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-11
Review proceedings

Sec. 11. (a) Review proceedings shall be docketed as an action between the appellant and the local board of health or county health officer and shall be tried as civil actions are tried.

(b) The:

(1) corporation counsel or the department of law in the city or town; and

(2) prosecuting attorney in cases arising outside of cities and towns and in cities and towns that do not have a department of law or any other legal representative;

shall attend to all the proceedings on the part of the local board of health or county health officer.

(c) If no appeal is taken within the required ten (10) days, the order of the local board of health or county health officer is final and conclusive.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-12
Costs and expenses

Sec. 12. A person who:

(1) violates this chapter; or

(2) fails to comply with an order of:

(A) the state department or the state department's authorized agents;

(B) a local board of health; or

(C) a county health officer;

is liable for all costs and expenses paid or incurred by the state department, a local board of health or the local board of health's authorized agents, or a local health officer in executing the order. This amount may be recovered in a civil action brought by the state department, the local board of health or the local board of health's authorized agents, or the county health officer, who is entitled to recover reasonable attorney's fees.
As added by P.L.2-1993, SEC.24.

IC 16-41-20-13
Violations

Sec. 13. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-21

Chapter 21. Health, Sanitation, and Safety: Requirements for School Buildings

IC 16-41-21-1

Construction and remodeling

Sec. 1. Schools shall be constructed or remodeled in accordance with the sanitary principles and rules of the fire prevention and building safety commission and the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-21-2

Water supply and sewage disposal facilities

Sec. 2. Water supply and sewage disposal facilities serving schools must be constructed and operated in accordance with applicable rules of the state department and the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.103.

IC 16-41-21-3

Drainage of sites

Sec. 3. Sites for schools shall be drained so as to secure and maintain dry grounds and buildings. Walks leading from the street to the school must be dry.

As added by P.L.2-1993, SEC.24.

IC 16-41-21-4

Playgrounds

Sec. 4. Suitable playgrounds shall be provided for all schools.

As added by P.L.2-1993, SEC.24.

IC 16-41-21-5

Minimum ground area requirements prohibited

Sec. 5. Notwithstanding any rule or requirement to the contrary, a minimum ground area requirement may not be imposed as a condition to the renovation of a school building.

As added by P.L.2-1993, SEC.24.

IC 16-41-21-6

Prohibited sites; waiver

Sec. 6. (a) A school site, school, or addition to a school may not be located within five hundred (500) feet of the following:

(1) A stream.
(2) A railroad.
(3) A stable.
(4) A horse, mule, or cattle barn used for breeding.
(5) A noisemaking industry.
(6) Any unhealthful conditions.

(b) A:

(1) railroad;
(2) stable;
(3) horse, mule, or cattle barn used for breeding;
(4) noisemaking industry; or
(5) unhealthful condition;

may not be located or erected within five hundred (500) feet of a school site, school, or school addition. This provision may be waived on written approval of the superintendent of public instruction, the state health commissioner or the commissioner's legally authorized agent, and the division of fire and building safety.
As added by P.L.2-1993, SEC.24. Amended by P.L.1-2006, SEC.305.

IC 16-41-21-7
Repealed
(Repealed by P.L.104-2003, SEC.10.)

IC 16-41-21-8
Repealed
(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-21-9
Cloakrooms and lockers
Sec. 9. School cloakrooms must be well-lighted, warmed, and ventilated or sanitary lockers must be provided.
As added by P.L.2-1993, SEC.24.

IC 16-41-21-10
Drinking water
Sec. 10. Schools shall be supplied with potable drinking water that comes from sources approved by the commissioner of the department of environmental management appointed under IC 13-13-2-1. Whenever it is practicable, flowing sanitary drinking fountains that do not require drinking cups shall be provided. If drinking cups are necessary, the cups must be individual smooth glass, enameled metal, or otherwise sanitary drinking cups. Water buckets and tin drinking cups may not be used.
As added by P.L.2-1993, SEC.24. Amended by P.L.1-1996, SEC.75.

IC 16-41-21-11
Wells and pumps
Sec. 11. School wells and pumps shall be supplied with troughs or drains to take away waste water. Pools, sodden places, or mudholes are not allowed near a well. When water is not supplied at pumps or from water faucets or sanitary drinking fountains, covered tanks or coolers with spring or self-closing faucets shall be provided.
As added by P.L.2-1993, SEC.24.

IC 16-41-21-12
Repealed
(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-21-13
Water closets and outhouses

Sec. 13. Water closets must be efficient and sanitary and furnished with stalls for each place. When water closets are not provided, there must be a separate sanitary outhouse for each sex. Outhouses for males must have urinals arranged with stalls and must have galvanized iron conduits or drain pipes of vitrified or other impervious material. The conduits must drain into a vault or other suitable place approved by the health authorities.
As added by P.L.2-1993, SEC.24.

IC 16-41-21-14
Invalidity of claims for nonconforming construction or materials

Sec. 14. A money claim for construction or remodeling or for any materials, supplies, sanitary apparatus, or systems furnished or constructed for any school is null and void if the construction or remodeling does not comply with the requirements of this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-21-15
Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-21-16
Repealed

(Repealed by P.L.104-2003, SEC.10.)

IC 16-41-21-17
Repealed

(Repealed by P.L.104-2003, SEC.10.)

IC 16-41-21-18
Transfer of nonconforming materials, supplies, or equipment; penalty

Sec. 18. A person who recklessly transfers to a township trustee or board of school commissioners for use in a school any materials, supplies, sanitary apparatus, or systems that do not comply with this chapter commits a Class B misdemeanor.
As added by P.L.2-1993, SEC.24.

IC 16-41-21-19
Violations

Sec. 19. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-22

Chapter 22. Health, Sanitation, and Safety: Mass Gatherings

IC 16-41-22-1

Exemptions from application of chapter

Sec. 1. (a) This chapter does not apply to a regularly established, permanent place of worship, a stadium, an athletic field, an arena, an auditorium, a coliseum, or other similar permanently established place of assembly for assemblies that do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(b) This chapter does not apply to government sponsored fairs held on regularly established fairgrounds or to assemblies required to be licensed by other statutes or ordinances.

(c) This chapter does not apply to local or regional festivals, celebrations, or events that are held on an annual or regular basis and that were observed or celebrated at least two (2) times before January 1, 1973.

(d) This chapter does not apply to assemblies that are held on land owned or leased by the state or the federal government.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-2

Assembly

Sec. 2. As used in this chapter, "assembly" means a collection of individuals gathered together at any location at any one (1) time for any purpose.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-3

Governing body

Sec. 3. As used in this chapter, "governing body" means the following:

(1) County executive of a county.

(2) City-county fiscal and legislative body of a consolidated city.

(3) Fiscal and legislative body of a city.

(4) Town fiscal and legislative body.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-4

Unit

Sec. 4. As used in this chapter, "unit" means a city, town, or county.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-5

Licenses to hold assemblies

Sec. 5. A person may not:

(1) permit;

(2) maintain;
(3) promote;
(4) conduct;
(5) advertise;
(6) act as entrepreneur;
(7) undertake;
(8) organize;
(9) manage; or
(10) sell or give tickets to;

an actual or a reasonably anticipated assembly of at least five thousand (5,000) people that continues or can reasonably be expected to continue for at least eighteen (18) consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the appropriate law enforcement official of the unit in which the assembly is to gather. A license to hold an assembly issued to one (1) person permits any person to engage in any lawful activity in connection with the holding of the licensed assembly.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-6
Separate licenses

Sec. 6. A separate license is required for each day and each location in which at least five thousand (5,000) people assemble or can reasonably be anticipated to assemble and can reasonably be expected to continue for at least eighteen (18) consecutive hours.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-7
License fees

Sec. 7. The fee for each license is one hundred dollars ($100), payable to the state.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-8
Maximum attendance

Sec. 8. A license permits the assembly of only the maximum number of people stated in the license. The licensee may not sell tickets to or permit to assemble at the licensed location more than the maximum permissible number of people.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-9
Noise restriction

Sec. 9. The licensee may not permit the sound of the assembly to carry unreasonably beyond the boundaries of the location of the assembly.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-10
Conditions for licensing

Sec. 10. (a) Before an applicant may be issued a license, the applicant must comply with this section.

(b) The applicant must determine the maximum number of people that will be assembled or admitted to the location of the assembly. The maximum number may not exceed the maximum number that can reasonably assemble at the location of the assembly. If the assembly is to continue overnight, the maximum number is not more than is allowed to sleep within the boundaries of the location of the assembly by zoning or health ordinances of the unit.

(c) The applicant must provide proof of the following:

(1) Food concessions will be in operation on the grounds with sufficient capacity to accommodate the number of persons expected to be in attendance.

(2) The applicant, at the applicant's own expense, before the assembly commences, will do the following:

(A) Furnish potable water that meets the following conditions:

(i) Meets all federal and state requirements for purity.

(ii) Is sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one (1) gallon per person per day and water for bathing at the rate of at least ten (10) gallons per person per day.

(B) Furnish separate, enclosed toilets for males and females that meet the following conditions:

(i) Meet all state and local specifications.

(ii) Are conveniently located throughout the grounds.

(iii) Are sufficient to provide facilities for the maximum number of people to be assembled, at the rate of at least one (1) toilet for every one hundred fifty (150) females and at least one (1) toilet for each two hundred (200) males.

(C) Furnish a lavatory with running water under pressure and a continuous supply of soap and paper towels with each toilet.

(D) Provide, together with the toilets, an efficient, sanitary means of disposing of waste matter deposited in compliance with all state and local laws and rules.

(E) Provide a sanitary method of disposing of solid waste, in compliance with state and local laws and rules, sufficient to dispose of the solid waste production of the maximum number of people to be assembled, at the rate of at least two and one-half (2 1/2) pounds of solid waste per person per day.

(F) Provide a plan for holding and collecting all solid waste at least one (1) time each day of the assembly and provide sufficient trash cans with tight fitting lids and personnel to perform the task.

(G) Provide physicians and nurses licensed to practice in Indiana, at the rate of at least one (1) physician for every ten thousand (10,000) people and at least one (1) nurse for every

five thousand (5,000) people anticipated to be assembled, with one-half (1/2) of the physicians and nurses to be on the site for which the license has been issued and the other one-half (1/2) to be readily available.

(H) Provide an enclosed covered structure where treatment may be provided containing a separately enclosed treatment room for each physician.

(I) Provide at least one (1) emergency ambulance available at all times.

(J) If the assembly is to continue during hours of darkness, provide illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles. However, the illumination may not shine unreasonably beyond the boundaries of the location of the assembly.

(K) Provide a free parking area inside the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled, at the rate of at least one (1) parking space for every four (4) persons.

(L) Provide telephones connected to outside lines sufficient to provide for the maximum number of people to be assembled, at the rate of at least one (1) separate line and receiver for each one thousand (1,000) people.

(M) If the assembly is to continue overnight, provide camping facilities in compliance with all state and local requirements, sufficient to provide camping accommodations for the maximum number of people to be assembled.

(N) Provide security guards:

(i) who are either regularly employed, duly sworn, off duty law enforcement officers or private guards licensed in Indiana; and

(ii) sufficient to provide adequate security for the maximum number of people to be assembled, at a rate of at least one (1) security guard for each seven hundred fifty (750) people.

(O) Provide fire protection that meets the following conditions:

(i) Includes alarms, extinguishing devices, fire lanes, and escapes.

(ii) Is sufficient to meet all state and local standards for the location of the assembly.

(iii) Includes sufficient emergency personnel to operate efficiently the required equipment.

(P) Take all reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(Q) File a bond with the clerk of the unit in which the assembly is to gather. The bond must meet the following conditions:

(i) Be either in cash or underwritten by a surety agent

licensed to do business in Indiana.

(ii) Be issued at the rate of four dollars ($4) per person for the maximum number of people permitted to assemble.

(iii) Indemnify and hold harmless the unit or the unit's agents, officers, or employees from any liability or causes of action that might arise by reason of granting the license and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(iv) Guarantee the state the payment of any taxes that accrue as a result of the gathering.

(v) Guarantee reimbursement of ticketholders if the event is canceled.

(vi) Guarantee repayment to any unit for actual expenses of repair or replacement of property owned by the unit or for which the unit is responsible.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-11
License applications

Sec. 11. Application for a license to hold an actual or anticipated assembly of at least five thousand (5,000) persons that can reasonably be expected to continue for at least eighteen (18) consecutive hours must be made in writing to the chief of police of the municipality or sheriff of the county at least sixty (60) days in advance of the assembly. The application must be accompanied by the bond required by section 10(c)(2)(Q) of this chapter and the license fee required by section 7 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-12
Approval of licenses

Sec. 12. (a) The chief of police or the sheriff to whom the application is made shall on the same day forward the application with the chief of police's or sheriff's recommendations to the local health department.

(b) The local health department shall examine the application and make the investigation that the local health department considers necessary and either approve or disapprove the application not more than fifteen (15) days after receipt. Immediately after making a determination, the local health department shall return the application, marked approved or disapproved, to the sheriff or chief of police who submitted the application.

(c) The sheriff or chief of police shall notify the applicant within five (5) days that the application has been disapproved or that the sheriff or chief of police will issue the license. The sheriff or chief of police may issue the license provided for in this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.24.

IC 16-41-22-13

Statement of truth and accuracy of information

Sec. 13. The application must contain a statement made upon oath or affirmation that the statements contained in the application are true and correct to the best knowledge of the applicant. The statement must be signed and sworn to or affirmed by the following:

(1) The individual for an individual.

(2) All officers for a corporation.

(3) All partners for a partnership.

(4) All officers of an unincorporated association, a society, or a group.

(5) All members of an association, a society, or a group if there are no officers.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-14

Contents of license applications

Sec. 14. The application must disclose the following:

(1) The name, age, residence, and mailing address of each person required to sign the application by section 13 of this chapter and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence, and mailing address of each person holding at least ten percent (10%) of the stock of the corporation.

(2) The address and legal description of all property on which the assembly is to be held, together with the name, residence, and mailing address of the record owner or owners of all the property.

(3) Proof of ownership of all property on which the assembly is to be held, or a statement made upon oath or affirmation by the record owner or owners of all property that the applicant has permission to use the property for an assembly of at least five thousand (5,000) persons.

(4) The nature or purpose of the assembly.

(5) The total number of days or hours during which the assembly is to last.

(6) The maximum number of persons that the applicant will permit to assemble at any time, not to exceed the maximum number that can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the unit if the assembly is to continue overnight.

(7) The maximum number of tickets to be sold, if any.

(8) The plans of the applicant to limit the maximum number of people permitted to assemble.

(9) The plans for supplying potable water, including the source, amount available, and location of outlets.

(10) The plans for providing toilet and lavatory facilities, including the source, number, location, and type and the means of disposing of waste deposited.

(11) The plans for holding, collecting, and disposing of solid waste materials.
(12) The plans to provide for medical facilities, including the names, addresses, and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
(13) The plans, if any, to illuminate the location of the assembly, including the source, amount of power, and the location of lamps.
(14) The plans for parking vehicles, including size and location of lots, points of highway access, interior roads, and routes between highway access and parking lots.
(15) The plans for telephone service, including the source, number, and location of telephones.
(16) The plans for camping facilities, if any, including facilities and the locations of the facilities.
(17) The plans for security, including the number of guards, the guards' employment, names, addresses, credentials, and hours of availability.
(18) The plans for fire protection, including the number, type, and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
(19) The plans for sound control and sound amplification, if any, including the number, location, and power of amplifiers and speakers.
(20) The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and the concessionaires' license or permit numbers.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-15
Processing of applications and issuance of licenses

Sec. 15. An application for a license under this chapter must be processed not more than twenty (20) days after receipt and must be issued if all conditions are met.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-16
Revocation of licenses

Sec. 16. A license issued under this chapter may be revoked by the governing body of the unit issuing the license at any time if any of the conditions necessary for the issuing of or contained in the license are not met or if any condition previously met ceases to be met.

As added by P.L.2-1993, SEC.24.

