



February 22, 2024

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**ENGROSSED**  
**SENATE BILL No. 140**

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DIGEST OF SB 140 (Updated February 21, 2024 12:26 pm - DI 148)

**Citations Affected:** IC 14-28.

**Synopsis:** Logjam removal. Provides that a person may perform certain activities without obtaining a permit from the department of natural resources (department). Provides certain guidelines for cutting, relocating, or removing logs that are crossways in a channel.

**Effective:** July 1, 2024.

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**Leising, Raatz**

(HOUSE SPONSORS — BAIRD, ABBOTT, BARRETT, PRESCOTT)

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January 8, 2024, read first time and referred to Committee on Natural Resources.  
January 22, 2024, reported favorably — Do Pass.  
January 30, 2024, read second time, amended, ordered engrossed.  
January 31, 2024, engrossed.  
February 1, 2024, read third time, passed. Yeas 45, nays 4.

HOUSE ACTION

February 12, 2024, read first time and referred to Committee on Natural Resources.  
February 22, 2024, amended, reported — Do Pass.

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ES 140—LS 6498/DI 55





February 22, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 140

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

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

1 SECTION 1. IC 14-28-1-22, AS AMENDED BY P.L.191-2023,  
2 SECTION 8, AND AS AMENDED BY P.L.247-2023, SECTION 6,  
3 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL  
4 OF THE 2024 GENERAL ASSEMBLY, IS CORRECTED AND  
5 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:  
6 Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total  
7 length" means the length of the stream, expressed in miles, from the  
8 confluence of the stream with the receiving stream to the upstream or  
9 headward extremity of the stream, as indicated by the solid or dashed,  
10 blue or purple line depicting the stream on the most current edition of  
11 the seven and one-half (7 1/2) minute topographic quadrangle map  
12 published by the United States Geological Survey, measured along the  
13 meanders of the stream as depicted on the map.

14 (b) ~~This section does not apply to the following:~~ **A person is not**  
15 **required to obtain a permit from the department for the following**  
16 **activities:**

17 (1) A reconstruction or maintenance project (as defined in

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- 1 IC 36-9-27) on a stream or an open regulated drain if the total  
 2 length of the stream or open drain is not more than ten (10) miles.  
 3 (2) A construction or reconstruction project on a state or county  
 4 highway bridge in a rural area that crosses a stream having an  
 5 upstream drainage area of not more than fifty (50) square miles  
 6 and the relocation of utility lines associated with the construction  
 7 or reconstruction project if confined to an area not more than one  
 8 hundred (100) feet from the limits of the highway construction  
 9 right-of-way.  
 10 (3) The performance of an activity described in subsection (c)(1)  
 11 or (c)(2) by a surface coal mining operation that is operated under  
 12 a permit issued under IC 14-34.  
 13 (4) Any other activity that is determined by the commission,  
 14 according to rules adopted under IC 4-22-2, to pose not more than  
 15 a minimal threat to floodway areas.  
 16 (5) An activity in a boundary river floodway to which section 26.5  
 17 of this chapter applies.  
 18 (6) *The activities of a forestry operation that are:*  
 19 *(A) conducted in compliance with the Indiana Logging and*  
 20 *Forestry Best Management Practices Field Guide published*  
 21 *by the department of natural resources; and*  
 22 *(B) confined to a waterway that has a watershed not greater*  
 23 *than ten (10) square miles.*  
 24 ~~(6)~~ (7) The removal of a logjam or mass of wood debris that has  
 25 accumulated in a river or stream, subject to the following  
 26 conditions:  
 27 (A) Work must not be within a salmonid stream designated  
 28 under 327 IAC 2-1.5-5 without the prior written approval of  
 29 the department's division of fish and wildlife.  
 30 (B) Work must not be within a natural, scenic, or recreational  
 31 river or stream designated under 312 IAC 7-2.  
 32 (C) Except as otherwise provided in Indiana law, **the**  
 33 **following apply to logs that are crossways in the channel:**  
 34 **(i) Free logs must be relocated and removed from the**  
 35 **flood plain. or A free log includes a log that is still**  
 36 **attached to a root system that is no longer in the ground.**  
 37 **(ii) Affixed logs that are crossways in the channel must be**  
 38 **cut, relocated, and removed from the floodplain. An affixed**  
 39 **log includes a log that is still attached to a root system**  
 40 **that is still in the ground. If the root system is still in the**  
 41 **ground, the log must be cut so as to allow the root system**  
 42 **to remain in the ground.**



