

HOUSE BILL No. 1588

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14-3-33.5; IC 35-31.5-2; IC 35-47.

Synopsis: Firearms on public property. Repeals statutes prohibiting the carrying or possession of firearms on: (1) school property; and (2) a school bus. Provides that the state of Indiana may not regulate: (1) firearms, ammunition, and firearm accessories; (2) the ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories; or (3) commerce in and taxation of firearms, firearms ammunition, and firearm accessories. Provides certain exceptions. Provides that any provision of an ordinance, measure, enactment, rule, or policy enacted by the state pertaining to firearms regulation is void. Provides that a person not otherwise prohibited from carrying or possessing a firearm under federal or state law may carry or possess a firearm, without restriction, on property affiliated with the following state agencies: (1) the Indiana department of natural resources; (2) the Indiana state fair commission; (3) the Indiana department of administration; (4) the Indiana horse racing commission; (5) the Indiana department of workforce development; and (6) the Indiana gaming commission. Defines certain terms. Makes conforming amendments.

Effective: July 1, 2017.

Lucas

January 23, 2017, read first time and referred to Committee on Public Policy.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1588

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 10-14-3-33.5, AS AMENDED BY P.L.114-2012,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 33.5. (a) Except as provided in subsection (b), the
4 state, a political subdivision, or any other person may not prohibit or
5 restrict the lawful possession, transfer, sale, transportation, storage,
6 display, or use of firearms or ammunition during:
7 (1) a disaster emergency;
8 (2) an energy emergency; or
9 (3) a local disaster emergency;
10 declared under this chapter.
11 (b) Subsection (a) does not authorize the possession, transfer, sale,
12 transportation, storage, display, or use of firearms or ammunition
13 during an emergency described in subsection (a):
14 (1) in or on school property, in or on property that is being used
15 by a school for a school function, or on a school bus in violation
16 of IC 20-33-8-16; ~~or IC 35-47-9-2;~~
17 (2) on the property of:



- 1 (A) a child caring institution;
 2 (B) an emergency shelter care child caring institution;
 3 (C) a private secure facility;
 4 (D) a group home; or
 5 (E) an emergency shelter care group home;
 6 in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465
 7 IAC 2-11-80, 465 IAC 2-12-78, or 465 IAC 2-13-77;
 8 (3) on the property of a penal facility (as defined in
 9 IC 35-31.5-2-232);
 10 (4) in violation of federal law;
 11 (5) in or on property belonging to an approved postsecondary
 12 educational institution (as defined in IC 21-7-13-6(b));
 13 (6) on the property of a domestic violence shelter; or
 14 (7) on property owned, operated, controlled, or used by an entity
 15 that:
 16 (A) is required to:
 17 (i) conduct a vulnerability assessment; and
 18 (ii) develop and implement a site security plan;
 19 under the United States Department of Homeland Security's
 20 Chemical Facility Anti-Terrorism Standards issued April 9,
 21 2007; or
 22 (B) is required to have a security plan under the Maritime
 23 Transportation Security Act of 2002, Public Law 107-295.
- 24 SECTION 2. IC 35-31.5-2-47.3 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2017]: **Sec. 47.3. (a) "Commission", for**
 27 **purposes of IC 35-47-11.1-4.2, has the meaning set forth in**
 28 **IC 35-47-11.1-4.2(a).**
 29 **(b) "Commission", for purposes of IC 35-47-11.1-4.5, has the**
 30 **meaning set forth in IC 35-47-11.1-4.5(a).**
 31 **(c) "Commission", for purposes of IC 35-47-11.1-4.7, has the**
 32 **meaning set forth in IC 35-47-11.1-4.7(a).**
- 33 SECTION 3. IC 35-31.5-2-89.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2017]: **Sec. 89.5. (a) "Department, for**
 36 **purposes of IC 35-47-11.1-4.1, has the meaning set forth in**
 37 **IC 35-47-11.1-4.1(a).**
 38 **(b) "Department", for purposes of IC 35-47-11.1-4.4, has the**
 39 **meaning set forth in IC 35-47-11.1-4.4(a).**
 40 **(c) "Department, for purposes of IC 35-47-11.1-4.6, has the**
 41 **meaning set forth in IC 35-47-11.1-4.6(a).**
 42 SECTION 4. IC 35-47-9-1 IS REPEALED [EFFECTIVE JULY 1,



1 2017]. Sec. 1: (a) This chapter does not apply to the following:

2 (1) A:

3 (A) federal;

4 (B) state; or

5 (C) local;

6 law enforcement officer.

7 (2) A person who may legally possess a firearm and who has been
8 authorized by:

9 (A) a school board (as defined by IC 20-26-9-4); or

10 (B) the body that administers a charter school established
11 under IC 20-24;

12 to carry a firearm in or on school property.