IC 16-41-22-17
Appeals from denial or revocation of licenses

Sec. 17. A person aggrieved by the denial or revocation of a license under this chapter may appeal to the circuit court of the

county in which the assembly was to gather. The appeal must be taken not more than fifteen (15) days after the denial or revocation. The appeal is privileged.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-18
Injunctions
Sec. 18. This chapter may be enforced by injunction, and the injunction has statewide application.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-19
Public nuisance
Sec. 19. The holding of an assembly in violation of a provision or condition contained in this chapter constitutes a public nuisance.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-20
Traffic control
Sec. 20. When the licensing authority determines that the public health, safety, or welfare is or may be affected, or where damage or obstruction may occur, the authority may close an access road to or from the site of the assembly or otherwise control or limit traffic.
As added by P.L.2-1993, SEC.24.

IC 16-41-22-21
License violations
Sec. 21. A person who knowingly violates section 5 of this chapter or violates a condition on which the person is granted a license commits a Level 6 felony.
As added by P.L.2-1993, SEC.24. Amended by P.L.158-2013, SEC.246.

IC 16-41-22-22
Violations
Sec. 22. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.
(b) Each day a violation continues constitutes a separate offense.
As added by P.L.2-1993, SEC.24.

IC 16-41-23

Chapter 23. Health, Sanitation, and Safety: Public Restroom Use Charges

IC 16-41-23-1

Sexual discrimination prohibited

Sec. 1. An establishment that maintains restrooms for use by the public may not discriminate in charges required for facilities used by men and facilities used by women.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-2

Coin lock controls; free toilet units

Sec. 2. (a) As used in this section, "toilet units" means commodes and urinals.

(b) When coin lock controls are used in public restrooms:

(1) at least one-half (1/2) of the toilet units must be free of charge; and

(2) the number of free toilet units available to women must equal the number of free toilet units available to men.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-3

Admission keys

Sec. 3. If coin locks are placed on entry doors of public restrooms:

(1) admission keys must be readily provided without charge when requested; and

(2) notice as to the availability of the admission keys must be posted on the restroom entry door.

As added by P.L.2-1993, SEC.24.

IC 16-41-23-4

Violations

Sec. 4. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-24

Chapter 24. Health, Sanitation, and Safety: Water Supplies

IC 16-41-24-1

Deposit of deleterious substances prohibited

Sec. 1. A person may not deposit or cause or permit to be deposited in the waters of Indiana a substance that meets any of the following conditions:

(1) Is deleterious to the public health or to the prosecution of any industry or lawful occupation in which the water may be lawfully used.

(2) Adversely affects any agricultural, floricultural, or horticultural pursuit.

(3) Lessens or impairs any livestock industry or the use of the water for domestic animals.

(4) Lessens, impairs, or materially interferes with the use of the water by the state or any political subdivision of the state.

(5) Destroys or jeopardizes any beneficial animal, fish, or vegetable life in the water.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-2

Pollution abatement actions

Sec. 2. (a) A person who has suffered or is threatened with damage because of pollution of water by any person may bring a suit to abate the pollution or threatened pollution.

(b) A suit under this section must originate in a superior or circuit court in the jurisdiction in which the pollution occurs or is threatened.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-3

Sale of unfit water prohibited

Sec. 3. A person, firm, or corporation may not offer for sale for public consumption any drinking water, bottled water, or mineral water that shows a bacteriological or chemical content deleterious to public health. The state department shall prohibit the further distribution or consumption of the unfit water.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-4

Analysis of potability and suitability

Sec. 4. At intervals designated by the state department, a person offering for sale for public consumption any drinking water, bottled water, or mineral water shall submit to the state department samples of the drinking water, bottled water, or mineral water, natural or treated, for analysis to determine the water's potability and suitability for the purpose for which the water is intended.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-5

Analysis costs

Sec. 5. For each sample of water analyzed and tested each year, the state department shall collect a fee of not more than ten dollars ($10) to be paid into the state general fund.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-6

Enforcement

Sec. 6. The state department shall enforce this chapter and the statutes relating to pollution of waters and public water supply, except where jurisdiction is vested in the environmental rules board and the department of environmental management.

As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.104.

IC 16-41-24-7

Sewage treatment plant assessments

Sec. 7. All municipalities may provide the means for paying the cost of constructing a plant for purifying the discharge of public sewers and drains by assessing the cost of the plant against all of the several parcels of real property situated within the corporate limits and make each assessment in an amount as great as but not greater than the value of the benefits received by each parcel respectively as the result of the construction of the plant.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-8

Assessments against real property

Sec. 8. Statutes for the construction of public sewers and assessing the cost of the sewers against real property in the municipalities apply to the construction of sewage treatment plants and the assessing of the cost of the plant against the real property benefited.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-9

Payment of assessments by installment

Sec. 9. At the option of the owner assessed, the assessment may be paid in ten (10) equal annual installments as in the case of assessments for other sewers.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-10

Water testing fees and costs

Sec. 10. (a) For testing a sample of water for a private person, firm, or corporation not offering drinking water, bottled water, or mineral water for sale for public consumption, the state department shall charge and collect a fee of not more than ten dollars ($10). In addition, the state department may charge a mailing and shipping charge to defray the costs of mailing and shipping.

(b) A fee and the mailing and shipping charges collected under

this section shall be deposited in a revolving fund to the credit of the state department and used to defray the expenses.

(c) The state department may adopt rules under IC 4-22-2 to set a fee under this section. The fee must equal an amount necessary to cover the cost of the test.

As added by P.L.2-1993, SEC.24.

IC 16-41-24-11

Violations

Sec. 11. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-25

Chapter 25. Health, Sanitation, and Safety: Residential Septic Systems

IC 16-41-25-1

Plan review; permit rules; septic systems in fill soil in certain counties

Sec. 1. (a) The state department shall adopt rules under IC 4-22-2 that provide for a reasonable period not exceeding forty-five (45) days in which a plan review and permit for residential septic systems must be approved or disapproved.

(b) This subsection applies to a county with a population of more than seventy-seven thousand (77,000) but less than eighty thousand (80,000). As used in this subsection, "fill soil" means soil transported and deposited by humans or soil recently transported and deposited by natural erosion forces. A rule that the state department adopts concerning the installation of residential septic systems in fill soil may not prohibit the installation of a residential septic system in fill soil on a plat if:

(1) before the effective date of the rule, the plat of the affected lot was recorded;

(2) there is not an available sewer line within seven hundred fifty (750) feet of the property line of the affected lot; and

(3) the local health department determines that the soil, although fill soil, is suitable for the installation of a residential septic system.

As added by P.L.2-1993, SEC.24. Amended by P.L.167-1999, SEC.1; P.L.170-2002, SEC.110; P.L.119-2012, SEC.144.

IC 16-41-25-2

Violations

Sec. 2. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with rules adopted under section 1 of this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24. Amended by P.L.150-1996, SEC.1.

IC 16-41-25-3

Residential septic systems installed after July 1, 1996; requirements; enforcement

Sec. 3. (a) This section applies only to residential septic systems that are installed after July 1, 1996, and that use a raiser that is more than six (6) inches in diameter and opens to ground level.

(b) Each opening to an underground tank of a residential septic system that allows access from ground level must be covered with a lid or top that is securely fastened.

(c) Below a residential septic system's lid or top described in subsection (b), the tank of the residential septic system must have a cap or plug.

(d) A person who installs a residential septic system after June 30,

1996, commits a Class B infraction if the residential septic system does not meet the requirements of this section.

(e) Each local health department established within a county under IC 16-20-2-2 shall enforce this section in the county.

As added by P.L.150-1996, SEC.2.

IC 16-41-25-4

Notice of property located in service district of regional sewage district; onsite soil evaluation

Sec. 4. (a) Before a local health department may act on an application for a residential septic system permit, the local health department shall inform the applicant for a residential septic system permit if the property is located in the service district of a regional sewage district.

(b) An employee of a local health department may conduct an onsite soil evaluation concerning the repair or replacement of a failed residential onsite sewage system (as defined in IC 13-11-2-144.8) if:

(1) the employee was hired by the local health department before January 1, 2013;

(2) the local health board has determined that the employee has the necessary knowledge of the principles of soil science as acquired by professional education;

(3) the employee uses guidelines set forth in the soil manuals, technical bulletins, and handbooks of the Natural Resources Conservation Service of the United States Department of Agriculture; and

(4) the employee files a written report with the local health department for each onsite soil evaluation conducted by the employee.

As added by P.L.97-2012, SEC.17. Amended by P.L.10-2013, SEC.1.

IC 16-41-26

Chapter 26. Health, Sanitation, and Safety: Agricultural Labor Camps

IC 16-41-26-1

Agricultural labor camp

Sec. 1. As used in this chapter, "agricultural labor camp" includes at least one (1) building or structure, tent, trailer, or vehicle, including the land, established, operated, or used as living quarters for at least five (5) adult seasonal or temporary workers engaged in agricultural activities, including related food processing.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-2

Application of chapter

Sec. 2. A person operating or maintaining an agricultural labor camp shall comply with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-3

Permits

Sec. 3. (a) Except as provided in subsection (b), a person may not directly or indirectly operate an agricultural labor camp until the person has obtained from the state department a permit to operate the camp and unless the permit is in full force and effect and is posted and kept posted in the camp to which the permit applies at all times during maintenance and operation of the camp.

(b) A person may operate at least one (1) living unit of an agricultural labor camp under a permit issued under section 4 of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-4

Limited permits

Sec. 4. (a) In addition to a permit issued under section 6 of this chapter, the state department may issue a permit that is limited to at least one (1) specific living unit of an agricultural labor camp. The state may issue more than one (1) permit under this section to a person operating an agricultural labor camp.

(b) Rules adopted under this chapter apply to permits issued under this section.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-5

Conditions for issuance of limited permits

Sec. 5. The state department may issue a permit under section 4 of this chapter only if:

(1) all mobile homes used as shelters and equipped with an operable toilet, shower, lavatory, and hot and cold water under

pressure, provide a minimum floor space of sixty (60) square feet for each resident; and

(2) all other shelters provide a minimum floor space of eighty (80) square feet for each resident.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-6

Applications for permits; issuance, duration, and transferability of permits; inspections; hearings

Sec. 6. (a) An application to operate an agricultural labor camp must be made to the state department in writing on a form and under rules prescribed by the state department.

(b) The state department shall issue a permit for the operation of an agricultural labor camp if the state department is satisfied, after investigation or inspection, that the camp meets the minimum standards of construction, sanitation, equipment, and operation required by rules adopted under section 8 of this chapter.

(c) A permit is valid from the date of issuance through May 1 of the following year unless the permit is revoked.

(d) A labor camp must be inspected and a permit issued before the labor camp is occupied.

(e) The annual inspection must occur during the sixty (60) days before the first occupation by agricultural laborers each year.

(f) A permit is not transferable.

(g) If an applicant is refused a permit, the state department shall, upon request, afford the applicant a fair hearing in accordance with IC 4-21.5-3.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-7

Revocation of permits

Sec. 7. The state department may, after reasonable notice and opportunity for a fair hearing in accordance with IC 4-21.5-3, revoke a permit authorizing the operation of an agricultural labor camp if the state department finds that the holder of the permit has failed to comply with a provision of this chapter or a rule or an order issued under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-8

Rules

Sec. 8. (a) Except as provided in subsection (b), the state department shall adopt rules under IC 4-22-2 necessary to protect the health, safety, and welfare of persons living in agricultural labor camps, prescribing standards for living quarters at agricultural labor camps, including provisions relating to construction of camps, sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance and operation of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants.

(b) The environmental rules board shall adopt rules under IC 4-22-2 pertaining to water supplies and sewage disposal systems other than septic tank absorption fields required for agricultural labor camps.

(c) In the preparation of rules, the state department:

(1) shall consult with and request technical assistance from other appropriate state agencies; and

(2) may appoint and consult with committees of technically qualified persons and of representatives of employers and employees.

(d) If a conflict exists between rules adopted under this chapter and rules adopted by the fire prevention and building safety commission, the rules authorized in this section apply.

(e) A copy of every rule adopted under this chapter shall be sent to each health officer in Indiana and to the heads of other state agencies with specific or related responsibility affecting agricultural labor camps and to any person requesting the rules. The rules affecting agricultural labor camps adopted under this chapter shall be published periodically in the manner the state department determines.
As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.105.

IC 16-41-26-9
Enforcement; inspections and investigations

Sec. 9. (a) The state department may initiate an action under IC 4-21.5-3-6 or IC 4-21.5-3-8 to enforce this chapter and rules adopted under this chapter.

(b) The state department and the state department's authorized representatives may enter and inspect agricultural labor camps at reasonable hours and may question the persons and investigate the facts, conditions, and practices or matters that the state department considers necessary or appropriate to determine whether a person has violated a provision of this chapter or to aid in the enforcement of this chapter or in the adoption of rules under this chapter. The state department may, to the extent appropriate, utilize the services of any other state department or agency of the government for assistance in the inspections and investigations.
As added by P.L.2-1993, SEC.24.

IC 16-41-26-10
Judicial review

Sec. 10. (a) A person aggrieved by an order of the state department denying or revoking a permit to operate an agricultural labor camp may, in accordance with IC 4-21.5-5, petition the circuit or superior court for a review of the order asking that the order be modified or set aside.

(b) A person aggrieved by a rule adopted under section 8 of this chapter by the state department may, not more than thirty (30) days after the rule becomes effective, petition the circuit or superior court to modify or set aside the rule in whole or in part, but only on the

ground that the rule is unlawful or unreasonable.

(c) A copy of a petition filed under subsection (a) or (b) shall be served on the state health commissioner. The state department shall keep and, on notice of filing of the petition, shall certify and file in the court a full record in the proceeding on which the action complained of is based.

(d) The review authorized in subsection (a) or (b) is limited to questions of law. Findings of fact by the state department, if supported by substantial evidence, are conclusive.

(e) The jurisdiction of the court is exclusive and the court's judgment is final, except that the judgment is subject to review by the supreme court.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-11

Notice of enforcement actions

Sec. 11. To adequately place and care for workers and the workers' families housed in an agricultural labor camp, the state department shall serve notice of an action initiated under section 13 of this chapter to the following:

(1) The county agricultural extension educator.

(2) The representative of the nearest office of the public employment service whose duty it is to aid in placing such workers in suitable employment.

(3) The county department of public welfare.

As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.52.

IC 16-41-26-12

Inspections and investigations by designated agents

Sec. 12. The state department may designate an agent who may, on presentation of proper credentials, enter on private or public property to inspect for and investigate possible violations of this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-13

Civil penalties and compliance orders

Sec. 13. (a) The state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied in an action to enforce the provisions of the following:

(1) This chapter.

(2) The rules of the state department.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed five hundred dollars ($500) per violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-26-14

Destruction or damage of property; penalty

Sec. 14. The owner or operator of an agricultural labor camp may under 29 U.S.C. 1821(c) impose a penalty on an agricultural laborer who knowingly or intentionally destroys or damages property on the premises of an agricultural labor camp.

As added by P.L.2-1993, SEC.24.

IC 16-41-27

Chapter 27. Health, Sanitation, and Safety: Mobile Homes

IC 16-41-27-1

Authority of state department of health

Sec. 1. This chapter recognizes mobile homes and manufactured homes as suitable and necessary dwelling units in Indiana. The state department may do the following:

(1) Require reasonable standards of health, sanitation, and safety in using the dwelling units.

(2) Require:

(A) persons dwelling in mobile homes and manufactured homes; and

(B) mobile home community operators;

to comply with the standards.

(3) Authorize local boards to enforce the standards adopted.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.4.

IC 16-41-27-2

Repealed

(Repealed by P.L.144-1996, SEC.15.)

IC 16-41-27-3

Local board

Sec. 3. As used in this chapter, "local board" means a local agency of government authorized to enforce the standards of health and sanitation prescribed for:

(1) mobile homes and manufactured homes; and

(2) mobile home communities by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.5.

IC 16-41-27-3.5

Manufactured home

Sec. 3.5. As used in this chapter, "manufactured home" has the meaning set forth in IC 22-12-1-16.

As added by P.L.87-2005, SEC.6.

IC 16-41-27-4

Mobile home

Sec. 4. As used in this chapter, "mobile home" means a dwelling, including the equipment sold as a part of the dwelling, that:

(1) is factory assembled;

(2) is transportable;

(3) is intended for year-round occupancy;

(4) is designed for transportation on its own chassis; and

(5) was manufactured before the effective date of the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.7.