- 1 Logs may be maintained in the floodplain if properly anchored  
 2 or otherwise secured so as to resist flotation or dislodging by  
 3 the flow of water and placement in an area that is not a  
 4 wetland. Logs must be removed and secured with a minimum  
 5 of damage to vegetation.
- 6 (D) Isolated or single logs that are embedded, lodged, or  
 7 rooted in the channel, and that do not span the channel or  
 8 cause flow problems, must not be removed unless the logs are  
 9 either of the following:
- 10 (i) Associated with or in close proximity to larger  
 11 obstructions.
- 12 (ii) Posing a hazard to agriculture, business, navigation, or  
 13 property.
- 14 (E) A leaning or severely damaged tree that is in immediate  
 15 danger of falling into the waterway may be cut and removed.  
 16 The root system and stump of the tree must be left in place.
- 17 (F) To the extent practicable, the construction of access roads  
 18 must be minimized, and should not result in the elevation of  
 19 the floodplain.
- 20 (G) To the extent practicable, work should be performed  
 21 exclusively from one (1) side of a waterway. Crossing the bed  
 22 of a waterway is prohibited.
- 23 (H) To prevent the flow of sediment laden water back into the  
 24 waterway, appropriate sediment control measures must be  
 25 installed.
- 26 (I) Within fifteen (15) days, all bare and disturbed areas must  
 27 be revegetated with a mixture of grasses and legumes. Tall  
 28 fescue must not be used under this subdivision, except that low  
 29 endophyte tall fescue may be used in the bottom of the  
 30 waterway and on side slopes.
- 31 **(J) A logjam or mass of wood debris that is removed from**  
 32 **a river or stream may be burned unless a local ordinance**  
 33 **specifies otherwise.**
- 34 (c) **Except for an activity under subsection (b),** a person who  
 35 desires to:
- 36 (1) erect, make, use, or maintain a structure, an obstruction, a  
 37 deposit, or an excavation; or
- 38 (2) suffer or permit a structure, an obstruction, a deposit, or an  
 39 excavation to be erected, made, used, or maintained;
- 40 in or on a floodway must file with the director a verified written  
 41 application for a permit. *The permit application must be* accompanied  
 42 by a nonrefundable minimum fee of two hundred dollars (\$200).



- 1           (d) ~~The~~ A permit application ~~for a permit~~ filed under this section:  
 2           (1) must set forth the material facts ~~together with~~ concerning the  
 3           structure, obstruction, deposit, or excavation; and  
 4           (2) must be accompanied by plans and specifications for the  
 5           structure, obstruction, deposit, or excavation.  
 6           (e) A person who files a permit application under this section must  
 7           provide:  
 8           (1) documentation of the person's ownership of the site where the  
 9           proposed work will be performed; or  
 10           (2) an affidavit from the owner of the site where the proposed  
 11           work will be performed expressly authorizing the performance of  
 12           the proposed work on that site.  
 13           (f) A person who applies for a permit under this section may file an  
 14           amendment to the person's permit application. The director may  
 15           approve a permit application amendment filed under this subsection  
 16           only if the permit, as amended by the amendment, would meet the  
 17           requirements of this section.  
 18           (g) Two (2) or more persons may jointly apply for a permit under  
 19           this section.  
 20           ~~(e)~~ (h) ~~An applicant~~ A person described in subsection (c) must  
 21           receive a permit from the director for the work before beginning  
 22           construction. The director shall issue a permit only if, in the opinion of  
 23           the director, the applicant has clearly proven that the structure,  
 24           obstruction, deposit, or excavation will not do any of the following:  
 25           (1) Adversely affect the efficiency of or unduly restrict the  
 26           capacity of the floodway.  
 27           (2) Constitute an unreasonable hazard to the safety of life or  
 28           property.  
 29           (3) Result in unreasonably detrimental effects upon fish, wildlife,  
 30           or botanical resources.  
 31           ~~(f)~~ (i) In deciding whether to issue a permit under this section, the  
 32           director shall consider the cumulative effects of the structure,  
 33           obstruction, deposit, or excavation. The director may incorporate in and  
 34           make a part of an order of authorization conditions and restrictions that  
 35           the director considers necessary for the purposes of this chapter.  
 36           ~~(g)~~ (j) The following apply to a permit issued under this section:  
 37           (1) Except as provided in subdivisions (2) and (3), a permit is  
 38           valid for two (2) years after the date of issuance of the permit.  
 39           (2) A permit issued to:  
 40           (A) the Indiana department of transportation or a county  
 41           highway department in connection with a construction project,  
 42           if there is any federal funding for the project; or



