



February 20, 2015

HOUSE BILL No. 1320

DIGEST OF HB 1320 (Updated February 18, 2015 4:14 pm - DI 103)

Citations Affected: IC 8-1; IC 24-5; IC 36-7.

Synopsis: Distributed generation. Amends provisions related to cogeneration facilities to include certain host operations. Provides that the utility regulatory commission may authorize an electricity supplier to establish certain tariffs, rates and charges, and credits with respect to the acquisition of electricity from a customer that uses distributed generation. Establishes consumer protections for customers using distributed generation. Requires electricity suppliers and customers that use distributed generation to comply with applicable safety, performance, reliability and interconnection rules and standards. Provides that a local ordinance, resolution, or order involving distributed generation equipment must: (1) reasonably accommodate the facility; and (2) represent the minimum regulation practicable to accomplish a legitimate governmental purpose.

Effective: July 1, 2015.

Koch, Frye R

January 13, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.
February 19, 2015, amended, reported — Do Pass.

HB 1320—LS 7233/DI 103



February 20, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1320

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

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

- 1 SECTION 1. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 2. (a) The definitions in this section apply
4 throughout this chapter.
5 (b) "Alternate energy production facility" means:
6 (1) a solar, wind turbine, waste management, resource recovery,
7 refuse-derived fuel, or wood burning facility;
8 (2) any land, system, building, or improvement that is located at
9 the project site and is necessary or convenient to the construction,
10 completion, or operation of the facility; and
11 (3) the transmission or distribution facilities necessary to conduct
12 the energy produced by the facility to users located at or near the
13 project site.
14 (c) "Cogeneration facility" means:
15 (1) a facility that:

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- 1 (A) simultaneously generates electricity and useful thermal
 2 energy; and
 3 (B) meets the energy efficiency standards established for
 4 cogeneration facilities by the Federal Energy Regulatory
 5 Commission under 16 U.S.C. 824a-3;
 6 (2) any land, system, building, or improvement that is located at
 7 the project site and is necessary or convenient to the construction,
 8 completion, or operation of the facility; and
 9 (3) the transmission or distribution facilities necessary to conduct
 10 the energy produced by the facility to users located at or near the
 11 project site.
 12 (d) "Electric utility" means any public utility or municipally owned
 13 utility that owns, operates, or manages any electric plant.
 14 (e) "Small hydro facility" means:
 15 (1) a hydroelectric facility at a dam;
 16 (2) any land, system, building, or improvement that is located at
 17 the project site and is necessary or convenient to the construction,
 18 completion, or operation of the facility; and
 19 (3) the transmission or distribution facilities necessary to conduct
 20 the energy produced by the facility to users located at or near the
 21 project site.
 22 (f) "Steam utility" means any public utility or municipally owned
 23 utility that owns, operates, or manages a steam plant.
 24 (g) "Private generation project" means a cogeneration facility that
 25 has an electric generating capacity of eighty (80) megawatts or more
 26 and is:
 27 (1) primarily used by its owner for the owner's industrial,
 28 commercial, heating, or cooling purposes; or
 29 (2) a qualifying facility for purposes of the Public Utility
 30 Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1,~~
 31 ~~2014; and (B) produces electricity and useful thermal energy that~~
 32 ~~is primarily used by a host operation for industrial, commercial,~~
 33 ~~heating, or cooling purposes and is:~~
 34 **(A) located on the same site as the host operation; or**
 35 **(B) determined by the commission to be a facility that:**
 36 **(i) satisfies the requirements of this chapter; and**
 37 **(ii) is sufficiently proximate in location to and integrated**
 38 **with the host operation that treatment under this**
 39 **chapter is reasonable and in the public interest.**
 40 (h) "Eligible facility" means an alternate energy production
 41 facility, a cogeneration facility, or a small hydro facility that is:
 42 (1) described in section 5 of this chapter; and



1 **(2) either:**

2 **(A) located on the same site as a host operation; or**

3 **(B) determined by the commission to be a facility that:**

4 **(i) satisfies the requirements of this chapter; and**

5 **(ii) is sufficiently proximate in location to and integrated**
 6 **with the host operation that treatment under this**
 7 **chapter is reasonable and in the public interest.**

8 **The term includes the consuming elements of a host operation**
 9 **utilizing associated energy output for industrial, commercial,**
 10 **heating, or cooling purposes.**