IC 16-41-27-5
Mobile home community

Sec. 5. (a) As used in this chapter, "mobile home community" means one (1) or more parcels of land:

(1) that are subdivided and contain individual lots that are leased or otherwise contracted;

(2) that are owned, operated, or under the control of one (1) or more persons; and

(3) on which a total of at least five (5) mobile homes or manufactured homes are located for the purpose of being occupied as principal residences.

(b) The term includes the following:

(1) All real and personal property used in the operation of the mobile home community.

(2) A single parcel of land.

(3) Contiguous but separately owned parcels of land that are jointly operated.

(4) Parcels of land:

(A) that are separated by other parcels of land; and

(B) that are:

(i) jointly operated; and

(ii) connected by a private road.

(5) One (1) or more parcels of land, if at least two (2) of the mobile homes or manufactured homes located on the land are:

(A) accessible from a private road or interconnected private roads;

(B) served by a common water distribution system; or

(C) served by a common sewer or septic system.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.8; P.L.1-2007, SEC.140.

IC 16-41-27-6
Repealed

(Repealed by P.L.87-2005, SEC.40.)

IC 16-41-27-7
Repealed

(Repealed by P.L.87-2005, SEC.40.)

IC 16-41-27-8
Rules

Sec. 8. (a) Except as provided in subsection (b), the state department may adopt rules under IC 4-22-2 to carry out this chapter, including rules for the following:

(1) Health, sanitation, and safety.

(2) Sewage collection.

(3) Sewage disposal through septic tank absorption fields.

(b) The environmental rules board shall adopt rules under IC 4-22-2 concerning the following:

(1) Public water supplies required for mobile home

communities.

(2) Sewage disposal systems other than septic tank absorption fields.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.9; P.L.113-2014, SEC.106.

IC 16-41-27-9

Mobile home community attendants and caretakers

Sec. 9. A mobile home community must be in the personal charge of an adult attendant or caretaker designated by the owner or operator of the mobile home community at the times when mobile homes and manufactured homes in the mobile home community are occupied by tenants. The caretaker present at the time of a violation of this chapter is equally responsible with the owner or operator of the mobile home community for a violation of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.10.

IC 16-41-27-10

Mobile home community water supplies

Sec. 10. A mobile home community shall provide a water supply through the use of a public water system if the water supply is reasonably available within a reasonable distance from the mobile home community. A mobile home community is not required to use a public water system if the water system is more than two thousand (2,000) feet from the mobile home community. If a public water system is not available, water shall be provided by a system approved by the environmental commissioner under rules adopted by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.184-2002, SEC.27; P.L.87-2005, SEC.11; P.L.113-2014, SEC.107.

IC 16-41-27-11

Mobile home community sewage disposal

Sec. 11. (a) A mobile home community shall dispose of sewage through the use of a public sewerage system if the sewerage system is available within a reasonable distance from the mobile home community. If a public sewerage system is not available, sewage may be disposed of in accordance with rules adopted under section 8 of this chapter. A water carriage system of collecting sewage shall be used. The mobile home community operator shall require the owner of a mobile home to provide a watertight and odor-tight connection of a type acceptable to the state department under rules adopted by the state department.

(b) All occupied mobile homes and manufactured homes shall be connected to the sewerage system of the mobile home community at all times. All sewer connections not in use must be closed in a manner that does not:

(1) emit odor; or

(2) cause a breeding place for flies.

(c) Sewerage systems other than water carriage systems may not

be approved for a mobile home community, except nonwater carriage systems may be provided for emergency use only during a temporary failure of a water or an electric system.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.12.

IC 16-41-27-12
Mobile home community garbage disposal
Sec. 12. Suitable garbage containers or a garbage disposal system and trash containers shall be made available in a sanitary manner to each occupied mobile home and manufactured home. The garbage and trash of the mobile home community must be disposed of in a manner approved by the state department.
As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.25; P.L.87-2005, SEC.13.

IC 16-41-27-13
Repealed
(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-27-14
Repealed
(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-27-15
Streets and parking
Sec. 15. Streets must be at least ten (10) feet wide and sufficiently wide to prevent vehicular and pedestrian traffic problems. Adequate area must be provided for the parking of vehicles. All roads in a mobile home community shall be maintained to be dust proof. Each mobile home and manufactured home in a mobile home community shall have ready and free access to the road in a community.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.14.

IC 16-41-27-16
Animal control
Sec. 16. (a) This section does not apply to feral cats that are caught and released as part of a spay and neuter program designed to reduce the number of feral cats in the area.
(b) Domestic animals and house pets may not be permitted to run at large or commit a nuisance within the limits of a mobile home community.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.15; P.L.182-2014, SEC.1.

IC 16-41-27-16.6
Mobile home park weather radios and smoke detectors
Sec. 16.6. (a) Each year during National Fire Prevention Week, the operator of a mobile home community is encouraged to provide a written reminder to the owners of all manufactured homes in the mobile home community to replace the batteries in all weather radios

and smoke detectors contained in their manufactured homes.

(b) Any reminder, assistance, or instructions provided by an operator of a mobile home community concerning the function of a weather radio or smoke detector contained in a manufactured home shall not subject the operator or an owner or employee of the mobile home community to liability for the functionality of that weather radio or smoke detector.

As added by P.L.31-2007, SEC.1.

IC 16-41-27-17
Lighting

Sec. 17. Every part of a mobile home community must be lighted at night.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.26; P.L.87-2005, SEC.16.

IC 16-41-27-18
License requirement

Sec. 18. A mobile home community may not be operated without obtaining a license from the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.17.

IC 16-41-27-19
License duration

Sec. 19. A license to operate a mobile home community shall be issued for four (4) years and expires at midnight on December 31.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.18.

IC 16-41-27-20
License application

Sec. 20. (a) An application for a license to operate a mobile home community must be made to the state department on a form prescribed and furnished by the state department, only after plans for the mobile home community have been approved.

(b) If an operator does not apply for the renewal of a license before the date the license expires:

(1) the license expires on that date; and

(2) the operator must pay the penalty fee set forth in section 24(b) of this chapter to obtain a new license.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.19.

IC 16-41-27-21
Temporary license

Sec. 21. The state department may license a temporary mobile home community for a period of six (6) months and waive the requirements of this chapter if:

(1) the failure to comply with this chapter is:

(A) for a temporary period of time; and

(B) required by public convenience; and

(2) the operation of the mobile home community will not

jeopardize the health and welfare of the occupants of the mobile home community or the public.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.20.

IC 16-41-27-22

Mobile home community construction and alteration

Sec. 22. (a) The construction of a new mobile home community or alteration of an existing mobile home community shall be made only after plans for the proposed construction or alteration have been forwarded to and approved by the state department.

(b) A public water system may not be constructed or altered in a new or existing mobile home community until plans for the construction or alteration have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

(c) A sewage collection and disposal system may not be constructed or altered in a new or existing mobile home community until:

(1) plans for construction or alteration of the sewage collection system and any septic tank absorption field have been forwarded to and approved by the state department under rules adopted by the state department; and

(2) plans for construction or alteration of any sewage disposal system other than a septic tank absorption field have been forwarded to and approved by the environmental commissioner under rules adopted by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.184-2002, SEC.28; P.L.87-2005, SEC.21; P.L.113-2014, SEC.108.

IC 16-41-27-23

Mobile home park construction and alteration plan approval

Sec. 23. The state department or the environmental commissioner shall, not more than ninety (90) days after filing, approve plans filed under section 22 of this chapter that comply with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-27-24

Inspection; penalties

Sec. 24. (a) An inspection fee must be submitted to the state department with each license application. The fee is two hundred dollars ($200) for a total of not more than fifty (50) mobile home and manufactured home sites and one hundred fifty dollars ($150) for each increment of not more than fifty (50) additional sites. Units of state and local government are exempt from the fee.

(b) This subsection does not apply to an application made after an enforcement action. A penalty fee of two hundred dollars ($200) for a total of not more than fifty (50) mobile home and manufactured home sites and one hundred fifty dollars ($150) for each increment of not more than fifty (50) additional sites may be imposed by the

state department for an application for license renewal filed after the license has expired.
As added by P.L.2-1993, SEC.24. Amended by P.L.168-2003, SEC.2; P.L.87-2005, SEC.22.

IC 16-41-27-25
Civil penalties and compliance orders

Sec. 25. (a) The state department shall adopt a schedule of civil penalties that may be levied in an action to enforce the following:

(1) This chapter.
(2) The rules of the state department.
(3) The rules adopted under this chapter by the environmental rules board.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed one thousand dollars ($1,000) per violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or
(2) interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding to impose a civil penalty may be consolidated with any other proceedings to enforce any of the following:

(1) This chapter.
(2) The rules of the state department.
(3) The rules adopted under this chapter by the environmental rules board.

As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.109.

IC 16-41-27-26
Notice of adverse actions on licenses; enforcement proceedings

Sec. 26. (a) The state department shall provide a written notice to a mobile home community operator of the following:

(1) The revocation of the operator's license.
(2) The denial of the operator's application for a license.
(3) The denial of the approval of the construction or alteration of a mobile home community.

(b) The notice under subsection (a) must contain the following:

(1) A statement of the manner in which the operator has failed to comply with the law or rules of the state department.
(2) The length of time available to correct the violation.

(c) The state department may order an operator to comply with this chapter or rules adopted under this chapter. If an operator fails

to comply within the time specified by the order, the state department may initiate proceedings to force compliance in the circuit court in the county of the operator's residence or in the county where the mobile home community is located. The court may grant appropriate relief to ensure compliance with this chapter and rules adopted under this chapter.
As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.23.

IC 16-41-27-27
Inspections
Sec. 27. The state department or a person designated by the state department may at any reasonable time inspect the premises and take necessary and reasonable steps in a mobile home community to determine whether or not a mobile home community is in compliance with this chapter and rules adopted under section 8 of this chapter.
As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.6; P.L.87-2005, SEC.24.

IC 16-41-27-28
Compliance with administrative adjudication procedures
Sec. 28. The state department shall comply with IC 4-21.5-3 in a hearing upon the revocation of a license or the refusal to grant a license.
As added by P.L.2-1993, SEC.24.

IC 16-41-27-29
Liens
Sec. 29. (a) Subject to subsection (b), the owner, operator, or caretaker of a mobile home community has a lien upon the property of a guest in the same manner, for the same purposes, and subject to the same restrictions as an innkeeper's lien or a hotel keeper's lien.
(b) With regard to a lienholder:
(1) if the property has a properly perfected secured interest under IC 9-17-6-7; and
(2) the lienholder has notified the owner, operator, or caretaker of the mobile home community of the lienholder's lien by certified mail;
the maximum amount of the innkeeper's lien may not exceed the actual late rent owed for not more than a maximum of sixty (60) days immediately preceding notification by certified mail to the lienholder that the owner of the property has vacated the property or is delinquent in the owner's rent.
(c) If the notification to the lienholder under subsection (b) informs the lienholder that the lienholder will be responsible to the owner, operator, or caretaker of the mobile home community for payment of rent from the time the notice is received until the mobile home or manufactured home is removed from the mobile home community, the lienholder is liable for the payment of rent that accrues after the notification.
As added by P.L.2-1993, SEC.24. Amended by P.L.182-1993, SEC.1;

P.L.87-2005, SEC.25.

IC 16-41-27-30
Ejections from mobile home communities

Sec. 30. The owner, operator, or caretaker of a mobile home community may eject a person from the premises for any of the following reasons:

(1) Nonpayment of charges or fees for accommodations.

(2) Violation of law or disorderly conduct.

(3) Violation of a rule of the state department relating to mobile home communities.

(4) Violation of a rule of the mobile home community that is publicly posted within the mobile home community.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.26.

IC 16-41-27-31
Mobile home community register

Sec. 31. Each mobile home community operator shall maintain a register open for inspection by the township assessor or county assessor responsible for assessing mobile homes and manufactured homes located in the mobile home community under IC 6-1.1-7 and by the state department or the state department's representatives. The register must contain the following for each mobile home and manufactured home in a mobile home community:

(1) The names and ages of all occupants.

(2) The name of the owner of the mobile home or manufactured home.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.7; P.L.87-2005, SEC.27; P.L.203-2013, SEC.18.

IC 16-41-27-32
Licensing and regulation by local authorities prohibited

Sec. 32. (a) A governmental body other than the state department of health may not license or regulate mobile home communities, except for the following:

(1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, and mobile home communities by the state department.

(2) County and municipal authorities within their respective jurisdictions have jurisdiction regarding zoning and building codes and ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes and manufactured homes, in accordance with standards that are compatible with standards set by the state department for mobile home communities.

(b) A governmental body other than the state department of health may not regulate mobile homes or manufactured homes regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing

in the jurisdiction.

(c) A governmental body may not regulate or restrict the use, occupancy, movement, or relocation of a mobile home or manufactured home based upon the age of the mobile home or manufactured home.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.28.

IC 16-41-27-33

Transfer of licenses

Sec. 33. A license to engage in the operation of a mobile home community is transferable only with the consent of the state department. The state department may, upon application, cancel a license issued for the operation of a mobile home community and issue a new license to the transferee for the balance of the license period.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.29.

IC 16-41-27-34

Unlicensed operation penalty

Sec. 34. A person who maintains or operates a mobile home community:

(1) without a license; or

(2) after the revocation of a license;

commits a Class B misdemeanor.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-2005, SEC.30.

IC 16-41-28
Repealed

(Repealed by P.L.87-1994, SEC.16.)

IC 16-41-29

Chapter 29. Regulation of Lodging Facilities and Bedding Materials: Registration of Guests

IC 16-41-29-1

Registration requirement

Sec. 1. The owner, operator, manager, superintendent, or person in charge of the following establishments shall keep a register, entry book, or card filing system containing the names and addresses, including street number, city or town, and state, of every individual occupying any part of the premises and containing the dates and times occupied:

(1) Hotel.
(2) Furnished apartment house.
(3) Boarding house.
(4) Rooming house.
(5) Tourist home.
(6) Tourist camp.
(7) Motel.
(8) Bed and breakfast establishment.
(9) Similar establishment to those listed in subdivisions (1) through (8).

As added by P.L.2-1993, SEC.24.

IC 16-41-29-2

Inspections and investigations

Sec. 2. The register, entry book, or card filing system shall be kept open for inspection and investigation by the state department, an officer of the state department, or a law enforcement officer.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-3

Annual registration records

Sec. 3. The register, entry book, or card filing system shall be maintained for each calendar year.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-4

Discarding or destruction of registration records

Sec. 4. The register, entry book, or card filing system may not be discarded or destroyed until the expiration of one (1) year after the calendar year for which it was maintained.

As added by P.L.2-1993, SEC.24.

IC 16-41-29-5

Violations

Sec. 5. A person who recklessly violates this chapter commits a Class A misdemeanor.

As added by P.L.2-1993, SEC.24.

IC 16-41-30

Chapter 30. Regulation of Lodging Facilities and Bedding Materials: Fresh Bedding for Hotel Guests

IC 16-41-30-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) Hotels.

(2) Bed and breakfast establishments.

(3) Rooming houses.

(4) Lodging houses.

(5) Apartment houses.

(6) Places of entertainment or lodging for transient or permanent guests or lodgers in the establishments listed in subdivisions (1) through (5).

As added by P.L.2-1993, SEC.24.

IC 16-41-30-2

Bedding requirements

Sec. 2. The owner, lessee, superintendent, or manager of an establishment subject to this chapter who furnishes beds and bedding for guests or lodgers shall provide each bed with bedding that includes the following:

(1) Undersheets sufficiently large to cover completely the mattress on each bed.

(2) Top sheets that may be folded over the blankets or other bed covering.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.8.

IC 16-41-30-3

Provision of fresh bedding

Sec. 3. The sheets described under section 2 of this chapter must be removed from beds and replaced by freshly laundered sheets after the departure of each guest or lodger. Clean and freshly laundered pillowcases must be furnished after the departure of each transient guest.

As added by P.L.2-1993, SEC.24.

