

## SENATE BILL No. 36

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-31.5-2-14; IC 35-47.

**Synopsis:** Handgun licenses and alcohol. Repeals references to "alcohol abuser" for purposes of determining who is a proper person to receive a license to carry a handgun. Makes conforming amendments. Provides that, during an interview with an applicant concerning a license to carry a handgun or in an application form submitted by an applicant to obtain a license to carry a handgun, the applicant may not be questioned about any criminal convictions the applicant may have for operating a vehicle under the influence of alcohol in violation of the law concerning operating a vehicle while intoxicated.

**Effective:** July 1, 2016.

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## Tomes

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January 5, 2016, read first time and referred to Committee on Judiciary.

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Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# SENATE BILL No. 36

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 IC 35-31.5-2-14 IS REPEALED [EFFECTIVE JULY
- 2 1, 2016]. ~~Sec. 14: "Alcohol abuser", for purposes of IC 35-47, has the~~
- 3 ~~meaning set forth in IC 35-47-1-2.~~
- 4 SECTION 2. IC 35-47-1-2 IS REPEALED [EFFECTIVE JULY 1,
- 5 2016]. ~~Sec. 2: "Alcohol abuser" means an individual who has had two~~
- 6 ~~(2) or more alcohol related offenses, any one (1) of which resulted in~~
- 7 ~~conviction by a court or treatment in an alcohol abuse facility within~~
- 8 ~~three (3) years prior to the date of the application.~~
- 9 SECTION 3. IC 35-47-1-7, AS AMENDED BY P.L.126-2012,
- 10 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2016]: Sec. 7. "Proper person" means a person who:
- 12 (1) does not have a conviction for resisting law enforcement
- 13 under IC 35-44.1-3-1 within five (5) years before the person
- 14 applies for a license or permit under this chapter;
- 15 (2) does not have a conviction for a crime for which the person
- 16 could have been sentenced for more than one (1) year;
- 17 (3) does not have a conviction for a crime of domestic violence



- 1 (as defined in IC 35-31.5-2-78), unless a court has restored the  
 2 person's right to possess a firearm under IC 35-47-4-7;  
 3 (4) is not prohibited by a court order from possessing a handgun;  
 4 (5) does not have a record of being ~~an alcohol~~ or a drug abuser as  
 5 defined in this chapter;  
 6 (6) does not have documented evidence which would give rise to  
 7 a reasonable belief that the person has a propensity for violent or  
 8 emotionally unstable conduct;  
 9 (7) does not make a false statement of material fact on the  
 10 person's application;  
 11 (8) does not have a conviction for any crime involving an inability  
 12 to safely handle a handgun;  
 13 (9) does not have a conviction for violation of the provisions of  
 14 this article within five (5) years of the person's application;  
 15 (10) does not have an adjudication as a delinquent child for an act  
 16 that would be a felony if committed by an adult, if the person  
 17 applying for a license or permit under this chapter is less than  
 18 twenty-three (23) years of age;  
 19 (11) has not been involuntarily committed, other than a temporary  
 20 commitment for observation or evaluation, to a mental institution  
 21 by a court, board, commission, or other lawful authority;  
 22 (12) has not been the subject of a:  
 23 (A) ninety (90) day commitment as a result of proceeding  
 24 under IC 12-26-6; or  
 25 (B) regular commitment under IC 12-26-7; or  
 26 (13) has not been found by a court to be mentally incompetent,  
 27 including being found:  
 28 (A) not guilty by reason of insanity;  
 29 (B) guilty but mentally ill; or  
 30 (C) incompetent to stand trial.
- 31 SECTION 4. IC 35-47-2-3, AS AMENDED BY P.L.158-2013,  
 32 SECTION 574, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) A person desiring a license  
 34 to carry a handgun shall apply:  
 35 (1) to the chief of police or corresponding law enforcement officer  
 36 of the municipality in which the applicant resides;  
 37 (2) if that municipality has no such officer, or if the applicant does  
 38 not reside in a municipality, to the sheriff of the county in which  
 39 the applicant resides after the applicant has obtained an  
 40 application form prescribed by the superintendent; or  
 41 (3) if the applicant is a resident of another state and has a regular  
 42 place of business or employment in Indiana, to the sheriff of the



1 county in which the applicant has a regular place of business or  
2 employment.

3 The superintendent and local law enforcement agencies shall allow an  
4 applicant desiring to obtain or renew a license to carry a handgun to  
5 submit an application electronically under this chapter if funds are  
6 available to establish and maintain an electronic application system.