11 SECTION 2. IC 8-1-2.4-4 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Subject to section
 13 5 of this chapter, the commission shall require electric utilities and
 14 steam utilities to enter into long term contracts to:

15 (1) purchase or wheel electricity or useful thermal energy from
 16 ~~alternate energy production facilities; cogeneration facilities; or~~
 17 **small hydro eligible** facilities located in the utility's service
 18 territory, under the terms and conditions that the commission
 19 finds:

20 (A) are just and economically reasonable to the corporation's
 21 ratepayers;

22 (B) are nondiscriminatory to alternate energy producers,
 23 cogenerators, and small hydro producers; and

24 (C) will further the policy stated in section 1 of this chapter;
 25 and

26 (2) provide for the availability of supplemental or backup power
 27 to ~~alternate energy production facilities; cogeneration facilities; or~~
 28 **small hydro eligible** facilities, on a nondiscriminatory basis and
 29 at just and reasonable rates.

30 (b) Upon application by the owner or operator of any ~~alternate~~
 31 ~~energy production facility; cogeneration facility; or small hydro eligible~~
 32 **facility**, or any interested party, the commission shall establish for the
 33 affected utility just and economically reasonable rates for electricity
 34 purchased under subsection (a)(1). The rates shall be established at
 35 levels sufficient to stimulate the development of alternate energy
 36 production, cogeneration, and small hydro facilities in Indiana, and to
 37 encourage the continuation of existing capacity from those facilities.

38 (c) The commission shall base the rates for new facilities or new
 39 capacity from existing facilities on the following factors:

40 (1) The estimated capital cost of the next generating plant,
 41 including related transmission facilities, to be placed in service by
 42 the utility.



1 (2) The term of the contract between the utility and the seller.

2 (3) A levelized annual carrying charge based upon the term of the
3 contract and determined in a manner consistent with both the
4 methods and the current interest or return requirements associated
5 with the utility's new construction program.

6 (4) The utility's annual energy costs, including current fuel costs,
7 related operation and maintenance costs, and any other
8 energy-related costs considered appropriate by the commission.

9 Until July 1, 1986, the rate for a new facility may not exceed eight
10 cents (\$.08) per kilowatt hour.

11 (d) The commission shall base the rates for existing facilities on the
12 factors listed in subsection (c). However, the commission shall also
13 consider the original cost less depreciation of existing facilities and
14 may establish a rate for existing facilities that is less than the rate
15 established for new facilities.

16 (e) In the case of a utility that purchases all or substantially all of its
17 electricity requirements, the rates established under this section must
18 be equal to the current cost to the utility of similar types and quantities
19 of electrical service.

20 (f) In lieu of the other procedures provided by this section, a utility
21 and an owner or operator of an ~~alternate energy production facility,~~
22 ~~cogeneration facility,~~ or **small hydro eligible** facility may enter into a
23 long term contract in accordance with subsection (a) and may agree to
24 rates for purchase and sale transactions. A contract entered into under
25 this subsection must be filed with the commission in the manner
26 provided by IC 8-1-2-42.

27 (g) This section does not require an electric utility or steam utility
28 to construct any additional facilities unless those facilities are paid for
29 by the owner or operator of the affected ~~alternate energy production~~
30 ~~facility,~~ ~~cogeneration facility,~~ or **small hydro eligible** facility.

31 SECTION 3. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS
32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2015]:

34 **Chapter 40. Distributed Generation**

35 **Sec. 1. As used in this chapter, "avoided cost" means the cost an**
36 **electricity supplier avoids by receiving electricity from a customer**
37 **that uses distributed generation.**

38 **Sec. 2. (a) As used in this chapter, "customer" means a person**
39 **that:**

- 40 (1) receives electric service from an electricity supplier; and
41 (2) is not billed a monthly demand charge.

42 (b) The term does not include a customer that is a municipally



1 owned water, wastewater, or water and wastewater utility.

2 **Sec. 3. As used in this chapter, "distributed generation" means**
 3 **the generation of electricity by equipment that is:**

- 4 (1) located on the customer's premises;
 5 (2) owned, operated, leased, or otherwise used by the
 6 customer; and
 7 (3) interconnected and operated in parallel with the electricity
 8 supplier's facilities.