IC 16-41-30-4

Violations

Sec. 4. A person who violates this chapter commits a Class C infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-31

Chapter 31. Regulation of Lodging Facilities and Bedding Materials: Bed and Breakfast Establishments

IC 16-41-31-1

Bed and breakfast establishment

Sec. 1. (a) As used in this chapter, "bed and breakfast establishment" means an operator occupied residence that meets the following conditions:

(1) Provides sleeping accommodations to the public for a fee.
(2) Has not more than fourteen (14) guest rooms.
(3) Provides breakfast to the guests as part of the fee.
(4) Provides sleeping accommodations for not more than thirty (30) consecutive days to a particular guest.

(b) The term does not include hotels, motels, boarding houses, or food service establishments.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-2

Guest

Sec. 2. As used in this chapter, "guest" means an individual who rents a guest room in a bed and breakfast establishment.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-3

Guest room

Sec. 3. As used in this chapter, "guest room" means a sleeping room intended to accommodate not more than four (4) guests each night.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-4

Operator

Sec. 4. As used in this chapter, "operator" means an owner or the owner's agent of a bed and breakfast establishment who resides within the establishment or on contiguous property.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-5

Food preparation and handling and sanitation rules

Sec. 5. The state department shall adopt rules under IC 4-22-2 to establish standards for food preparation and handling and sanitation in bed and breakfast establishments.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-6

Fire safety rules

Sec. 6. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 to establish fire safety standards for bed and breakfast establishments.

As added by P.L.2-1993, SEC.24.

IC 16-41-31-7
Liability for guests' personal property losses

Sec. 7. (a) Except as provided in subsection (b), the liability of a bed and breakfast establishment for the loss of a guest's personal property may not exceed two hundred fifty dollars ($250) for each guest as follows:

(1) The loss of a trunk or chest and the contents, liability of not more than one hundred fifty dollars ($150).

(2) The loss of a traveling bag or suitcase and the contents, liability of not more than fifty dollars ($50).

(3) The loss of a box, bundle, or package and the contents, liability of not more than ten dollars ($10).

(b) An operator of a bed and breakfast establishment may assume liability in excess of two hundred fifty dollars ($250) for each guest for loss of personal property if the guest and operator do the following:

(1) Itemize the personal property and the personal property's value.

(2) Agree in writing to the kind and extent of the liability.

As added by P.L.2-1993, SEC.24.

IC 16-41-32

Chapter 32. Regulation of Lodging Facilities and Bedding Materials: Materials Used in Mattresses and Bedding

IC 16-41-32-1

Regulation and inspection

Sec. 1. The regulation and inspection of the use of unsanitary material in the manufacture, renovation, or repair of bedding and the sale of articles of bedding containing unsanitary material is necessary for the protection of the health and welfare of the people of Indiana and is declared to be a proper exercise of the police powers of the state.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-2

Sales of bedding by householders; application of chapter

Sec. 2. This chapter does not apply to the sale by a householder of bedding that meets the following conditions:

(1) Was owned and used by the householder and the householder's family.

(2) Was not acquired for resale.

However, the sale of the bedding by a householder through an agent must be within the provisions of this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-3

Manufacture and renovation of bedding by owners; application of chapter

Sec. 3. This chapter does not apply to the making, remaking, or renovating of any article of bedding by or for the owner, for the owner's own use, and for the purpose of sale:

(1) if the same or new material is used; or

(2) if sterilized material is used and that fact is indicated on a label prescribed by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-4

Bedding sold by court order; application of chapter

Sec. 4. This chapter does not apply to any articles of bedding sold under court order.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-5

Bedding

Sec. 5. As used in this chapter, "bedding" means any mattress, mattress pad, mattress protector pad, box spring, upholstered spring, upholstered sofa bed, quilted pad, comforter, bolster, cushion, pillow, featherbed, sleeping bag, or any other bag, case, or covering that meets the following conditions:

(1) Is made of leather, textile, or other material.

(2) Is stuffed or filled with any soft material or substance.

(3) Is designed or made for sleeping or reclining purposes or that is an integral part of a bed or couch or other device used for sleeping or reclining purposes.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-6
Filling material

Sec. 6. As used in this chapter, "filling material" means the following:

(1) Hair.

(2) Down.

(3) Feathers.

(4) Wool.

(5) Cotton.

(6) Kapok.

(7) Plant fibers.

(8) Any other soft material used in the manufacture of and the filling or stuffing of articles of bedding.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-7
Manufacture

Sec. 7. (a) As used in this chapter, "manufacture" means making, remaking, or renovating.

(b) The term includes altering, repairing, finishing, refinishing, or preparing articles of bedding for sale or resale made of either new or secondhand material.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-8
New

Sec. 8. As used in this chapter, "new" means an article of bedding or filling material that has not been previously used for any purpose. Manufacturing processes may not be considered a prior use.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-9
Renovate

Sec. 9. As used in this chapter, "renovate" means to restore to former condition or to place in a good state of repair.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-10
Secondhand

Sec. 10. As used in this chapter, "secondhand" means any article of bedding or material or part of bedding or material of which prior use of any kind has been made. An article of bedding must be considered secondhand if the article contains any secondhand material in whole or in part.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-11
Sell

Sec. 11. As used in this chapter, "sell", or a variation of "sell", includes any of the following, or any combination of the following:

(1) Sell.
(2) Offer.
(3) Expose for sale.
(4) Barter.
(5) Trade.
(6) Lend.
(7) Deliver.
(8) Give away.
(9) Rent.
(10) Consign.
(11) Lease.
(12) Possess with intent to sell.
(13) Dispose of in any other commercial manner.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-12
Supply dealer

Sec. 12. As used in this chapter, "supply dealer" means any person manufacturing, processing, or selling at wholesale any felt batting, pads, or loose material in bags or containers, concealed or not concealed, to be used in articles of bedding.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-13
Wholesaler

Sec. 13. (a) As used in this chapter, "wholesaler" means a person located outside Indiana who, on the person's own account, sells or distributes an article of bedding or filling material to another for the purpose of resale.

(b) The term does not include an affiliate or a subsidiary:

(1) if the ownership and name are identical; and
(2) that is the exclusive sales outlet of a manufacturer.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-14
Administration of chapter

Sec. 14. (a) The state department shall administer this chapter. The state department may:

(1) adopt rules under IC 4-22-2 to administer this chapter;
(2) employ persons as necessary under IC 4-15-2.2;
(3) make expenditures;
(4) require reports and records;
(5) make investigations; and
(6) take other action;

as the state department considers necessary or suitable for the proper administration of this chapter.

(b) The state department may authorize persons to do any act that may be done by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.6-2012, SEC.122.

IC 16-41-32-15

Inspections of articles and records

Sec. 15. (a) The state department may take possession of an article of bedding or filling material made or offered for sale for inspection and may open the article of bedding to examine the contents.

(b) The state department may also inspect the purchase records of the owner of the articles of bedding to determine the kinds of materials used.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-16

Prohibitions of sale; labels

Sec. 16. (a) If an article of bedding does not meet the requirements of this chapter, the state department shall do the following:

(1) Prohibit the sale of the article.

(2) Affix to each article of bedding a label designed and prescribed by the state department.

(b) The article of bedding may not be sold without the written consent of the state department. The label may not be removed except by an agent of the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-17

Inspections of sites

Sec. 17. A location where:

(1) an article of bedding covered by this chapter is made, remade, or renovated;

(2) material for the article of bedding is manufactured, prepared, or stored;

(3) the article of bedding is offered for sale or is possessed with intention to sell; or

(4) sterilization or disinfection is performed;

is subject to periodic inspection by the state department for the purpose of administering or enforcing this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-18

Interference with inspections

Sec. 18. It is unlawful for any person to interfere with any inspection under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-19

Sterilization and disinfection of materials

Sec. 19. A person engaged in:

(1) the manufacturing, remaking, or renovating of an article of bedding; or

(2) processing or selling felt, batting, pads, or loose material to be used in articles of bedding covered by this chapter;

may not use any secondhand material, new or secondhand feathers, down, or any material that comes from an animal unless the secondhand material, feathers, down, or other material has been thoroughly sterilized or disinfected by a process approved by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-20

Prohibited sales

Sec. 20. A person may not sell:

(1) an article of bedding covered by this chapter that is made, remade, or renovated in violation of this chapter; or

(2) a secondhand article of bedding or filling material covered by this chapter unless, since the article's last use, the article has been sterilized or disinfected by a process approved by the state department.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-21

Sterilization and disinfection permits

Sec. 21. (a) A person desiring to secure approval of the process by which the articles of bedding or filling materials are sterilized or disinfected, in accordance with sections 19 and 20 of this chapter, shall submit to the state department a plan of the apparatus and the process intended to be used for such sterilization or disinfection.

(b) After the state department inspects and approves the process and equipment to be used, the state department shall issue a numbered permit for use.

(c) A sterilization or disinfection permit issued under subsection (b) must be conspicuously posted on the premises near the sterilizer.

(d) A person holding a sterilization or disinfection permit shall keep an accurate written record of all articles of materials that are sterilized or disinfected, including the following:

(1) The date the sterilization or disinfection was performed.

(2) In the case of articles of bedding, the name and address of the buyer or owner of the articles.

This record shall be available for examination at any time by the state department.

(e) An application for a permit for the approval of a sterilization or disinfection process and equipment located outside Indiana may be approved only after the state department conducts a personal inspection of that process and equipment, unless the other state has an inspection service that is acceptable to the state department. The applicant shall pay the expenses for an inspection outside Indiana.

(f) The state department shall revoke the sterilization or

disinfection permit of a person who, after fair hearing or opportunity to be heard by the state department, is found to be in noncompliance with the sterilization or disinfection provisions of this chapter. The state department may not issue a new permit to the person until the person does the following:

(1) Satisfies the state department that the person will comply with this chapter and the rules adopted under this chapter.

(2) Posts a five hundred dollar ($500) bond in favor of the state department to guarantee compliance.

(g) This chapter does not prevent a person engaged in the making, remaking, renovation, or sale of an article of bedding or material that requires sterilization or disinfection under this chapter from having the sterilization or disinfecting performed by a person who has a valid permit for the purposes if the number of the permit appears on the tag attached to each article of bedding or filling material as described in section 22 of this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.27.

IC 16-41-32-22

Information tags

Sec. 22. (a) Each new article of bedding governed by this chapter must have securely attached to the article a substantial white cloth tag that meets the following conditions:

(1) Is visible on the outside covering, with the visible part being not less than six (6) square inches in size.

(2) Will not flake when abraded.

(3) Upon which is indelibly stamped or printed in the English language a statement of the following:

(A) Describing the kind of materials used in filling the article of bedding.

(B) Stating that the materials are new.

(C) Disclosing the name and address of the manufacturer, distributor, or vendor.

(D) For articles of bedding made of feather, down, or material that comes from an animal, the number of the permit issued to the processor who sterilized or disinfected the materials.

(E) For articles of bedding containing mixtures of material from animal or fowl, the percentage by weight of each kind of material contained in the article of bedding.

(b) Each article of bedding containing secondhand material, in whole or in part, must have securely attached to the article a similar tag of yellow cloth upon which is stamped or printed in the same manner as required in subsection (a) a statement of the following:

(1) Describing the kind of materials used in filling the article of bedding.

(2) Stating that the article of bedding or materials in the bedding are secondhand.

(3) Disclosing the number of the permit issued to the processor

who sterilized or disinfected the article of bedding or materials in the bedding.

(c) A shipment or delivery, however contained, of material used for filling articles of bedding must have conspicuously attached to the material a tag upon which is stamped or printed, as required in this section, a statement of the following:

(1) Describing the kind of material.

(2) Stating whether the material is new or secondhand.

(3) Disclosing the name and address of the manufacturer, distributor, or vendor.

(4) For secondhand material or material from animal or fowl, disclosing the permit number of the processor who sterilized or disinfected the material.

(d) The terms used on the tag to describe filling materials must be restricted to those defined in the rules adopted under this chapter. A trade or substitute term may not be used, and no additional information may be contained in the statement. The description of the filling material and the statement of whether new or secondhand must be in plain type not less than one-eighth (1/8) inch in height.

As added by P.L.2-1993, SEC.24. Amended by P.L.142-1995, SEC.28.

IC 16-41-32-23

Bedding labels; false or misleading statements; removal, defacing, or alteration

Sec. 23. A person may not:

(1) use a false or misleading statement, term, or designation on a bedding label; or

(2) remove, deface, or alter or attempt to remove, deface, or alter the label or the statement of filling materials that appears on the label.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-24

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-32-25

Intent to sell; presumptive evidence

Sec. 25. The possession of an article of bedding or filling material by a maker, remaker, or dealer in the course of business is presumptive evidence of intent to sell.

As added by P.L.2-1993, SEC.24.

IC 16-41-32-26

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-32-27

Renovation tags

Sec. 27. A person who receives an article of bedding governed by this chapter for renovation shall attach, at the time received, a red tag on which the date of receipt and the name and address of the owner are legibly written.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-28
Clean materials

Sec. 28. Filling material that is used in the manufacture of bedding governed by this chapter must be free from extraneous foreign matter, dirt, or trash.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-29
Clean premises and equipment

Sec. 29. The premises, delivery equipment, machinery, appliances, and devices of:

(1) bedding manufacturers;
(2) supply dealers;
(3) renovators;
(4) sterilizers or disinfectors; and
(5) retailers;

must at all times be kept free from refuse, dirt contaminations, insects, and vermin.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-30
Violations

Sec. 30. (a) A person who:

(1) knowingly makes a false statement, misrepresentation, or report to the state department; or
(2) knowingly fails to disclose a material fact to avoid liability under this chapter;

commits a Class B misdemeanor.

(b) A person who knowingly violates or fails to comply with this chapter commits a Class B misdemeanor.
As added by P.L.2-1993, SEC.24.

IC 16-41-32-31
Enforcement

Sec. 31. All proceedings for the enforcement of this chapter or to restrain violations of this chapter shall be in the name of the state.
As added by P.L.2-1993, SEC.24.

IC 16-41-33

Chapter 33. Pest Control: Local and State Programs for Vector Abatement

IC 16-41-33-1

Pest

Sec. 1. As used in this chapter, "pest" means an arthropod, a vertebrate, or a microorganism of health significance to humans.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-2

Vector

Sec. 2. As used in this chapter, "vector" means an arthropod or a feral animal responsible for the transmission of pathogens from a host to another animal or human.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-3

Authorization of local programs

Sec. 3. The:

(1) executive of a county that has formed a county health department;

(2) fiscal body of a city that has formed a city health department; and

(3) executive of the county and the fiscal body of a city that have formed a joint county-city health department;

may, as an alternative, on their own initiative or after a petition by five percent (5%) of the registered voters within the jurisdiction of the health department, by ordinance establish and maintain a vector abatement program in that health department.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-4

Appropriations; tax levies

Sec. 4. The county fiscal body or the governing board of a health and hospital corporation may, on the fiscal body's or board of trustees' own initiative or after a petition signed by five percent (5%) of the registered voters within the jurisdiction of the health department, make an annual appropriation specifically for the purpose of vector control to be used by the health department solely for that purpose and levy a tax of not more than sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed value of taxable property in the county.

As added by P.L.2-1993, SEC.24. Amended by P.L.6-1997, SEC.179.

IC 16-41-33-5

Direction of local programs

Sec. 5. The vector abatement program must be under the direction of the local health officer.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-6
Duties of local health officers

Sec. 6. (a) The:

(1) county fiscal body for the county health department;

(2) city fiscal body for a city health department; and

(3) county fiscal body and city fiscal body for a joint city-county health department;

may, by ordinance, determine the duties with respect to vector control of the local health officer.

(b) The duties under subsection (a) may include the following:

(1) Taking all necessary and proper steps to control vectors that have adverse health significance to humans or domestic animals and livestock.

(2) Entering upon any land, public or private, at any reasonable time to inspect for or to abate all pest and vector breeding grounds that have adverse health significance to humans or domestic animals and livestock.

(3) Purchasing supplies, material, and equipment.

(4) Recommending to the county commissioners or other appropriate authority the building, construction, maintenance, or repair of necessary levees, cuts, canals, channels, or other structures upon any land within the jurisdiction of the local health department after obtaining the necessary local and department of natural resources approvals.

(5) Executing contracts.

(6) Conducting control in a manner consistent with recommendations of the Purdue University cooperative extension service, the pesticide review board, and the state department.

(7) Entering into cooperative agreements with appropriate organizations for the purpose of assuring technical assistance in developing and carrying out specific duties.