13 (3) Except as provided in subsection (b) or (c); a person who:

14 (A) may legally possess a firearm; and

15 (B) possesses the firearm in a motor vehicle.

16 (4) A person who is a school resource officer, as defined in
17 IC 20-26-18.2-1.

18 (5) Except as provided in subsection (b) or (c); a person who:

19 (A) may legally possess a firearm; and

20 (B) possesses only a firearm that is:

21 (i) locked in the trunk of the person's motor vehicle;

22 (ii) kept in the glove compartment of the person's locked
23 motor vehicle; or

24 (iii) stored out of plain sight in the person's locked motor
25 vehicle.

26 (b) For purposes of subsection (a)(3) and (a)(5); a person does not
27 include a person who is:

28 (1) enrolled as a student in any high school except if the person is
29 a high school student and is a member of a shooting sports team
30 and the school's principal has approved the person keeping a
31 firearm concealed in the person's motor vehicle on the days the
32 person is competing or practicing as a member of a shooting
33 sports team; or

34 (2) a former student of the school if the person is no longer
35 enrolled in the school due to a disciplinary action within the
36 previous twenty-four (24) months.

37 (c) For purposes of subsection (a)(3) and (a)(5); a motor vehicle
38 does not include a motor vehicle owned, leased, or controlled by a
39 school or school district unless the person who possesses the firearm
40 is authorized by the school or school district to possess a firearm.

41 SECTION 5. IC 35-47-9-2 IS REPEALED [EFFECTIVE JULY 1,
42 2017]. Sec. 2: (a) A person may not be charged with an offense under



1 this subsection if the person may be charged with an offense described
 2 in subsection (c): A person who knowingly or intentionally possesses
 3 a firearm:

4 (1) in or on school property; or

5 (2) on a school bus;

6 commits a Level 6 felony:

7 (b) It is a defense to a prosecution under subsection (a) that:

8 (1) the person is permitted to legally possess the firearm; and

9 (2) the firearm is:

10 (A) locked in the trunk of the person's motor vehicle;

11 (B) kept in the glove compartment of the person's locked
 12 motor vehicle; or

13 (C) stored out of plain sight in the person's locked motor
 14 vehicle:

15 (c) A person who is permitted to legally possess a firearm and who
 16 knowingly, intentionally, or recklessly leaves the firearm in plain view
 17 in a motor vehicle that is parked in a school parking lot commits a
 18 Class A misdemeanor.

19 SECTION 6. IC 35-47-11.1-1, AS ADDED BY P.L.152-2011,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2017]: Sec. 1. This chapter applies to:

22 (1) a political subdivision (as defined in IC 3-5-2-38); and

23 (2) the state.

24 SECTION 7. IC 35-47-11.1-2, AS ADDED BY P.L.152-2011,
 25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2017]: Sec. 2. Except as provided in section 4 of this chapter,
 27 **the state and** a political subdivision may not regulate:

28 (1) firearms, ammunition, and firearm accessories;

29 (2) the ownership, possession, carrying, transportation,
 30 registration, transfer, and storage of firearms, ammunition, and
 31 firearm accessories; and

32 (3) commerce in and taxation of firearms, firearm ammunition,
 33 and firearm accessories.

34 SECTION 8. IC 35-47-11.1-3, AS ADDED BY P.L.152-2011,
 35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2017]: Sec. 3. Any provision of an ordinance, measure,
 37 enactment, rule, or policy, or exercise of proprietary authority of a
 38 political subdivision, or of an employee or agent of a political
 39 subdivision acting in an official capacity, **or the state:**

40 (1) enacted or undertaken before, on, or after June 30, 2011; and

41 (2) that pertains to or affects the matters listed in section 2 of this
 42 chapter;



1 is void.

2 SECTION 9. IC 35-47-11.1-4, AS AMENDED BY P.L.147-2014,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2017]: Sec. 4. This chapter may not be construed to prevent
5 any of the following:

- 6 (1) A law enforcement agency of a political subdivision from
7 enacting and enforcing regulations pertaining to firearms,
8 ammunition, or firearm accessories issued to or used by law
9 enforcement officers in the course of their official duties.
- 10 (2) Subject to IC 34-28-7-2, an employer from regulating or
11 prohibiting the employees of the employer from carrying firearms
12 and ammunition in the course of the employee's official duties.
- 13 (3) A court or administrative law judge from hearing and
14 resolving any case or controversy or issuing any opinion or order
15 on a matter within the jurisdiction of the court or judge.
- 16 (4) The enactment or enforcement of generally applicable zoning
17 or business ordinances that apply to firearms businesses to the
18 same degree as other similar businesses. However, a provision of
19 an ordinance that is designed or enforced to effectively restrict or
20 prohibit the sale, purchase, transfer, manufacture, or display of
21 firearms, ammunition, or firearm accessories that is otherwise
22 lawful under the laws of this state is void. A unit (as defined in
23 IC 36-1-2-23) may not use the unit's planning and zoning powers
24 under IC 36-7-4 to prohibit the sale of firearms within a
25 prescribed distance of any other type of commercial property or
26 of school property or other educational property.
- 27 (5) Subject to IC 35-47-16-1, the enactment or enforcement of a
28 provision prohibiting or restricting the possession of a firearm in
29 any building that contains the courtroom of a circuit, superior,
30 city, town, or small claims court. However, if a portion of the
31 building is occupied by a residential tenant or private business,
32 any provision restricting or prohibiting the possession of a firearm
33 does not apply to the portion of the building that is occupied by
34 the residential tenant or private business, or to common areas of
35 the building used by a residential tenant or private business.
- 36 (6) The enactment or enforcement of a provision prohibiting or
37 restricting the intentional display of a firearm at a public meeting.
- 38 (7) The enactment or enforcement of a provision prohibiting or
39 restricting the possession of a firearm in a public hospital
40 corporation that contains a secure correctional health unit that is
41 staffed by a law enforcement officer twenty-four (24) hours a day.
- 42 (8) The imposition of any restriction or condition placed on a



- 1 person participating in:
- 2 (A) a community corrections program (IC 11-12-1);
- 3 (B) a forensic diversion program (IC 11-12-3.7); or
- 4 (C) a pretrial diversion program (IC 33-39-1).
- 5 (9) The enforcement or prosecution of:
- 6 (A) the offense of criminal recklessness (IC 35-42-2-2)
- 7 involving the use of a firearm; **and**
- 8 **(B) any other criminal offense involving the unlawful**
- 9 **carrying, display, possession, or use of a firearm.**
- 10 (10) For an event occurring on property leased from a political
- 11 subdivision or municipal corporation by the promoter or organizer
- 12 of the event:
- 13 (A) the establishment, by the promoter or organizer, at the
- 14 promoter's or organizer's own discretion, of rules of conduct or
- 15 admission upon which attendance at or participation in the
- 16 event is conditioned; or
- 17 (B) the implementation or enforcement of the rules of conduct
- 18 or admission described in clause (A) by a political subdivision
- 19 or municipal corporation in connection with the event.
- 20 (11) The enactment or enforcement of a provision prohibiting or
- 21 restricting the possession of a firearm in a hospital established
- 22 and operated under IC 16-22-2 or IC 16-23.
- 23 (12) A unit from using the unit's planning and zoning powers
- 24 under IC 36-7-4 to prohibit the sale of firearms within two
- 25 hundred (200) feet of a school by a person having a business that
- 26 did not sell firearms within two hundred (200) feet of a school
- 27 before April 1, 1994.
- 28 (13) Subject to IC 35-47-16-1, a unit (as defined in IC 36-1-2-23)
- 29 from enacting or enforcing a provision prohibiting or restricting
- 30 the possession of a firearm in a building owned or administered
- 31 by the unit if:
- 32 (A) metal detection devices are located at each public entrance
- 33 to the building;
- 34 (B) each public entrance to the building is staffed by at least
- 35 one (1) law enforcement officer:
- 36 (i) who has been adequately trained to conduct inspections
- 37 of persons entering the building by use of metal detection
- 38 devices and proper physical pat down searches; and
- 39 (ii) when the building is open to the public; and
- 40 (C) each:
- 41 (i) individual who enters the building through the public
- 42 entrance when the building is open to the public; and



1 (ii) bag, package, and other container carried by the
 2 individual;
 3 is inspected by a law enforcement officer described in clause
 4 (B).

5 However, except as provided in subdivision (5) concerning a
 6 building that contains a courtroom, a unit may not prohibit or
 7 restrict the possession of a handgun under this subdivision in a
 8 building owned or administered by the unit if the person who
 9 possesses the handgun has been issued a valid license to carry the
 10 handgun under IC 35-47-2.

11 SECTION 10. IC 35-47-11.1-4.1 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2017]: **Sec. 4.1. (a) As used in this section,**
 14 **"department" means the Indiana department of natural resources.**

15 **(b) Notwithstanding 312 IAC 8-2-3, any person not otherwise**
 16 **prohibited from carrying or possessing a firearm under federal or**
 17 **state law shall be permitted to carry or possess, without restriction,**
 18 **a firearm on any property:**

- 19 (1) affiliated with;
 20 (2) operated or managed by;
 21 (3) owned by; or
 22 (4) leased by;

23 **the department.**

24 **(c) The department shall revise 312 IAC 8-2-3 to reflect**
 25 **subsection (b) not later than July 1, 2018.**

26 **(d) The publisher of the Indiana Administrative Code and**
 27 **Indiana Register shall amend 312 IAC 8-2-3 to reflect any change**
 28 **made by the department under subsection (c).**