9 **The term does not include an electric generator used exclusively**
 10 **for emergency purposes.**

11 **Sec. 4. As used in this chapter, "electricity supplier" has the**
 12 **meaning set forth in IC 8-1-2.3-2(b). However, the term does not**
 13 **include a utility that is:**

- 14 (1) a corporation organized under IC 8-1-13; or
 15 (2) a corporation organized under IC 23-17 that is an electric
 16 cooperative and has at least one (1) member that is a
 17 corporation organized under IC 8-1-13.

18 **Sec. 5. As used in this chapter, "fixed charge" means:**

- 19 (1) a fixed monthly charge;
 20 (2) a basic service charge; or
 21 (3) any other charge that is not derived from the volume of
 22 energy consumed by a customer;

23 **that reflects the fixed costs of the customer's electricity supplier.**

24 **Sec. 6. As used in this chapter, "fixed costs" means any costs**
 25 **that:**

- 26 (1) are incurred by an electricity supplier as part of its cost of
 27 service; and
 28 (2) do not vary directly with the number of kilowatt hours
 29 sold or delivered.

30 **The term includes capital and nonvariable operating costs.**

31 **Sec. 7. As used in this chapter, "subsidy" means a cost**
 32 **attributable to a customer that is allocated or assigned on a basis**
 33 **other than the cost of service to a different customer in the same**
 34 **customer class of service.**

35 **Sec. 8. The following factors may be considered in determining**
 36 **an electricity supplier's avoided costs:**

- 37 (1) The cost of the electric energy that the electricity supplier
 38 would have generated itself if the electricity supplier had not
 39 received electricity from a customer using distributed
 40 generation.
 41 (2) The cost of the electric energy that the electricity supplier
 42 would have purchased if the electricity supplier had not



1 received electricity from a customer using distributed
2 generation.

3 (3) Any variable incremental cost to reduce emissions of
4 sulfur dioxide, nitrogen dioxide, or particulate matter that:

5 (A) the electricity supplier would have incurred if the
6 electricity supplier had not received electricity from a
7 customer using distributed generation; and

8 (B) is not included in a cost described in subdivision (1) or
9 (2).

10 (4) The cost of electric capacity that the electricity supplier
11 would have incurred if the electricity supplier had not
12 received electricity from a customer using distributed
13 generation.

14 (5) The availability of the electricity from the particular type
15 of distributed generation during times of seasonal or daily
16 peak electricity usage on the electricity supplier's system.

17 (6) The dispatchability of the distributed generation.

18 (7) The reliability of the distributed generation.

19 Sec. 9. (a) Upon petition by an electricity supplier, the
20 commission may authorize the electricity supplier to establish and
21 impose a fixed charge to avoid, reduce, or eliminate a subsidy to
22 customers of the electricity supplier that use distributed
23 generation.

24 (b) With respect to an electricity supplier, a fixed charge
25 authorized under this section does not apply to customers of the
26 electricity supplier that own, operate, lease, or otherwise use
27 distributed generation equipment that was placed into service
28 before January 1, 2016.

29 Sec. 10. (a) An electricity supplier may petition the commission
30 to approve a tariff that provides a credit on a customer bill for
31 electric service to a customer that:

32 (1) uses distributed generation; and

33 (2) delivers electricity to the electricity supplier.

34 (b) The commission shall approve a tariff described in
35 subsection (a) if the commission makes the following findings:

36 (1) The customer will be charged for all electricity that the
37 customer receives from the electricity supplier at the
38 applicable rate schedule for sales to that customer class,
39 including any fixed charge authorized under section 9 of this
40 chapter.

41 (2) The amount of the credit on the customer's bill equals the
42 electricity supplier's avoided cost that is attributable to the



1 electricity provided by the customer to the electricity supplier.

2 (3) Any unused part of a credit issued to a customer during a
3 billing cycle will carry forward and be applied against all
4 charges billed to the customer during a subsequent billing
5 cycle.

6 (c) With respect to an electricity supplier, a tariff approved
7 under this section does not apply to customers of the electricity
8 supplier that own, operate, lease, or otherwise use distributed
9 generation equipment that was placed into service before January
10 1, 2016.

11 (d) An electricity supplier shall submit to the commission for
12 approval not more than one (1) avoided cost each year to be
13 applied to all customers of the electricity supplier that are eligible
14 to receive a credit provided in a tariff approved under this section.

15 Sec. 11. A petition described in section 9 or 10 of this chapter
16 may be submitted to the commission as part of any of the following
17 proceedings:

18 (1) A general basic rate proceeding.