(8) Identifying problems determined to be of importance to the public welfare and developing control programs appropriate to each situation.

As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.53.

IC 16-41-33-7
State funding

Sec. 7. (a) Local departments of health, including the department of a health and hospital corporation, are eligible to receive state funds appropriated by the general assembly only if, after allocation by the state agency and before receipt of those state funds, a local appropriation for vector control is made by the appropriate local health agency.

(b) The state department shall adopt rules under IC 4-22-2 to govern the application for and the distribution of any state funds appropriated for this purpose, according to the need and proper utilization.

As added by P.L.2-1993, SEC.24.

IC 16-41-33-8
Support programs

Sec. 8. An action program in vector abatement requires significant support in monitoring and research to assure the program's continued success. State agencies, including the state department and the office of agricultural research programs, are encouraged to pursue strong programs in support of abatement. Where appropriate and feasible, state agencies may draw on the resources and expertise of other institutions and the private sector in this effort.

As added by P.L.2-1993, SEC.24. Amended by P.L.40-1993, SEC.54.

IC 16-41-33-9
Violations

Sec. 9. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-34

Chapter 34. Pest Control: Specific Provisions for Eradication of Rats

IC 16-41-34-1

Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-34-2

Education programs

Sec. 2. The township trustees and the boards of school trustees of the cities and towns shall make provisions in the public schools under their jurisdiction for the illustrative teaching of the following:

(1) The dissemination of diseases by rats, flies, and mosquitoes.

(2) The effects of the dissemination.

(3) The prevention of diseases by the proper selection and consumption of food.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-3

Inspections

Sec. 3. The state department and inspectors appointed by the state department and local health officers and inspectors appointed for the purpose, as provided in this section, may enter into and on all lands, places, buildings, structures, vessels, or watercraft for the purpose of ascertaining whether the places are infested with rats and whether the requirements of this article as to extermination and destruction of the rats are being complied with. A building occupied as a dwelling, hotel, or rooming house may not be entered for that purpose, except between 9 a.m. and 5 p.m. of any day.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-4

Extermination and destruction

Sec. 4. (a) The:

(1) executive of a county, with the consent of the fiscal body of the county; and

(2) legislative body of a town or city;

whenever the executive or legislative body determines by resolution that it is necessary for the preservation of the public health or to prevent the spread of contagious or infectious disease communicable to humans, or when the executive or legislative body determines that it is necessary to prevent great damage to crops, grain, food, or other property, may appropriate money for the purchase of and may purchase poison, traps, and other materials for the purpose of eliminating and destroying rats in the county, town, or city.

(b) The county, town, or city may employ inspectors who shall prosecute the work of extermination and destruction under the direction of the executive or legislative body or the local health officer or board of health on both private and public property in the

county, town, or city.

(c) The inspectors may when necessary to carry out this article do the following:

(1) Dig into the ground.

(2) Remove parts of floors, walls, or other parts of buildings or structures.

(3) Remove from one (1) place to another on the premises any other property when reasonably necessary to do so.

(d) The inspectors, after taking the necessary steps for the discovery and destruction of rats on any premises, shall restore the premises, as far as may be reasonably practicable, to the condition in which the premises were found.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-5

Nuisance abatement; extermination and destruction of rats

Sec. 5. (a) This section applies to a person who owns, leases, occupies, possesses, or has charge of any:

(1) land;

(2) place;

(3) building;

(4) structure;

(5) stacks or quantities of:

(A) wood;

(B) hay;

(C) corn;

(D) wheat; or

(E) other grains or materials; or

(6) vessel or watercraft;

that is infested with rats.

(b) If a person fails, neglects, or refuses to proceed to exterminate and destroy the rats, as required by this chapter, the state department or the state department's inspectors, and the local health officer or local board of health and the local board's inspectors shall at once cause the nuisance to be abated by exterminating and destroying the rats.

(c) The expense is a charge against the county, town, or city that has, by the county's, town's, or city's legislative body, ordered the destruction or extermination of rats, and the legislative body shall pay the expense.

(d) When the destruction of rats is ordered by the town or city legislative body, the clerk of the town or city shall at once file with the county auditor a certified statement of the expense of the extermination and the county auditor shall charge the amount expended for destroying rats against the property on which the nuisance was abated. The amount shall be collected as other taxes are collected. When collected the amount shall be paid to the county, town, or city to reimburse the county, city, or town for the amount paid out for the destruction of rats.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-6
Inspectors' right of entry; penalty for obstruction

Sec. 6. (a) A health officer or an inspector appointed under this article may, without a warrant, enter on or into any land, place, building, structure, or premises suspected of being rat infested for the discovery or destruction of rats.

(b) A person who obstructs a health officer or an inspector in the performance of the health officer's or inspector's duties commits a Class C infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-7
Allowing infestation; penalties

Sec. 7. (a) A person who:

(1) owns, leases, occupies, possesses, or has charge of any:
- (A) land;
- (B) place;
- (C) building;
- (D) structure;
- (E) stacks or quantities of:
  - (i) wood;
  - (ii) hay;
  - (iii) corn;
  - (iv) wheat; or
  - (v) other grains or materials; or
- (F) vessel or water craft; and

(2) permits the areas listed in subdivision (1) to become rat infested;

commits a Class C infraction.

(b) A person who:

(1) permits an area listed in subsection (a) to become rat infested; and

(2) upon any knowledge or notice, fails to endeavor in good faith to exterminate the rats by poisoning, trapping, or other appropriate means such as that suggested by the state department or local health officers;

commits a Class C infraction.

As added by P.L.2-1993, SEC.24.

IC 16-41-34-8
Violations

Sec. 8. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-35

Chapter 35. Radiation: Radiation Control

IC 16-41-35-1 Version a

Public policy

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 1. Whereas radiation may improve the health, welfare, and productivity of the public if properly utilized but may impair the health of the public and the industrial and agricultural potentials of Indiana if improperly utilized, it is declared to be the public policy of Indiana to encourage the constructive uses of radiation and to control harmful effects of radiation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-1 Version b

Public policy

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 1. Whereas radiation may improve the health, welfare, and productivity of the public if properly utilized but may impair the health of the public if improperly utilized, it is declared to be the public policy of Indiana to encourage the constructive medical uses of radiation and to control harmful effects of radiation.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.11.

IC 16-41-35-2

Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-3 Version a

Atomic energy

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 3. As used in this chapter, "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-3 Version b

Repealed

(Repealed by P.L.29-2014, SEC.12.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-4 Version a

Byproduct material

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 4. As used in this chapter, "byproduct material" means any

radioactive material, except special nuclear materials, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-4 Version b
Repealed
(Repealed by P.L.29-2014, SEC.13.)
Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-5
Electronic products
Sec. 5. As used in the chapter, "electronic products" means a manufactured product or device or a component part of a product or device that has an electronic circuit that can generate or emit a physical field of radiation.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-6 Version a
General license
Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.
Sec. 6. As used in this chapter, "general license" means a license effective under rules promulgated by the state department without filing an application to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-6 Version b
Repealed
(Repealed by P.L.29-2014, SEC.14.)
Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-7 Version a
Production facility
Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.
Sec. 7. As used in this chapter, "production facility" means:
(1) any equipment or device capable of producing special nuclear material in a quantity significant to the common defense and security or in a manner that affects the health and safety of the public; or
(2) any important component part especially designed for that equipment or device.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-7 Version b
Repealed

(Repealed by P.L.29-2014, SEC.15.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-8
Radiation

Sec. 8. As used in this chapter, "radiation" means the following:

(1) Ionizing radiation, including gamma rays, x-rays, alpha particles, beta particles, and other atomic or nuclear particles or rays.

(2) Electromagnetic radiation generated during the operation of electronic products.

(3) Sonic, ultrasonic, or infrasonic waves that are emitted from an electronic product as a result of the operation of an electronic circuit in that product that may produce a hazard to health.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-9
Radiation machine

Sec. 9. As used in this chapter, "radiation machine" is any equipment or device that produces ionizing radiation when the associated control devices are operated.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-10
Radioactive material

Sec. 10. As used in this chapter, "radioactive material" is any solid, liquid, or gas material that emits radiation spontaneously.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-11 Version a
Source material

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 11. As used in this chapter, "source material" means:

(1) uranium, thorium, or any other material that the state department declares to be source material after the United States Nuclear Regulatory Commission has determined the material to be source material; or

(2) ores containing at least one (1) of the materials described in subdivision (1) in the concentration that the state department declares to be source material after the United States Nuclear Regulatory Commission has determined the material in that concentration to be source material.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.9.

IC 16-41-35-11 Version b

Repealed

(Repealed by P.L.29-2014, SEC.16.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-12 Version a
Special nuclear material

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 12. As used in this chapter, "special nuclear material" means:

(1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the state department declares to be special nuclear material after the United States Nuclear Regulatory Commission has determined the material to be special nuclear material; or

(2) any material artificially enriched by any of the material described in subdivision (1).

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.10.

IC 16-41-35-12 Version b
Repealed

(Repealed by P.L.29-2014, SEC.17.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-13 Version a
Specific license

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 13. As used in this chapter, "specific license" means a license issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-13 Version b
Repealed

(Repealed by P.L.29-2014, SEC.18.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-14
Unnecessary radiation

Sec. 14. As used in this chapter, "unnecessary radiation" means the use of radiation in a manner that is injurious or dangerous to health, life, or property.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-15 Version a
Utilization facility

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 15. As used in this chapter, "utilization facility" means:

(1) any equipment or device, except an atomic weapon, capable of making use of special nuclear materials in a quantity significant to the common defense and security, or in a manner that affects the health and safety of the public, or peculiarly adapted for making use of atomic energy in a quantity significant to the common defense and security, or in a manner that affects the health and safety of the public; or

(2) any important component part especially designed for such equipment or device.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-15 Version b
Repealed

(Repealed by P.L.29-2014, SEC.19.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-16
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-17
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-18
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-19
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-20
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-21
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-22
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-23
Repealed
(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-24
Repealed
(Repealed by P.L.113-2010, SEC.170.)

IC 16-41-35-25
Inspections and investigations; assistance
Sec. 25. The state department or the state department's agent may enter at all reasonable times any private or public property for the purpose of inspecting and investigating conditions relating to radiation control. The state department may call upon any state officer, employee, board, department, school, university, or other state institution to receive any assistance considered necessary to carry out this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-26 Version a
Licenses; registration
Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.
Sec. 26. (a) The state department shall issue general or specific licenses for at least one (1) of the following:
(1) Byproduct material.
(2) Source material.
(3) Special nuclear material.
(4) Other radioactive materials occurring naturally or produced artificially.
(5) Devices or equipment utilizing this material.
(b) A license shall be issued only when the state department finds that the items described under subsection (a) may produce radiation sufficient to result in hazard or injury to health, life, or property.
(c) The state department shall adopt rules under this chapter providing for granting, suspending, revoking, or amending licenses. No licensing of materials, devices, or equipment now under the jurisdiction of the United States Nuclear Regulatory Commission shall be made effective before the effective date of an agreement that discontinues the federal government's regulation of sources of radiation involved, as provided in section 27(c) of this chapter.
(d) A person who is not required to have a general or specific license may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, unless the person registers in writing with the state department, giving the pertinent information the state department requires, in accordance with the procedures prescribed by the state department.
As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.11.

IC 16-41-35-26 Version b
Registration of person that produces radiation or uses or disposes of radiation machines

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 26. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radiation machines or electronic products, unless the person registers in writing with the state department, giving the pertinent information the state department requires, in accordance with the procedures prescribed by the state department.

As added by P.L.2-1993, SEC.24. Amended by P.L.144-1996, SEC.11; P.L.29-2014, SEC.20.

IC 16-41-35-27 Version a
Registration and license expiration; fees; tax warrant list

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 27. (a) A registration under section 26(d) of this chapter is effective until there is a change that may significantly increase the number of sources, source strength, or output of energy of radiation produced. A registration that includes at least one (1) source that subsequently requires licensing under section 26(a) of this chapter expires with respect to that particular source upon the effective date of the license. If a change occurs, the change shall be registered with the state department within thirty (30) days as an amendment to the original registration, unless exempted under rules adopted under this chapter.

(b) The state department shall specify the expiration date for a license in the license.

(c) The governor may, on behalf of the state, enter into an agreement with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of radiation and the assumption of those responsibilities by the state.

(d) A person who, on the effective date of an agreement under subsection (c), possesses a license issued by the federal government is considered to possess an equivalent license issued under this chapter that expires:

(1) ninety (90) days after receipt from the state department of a notice of expiration of the license; or

(2) on the date of expiration specified in the federal license;

whichever is earlier.

(e) The term of a license issued under this section by the state department is twenty-four (24) months.

(f) The license fee for a new or renewal license is two hundred fifty dollars ($250).

(g) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue indicating that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.2-1993, SEC.24. Amended by P.L.172-2011, SEC.119.

IC 16-41-35-27 Version b
Repealed

(Repealed by P.L.29-2014, SEC.21.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-28 Version a
Production, transportation, use, and disposition rules

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 concerning the production, transportation, use, storage, sale, or other disposition of radioactive material, radiation machines, or electronic products to do the following:

(1) Prohibit and prevent unnecessary radiation.

(2) Carry out this chapter.

(b) Standards relative to unnecessary radiation included in the rules must be in general conformance with the recommendations of the National Council on Radiation Protection and Measurements and performance standards promulgated by appropriate federal agencies.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-28 Version b
Production, transportation, use, and disposition rules

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 concerning the production, transportation, use, storage, sale, or other disposition of radioactive material, radiation machines, or electronic products used for medical purposes on human beings to do the following:

(1) Prohibit and prevent unnecessary radiation.

(2) Carry out this chapter.

(b) Standards relative to unnecessary radiation included in the rules must be in general conformance with the recommendations of the National Council on Radiation Protection and Measurements (NCRP) and performance standards promulgated by appropriate federal agencies.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.22.

IC 16-41-35-29
Radiation machines; operation; licenses; inspection; penalty

Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

(1) holds a valid certificate issued by; and

(2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

(1) is currently licensed in another state as a radiologic technologist; or

(2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist;

from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of a sixty dollar ($60) fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months. The state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed sixty dollars ($60). In addition to the renewal fee, a penalty fee of sixty dollars ($60) shall be imposed by the state department for processing an application for license renewal received after the expiration of the previous license. The state department may waive the penalty fee for a showing of good cause.

(d) An individual who applies for a license issued under subsection (c) or who holds a license issued under subsection (c) shall provide the individual's Social Security number to the state department.

(e) The state department shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

(f) Notwithstanding IC 4-1-10-3, the state department may allow access to the Social Security number of each person who is licensed under this section or has applied for a license under this section to:

(1) a testing service that provides the examination for licensure as a radiologic technologist to the state department; or

(2) an individual state regulatory board of radiologic technology or an organization composed of state regulatory boards of radiologic technology for the purpose of coordinating licensure and disciplinary activities among the individual states.

(g) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

As added by P.L.2-1993, SEC.24. Amended by P.L.104-2003, SEC.6;

P.L.168-2003, SEC.3; P.L.157-2006, SEC.5.

IC 16-41-35-30
Mammography rules

Sec. 30. The state department shall adopt rules under IC 4-22-2 concerning screening mammographies.

As added by P.L.2-1993, SEC.24. Amended by P.L.87-1994, SEC.11.

IC 16-41-35-31
Design and shielding plans and specifications

Sec. 31. The state department may require the submission of plans and specifications on the design and shielding for radiation sources for the purpose of determining possible radiation hazards.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-32
Radiation hazard and protection knowledge acquisition and dissemination

Sec. 32. The state department shall provide facilities and personnel for inspection, investigation, and dissemination of knowledge concerning radiation hazards and protection.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-33 Version a
Application of chapter

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 33. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, except in accordance with this chapter and rules adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-33 Version b
Prohibition against nonconforming production, use, storage, sale, or disposal

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 33. A person may not produce radiation or produce, use, store, sell, or otherwise dispose of radioactive materials, radiation machines, or electronic products, except in accordance with this chapter and rules adopted under this chapter or IC 10-19.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.23.