29 SECTION 11. IC 35-47-11.1-4.2 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2017]: **Sec. 4.2. (a) As used in this section,**
 32 **"commission" means the Indiana state fair commission.**

33 **(b) Notwithstanding IAC 7-1-16(a)(1) or 80 IAC 11-2-2, any**
 34 **person not otherwise prohibited from carrying or possessing a**
 35 **firearm under federal or state law shall be permitted to carry or**
 36 **possess, without restriction, a firearm on any property:**

- 37 (1) affiliated with;
 38 (2) operated or managed by;
 39 (3) owned by; or
 40 (4) leased by;

41 **the commission.**

42 **(c) The commission shall revise:**



1 (1) 80 IAC 7-1-16(a)(1); and
 2 (2) 80 IAC 11-2-2;
 3 to reflect subsection (b) not later than July 1, 2018.

4 (d) The publisher of the Indiana Administrative Code and
 5 Indiana Register shall amend:

6 (1) 80 IAC 7-1-16(a)(1); and
 7 (2) 80 IAC 11-2-2;
 8 to reflect any change made by the commission under subsection
 9 (c).

10 SECTION 12. IC 35-47-11.1-4.4 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2017]: Sec. 4.4. (a) As used in this section,
 13 "department" means the Indiana department of administration.

14 (b) As used in this section, "Indiana government center
 15 campus" has the meaning set forth in 25 IAC 8-2-1.

16 (c) Notwithstanding 25 IAC 8-2-1, any person not otherwise
 17 prohibited from carrying or possessing a firearm under federal or
 18 state law shall be permitted to carry or possess a firearm, without
 19 restriction, in or on the Indiana government center campus.

20 (d) The department shall revise 25 IAC 8-2-1 to reflect
 21 subsection (c) not later than July 1, 2018.

22 (e) The publisher of the Indiana Administrative Code and
 23 Indiana Register shall amend 25 IAC 8-2-1 to reflect any change
 24 made by the department under subsection (d).

25 SECTION 13. IC 35-47-11.1-4.5 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2017]: Sec. 4.5. (a) As used in this section,
 28 "commission" means the Indiana horse racing commission.

29 (b) Notwithstanding:

- 30 (1) 71 IAC 7-5-1;
 31 (2) 71 IAC 7-5-5; and
 32 (3) 71 IAC 7.5-9-5;

33 any person not otherwise prohibited from carrying or possessing
 34 a firearm under federal or state law shall be permitted to carry or
 35 possess a firearm, without restriction, in or on race track property.

36 (c) The commission shall revise:

- 37 (1) 71 IAC 7-5-1;
 38 (2) 71 IAC 7-5-5; and
 39 (3) 71 IAC 7.5-9-5;

40 to reflect subsection (b) not later than July 1, 2018.

41 (d) The publisher of the Indiana Administrative Code and
 42 Indiana Register shall amend:



- 1 (1) 75 IAC 7-5-1;
 2 (2) 71 IAC 7-5-5; and
 3 (3) 71 IAC 7.5-9-5;

4 **to reflect any change made by the commission under subsection (c).**

5 SECTION 14. IC 35-47-11.1-4.6 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2017]: Sec. 4.6. (a) As used in this section,
 8 "department" means the Indiana department of workforce
 9 development.

10 (b) Notwithstanding:

- 11 (1) 646 IAC 5-13-2; and
 12 (2) 646 IAC 5-13-3;

13 **any person not otherwise prohibited from carrying or possessing**
 14 **a firearm under federal or state law shall be permitted to carry or**
 15 **possess a firearm, without restriction, in or on department**
 16 **property.**

17 (c) The department shall revise:

- 18 (1) 646 IAC 5-13-2; and
 19 (2) 646 IAC 5-13-3;

20 **to reflect subsection (b) not later than July 1, 2018.**

21 (d) The publisher of the Indiana Administrative Code and
 22 Indiana Register shall amend:

- 23 (1) 646 IAC 5-13-2; and
 24 (2) 646 IAC 5-13-3;

25 **to reflect any change made by the department under subsection (c).**

26 SECTION 15. IC 35-47-11.1-4.7 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2017]: Sec. 4.7. (a) As used in this section,
 29 "commission" means the Indiana gaming commission.

30 (b) 68 IAC 1-7-1 shall specify that any person not otherwise
 31 prohibited from carrying or possessing a firearm under federal or
 32 state law shall be permitted to carry or possess a firearm, without
 33 restriction, in or on any property regulated by the commission.

34 (c) The commission shall revise 68 IAC 1-7-1 to reflect
 35 subsection (b) not later than July 1, 2018.

36 (d) The publisher of the Indiana Administrative Code and
 37 Indiana Register shall amend 68 IAC 1-7-1 to reflect any change
 38 made by the commission under subsection (c).