19 (2) A proceeding limited to determining an electricity
20 supplier's rates and, as applicable, charges or credits for
21 customers. A determination under this subdivision:

22 (A) must be consistent with this chapter; and

23 (B) may not change the total retail revenues previously
24 authorized for the electricity supplier by the commission.

25 (3) A thirty (30) day filing to revise an electricity supplier's
26 tariff in a manner consistent with this chapter that is
27 submitted under 170 IAC 1-6.

28 Sec. 12. The commission may not:

29 (1) approve a tariff; or

30 (2) authorize rates and charges;

31 that include a subsidy to customers that use distributed generation.

32 Sec. 13. (a) This chapter does not affect the following:

33 (1) An agreement entered into or a tariff approved by the
34 commission before January 1, 2016, for the purchase of
35 electricity generated from renewable energy resources by a
36 customer that uses distributed generation.

37 (2) An agreement entered into before January 1, 2016, to
38 provide a credit on a customer's bill for the intermittent
39 delivery of excess electricity from the customer that uses
40 distributed generation to an electricity supplier under a net
41 metering tariff.

42 (b) An agreement or a tariff described in subsection (a)(1) must



- 1 have a term of at least five (5) years.
- 2 **Sec. 14. (a) A customer that uses distributed generation shall**
- 3 **comply with applicable safety, performance, and reliability**
- 4 **standards established by the following:**
- 5 (1) The commission, through rules, orders, and approved
- 6 electricity supplier tariffs.
- 7 (2) The National Electric Code.
- 8 (3) The National Electrical Safety Code.
- 9 (4) The Institute of Electrical and Electronics Engineers.
- 10 (5) Underwriters Laboratories.
- 11 (6) The federal Energy Regulatory Commission.
- 12 (7) Local regulatory authorities.
- 13 **(b) Electricity suppliers and customers that use distributed**
- 14 **generation shall comply with applicable interconnection rules and**
- 15 **standards established by the following:**
- 16 (1) The commission. Applicable rules and standards under
- 17 this subdivision include 170 IAC 4-4.2 (concerning net
- 18 metering) and 170 IAC 4-4.3 (concerning interconnection).
- 19 (2) An electricity supplier, subject to approval by the
- 20 commission.
- 21 **Sec. 15. (a) Notwithstanding IC 8-1-2.3-4, a customer may lease**
- 22 **distributed generation equipment from a third party that is**
- 23 **authorized to do business in Indiana.**
- 24 **(b) A lessor of distributed generation equipment shall comply**
- 25 **with the following:**
- 26 (1) IC 24-5-0.5, as applicable.
- 27 (2) IC 24-5-27.
- 28 (3) Rules, regulations, and guidelines of the attorney general
- 29 concerning consumer protections for customers that own,
- 30 operate, lease, or otherwise use distributed generation
- 31 equipment.
- 32 SECTION 4. IC 24-5-0.5-3, AS AMENDED BY P.L.65-2014,
- 33 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2015]: Sec. 3. (a) A supplier may not commit an unfair,
- 35 abusive, or deceptive act, omission, or practice in connection with a
- 36 consumer transaction. Such an act, omission, or practice by a supplier
- 37 is a violation of this chapter whether it occurs before, during, or after
- 38 the transaction. An act, omission, or practice prohibited by this section
- 39 includes both implicit and explicit misrepresentations.
- 40 (b) Without limiting the scope of subsection (a), the following acts,
- 41 and the following representations as to the subject matter of a
- 42 consumer transaction, made orally, in writing, or by electronic



