



Agribusiness Council of Indiana Legislative Wrap Up Newsletter: April 28, 2017

SESSION WRAPS UP

The 120th Indiana General Assembly wrapped up business in the late hours of Friday, April 21, 2017. The House of Representatives adjourned *Sine Die* around 11:30PM Friday, and the Senate adjourned *Sine Die* around 1:00AM Saturday morning. Both chambers of the legislature successfully completed their workload on schedule, including several victories for the agribusiness industry.

The Agribusiness Council of Indiana released a public policy agenda in early January with principles and specific policies related to taxes, regulations, transportation, water, pesticides/fertilizers, grain, seed and feed, broadband, livestock, energy and international trade. ACI tracked over 87 bills this session. Two issues, grain buyer's warehouse and sales tax exemptions, quickly became priorities for ACI's advocacy efforts. Through input and expertise from a number of members, ACI lobbyists Mark Shublak and Lesa Dietrick were able to craft these bills to eliminate onerous requirements on agribusiness and ensure that certain types of agribusiness equipment is sales tax exempt. This newsletter recaps bills that addressed key ACI priorities.

OVERVIEW

Of the 1,182 bills introduced at the beginning of session, only 176 remained alive when the legislature adjourned. Those bills became "enrolled acts" that are headed to the Governor for final action. Upon receiving an enrolled act, the Governor has seven days to choose whether to sign the legislation into law, let time expire and allow the bill to become law without his signature, or issue an executive veto.

Key Pieces of Legislation Passed this Session

House Enrolled Act 1237- Grain Buyers

- All grain buying contracts must contain the following clause regarding the producer's coverage **by August 31, 2017:**

"NOTICE- SELLER IS CAUTIONED THAT CONTRACTING FOR THE SALE AND DELIVERY OF GRAIN INVOLVES RISKS. THESE RISKS MAY INCLUDE FUTURE PAYMENTS BY YOU TO MAINTAIN THIS CONTRACT, A LOWER SALES PRICE, AND OTHER RISKS NOT SPECIFIED.

COVERAGE UNDER THE INDIANA GRAIN INDEMNITY PROGRAM IS FOR GRAIN THAT HAS BEEN DELIVERED TO A FIRST PURCHASER LICENSEE WITHIN THE 15 MONTHS BEFORE THE DATE OF FAILURE AND IS LIMITED TO 100% OF A LOSS

FOR STORED GRAIN AND 80% OF A LOSS FOR OTHER COVERED CONTRACTS.

BE SURE YOU UNDERSTAND THE NATURE OF THIS CONTRACT AND THE ASSOCIATED RISKS.”

- Out-of-state licensees are required to appoint a registered agent as a defined point-of-contact for the Indiana Grain Buyers and Warehouse Licensing Agency.
- The Director may disclose results of an investigation to the Grain Indemnity Board during an executive session.
 - However, the Director may not divulge any identifying information regarding a grain facility licensee.
- The Indiana Grain Indemnity Fund will provide coverage for grain delivered up to fifteen (15) months before the date of a state licensed grain buyer/warehouse failure.
- The Indiana Grain Indemnity Fund must consider an additional six months of claims related to a grain buyer/warehouse failure dated to April 8, 2016.
- Producers that have not received a premium refund after June 30, 2015, are deemed an indemnity fund participants. Producers who received premium refunds during the 1990's, but did not claim any since that time, are now indemnity fund participants.
- The Director may retain the services of the State Board of Accounts to investigate audit results that may indicate a licensee failure.
- Grain facility licensees may appeal a Director's ruling within fifteen (15) days of receiving the ruling.
- Liens established under HEA 1237 will have priority over all competing lien claims asserted against grain assets.
- The Grain Indemnity Board must create educational materials for grain producers. These educational materials must:
 - Define the purpose of the Grain Indemnity Fund;
 - Describe how the fund operates;
 - Explain a producer's coverage underneath the program;
 - Describe the process for claiming a refund;
 - Describe the process for reentering the indemnity program; and,
 - Explain where a producer may find information regarding his/her status within the program.

The language of the finalized bill can be found here: [HEA 1237](#).

More information about the Indiana Grain Indemnity Fund will be provided on the IGBWLA website, <http://www.in.gov/isda/2351.htm>.

Senate Enrolled Act 515- Various Tax Matters

- Provides a tax exemption for the purchase of agricultural machinery, tools and equipment.
 - Agricultural machinery purchased must be for the purpose of direct use of agricultural activities typical to the traditional grower.
- Provides a tax exemption for the purchase of agricultural materials directly used in the application of fertilizers, pesticides, fungicides, seeds, and other tangible items.