7 (b) The law enforcement agency which accepts an application for a  
8 handgun license shall collect the following application fees:

9 (1) From a person applying for a four (4) year handgun license, a  
10 ten dollar (\$10) application fee, five dollars (\$5) of which shall be  
11 refunded if the license is not issued.

12 (2) From a person applying for a lifetime handgun license who  
13 does not currently possess a valid Indiana handgun license, a fifty  
14 dollar (\$50) application fee, thirty dollars (\$30) of which shall be  
15 refunded if the license is not issued.

16 (3) From a person applying for a lifetime handgun license who  
17 currently possesses a valid Indiana handgun license, a forty dollar  
18 (\$40) application fee, thirty dollars (\$30) of which shall be  
19 refunded if the license is not issued.

20 Except as provided in subsection (h), the fee shall be deposited into the  
21 law enforcement agency's firearms training fund or other appropriate  
22 training activities fund and used by the agency to train law enforcement  
23 officers in the proper use of firearms or in other law enforcement  
24 duties, or to purchase firearms, firearm related equipment, or body  
25 armor (as defined in IC 35-47-5-13(a)) for the law enforcement officers  
26 employed by the law enforcement agency. The state board of accounts  
27 shall establish rules for the proper accounting and expenditure of funds  
28 collected under this subsection.

29 (c) The officer to whom the application is made shall ascertain the  
30 applicant's name, full address, length of residence in the community,  
31 whether the applicant's residence is located within the limits of any city  
32 or town, the applicant's occupation, place of business or employment,  
33 criminal record, if any, and convictions (minor traffic offenses  
34 excepted), age, race, sex, nationality, date of birth, citizenship, height,  
35 weight, build, color of hair, color of eyes, scars and marks, whether the  
36 applicant has previously held an Indiana license to carry a handgun  
37 and, if so, the serial number of the license and year issued, whether the  
38 applicant's license has ever been suspended or revoked, and if so, the  
39 year and reason for the suspension or revocation, and the applicant's  
40 reason for desiring a license. **However, during an interview with an  
41 applicant or in an application form submitted by an applicant  
42 under this section, the applicant may not be questioned about any**



1 **criminal convictions the applicant may have for operating a vehicle**  
 2 **under the influence of alcohol in violation of a provision in**  
 3 **IC 9-30-5.** The officer to whom the application is made shall conduct  
 4 an investigation into the applicant's official records and verify thereby  
 5 the applicant's character and reputation, and shall in addition verify for  
 6 accuracy the information contained in the application, and shall  
 7 forward this information together with the officer's recommendation for  
 8 approval or disapproval and one (1) set of legible and classifiable  
 9 fingerprints of the applicant to the superintendent.

10 (d) The superintendent may make whatever further investigation the  
 11 superintendent deems necessary. Whenever disapproval is  
 12 recommended, the officer to whom the application is made shall  
 13 provide the superintendent and the applicant with the officer's complete  
 14 and specific reasons, in writing, for the recommendation of  
 15 disapproval.

16 (e) If it appears to the superintendent that the applicant:

- 17 (1) has a proper reason for carrying a handgun;
- 18 (2) is of good character and reputation;
- 19 (3) is a proper person to be licensed; and
- 20 (4) is:

21 (A) a citizen of the United States; or

22 (B) not a citizen of the United States but is allowed to carry a  
 23 firearm in the United States under federal law;

24 the superintendent shall issue to the applicant a qualified or an  
 25 unlimited license to carry any handgun lawfully possessed by the  
 26 applicant. The original license shall be delivered to the licensee. A  
 27 copy shall be delivered to the officer to whom the application for  
 28 license was made. A copy shall be retained by the superintendent for  
 29 at least four (4) years in the case of a four (4) year license. The  
 30 superintendent may adopt guidelines to establish a records retention  
 31 policy for a lifetime license. A four (4) year license shall be valid for  
 32 a period of four (4) years from the date of issue. A lifetime license is  
 33 valid for the life of the individual receiving the license. The license of  
 34 police officers, sheriffs or their deputies, and law enforcement officers  
 35 of the United States government who have been honorably retired by  
 36 a lawfully created pension board or its equivalent after twenty (20) or  
 37 more years of service shall be valid for the life of these individuals.  
 38 However, a lifetime license is automatically revoked if the license  
 39 holder does not remain a proper person.