- 1 communication, by a supplier, are deceptive acts:
- 2 (1) That such subject of a consumer transaction has sponsorship,
- 3 approval, performance, characteristics, accessories, uses, or
- 4 benefits it does not have which the supplier knows or should
- 5 reasonably know it does not have.
- 6 (2) That such subject of a consumer transaction is of a particular
- 7 standard, quality, grade, style, or model, if it is not and if the
- 8 supplier knows or should reasonably know that it is not.
- 9 (3) That such subject of a consumer transaction is new or unused,
- 10 if it is not and if the supplier knows or should reasonably know
- 11 that it is not.
- 12 (4) That such subject of a consumer transaction will be supplied
- 13 to the public in greater quantity than the supplier intends or
- 14 reasonably expects.
- 15 (5) That replacement or repair constituting the subject of a
- 16 consumer transaction is needed, if it is not and if the supplier
- 17 knows or should reasonably know that it is not.
- 18 (6) That a specific price advantage exists as to such subject of a
- 19 consumer transaction, if it does not and if the supplier knows or
- 20 should reasonably know that it does not.
- 21 (7) That the supplier has a sponsorship, approval, or affiliation in
- 22 such consumer transaction the supplier does not have, and which
- 23 the supplier knows or should reasonably know that the supplier
- 24 does not have.
- 25 (8) That such consumer transaction involves or does not involve
- 26 a warranty, a disclaimer of warranties, or other rights, remedies,
- 27 or obligations, if the representation is false and if the supplier
- 28 knows or should reasonably know that the representation is false.
- 29 (9) That the consumer will receive a rebate, discount, or other
- 30 benefit as an inducement for entering into a sale or lease in return
- 31 for giving the supplier the names of prospective consumers or
- 32 otherwise helping the supplier to enter into other consumer
- 33 transactions, if earning the benefit, rebate, or discount is
- 34 contingent upon the occurrence of an event subsequent to the time
- 35 the consumer agrees to the purchase or lease.
- 36 (10) That the supplier is able to deliver or complete the subject of
- 37 the consumer transaction within a stated period of time, when the
- 38 supplier knows or should reasonably know the supplier could not.
- 39 If no time period has been stated by the supplier, there is a
- 40 presumption that the supplier has represented that the supplier
- 41 will deliver or complete the subject of the consumer transaction
- 42 within a reasonable time, according to the course of dealing or the



- 1 usage of the trade.
- 2 (11) That the consumer will be able to purchase the subject of the
- 3 consumer transaction as advertised by the supplier, if the supplier
- 4 does not intend to sell it.
- 5 (12) That the replacement or repair constituting the subject of a
- 6 consumer transaction can be made by the supplier for the estimate
- 7 the supplier gives a customer for the replacement or repair, if the
- 8 specified work is completed and:
- 9 (A) the cost exceeds the estimate by an amount equal to or
- 10 greater than ten percent (10%) of the estimate;
- 11 (B) the supplier did not obtain written permission from the
- 12 customer to authorize the supplier to complete the work even
- 13 if the cost would exceed the amounts specified in clause (A);
- 14 (C) the total cost for services and parts for a single transaction
- 15 is more than seven hundred fifty dollars (\$750); and
- 16 (D) the supplier knew or reasonably should have known that
- 17 the cost would exceed the estimate in the amounts specified in
- 18 clause (A).
- 19 (13) That the replacement or repair constituting the subject of a
- 20 consumer transaction is needed, and that the supplier disposes of
- 21 the part repaired or replaced earlier than seventy-two (72) hours
- 22 after both:
- 23 (A) the customer has been notified that the work has been
- 24 completed; and
- 25 (B) the part repaired or replaced has been made available for
- 26 examination upon the request of the customer.
- 27 (14) Engaging in the replacement or repair of the subject of a
- 28 consumer transaction if the consumer has not authorized the
- 29 replacement or repair, and if the supplier knows or should
- 30 reasonably know that it is not authorized.
- 31 (15) The act of misrepresenting the geographic location of the
- 32 supplier by listing a fictitious business name or an assumed
- 33 business name (as described in IC 23-15-1) in a local telephone
- 34 directory if:
- 35 (A) the name misrepresents the supplier's geographic location;
- 36 (B) the listing fails to identify the locality and state of the
- 37 supplier's business;
- 38 (C) calls to the local telephone number are routinely forwarded
- 39 or otherwise transferred to a supplier's business location that
- 40 is outside the calling area covered by the local telephone
- 41 directory; and
- 42 (D) the supplier's business location is located in a county that