IC 16-41-35-34
Footwear fitting devices using radiation prohibited

Sec. 34. A person may not operate or maintain in Indiana a fitting device or machine that uses fluoroscopic, x-ray, or radiation principles for the purpose of fitting or selling footwear through commercial outlets.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-35
Authorized exposure to radiation

Sec. 35. This chapter does not limit intentional exposure of persons to radiation for the purpose of diagnosis, therapy, and medical or dental research as authorized by law.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-36
Cooperation of state health department with other entities; acceptance and administration of funds

Sec. 36. The state department shall advise, consult, and cooperate with other state agencies, the federal government, other states, interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. The state department may accept and administer grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out functions under this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-37
Approval of local ordinances and resolutions

Sec. 37. An ordinance or a resolution concerning unnecessary radiation adopted by a municipality, county, or local board of health is not effective until a certified copy of the ordinance or a resolution has been submitted to the state department and approved by the state health commissioner. An ordinance or a resolution may not be approved unless the ordinance or resolution is consistent with this chapter or a rule adopted under this chapter.
As added by P.L.2-1993, SEC.24.

IC 16-41-35-38
Application of laws

Sec. 38. The powers, duties, and functions of the state department under this chapter do not affect the powers, duties, and functions of the state department or the environmental rules board under any other law.
As added by P.L.2-1993, SEC.24. Amended by P.L.113-2014, SEC.110.

IC 16-41-35-39 Version a
Transportation of nuclear waste

Note: This version of section effective until 1-1-2015. See also following repeal of this section, effective 1-1-2015.

Sec. 39. (a) Upon receiving advance notification, under 10 CFR 71.5a and 71.5b, of the transport of any nuclear waste to, through, or across the boundary of Indiana:

(1) the governor; or
(2) the governor's designee for the transport of nuclear waste;

shall provide to the sheriff of each county through which the nuclear waste is to be transported the notification required by subsection (b).

(b) The notification provided to each sheriff must include the following information from the notification given to the governor or the governor's designee if the information has been made available to the governor or the governor's designee:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment.

(2) A description of the nuclear waste contained in the shipment.

(3) The point of origin of the shipment and the seven (7) day period during which departure of the shipment is estimated to occur.

(4) The seven (7) day period during which arrival of the shipment at state boundaries is estimated to occur.

(5) The destination of the shipment and the seven (7) day period during which arrival of the shipment is estimated to occur.

(6) A point of contact with a telephone number for current shipment information.

(7) Information regarding necessary safety steps to be taken if an accident occurs during shipment of the nuclear waste.

(c) The notification prescribed by subsection (b) must be given in writing delivered by first class mail or by a faster means of delivery to the sheriff of each county through which the shipment of nuclear waste is to pass within twenty-four (24) hours after the governor or the governor's designee receives advance notification of the shipment under 10 CFR 71.5a and 71.5b.

(d) If the governor or the governor's designee is notified under 10 CFR 71.5a and 71.5b that the schedule for a shipment of nuclear waste will not be met or that a shipment of nuclear waste has been canceled, the governor or the governor's designee shall notify each sheriff previously notified about the shipment as to the delay or cancellation. The notification given by the governor or the governor's designee under this subsection must be provided under the same requirements prescribed in subsection (c) for the initial notification of sheriffs.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-39 Version b
Repealed

(Repealed by P.L.29-2014, SEC.24.)

Note: This repeal of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

IC 16-41-35-40 Version a
Violations

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 40. A person who:

(1) produces radiation; or

(2) produces, uses, stores, sells, or otherwise disposes of radioactive materials, radiation machines, or electronic products;

in violation of this chapter commits a Class B misdemeanor. Each day a violation continues, after notification in writing of the offense by the state department, constitutes a separate offense.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-40 Version b

Violations

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 40. A person who:

(1) produces radiation; or

(2) produces, uses, stores, sells, or otherwise disposes of radiation machines or electronic products;

in violation of this chapter commits a Class B misdemeanor. Each day a violation continues, after notification in writing of the offense by the state department, constitutes a separate offense.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.25.

IC 16-41-35-41

Enforcement

Sec. 41. The state department may bring an action at law or in equity to enforce this chapter, and the court in the action has jurisdiction to compel or enforce this chapter by injunction. The action shall be brought in the name of the state.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-42 Version a

Civil penalties and orders of compliance

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 42. (a) In addition to other penalties provided under this chapter, the state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied upon a person for the violation of this chapter.

(b) A penalty included in the schedule of civil penalties adopted under this chapter may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this section or a rule adopted under this section; or

(2) interferes with or obstructs the state department or the department's designated agent in the performance of duties under this section.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only

in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24.

IC 16-41-35-42 Version b

Civil penalties and orders of compliance

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 42. (a) In addition to other penalties provided under this chapter, the state department shall adopt rules under IC 4-22-2 that establish a schedule of civil penalties that may be levied upon a person for the violation of this chapter.

(b) A penalty included in the schedule of civil penalties adopted under this chapter may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The state department may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or the department's designated agent in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

As added by P.L.2-1993, SEC.24. Amended by P.L.29-2014, SEC.26.

IC 16-41-36
Repealed

(Repealed by P.L.142-1995, SEC.32.)

IC 16-41-37
Repealed

(Repealed by P.L.141-2012, SEC.9.)

IC 16-41-37.5
Chapter 37.5. Indoor Air Quality in Schools

IC 16-41-37.5-0.3
"Nonpublic school"
Sec. 0.3. As used in this chapter, "nonpublic school" has the meaning set forth in IC 20-18-2-12.
As added by P.L.79-2008, SEC.7.

IC 16-41-37.5-0.5
"Public school"
Sec. 0.5. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15(1).
As added by P.L.79-2008, SEC.8.

IC 16-41-37.5-1
"School"
Sec. 1. As used in this chapter, "school" refers to a:
(1) public school; or
(2) nonpublic school that is not located in a private home.
As added by P.L.1-2005, SEC.33.

IC 16-41-37.5-1.3
"State agency"
Sec. 1.3. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1-1(b).
As added by P.L.79-2008, SEC.9.

IC 16-41-37.5-2
Indoor air quality inspection and evaluation program; functions of state department
Sec. 2. (a) The state department shall before July 1, 2010:
(1) adopt rules under IC 4-22-2 to establish an indoor air quality inspection, evaluation, and employee notification program to assist state agencies in improving indoor air quality; and
(2) amend 410 IAC 6-5.1 or adopt new rules under IC 4-22-2 to do the following:
(A) Establish an indoor air quality inspection, evaluation, and parent and employee notification program to assist schools in improving indoor air quality.
(B) Establish best practices to assure healthful indoor air quality in schools.
(b) Subject to subsection (c), the state department shall:
(1) inspect a school or state agency if the state department receives a complaint about the quality of air in the school or state agency;
(2) prepare a report, which may be in letter form, that:
(A) describes the state department's inspection findings;
(B) identifies any conditions that are contributing or could contribute to poor indoor air quality at the school or state

agency, including:
(i) carbon dioxide levels;
(ii) humidity;
(iii) evidence of mold or water damage; and
(iv) excess dust;
(C) provides guidance on steps the school or state agency should take to address any issues; and
(D) requests a response from the school or state agency not later than sixty (60) days after the date of the report;
(3) report the results of the inspection to:
(A) the person who complained about the quality of air;
(B) the school's principal or the state agency head;
(C) the superintendent of the school corporation, if the school is part of a school corporation;
(D) the Indiana state board of education, if the school is a public school or an accredited nonpublic school;
(E) the Indiana department of administration, if the inspected entity is a state agency; and
(F) the appropriate local or county board of health; and
(4) assist the school or state agency in developing a reasonable plan to improve air quality conditions found in the inspection.
(c) A complaint referred to in subsection (b)(1):
(1) must be in writing; and
(2) may be made by electronic mail.
(d) The state department may release the name of a person who files a complaint referred to in subsection (b)(1) only if the person has authorized the release in writing.
As added by P.L.1-2005, SEC.33. Amended by P.L.79-2008, SEC.10; P.L.132-2009, SEC.1; P.L.168-2009, SEC.4.

IC 16-41-37.5-2.5
Manual of best practices for indoor air quality at schools
Sec. 2.5. (a) Before July 1, 2010, the state department shall distribute a manual of best practices for managing indoor air quality at schools as described in this section. The state department may use a manual on indoor air quality in schools developed by a federal health or environmental agency or another state and make additions or revisions to the manual to make the manual most useful to Indiana schools. The state department shall provide the manual:
(1) to:
(A) the legislative council; and
(B) the department of education;
in an electronic format under IC 5-14-6; and
(2) to the facilities manager and superintendent of each school corporation.
(b) The department shall review and revise the manual developed under subsection (a) at least once every three (3) years to assure that the manual continues to represent best practices available to schools.
As added by P.L.132-2009, SEC.2; P.L.168-2009, SEC.5. Amended by P.L.133-2012, SEC.183.

IC 16-41-37.5-3
Repealed
(Repealed by P.L.133-2012, SEC.184.)

IC 16-41-37.5-4
Qualifications of individual conducting indoor air quality test; certification of test

Sec. 4. (a) An individual conducting an indoor air quality test under this chapter must be:

(1) a professional engineer (as defined in IC 25-31-1-2);
(2) an industrial hygienist; or
(3) a supervisor or technician certified by a national organization that:
(A) writes and adheres to standards for:
(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and
(ii) indoor air quality testing procedures and requirements; and
(B) certifies supervisors and technicians to perform:
(i) testing, adjusting, and balancing of heating, ventilation, and air conditioning equipment or exhaust systems; and
(ii) indoor air quality testing procedures and requirements.

(b) The report of a test conducted under this chapter must be certified by the person conducting the test. If the person uses a professional seal on documents, the certification must include the person's seal.
As added by P.L.79-2008, SEC.12.

IC 16-41-37.5-5
State department considerations in amending school building and site rules

Sec. 5. After June 30, 2009, if the department amends 410 IAC 6-5.1 concerning school buildings and school sites, the department shall consider the effects of outdoor air quality when establishing criteria for school siting.
As added by P.L.132-2009, SEC.4; P.L.168-2009, SEC.7.

IC 16-41-38
Chapter 38. Radon Gas

IC 16-41-38-1
"Radon gas" defined

Sec. 1. As used in this chapter, "radon gas" means the radioactive gas and related decay products produced by the disintegration of the element radium.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-2
Rules

Sec. 2. The state department shall adopt rules under IC 4-22-2 to establish and operate programs for the certification of a person engaged in:

(1) testing for radon gas in buildings or on areas of land; or
(2) abatement of radon gas in buildings.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-3
Duties of state department

Sec. 3. The state department shall, in the rules adopted under this chapter:

(1) require training and education as a precondition to certification;
(2) require continuing education and biennial reexamination to maintain certification;
(3) establish fees that are not more than necessary to recover the cost of administering this chapter;
(4) collect and disseminate information relating to radon gas; and
(5) conduct research on radon gas testing and mitigation.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-4
Use of relevant standards and requirements

Sec. 4. In establishing standards and requirements under this chapter, the state department shall use any relevant standards or requirements concerning radon gas established by the United States Environmental Protection Agency.
As added by P.L.1-1996, SEC.76.

IC 16-41-38-5
Exempted individuals; certification requirement

Sec. 5. (a) This section does not apply to an individual who is testing for radon gas or engaged in the abatement of radon gas if the individual is:

(1) performing the testing or abatement in a building the individual owns;
(2) performing the testing on an area of land the individual

owns; or

(3) conducting scientific research on radon gas testing or abatement in a building or on an area of land and the owner of the building or area of land is not charged for the testing or abatement.

(b) An individual may not engage or profess to engage in:

(1) testing for radon gas; or

(2) abatement of radon gas;

unless the individual is certified under this chapter.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-6

Denial, suspension, or revocation of certificate

Sec. 6. The state department may under IC 4-21.5:

(1) deny;

(2) suspend; or

(3) revoke;

a certificate issued under this chapter or IC 13-1-14 (before its repeal).

As added by P.L.1-1996, SEC.76.

IC 16-41-38-7

Certification without examination

Sec. 7. An individual accredited in another state to perform testing for or abatement of radon gas may be certified under this chapter without passing an examination if:

(1) the state in which the individual is accredited maintains an accreditation program substantially similar to the certification program under this chapter; and

(2) the individual pays a fee.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-8

Radon gas trust fund

Sec. 8. (a) The radon gas trust fund is established to provide a source of money for the purposes described in this chapter.

(b) The expenses of administering this chapter shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The sources of money for the fund are the following:

(1) Fees collected under this chapter.

(2) Appropriations made by the general assembly.

(3) Gifts and donations intended for deposit in the fund.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-9

Violations; civil penalty

Sec. 9. In addition to the penalties set out in this chapter, the state department may commence an action under IC 4-21.5-3-6 or

IC 4-21.5-4 for issuance of a compliance order to impose a civil penalty not to exceed one thousand dollars ($1,000) for each violation, each day, against a person who:

(1) fails to comply with this chapter or a rule adopted under this chapter; or

(2) interferes with or obstructs the state department or a designated agent of the state department in the performance of official duties under this chapter.

As added by P.L.1-1996, SEC.76.

IC 16-41-38-10

Violations; offense

Sec. 10. An individual who violates:

(1) this chapter; or

(2) a rule adopted under this chapter;

commits a Class A misdemeanor.

As added by P.L.1-1996, SEC.76.

IC 16-41-39

Chapter 39. Tobacco Sale Regulation

IC 16-41-39-1

General assembly having exclusive regulatory power

Sec. 1. Regulation of the sale, distribution, or display of tobacco products may only be authorized by the general assembly.

As added by P.L.256-1996, SEC.9.

IC 16-41-39-2

Local ordinances, bylaws, and rules void

Sec. 2. An ordinance, a bylaw, or a rule of:

(1) a county;
(2) a city;
(3) a township;
(4) a department, a board, or an agency of a:
  (A) county;
  (B) city; or
  (C) township; or
(5) any other political subdivision or agency of the state;

concerning matters listed in section 1 of this chapter is void, regardless of when enacted.

As added by P.L.256-1996, SEC.9.

IC 16-41-39-3

Local restrictions on transient merchants

Sec. 3. Notwithstanding section 1 of this chapter, this chapter does not prohibit a political subdivision from adopting limitations on the locations at which a transient merchant licensed under IC 25-37-1-3 may conduct business within the jurisdiction of the political subdivision.

As added by P.L.256-1996, SEC.9.

IC 16-41-39.4

Chapter 39.4. Childhood Lead Poisoning

IC 16-41-39.4-1

Rules

Sec. 1. (a) The state department may adopt rules under IC 4-22-2 to implement this chapter.

(b) The state department shall adopt rules under IC 4-22-2 for the case management of a child with lead poisoning.

As added by P.L.123-1997, SEC.12. Amended by P.L.99-2002, SEC.8; P.L.135-2005, SEC.3.

IC 16-41-39.4-2

Powers of state department

Sec. 2. (a) The state department may do the following:

(1) Determine the magnitude of lead poisoning in Indiana's residents.

(2) Provide consultation and education to a medical provider network that screens for lead poisoning throughout Indiana.

(3) Receive and analyze blood samples or assist regional lab sites to receive and analyze blood samples for lead poisoning.

(4) Develop and maintain a data base of unduplicated children with lead poisoning.

(5) Provide consultation to local health departments regarding medical case follow-up and environmental inspections connected to reducing the incidence of lead poisoning.

(6) Coordinate lead exposure detection activities with local health departments.

(7) Coordinate with social service organizations for outreach programs regarding lead poisoning.

(8) Notify and update pediatricians and family practice physicians of lead hazards in a timely fashion.

(9) Provide consumer alerts and consumer education regarding lead hazards.

(b) The state department shall establish reporting, monitoring, and preventive procedures to protect from lead poisoning.

As added by P.L.123-1997, SEC.12. Amended by P.L.59-2003, SEC.1; P.L.135-2005, SEC.4.

IC 16-41-39.4-3

Blood examinations; reports; penalties

Sec. 3. (a) A person that examines the blood of an individual described in section 2 of this chapter for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

(1) With respect to the individual whose blood is examined:

(A) the name;

(B) the date of birth;

(C) the gender;

(D) the race; and
(E) any other information that is required to be included to qualify to receive federal funding.
(2) With respect to the examination:
(A) the date;
(B) the type of blood test performed;
(C) the person's normal limits for the test;
(D) the results of the test; and
(E) the person's interpretation of the results of the test.
(3) The names, addresses, and telephone numbers of:
(A) the person; and
(B) the attending physician, hospital, clinic, or other specimen submitter.