40 (f) At the time a license is issued and delivered to a licensee under  
 41 subsection (e), the superintendent shall include with the license  
 42 information concerning handgun safety rules that:



- 1 (1) neither opposes nor supports an individual's right to bear  
 2 arms; and  
 3 (2) is:  
 4 (A) recommended by a nonprofit educational organization that  
 5 is dedicated to providing education on safe handling and use  
 6 of firearms;  
 7 (B) prepared by the state police department; and  
 8 (C) approved by the superintendent.
- 9 The superintendent may not deny a license under this section because  
 10 the information required under this subsection is unavailable at the  
 11 time the superintendent would otherwise issue a license. The state  
 12 police department may accept private donations or grants to defray the  
 13 cost of printing and mailing the information required under this  
 14 subsection.
- 15 (g) A license to carry a handgun shall not be issued to any person  
 16 who:  
 17 (1) has been convicted of a felony;  
 18 (2) has had a license to carry a handgun suspended, unless the  
 19 person's license has been reinstated;  
 20 (3) is under eighteen (18) years of age;  
 21 (4) is under twenty-three (23) years of age if the person has been  
 22 adjudicated a delinquent child for an act that would be a felony if  
 23 committed by an adult; or  
 24 (5) has been arrested for a Class A or Class B felony for an  
 25 offense committed before July 1, 2014, for a Level 1, Level 2,  
 26 Level 3, or Level 4 felony for an offense committed after June 30,  
 27 2014, or any other felony that was committed while armed with  
 28 a deadly weapon or that involved the use of violence, if a court  
 29 has found probable cause to believe that the person committed the  
 30 offense charged.
- 31 In the case of an arrest under subdivision (5), a license to carry a  
 32 handgun may be issued to a person who has been acquitted of the  
 33 specific offense charged or if the charges for the specific offense are  
 34 dismissed. The superintendent shall prescribe all forms to be used in  
 35 connection with the administration of this chapter.
- 36 (h) If the law enforcement agency that charges a fee under  
 37 subsection (b) is a city or town law enforcement agency, the fee shall  
 38 be deposited in the law enforcement continuing education fund  
 39 established under IC 5-2-8-2.
- 40 (i) If a person who holds a valid license to carry a handgun issued  
 41 under this chapter:  
 42 (1) changes the person's name;



- 1 (2) changes the person's address; or  
 2 (3) experiences a change, including an arrest or a conviction, that  
 3 may affect the person's status as a proper person (as defined in  
 4 IC 35-47-1-7) or otherwise disqualify the person from holding a  
 5 license;  
 6 the person shall, not later than thirty (30) days after the date of a  
 7 change described under subdivision (3), and not later than sixty (60)  
 8 days after the date of the change described under subdivision (1) or (2),  
 9 notify the superintendent, in writing, of the event described under  
 10 subdivision (3) or, in the case of a change under subdivision (1) or (2),  
 11 the person's new name or new address.  
 12 (j) The state police shall indicate on the form for a license to carry  
 13 a handgun the notification requirements of subsection (i).  
 14 (k) The state police department shall adopt rules under IC 4-22-2 to  
 15 implement an electronic application system under subsection (a). Rules  
 16 adopted under this section must require the superintendent to keep on  
 17 file one (1) set of classifiable and legible fingerprints from every  
 18 person who has received a license to carry a handgun so that a person  
 19 who applies to renew a license will not be required to submit an  
 20 additional set of fingerprints.  
 21 (l) Except as provided in subsection (m), for purposes of  
 22 IC 5-14-3-4(a)(1), the following information is confidential, may not  
 23 be published, and is not open to public inspection:  
 24 (1) Information submitted by a person under this section to:  
 25 (A) obtain; or  
 26 (B) renew;  
 27 a license to carry a handgun.  
 28 (2) Information obtained by a federal, state, or local government  
 29 entity in the course of an investigation concerning a person who  
 30 applies to:  
 31 (A) obtain; or  
 32 (B) renew;  
 33 a license to carry a handgun issued under this chapter.  
 34 (3) The name, address, and any other information that may be  
 35 used to identify a person who holds a license to carry a handgun  
 36 issued under this chapter.  
 37 (m) Notwithstanding subsection (l):  
 38 (1) any information concerning an applicant for or a person who  
 39 holds a license to carry a handgun issued under this chapter may  
 40 be released to a federal, state, or local government entity:  
 41 (A) for law enforcement purposes; or  
 42 (B) to determine the validity of a license to carry a handgun;



1           and  
2           (2) general information concerning the issuance of licenses to  
3           carry handguns in Indiana may be released to a person conducting  
4           journalistic or academic research, but only if all personal  
5           information that could disclose the identity of any person who  
6           holds a license to carry a handgun issued under this chapter has  
7           been removed from the general information.  
8           (n) A person who knowingly or intentionally violates this section  
9           commits a Class B misdemeanor.