- 1 is not contiguous to a county in the calling area covered by the
2 local telephone directory.
- 3 (16) The act of listing a fictitious business name or assumed
4 business name (as described in IC 23-15-1) in a directory
5 assistance database if:
- 6 (A) the name misrepresents the supplier's geographic location;
7 (B) calls to the local telephone number are routinely forwarded
8 or otherwise transferred to a supplier's business location that
9 is outside the local calling area; and
10 (C) the supplier's business location is located in a county that
11 is not contiguous to a county in the local calling area.
- 12 (17) The violation by a supplier of IC 24-3-4 concerning
13 cigarettes for import or export.
- 14 (18) The act of a supplier in knowingly selling or reselling a
15 product to a consumer if the product has been recalled, whether
16 by the order of a court or a regulatory body, or voluntarily by the
17 manufacturer, distributor, or retailer, unless the product has been
18 repaired or modified to correct the defect that was the subject of
19 the recall.
- 20 (19) The violation by a supplier of 47 U.S.C. 227, including any
21 rules or regulations issued under 47 U.S.C. 227.
- 22 (20) The violation by a supplier of the federal Fair Debt
23 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
24 rules or regulations issued under the federal Fair Debt Collection
25 Practices Act (15 U.S.C. 1692 et seq.).
- 26 (21) A violation of IC 24-5-7 (concerning health spa services), as
27 set forth in IC 24-5-7-17.
- 28 (22) A violation of IC 24-5-8 (concerning business opportunity
29 transactions), as set forth in IC 24-5-8-20.
- 30 (23) A violation of IC 24-5-10 (concerning home consumer
31 transactions), as set forth in IC 24-5-10-18.
- 32 (24) A violation of IC 24-5-11 (concerning home improvement
33 contracts), as set forth in IC 24-5-11-14.
- 34 (25) A violation of IC 24-5-12 (concerning telephone
35 solicitations), as set forth in IC 24-5-12-23.
- 36 (26) A violation of IC 24-5-13.5 (concerning buyback motor
37 vehicles), as set forth in IC 24-5-13.5-14.
- 38 (27) A violation of IC 24-5-14 (concerning automatic
39 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 40 (28) A violation of IC 24-5-15 (concerning credit services
41 organizations), as set forth in IC 24-5-15-11.
- 42 (29) A violation of IC 24-5-16 (concerning unlawful motor



- 1 vehicle subleasing), as set forth in IC 24-5-16-18.
- 2 (30) A violation of IC 24-5-17 (concerning environmental
- 3 marketing claims), as set forth in IC 24-5-17-14.
- 4 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 5 solicitation), as set forth in IC 24-5-19-11.
- 6 (32) A violation of IC 24-5-21 (concerning prescription drug
- 7 discount cards), as set forth in IC 24-5-21-7.
- 8 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 9 appraisals), as set forth in IC 24-5-23.5-9.
- 10 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 11 forth in IC 24-5-26-3.
- 12 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 13 as set forth in IC 24-5.5-6-1.
- 14 (36) A violation of IC 24-8 (concerning promotional gifts and
- 15 contests), as set forth in IC 24-8-6-3.
- 16 (37) A violation of IC 21-18.5-6 (concerning representations
- 17 made by a postsecondary credit bearing proprietary educational
- 18 institution), as set forth in IC 21-18.5-6-22.5.
- 19 **(38) A violation of IC 24-5-27 (concerning distributed**
- 20 **generation equipment disclosures).**
- 21 (c) Any representations on or within a product or its packaging or
- 22 in advertising or promotional materials which would constitute a
- 23 deceptive act shall be the deceptive act both of the supplier who places
- 24 such representation thereon or therein, or who authored such materials,
- 25 and such other suppliers who shall state orally or in writing that such
- 26 representation is true if such other supplier shall know or have reason
- 27 to know that such representation was false.
- 28 (d) If a supplier shows by a preponderance of the evidence that an
- 29 act resulted from a bona fide error notwithstanding the maintenance of
- 30 procedures reasonably adopted to avoid the error, such act shall not be
- 31 deceptive within the meaning of this chapter.
- 32 (e) It shall be a defense to any action brought under this chapter that
- 33 the representation constituting an alleged deceptive act was one made
- 34 in good faith by the supplier without knowledge of its falsity and in
- 35 reliance upon the oral or written representations of the manufacturer,
- 36 the person from whom the supplier acquired the product, any testing
- 37 organization, or any other person provided that the source thereof is
- 38 disclosed to the consumer.
- 39 (f) For purposes of subsection (b)(12), a supplier that provides
- 40 estimates before performing repair or replacement work for a customer
- 41 shall give the customer a written estimate itemizing as closely as
- 42 possible the price for labor and parts necessary for the specific job



1 before commencing the work.