- 1 (B) an electric utility for the construction of a power  
 2 generating facility;  
 3 is valid for five (5) years from the date of issuance ~~and of the~~  
 4 ~~permit.~~  
 5 (3) *is valid for the duration of a permitted project subject to*  
 6 *periodic compliance evaluations for A permit issued to a*  
 7 *quarrying or aggregate company for the excavation of industrial*  
 8 *materials, including:*  
 9 (A) clay and shale;  
 10 (B) crushed limestone and dolostone;  
 11 (C) dimension limestone;  
 12 (D) dimension sandstone;  
 13 (E) gypsum;  
 14 (F) peat;  
 15 (G) construction sand and gravel; and  
 16 (H) industrial sand;  
 17 *is valid for the duration of the permitted project, subject to*  
 18 *periodic compliance evaluations.*  
 19 However, a permit issued under this section expires if construction is  
 20 not commenced within two (2) years after the permit is issued. *Except*  
 21 *as provided under section 22.1 of this chapter, a permit that is active*  
 22 *and was issued under subdivision (1) before July 1, 2014, is valid for*  
 23 *two (2) years beginning July 2014, and a permit that is active and was*  
 24 *issued under subdivision (2) before July 1, 2014, is valid for five (5)*  
 25 *years beginning July 2014.*  
 26 ~~(h)~~ (k) The holder of a permit issued under subsection ~~(g)(3)~~ (j)(3)  
 27 shall notify the commission *of the completion of the permitted project*  
 28 *within six (6) months of after* completing the permitted project.  
 29 ~~(i)~~ (l) *The following apply to the renewal of a permit issued under*  
 30 *this section:*  
 31 (1) *A permit to which subsection ~~(g)(1)~~ (j)(1) applies may be*  
 32 *renewed one (1) time for a period not to exceed two (2) additional*  
 33 *years. ~~and~~*  
 34 (2) *A permit to which subsection ~~(g)(2)~~ (j)(2) applies may be*  
 35 *renewed one (1) time for a period not to exceed five (5) additional*  
 36 *years.*  
 37 ~~(j)~~ (m) The director shall send a copy of each permit issued under  
 38 this section to each river basin commission organized under:  
 39 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or  
 40 (2) IC 14-13-9, IC 14-30-1 (before its repeal), or IC 36-7-6  
 41 (before its repeal);  
 42 that is affected.



1           ~~(k)~~ (n) The permit holder shall post and maintain a permit issued  
2 under this section at the authorized site.  
3           ~~(l)~~ (o) For the purposes of this chapter, the lowest floor of a  
4 building, including a residence or abode, that is to be constructed or  
5 reconstructed in the one hundred (100) year floodplain of an area  
6 protected by a levee that is:  
7           (1) inspected; and  
8           (2) found to be in good or excellent condition;  
9 by the United States Army Corps of Engineers shall not be lower than  
10 the one hundred (100) year frequency flood elevation plus one (1) foot.





## COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 140, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 140 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 8, Nays 0

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 SENATE MOTION

Madam President: I move that Senate Bill 140 be amended to read as follows:

Page 2, line 22, strike "or mass of wood debris" and insert "**(including any accumulation of lodged trees, woody debris, root wads, and any other naturally occurring or manmade debris)**".

Page 2, line 33, delete "logs" and insert "**a log**".

Page 2, line 33, delete "clause" and insert "**clause, including the separation of a tree from the root system and stump of the tree under clause (E)**".

Page 2, line 34, delete "logs," and insert "**log**".

Page 3, between lines 29 and 30, begin a new line double block indented and insert:

**"(J) A person may remove a logjam from a river or stream under this subdivision without obtaining a permit if the river or stream crosses or adjoins land:**

**(i) of which the person is an owner or lessee; or**

**(ii) on which the person is authorized by the owner or lessee to be present for the purposes of debris removal under this subdivision.**

**(K) A person removing debris from a river or stream under this subdivision without obtaining a permit:**

**(i) may use the means that the person believes to present the lowest risk of physical injury to individuals performing the removal work; and**

**(ii) may, subject to clause (G), use mechanical equipment appropriate to the task of removing the debris, but the use of motor powered saws is not required."**



(Reference is to SB 140 as printed January 23, 2024.)

LEISING

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 140, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 140 as reprinted January 31, 2024.)

LINDAUER

Committee Vote: yeas 8, nays 0.