- Provides a tax exemption for the purchase of agricultural materials directly used in the extraction, harvesting, or processing of agricultural goods.
- IC 6-2.5-5-2(c)(2) further extends this sales tax exemption for agribusinesses who provide agricultural services for growers.
- Provides a tax exemption for the purchase of components for a drainage water management system.
 - IC 6-2.5-5-48(a) defines drainage water management system as “control systems design to facilitate controlled water drainage from agricultural land used for crop production.”

The language of the finalized bill can be found here: [SEA 515](#).

All ACI members are urged to share this language with their tax advisors to ascertain its impact on the eligible equipment that may be sales tax exempt for their particular business.

House Enrolled Act 1234- Storage of Agricultural Ammonia

House Enrolled Act 1234 requires the Indiana Office of the State Chemist to regulate the storage of anhydrous ammonia. Prior to HEA 1234, only agribusinesses were subject to ammonia regulation. However, with this new legislation, agribusinesses and growers will be subject to the same rulemaking process.

The language of the finalized bill can be found here: [HEA 1234](#).

House Enrolled Act 1235- Regulation of Processed Manure Fertilizer

House Enrolled Act 1235 allows the Indiana Office of the State Chemist to regulate the distribution of manure based fertilizers. This new authorization will likely lead to further regulation of the agribusiness industry, however, ACI believes that it is necessary. ACI regards the State Chemist’s Office as one of the most evidence-based policy-making agencies within Indiana, and believes that the promulgated rules will be moderate but reasonable in scope.

The language of the finalized bill can be found here: [HEA 1235](#).

Senate Enrolled Act 421- Above Ground Storage Tanks

Senate Enrolled Act 421 will repeal the law requiring owners of certain above ground storage tanks to register their tanks with the Indiana Department of Environmental Management. Operators of public water systems are authorized to investigate possible sources of contamination and, in some cases, the results of the investigation are exempted from Indiana’s public records law. Further, SEA 421 calls for a legislative study on the issue of public water supply protection.

The language of the finalized bill can be found here: [SEA 421](#).

House Enrolled Act 1447- Transportation of Agricultural Commodities

House Enrolled Act 1447 prohibits the Indiana Bureau of Motor Vehicles from assigning points against a transporter’s CDL due to hauling an oversized load. Further, HEA 1447 nullifies all points assessed on drivers after December 31, 2015. ACI believes that this is

an appropriate policy as it protects agribusiness employees from the risk of wrongful sanctions during the course of their employment.

The language of the finalized bill can be found here: [HEA 1447](#).

House Enrolled Act 1001- Indiana Biennial State Budget

House Enrolled Act 1001 appropriates money for the Indiana State government to expend over until mid-2019. An important item of the budget for ACI members is the funding for the Department of Agriculture. The ISDA will receive \$2,233,149 for Fiscal Year 2017-2018, and \$2,233,149 for the Fiscal Year 2018-2019.

The language of the finalized bill can be found here: [HEA 1001](#).

House Enrolled Act 1002- Transportation Infrastructure Funding

House Enrolled Act 1002 provides a long-term road funding plan for Indiana. The bill increase the State's gas tax by 10 cents, and increases fees for vehicle registration and license plates. The bill's author, Representative Ed Soliday, adopted a "Users Pay" model to ensure that Indiana's roads will continuously receive funding for the next twenty years.

The language of the finalized bill can be found here: [HEA 1002](#).

For a complete bill tracking list for ACI, please click here: [Link](#).

Looking Ahead to 2018

Upon adjournment of the General Assembly on April 21, Indiana legislators have returned home to their respective districts, leaving the Statehouse eerily quiet after a four-month session that saw various stakeholders debate roads, education, and the State budget. This year's legislature created a laundry-list of summer study committees topics, and so interim study committees will meet throughout the summer. Technical Corrections Day, if needed, will occur on June 20 for both the House and Senate.

The General Assembly will reconvene in January 2018 for a 'short' session. Given that 2017 is a non-election year, there will be few changes to leadership or committee membership during the 2018 legislative session. In the meantime, ACI will monitor summer study committees for issues impacting its membership. The ACI Government Affairs Committee will also convene to update its agenda for next year.

Please direct any questions, comments, or edits of the Bill Track Report to Lesa Dietrick at (317)-236-2252; lesa.dietrick@icemiller.com or Mark Shublak at (317)-236-5981; mark.shublak@icemiller.com.