2 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
3 company or other provider of a telephone directory or directory
4 assistance service or its officer or agent is immune from liability for
5 publishing the listing of a fictitious business name or assumed business
6 name of a supplier in its directory or directory assistance database
7 unless the telephone company or other provider of a telephone
8 directory or directory assistance service is the same person as the
9 supplier who has committed the deceptive act.

10 (h) For purposes of subsection (b)(18), it is an affirmative defense
11 to any action brought under this chapter that the product has been
12 altered by a person other than the defendant to render the product
13 completely incapable of serving its original purpose.

14 SECTION 5. IC 24-5-27 IS ADDED TO THE INDIANA CODE AS
15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2015]:

17 **Chapter 27. Distributed Generation Equipment Disclosure**

18 **Sec. 1. As used in this chapter, "distributed generation" has the**
19 **meaning set forth in IC 8-1-40-3.**

20 **Sec. 2. A seller or lessor of distributed generation equipment**
21 **shall disclose the following information to a customer that is**
22 **purchasing or leasing distributed generation equipment from the**
23 **seller or lessor:**

24 (1) **The attorney general is authorized to enforce this chapter,**
25 **including by receiving complaints concerning the installation,**
26 **ownership, or leasing of distributed generation equipment.**

27 (2) **The amount of electricity that is expected to be produced**
28 **by the distributed generation equipment that the customer is**
29 **purchasing or leasing.**

30 (3) **All costs associated with the installation of distributed**
31 **generation equipment, including any taxes for which the**
32 **customer is liable.**

33 (4) **The value of all federal, state, or local tax credits,**
34 **electricity supplier rate credits, or other incentives or rebates:**

35 (A) **for which a customer may be eligible; or**

36 (B) **if applicable, that a customer may assign to the seller**
37 **or lessor of the distributed generation equipment.**

38 (5) **The rate at which an electricity supplier will credit a**
39 **customer for electricity that is:**

40 (A) **produced by the distributed generation equipment**
41 **owned or leased by the customer; and**

42 (B) **delivered to the electricity supplier.**



- 1 **(6) If applicable, lease payments and interest rates over the**
- 2 **life of a lease for distributed generation equipment.**
- 3 **(7) Whether a seller or lessor of distributed generation**
- 4 **equipment insures the distributed generation equipment**
- 5 **against damage or loss and, if applicable, any circumstances**
- 6 **under which the seller or lessor does not insure against or**
- 7 **otherwise cover damage to or loss of the distributed**
- 8 **generation equipment.**
- 9 **(8) The responsibilities of a seller or lessor of distributed**
- 10 **generation equipment with respect to installing or removing**
- 11 **distributed generation equipment, including during the life of**
- 12 **a lease.**
- 13 **(9) The party to a lease for distributed generation equipment**
- 14 **that is responsible for the balance of the lease when:**
- 15 **(A) the premises on which the distributed generation**
- 16 **equipment is located are sold; or**
- 17 **(B) the customer that is a party to the lease dies;**
- 18 **before the end of the lease.**
- 19 **Sec. 3. The failure to provide a disclosure required under**
- 20 **section 2 of this chapter constitutes a deceptive act under**
- 21 **IC 24-5-0.5.**
- 22 SECTION 6. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE
- 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 2015]:
- 25 **Chapter 5.3. Regulation of Distributed Generation Equipment**
- 26 **Sec. 1. The definitions in IC 8-1-40 apply throughout this**
- 27 **chapter.**
- 28 **Sec. 2. A municipality or county may not enact or enforce an**
- 29 **ordinance, a resolution, or an order that prohibits the construction**
- 30 **or operation of distributed generation equipment.**
- 31 **Sec. 3. If a municipality or county adopts an ordinance, a**
- 32 **resolution, or an order involving the construction, placement, size,**
- 33 **or operation of distributed generation equipment based on health,**
- 34 **safety, or aesthetic conditions, the ordinance, resolution, or order**
- 35 **must:**
- 36 **(1) reasonably accommodate distributed generation; and**
- 37 **(2) represent the minimal regulation practicable to**
- 38 **accomplish the municipality's or county's legitimate purpose.**
- 39 **Sec. 4. This chapter does not prohibit a municipality or county**
- 40 **from taking action to protect or preserve a historic, a historical, or**
- 41 **an architectural district that is established by the municipality or**
- 42 **county or under state or federal law.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1320, 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 HB 1320 as introduced.)

KOCH

Committee Vote: yeas 9, nays 4.