(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the state department.

(c) Except as provided in subsection (d), if a person required to report under subsection (a) fails to provide complete information within ten (10) days after notification by the state department, the state department may, in accordance with IC 4-21.5, assess a civil penalty against the person in an amount equal to one thousand five hundred dollars ($1,500) for each incomplete report that is submitted after receipt of the notification. Money received by the state department under this subsection shall be deposited in the fund.

(d) Subsection (c) does not apply to a person who acts in good faith to provide a complete report required under subsection (a), but who:
(1) is unable to collect all of the information required for a complete report; or
(2) provides incorrect information on a completed report.

As added by P.L.99-2002, SEC.9. Amended by P.L.59-2003, SEC.2; P.L.135-2005, SEC.5; P.L.102-2008, SEC.11.

IC 16-41-39.4-3.1
Childhood lead poisoning prevention fund

Sec. 3.1. (a) The childhood lead poisoning prevention fund is established for the purpose of funding childhood lead poisoning outreach and prevention activities. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:
(1) civil penalties assessed under section 3 of this chapter;
(2) gifts; and
(3) appropriations from the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.102-2008, SEC.12.

IC 16-41-39.4-4
Distribution of information

Sec. 4. (a) The state department, the office of the secretary of family and social services, and local health departments shall share among themselves and with the United States Department of Health and Human Services and the United States Department of Housing and Urban Development information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age to the extent necessary to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.

(b) The state department, the office of the secretary of family and social services, and local health departments shall share information described in subsection (a) that is gathered after July 1, 2002, among themselves and with organizations that administer federal, state, and local programs covered by the United States Department of Housing and Urban Development regulations concerning lead-based paint poisoning prevention in certain residential structures under 24 CFR Subpart A, Part 35 to the extent necessary to ensure that children potentially affected by lead-based paint and lead hazards are adequately protected from lead poisoning.

(c) A person who shares data under this section is not liable for any damages caused by compliance with this section.
As added by P.L.99-2002, SEC.10. Amended by P.L.1-2003, SEC.63; P.L.135-2005, SEC.6.

IC 16-41-39.4-5
Annual report

Sec. 5. (a) The state department shall, in cooperation with other state agencies, collect data under this chapter and, before March 15 of each year, report the results to the general assembly for the previous calender year. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(b) The report transmitted under subsection (a) must include for each county the following information concerning children who are less than seven (7) years of age:

(1) The number of children who received a blood lead test.

(2) The number of children who had a blood test result of at least ten (10) micrograms of lead per deciliter of blood.

(3) The number of children identified under subdivision (2) who received a blood test to confirm that they had lead poisoning.

(4) The number of children identified under subdivision (3) who had lead poisoning.

(5) The number of children identified under subdivision (4) who had a blood test result of less than ten (10) micrograms of lead per deciliter of blood.

(6) The average number of days taken to confirm a blood lead test.

(7) The number of risk assessments performed for children identified under subdivision (4) and the average number of days taken to perform the risk assessment.

(8) The number of housing units in which risk assessments performed under subdivision (7) documented lead hazards as defined by 40 CFR 745.

(9) The number of housing units identified under subdivision (8) that were covered by orders issued under IC 13-14-10-2 or by another governmental authority to eliminate lead hazards.

(10) The number of housing units identified under subdivision (9) for which lead hazards have been eliminated within thirty (30) days, three (3) months, and six (6) months.

As added by P.L.135-2005, SEC.7.

IC 16-41-39.4-6
Expired

(Expired 7-1-2011 by P.L.57-2009, SEC.15.)

IC 16-41-39.4-7
Sales of consumer and other products

Sec. 7. (a) A retail establishment that sells paint or paint products shall do all of the following:

(1) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard.

(2) Provide to customers the federal Environmental Protection Agency pamphlet "Protect Your Family from Lead in Your Home" or a similar source of information approved by the state department.

(3) Ensure that at least one (1) employee who provides advice to customers concerning paint and paint products:

(A) attends a training program concerning lead hazards; and

(B) provides training to other employees who provide advice to customers concerning paint and paint products.

This subsection does not apply to a paint or paint product that is used solely for a craft or hobby.

(b) A person that sells, offers for sale, or distributes a consumer product shall not remove, erase, or obscure the visibility of a statement that:

(1) the manufacturer or wholesaler of the consumer product has placed on the consumer product or the container or wrapper in which the consumer product is contained; and

(2) specifies that the consumer product contains or may contain lead.

(c) A person shall not sell or offer for sale at wholesale or retail or distribute a consumer product, surface coating material, a food

product, or food packaging that:

(1) is a banned hazardous substance under the federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

(2) has been determined by the state department to:

(A) have a lead content that is greater than the lesser of the lead content specifications for lead paint in 16 CFR 1303.2 or state law; and

(B) pose a danger of childhood lead poisoning because the product, material, or packaging is reasonably expected to be accessible to, chewed by, or ingested by a child who is less than seven (7) years of age.

(d) If the state department, based on:

(1) test results performed by a certified laboratory at the state department's request;

(2) information received from a federal agency; or

(3) other reliable information;

has reason to believe that a person has violated this section, the state department may, with or without a prior hearing, issue to the person a cease and desist order if the commissioner determines a cease and desist order is in the public interest. In addition to all other remedies, the commissioner may bring an action in the name and on behalf of the state against the person to enjoin the person from violating this section.

(e) The state department or a local health department may at any time during regular business hours inspect any premises where consumer products are sold, offered for sale, or distributed to establish compliance with this section.

(f) The state department may seize an item that is sold, offered for sale, or distributed in violation of this section.

(g) The state department shall, not later than May 1, 2009, adopt rules under IC 4-22-2 to implement this section. The rules adopted under this subsection:

(1) may:

(A) establish exceptions under which items described in subsection (c) may be sold, offered for sale, or distributed upon the state department's determination that the risk posed to children by the items is minimal; or

(B) require labeling of an item or signage to reflect that the item contains lead; and

(2) must be consistent with federal law.

As added by P.L.102-2008, SEC.14. Amended by P.L.57-2009, SEC.16.

IC 16-41-39.4-9

Lead-safe work practices training program

Sec. 9. (a) The state department shall, not later than July 1, 2009, adopt rules under IC 4-22-2 to establish a lead-safe work practices training program for contractors, renovators, and remodelers who:

(1) perform work on housing units that were built before 1978; and

(2) disturb lead-based paint in the housing units.

(b) The rules adopted under subsection (a) must:

(1) be consistent with the federal Department of Housing and Urban Development Lead Safe Housing Rule requirements for lead safe work practices training (24 CFR 53.1330(a)(4)); and

(2) provide for training courses taught in English and Spanish.

As added by P.L.102-2008, SEC.15.

IC 16-41-39.6

Chapter 39.6. Osteoporosis Education

IC 16-41-39.6-1

Osteoporosis prevention and treatment education program

Sec. 1. (a) The state department may establish an osteoporosis prevention and treatment education program.

(b) If the state department establishes a program under subsection (a) the state department shall do the following:

(1) Design and implement strategies for raising public awareness concerning the causes and nature of osteoporosis, personal risk factors, the value of prevention and early detection, and options for diagnosing and treating osteoporosis.

(2) Develop and work with other state and local governmental agencies in presenting osteoporosis educational programs for physicians and other health professionals with the most current and accurate scientific and medical information on:

(A) prevention, diagnosis, and treatment;

(B) therapeutic decision making, including guidelines for detecting and treating the disease in special populations;

(C) risks and benefits of medications; and

(D) research advances.

(3) Conduct a statewide needs assessment to identify one (1) or more of the following concerning osteoporosis:

(A) Indiana specific data that analyzes the extent of osteoporosis in the state.

(B) Available technical assistance and educational materials and programs nationwide.

(C) The level of public awareness about osteoporosis.

(D) The needs of osteoporosis patients and their families and caregivers.

(E) The needs of health care providers.

(F) The services available to osteoporosis patients.

(G) The existence of osteoporosis treatment programs.

(H) The existence of osteoporosis support groups.

(I) The existence of osteoporosis rehabilitative services.

(J) The number and location of bone density testing equipment.

(c) Based on the results of the needs assessment conducted under subsection (b), the state department shall develop, maintain, and make available a list of osteoporosis services and osteoporosis health care providers who have a specialization in services to prevent, diagnose, and treat osteoporosis.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.6-2

State department powers; improvement and coordination of services

Sec. 2. The state department may do the following:

(1) Work to improve the capacity of community based services

available to osteoporosis patients.

(2) Work with other state and local governmental agencies, community and business leaders, community organizations, health care and human service providers, and national osteoporosis organizations to coordinate efforts and maximize state resources in the areas of prevention, education, and treatment of osteoporosis.

(3) Identify and, when appropriate, replicate or use successful osteoporosis programs and procure related materials and services from organizations with appropriate experience and knowledge of osteoporosis.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.6-3

Osteoporosis education fund

Sec. 3. (a) The osteoporosis education fund is established for the purpose of carrying out the duties under this chapter. The fund shall be administered by the state department.

(b) The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be administered.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(d) The fund consists of money accepted by the department from grants and donations from private entities.

As added by P.L.147-1997, SEC.4.

IC 16-41-39.8

Chapter 39.8. Lead-Based Paint Activities

IC 16-41-39.8-1

Applicability

Sec. 1. (a) This chapter does not apply to the following:

(1) A person making an inspection under the authority of IC 22-8-1.1.

(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:

(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or

(B) a child who:

(i) is not more than six (6) years of age or an age specified in rules adopted under section 6 of this chapter; and

(ii) resides in the building and has been identified as having an elevated blood lead level.

(b) This chapter may not be construed as requiring the abatement of lead-based paint hazards in a child occupied facility or target housing.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-2

Establishment of lead-based paint activities program; investigation

Sec. 2. (a) The lead-based paint activities program is established. The purpose of the program is to ensure that a person conducting lead-based paint activities in target housing, child occupied facilities, and any other type of building specified in rules adopted under section 6 of this chapter does so in a manner that safeguards the environment and protects the health of the building's occupants, especially children who are not more than six (6) years of age.

(b) The state department may investigate lead-based paint abatement activities in target housing and child-occupied facilities under the following circumstances:

(1) The state department has received a written complaint about abatement activities.

(2) The state department has been informed of a child who:

(A) is:

(i) not more than six (6) years of age; or

(ii) an age specified in rules adopted under section 6 of this chapter;

(B) has been identified as having an elevated blood lead level; and

(C) has visited the site to be investigated.

(3) The state department is ensuring regulatory compliance with licensure and abatement activities.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-3

License for engaging in lead-based paint activities; clearance examiner license; contractor's license; training; examination; issuance

Sec. 3. (a) A person who engages in lead-based paint activities must obtain a license under this chapter and under rules adopted under section 6 of this chapter. Lead-based paint activities licenses issued under IC 13-17-14 (before its repeal) or under this chapter expire as follows:

(1) On June 30, 2004, if issued before July 1, 2002.

(2) Three (3) years after the date of issuance, if issued after June 30, 2002.

(b) A person may receive a lead-based paint activities license under this chapter for the following disciplines:

(1) Inspector.

(2) Risk assessor.

(3) Project designer.

(4) Supervisor.

(5) Abatement worker.

(6) Contractor.

(c) A person may receive a clearance examiner license under this chapter. A person who engages in the clearance of nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002, must obtain a clearance examiner license under this chapter and under rules adopted under section 6 of this chapter. A clearance examiner license expires three (3) years after the date of issuance.

(d) A person who enters into a contract requiring the person to execute for compensation lead-based paint activities must hold a lead-based paint activities contractor's license.

(e) A person must:

(1) take required training and pass an examination provided in a lead-based paint training course or clearance examiner training course, as appropriate, approved by the state department;

(2) for a license in the discipline of:

(A) inspector;

(B) risk assessor;

(C) project designer; or

(D) supervisor;

pass an examination provided by the state department or a third party as required by rules adopted under section 6 of this chapter; and

(3) meet any requirements established by rules adopted under section 6 of this chapter;

before the person may receive a lead-based paint activities license or clearance examiner license.

(f) The state department may issue a license for a position listed under subsection (b) or (c) if the applicant submits proof to the state department that the applicant satisfies the training, examination, and other requirements for the license under this chapter.

(g) A:

(1) lead-based paint activities license; or

(2) clearance examiner license;

issued under IC 13-17-14 (before its repeal) or this chapter may be renewed for a period of three (3) years. To renew a license, a person who holds a license for a position listed in subsection (b) or (c) must complete refresher training and pass any reexamination required by rules adopted under section 6 of this chapter.

(h) A lead-based paint activities contractor licensed under this chapter may not allow an agent or employee of the contractor to:

(1) exercise control over a lead-based paint activities project;

(2) come into contact with lead-based paint; or

(3) engage in lead-based paint activities;

unless the agent or employee is licensed under this chapter.

(i) A person engaging in lead-based paint activities shall comply with the work practice standards established in rules adopted under section 6 of this chapter and the applicable work practice standards established in section 13 of this chapter for performing the appropriate lead-based paint activities.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-4

Lead-based paint activities training program requirements

Sec. 4. (a) A lead-based paint activities training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license listed in section 3(b) of this chapter.

(b) The state department may approve a lead-based paint activities training course offered by a person who satisfies the requirements of subsection (a).

(c) A lead-based paint activities training course must be conducted by an instructor approved by the state department as provided in the rules adopted under section 6 of this chapter.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-5

Clearance examiner training program requirements

Sec. 5. (a) A clearance examiner training program must meet requirements specified in rules adopted under section 6 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.

(b) The state department may approve a clearance examiner training course offered as part of a program that satisfies the requirements of subsection (a).

(c) A clearance examiner training course must be conducted by an instructor approved by the state department as provided in the rules adopted under section 6 of this chapter.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-6

Rules; establishment of fees

Sec. 6. (a) Rules adopted by the air pollution control board before

July 1, 2009, under IC 13-17-14-5 (repealed) are considered rules of the state department after December 31, 2009.

(b) The state department shall adopt rules under IC 4-22-2 to replace the rules of the air pollution control board described in subsection (a) and to implement this chapter. The rules adopted by the state department must contain at least the elements required to receive program authorization under 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:

(1) Establish minimum requirements for the issuance of a license for:

(A) lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; and

(B) clearance examiners.

(2) Establish minimum requirements for approval of the providers of:

(A) lead-based paint activities training courses; and

(B) clearance examiner training courses.

(3) Establish minimum qualifications for:

(A) lead-based paint activities training course instructors; and

(B) clearance examiner training course instructors.

(4) Extend the applicability of the licensing requirements to other facilities as determined necessary by the board.

(5) Establish work practice standards.

(6) Establish a state department or third party examination process.

(7) Identify activities, if any, that are exempted from licensing requirements.

(8) Establish a reasonable fee based on current market value per person, per license, for the period the license is in effect for a person seeking a license under section 3 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(9) Establish a reasonable fee based on current market value per course, per year, for a lead-based paint activities training program seeking approval of a lead-based paint activities training course under section 4 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(10) Establish a reasonable fee based on current market value per course, per year, for a clearance examiner training program

seeking approval of a clearance examiner training course under section 5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(c) The amount of the fees under subsection (b) may not be more than is necessary to recover the cost of administering this chapter.

(d) The proceeds of the fees under subsection (b) must be deposited in the lead trust fund established by section 7 of this chapter.

(e) The minimum requirements established under subsection (b)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002.

As added by P.L.57-2009, SEC.17. Amended by P.L.1-2010, SEC.73.

IC 16-41-39.8-7

Lead trust fund; use of money in fund

Sec. 7. (a) The lead trust fund established by IC 13-17-14-6 (repealed) is reestablished to provide a source of money for the purposes set forth in subsection (f).

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) License fees established under section 6 of this chapter.

(2) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(3) Penalties imposed under sections 14 and 15 of this chapter for violations of this chapter and rules adopted under this chapter concerning lead-based paint activities.

(4) Any gifts and grants to the fund.

(f) The state department may use money in the fund to do the following:

(1) Pay the expenses of administering this chapter.

(2) Cover other costs related to implementation of 40 CFR 745 for lead-based paint activities in target housing and child occupied facilities.

As added by P.L.57-2009, SEC.17. Amended by P.L.156-2011, SEC.38.

IC 16-41-39.8-8

Record keeping by lead-based paint activities contractor

Sec. 8. (a) A lead-based paint activities contractor licensed under this chapter shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of the following:

(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.

(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis (if applicable) and the name of each federally approved laboratory that conducted the analysis.

(10) The amount of material containing lead-based paint that was removed from the site of the project.

(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.

(b) A copy of each receipt issued by a disposal site identified under subsection (a)(11) must be included in the records concerning the lead-based paint activities project that are compiled under this section.

(c) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(d) A lead-based paint activities contractor shall make records kept under this section available to the state department upon request.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-9
Bidding for political subdivision or state agency for lead-based paint activities project

Sec. 9. A political subdivision or a state agency may not accept a bid for a lead-based paint activities project from a person who does not hold a lead-based paint activities license.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-10
Authority of state department to inspect and investigate

Sec. 10. Without limiting the authority to inspect under IC 16-41-5-1, the state department may do the following:

(1) Inspect the site of a lead-based paint activities project:
(A) during the project; or
(B) after the project is completed.

(2) Conduct an investigation of a lead-based paint activities project upon:
(A) the state department's own initiation; or
(B) the receipt of a complaint by a person.

(3) Conduct an investigation of the provider of a lead-based paint activities training course upon:
(A) the state department's own initiation; or
(B) the receipt of a complaint by a person.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-11
Enjoinment and notice; determination and review

Sec. 11. (a) If the state department finds that a lead-based paint activities project is not being performed in accordance with applicable laws or rules, the state department may enjoin further work on the lead-based paint activities project without prior notice or hearing by delivering a notice to:

(1) the lead-based paint activities contractor engaged in the lead-based paint activities project; or

(2) an agent or representative of the lead-based paint activities contractor.

(b) A notice issued under this section must:

(1) specify the violations of laws or rules that are occurring on the lead-based paint activities project; and

(2) prohibit further work on the lead-based paint activities project until the violations specified under subdivision (1) cease and the notice is rescinded by the state department.

(c) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the state department shall issue a determination regarding recission of the notice.

(d) A lead-based paint activities contractor or any other person aggrieved or adversely affected by the issuance of a notice under subsection (a) may obtain a review of the state department's action under IC 4-21.5.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-12
Reprimand, suspension, or revocation of license

Sec. 12. (a) The state department may under IC 4-21.5 reprimand, or suspend or revoke the license of, a clearance examiner or a lead-based paint activities inspector, risk assessor, project designer, supervisor, worker, or contractor for any of the following reasons:

(1) Violating any requirements of this chapter or rules adopted under section 6 of this chapter.

(2) Fraudulently or deceptively obtaining or attempting to obtain a license under this chapter.

(3) Failing to meet the qualifications for a license or failing to comply with the requirements of applicable laws or rules.

(4) Failing to meet an applicable federal or state standard for lead-based paint activities.

(b) The state department may under IC 4-21.5 reprimand a lead-based paint activities contractor or suspend or revoke the license of a lead-based paint activities contractor that employs a person who is not licensed under this chapter for a purpose that requires the person to hold a license issued under this chapter.

(c) The state department may under IC 4-21.5 revoke the approval of a clearance examiner training course or a lead-based paint activities training course for any of the following reasons:

(1) Violating any requirement of this chapter.

(2) Falsifying information on an application for approval.

(3) Misrepresenting the extent of a training course's approval.

(4) Failing to submit required information or notifications in a timely manner.

(5) Failing to maintain required records.

(6) Falsifying approval records, instructor qualifications, or other approval information.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-13
Applicability of section; methods for removal of lead-based paint and prohibition

Sec. 13. (a) This section applies to:

(1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and

(2) lead-based paint activities.

(b) This section does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in

rules adopted under section 6 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section who performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200, as in effect July 1, 2002.

(g) A person conducting activities under subsection (a) on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-14

Violation penalty; recovery and enjoinment

Sec. 14. (a) A person who violates:

(1) any provision of this chapter; or

(2) a rule or standard adopted by the state department under section 6 of this chapter;

is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) per day for any violation.

(b) The state department may:

(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

As added by P.L.57-2009, SEC.17.

IC 16-41-39.8-15

Class C infraction for obstruction, delay, resistance, prevention, or interference with an inspection or investigation

Sec. 15. A person who obstructs, delays, resists, prevents, or interferes with:

(1) the state department; or

(2) the state department's personnel or designated agent;

in the performance of an inspection or investigation performed under IC 16-41-5-1 commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

As added by P.L.57-2009, SEC.17.

IC 16-41-40
Chapter 40. Shaken Baby Syndrome Education

IC 16-41-40-1
Repealed
(Repealed by P.L.145-2006, SEC.376.)

IC 16-41-40-1.5
"Childhood hazards" defined
Sec. 1.5. As used in this chapter, "childhood hazards" means the following preventable causes of death to children:
(1) Shaken baby syndrome.
(2) Abuse and neglect, and accidents caused by fire, water, and agricultural equipment.
As added by P.L.101-1999, SEC.2.

IC 16-41-40-2
"Shaken baby syndrome" defined
Sec. 2. As used in this chapter, "shaken baby syndrome" refers to the vigorous shaking of an infant or a young child that may:
(1) result in bleeding inside the head; and
(2) cause one (1) or more of the following conditions:
(A) Irreversible brain damage.
(B) Blindness, retinal hemorrhage, or eye damage.
(C) Cerebral palsy.
(D) Hearing loss.
(E) Spinal cord injury, including paralysis.
(F) Seizures.
(G) Learning disability.
(H) Death.
(I) Central nervous system injury as evidenced by central nervous system hemorrhaging.
(J) Closed head injury.
(K) Rib fracture.
(L) Subdural hematoma.
As added by P.L.51-1998, SEC.3.

IC 16-41-40-3
Awareness and prevention program
Sec. 3. (a) The state department, with the assistance of the department of child services shall establish a program focusing on awareness and prevention of childhood hazards.
(b) If a program is established under subsection (a), the state department or the department of child services may contract with a statewide nonprofit organization with experience and knowledge in childhood hazards to implement all or part of the program.
As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.3; P.L.145-2006, SEC.143.

IC 16-41-40-4

Strategies for raising public awareness

Sec. 4. If the state department and the department of child services establish a program under section 3 of this chapter, the state department, with the assistance of the department of child services, shall design and implement strategies for raising public awareness concerning the causes and nature of childhood hazards, including the following concerning shaken baby syndrome:

(1) Factors placing parents, guardians, and other caregivers at risk for shaking an infant.

(2) The risks associated with shaking an infant.

(3) Suggestions for preventing shaken baby syndrome.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.4; P.L.145-2006, SEC.144.

IC 16-41-40-5

Distribution of information and instructional materials

Sec. 5. (a) A program established under this chapter must include the distribution of readily understandable information and instructional materials regarding childhood hazards. Information concerning shaken baby syndrome, must explain its medical effects on infants and children and emphasize preventive measures.

(b) The information and instructional materials described in subsection (a) concerning shaken baby syndrome must be provided without cost by the following:

(1) Each hospital licensed under IC 16-21, to a parent or guardian of each newborn upon discharge from the hospital.

(2) The department of child services to each provider (as defined in IC 12-7-2-149.1 or IC 31-9-2-99.3) when:

(A) the provider applies for a license from the division or the department of child services under IC 12-17.2 or IC 31-27; or

(B) the division or the department of child services inspects a facility operated by a provider.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.5; P.L.273-1999, SEC.178; P.L.145-2006, SEC.145.

IC 16-41-40-6

Powers of state department

Sec. 6. The state department, with the assistance of the department of child services may do the following:

(1) Work to improve the capacity of community based services available to victims of childhood hazards.

(2) Work with:

(A) other state and local governmental agencies;

(B) community and business leaders;

(C) community organizations;

(D) health care and human service providers;

(E) national organizations; and

(F) university safety programs;

to coordinate efforts and maximize state and private resources

in the areas of prevention of and education about childhood hazards.

(3) Identify and, when appropriate, replicate or use successful childhood hazard programs and procure related materials and services from organizations with appropriate experience and knowledge of childhood hazards.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.6; P.L.145-2006, SEC.146.

IC 16-41-40-7

Childhood hazards education and prevention account

Sec. 7. (a) The childhood hazards education and prevention account is established within the state general fund to carry out this chapter. The account shall be administered by the state department.

(b) Expenses of administering the account shall be paid from money in the account.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Money in the account at the end of a fiscal year does not revert to the state general fund.

(d) The account consists of money accepted by the state department from grants and donations from private entities.

(e) Money in the account is continuously appropriated for the purposes provided under this chapter.

As added by P.L.51-1998, SEC.3. Amended by P.L.101-1999, SEC.7.

IC 16-41-41

Chapter 41. Expired

(Expired 7-1-2012 by P.L.59-2008, SEC.6.)

IC 16-41-42
Repealed

(Repealed by P.L.3-2008, SEC.269.)

IC 16-41-42.1

Chapter 42.1. Registration of Out-of-State Mobile Health Care Entities

IC 16-41-42.1-1

"Health care entity"

Sec. 1. As used in this chapter, "health care entity" means an entity that:

(1) is registered or licensed as a health care entity under the laws of another state, a foreign country, or a province in a foreign country; and

(2) provides health care services, including the performance of health care tests, in a mobile facility or temporary location for a short period of time.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-2

Registry maintained

Sec. 2. The state department shall maintain a registry of health care entities that apply for and meet the registration requirements of this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-3

Required registry information

Sec. 3. The registry maintained under section 2 of this chapter must include:

(1) the information required under section 5(6) of this chapter for each registered health care entity; and

(2) the date that the health care entity registered with the state department under this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-4

Certificate of registration

Sec. 4. The state department shall issue a certificate of registration to a health care entity that applies for registration and meets the requirements of this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-5

Application information

Sec. 5. A health care entity applying for registration under this chapter must disclose the following:

(1) The types of health care services that the health care entity will provide in Indiana.

(2) The names of any employees who are currently in good standing licensed, certified, or registered in a health care profession in:

(A) Indiana; or

(B) any other state;

and a copy of each employee's license, certification, or registration.

(3) Any health care services that are to be provided under a contract between the health care entity and a person that is licensed, certified, or registered in Indiana to provide health care services.

(4) The types of:

(A) health care services that the health care entity will perform;

(B) health care tests that the health care entity will perform; and

(C) equipment that the health care entity will use.

(5) The manner in which test results and recommendations for health care based on the test results will be disclosed to patients.

(6) The health care entity's name, address, and telephone number and the name of any company that is affiliated with the health care entity.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-6
Display of certificate

Sec. 6. A registered health care entity that is issued a certificate of registration under this chapter shall display the certificate of registration in a conspicuous place in sight of a consumer of the health care entity.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-7
Expiration of certificate

Sec. 7. A certificate of registration issued under this chapter expires one (1) calendar year after its issuance.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-8
Required registration

Sec. 8. A health care entity may not provide services in Indiana until the health care entity is registered with the state department under this chapter.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-9
Requirements

Sec. 9. The registration of a health care entity under this chapter does not exempt:

(1) a health care professional from the licensure, certification, and registration requirements of IC 25; or

(2) a health care service from the regulation requirements of IC 16 or IC 25.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.1-10
Rules

Sec. 10. The state department shall adopt rules under IC 4-22-2 necessary to implement this chapter, including rules specifying registration renewal procedures.

As added by P.L.3-2008, SEC.112.

IC 16-41-42.2

Chapter 42.2. Spinal Cord and Brain Injury Research

IC 16-41-42.2-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the spinal cord and brain injury research board established by section 5 of this chapter.

As added by P.L.3-2008, SEC.113.

IC 16-41-42.2-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the spinal cord and brain injury fund established by section 3 of this chapter.

As added by P.L.3-2008, SEC.113.

IC 16-41-42.2-3

Spinal cord and brain injury fund

Sec. 3. (a) The spinal cord and brain injury fund is established to fund research on spinal cord and brain injuries.

(b) The fund shall be administered by the state department.

(c) The fund consists of:

(1) appropriations;

(2) gifts and bequests;

(3) fees deposited in the fund by law; and

(4) grants received from the federal government or private sources.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The money in the fund is continually appropriated to the state department to fund spinal cord and brain injury research programs.

As added by P.L.3-2008, SEC.113. Amended by P.L.97-2008, SEC.5.

IC 16-41-42.2-4

Purposes of fund; limitations

Sec. 4. The fund is to be used for the following purposes:

(1) Establishing and maintaining a state medical surveillance registry for traumatic spinal cord and brain injuries.

(2) Fulfilling the duties of the board established by section 5 of this chapter.

(3) Funding research related to the treatment and cure of spinal cord and brain injuries, including acute management, medical complications, rehabilitative techniques, and neuronal recovery. Research must be conducted in compliance with all state and federal laws.

(4) Develop a statewide trauma system.

However, not more than fifty percent (50%) of money in the fund may be used for purposes of developing a statewide trauma system. *As added by P.L.3-2008, SEC.113. Amended by P.L.141-2014, SEC.22.*

IC 16-41-42.2-5

Spinal cord and brain injury research board; members; duties

Sec. 5. (a) The spinal cord and brain injury research board is established for the purpose of administering the fund. The board is composed of nine (9) members.

(b) The following four (4) members of the board shall be appointed by the governor:

(1) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury.

(2) One (1) member who is a physician licensed under IC 25-22.5 who has specialty training in neuroscience and surgery.

(3) One (1) member who is a physiatrist holding a board certification from the American Board of Physical Medicine and Rehabilitation.

(4) One (1) member representing the technical life sciences industry.

(c) Five (5) members of the board shall be appointed as follows:

(1) One (1) member representing Indiana University to be appointed by Indiana University.

(2) One (1) member representing Purdue University to be appointed by Purdue University.

(3) One (1) member representing the National Spinal Cord Injury Association to be appointed by the National Spinal Cord Injury Association.

(4) One (1) member representing the largest freestanding rehabilitation hospital for brain and spinal cord injuries in Indiana to be appointed by the Rehabilitation Hospital of Indiana located in Indianapolis.

(5) One (1) member representing the American Brain Injury Association to be appointed by the Brain Injury Association of Indiana.

(d) The term of a member is four (4) years. A member serves until a successor is appointed and qualified. If a vacancy occurs on the board before the end of a member's term, the appointing authority appointing the vacating member shall appoint an individual to serve the remainder of the vacating member's term.

(e) A majority of the members appointed to the board constitutes a quorum. The affirmative votes of a majority of the members are required for the board to take action on any measure.

(f) Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with

the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The board shall annually elect a chairperson who shall be the presiding officer of the board. The board may establish other officers and procedures as the board determines necessary.

(h) The board shall meet at least two (2) times each year. The chairperson may call additional meetings.

(i) The state department shall provide staff for the board. The state department shall maintain a registry of the members of the board. An appointing authority shall provide written confirmation of an appointment to the board to the state department in the form and manner specified by the state department.

(j) The board shall do the following:

(1) Consider policy matters relating to spinal cord and brain injury research projects and programs under this chapter.

(2) Consider research applications and make grants for approved research projects under this chapter.

(3) Formulate policies and procedures concerning the operation of the board.

(4) Review and authorize spinal cord and brain injury research projects and programs to be financed under this chapter. For purposes of this subdivision, the board may establish an independent scientific advisory panel composed of scientists and clinicians who are not members of the board to review proposals submitted to the board and make recommendations to the board. Collaborations are encouraged with other Indiana-based researchers as well as researchers located outside Indiana, including researchers in other countries.

(5) Review and approve progress and final research reports on projects authorized under this chapter.

(6) Review and make recommendations concerning the expenditure of money from the fund.

(7) Take other action necessary for the purpose stated in subsection (a).

(8) Provide to the governor, the general assembly, and the legislative council an annual report not later than January 30 of each year showing the status of funds appropriated under this chapter. The report to the general assembly and the legislative council must be in an electronic format under IC 5-14-6.

(k) A member of the board is exempt from civil liability arising or thought to arise from an action taken in good faith as a member of the board.

As added by P.L.3-2008, SEC.113.

IC 16-41-42.2-6

Rules

Sec. 6. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.3-2008, SEC.113.