



Reprinted
April 6, 2017

ENGROSSED SENATE BILL No. 191

DIGEST OF SB 191 (Updated April 5, 2017 5:06 pm - DI 123)

Citations Affected: IC 35-47.

Synopsis: Firearms matters. Establishes a procedure for the return or disposal of certain firearms in the custody of a law enforcement agency.

Effective: July 1, 2017.

Crider, Crane, Randolph Lonnie M

(HOUSE SPONSORS — CHERRY, JUDY)

January 4, 2017, read first time and referred to Committee on Rules and Legislative Procedure.

January 12, 2017, amended; reassigned to Committee on Homeland Security and Transportation.

January 24, 2017, reported favorably — Do Pass.

January 26, 2017, read second time, ordered engrossed. Engrossed.

January 30, 2017, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Public Policy.

March 23, 2017, amended, reported — Do Pass.

April 5, 2017, read second time, amended, ordered engrossed.

ES 191—LS 6037/DI 13



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First Regular Session 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.

ENGROSSED SENATE BILL No. 191

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 35-47-3-2, AS AMENDED BY P.L.157-2014,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. (a) This section applies only to firearms which
4 are not required to be registered in the National Firearms Registration
5 and Transfer Record.

6 (b) Firearms shall be returned to the rightful owner at once
7 following final disposition of the cause if a return has not already
8 occurred under the terms of IC 35-33-5. If the rightful ownership is not
9 known the law enforcement agency holding the firearm shall make a
10 reasonable attempt to ascertain the rightful ownership and cause the
11 return of the firearm. However, nothing in this chapter shall be
12 construed as requiring the return of firearms to rightful owners who
13 have been convicted for the misuse of firearms. In such cases, the court
14 may provide for the return of the firearm in question or order that the
15 firearm be at once delivered:

16 (1) except as provided in subdivision (2), to the sheriff's
17 department of the county in which the offense occurred; or

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- 1 (2) to the city or town police force law enforcement agency that
 2 confiscated the firearm.
- 3 (c) **If at least one hundred eighty (180) days have elapsed since**
 4 **the sheriff's department or law enforcement agency received the**
 5 **firearm, and:**
- 6 (1) **all reasonable attempts to locate the rightful owner of the**
 7 **firearm have failed; or**
- 8 (2) **the rightful owner has been convicted of an offense related**
 9 **to the misuse of a firearm;**
- 10 **the sheriff's department or law enforcement agency shall dispose**
 11 **of the firearm as described in subsection (d).**
- 12 (d) **Subject to subsection (c),** the receiving law enforcement agency
 13 shall dispose of firearms under subsection (b), at the discretion of the
 14 law enforcement agency, ~~not more than one hundred twenty (120) days~~
 15 ~~following receipt~~ by use of any of the following procedures:
- 16 (1) Public sale of the firearms to the general public as follows:
- 17 (A) Notice of the sale shall be:
- 18 (i) posted for ten (10) days in the county courthouse in a
 19 place readily accessible to the general public; and
- 20 (ii) advertised in the principal newspaper of the county for
 21 two (2) days in an advertisement that appears in the
 22 newspaper at least five (5) days prior to the sale.
- 23 (B) Disposition of the firearm shall be by public auction in a
 24 place convenient to the general public, with disposition going
 25 to the highest bidder. However, no firearm shall be transferred
 26 to any bidder if that bidder is not lawfully eligible to receive
 27 and possess firearms according to the laws of the United States
 28 and Indiana.
- 29 (C) All handguns transferred under this subdivision shall also
 30 be transferred according to the transfer procedures set forth in
 31 this article.
- 32 (D) Money collected pursuant to the sales shall first be used to
 33 defray the necessary costs of administering this subdivision
 34 with any surplus to be:
- 35 (i) deposited into the receiving law enforcement agency's
 36 firearms training fund, other appropriate training activities
 37 fund, or any other fund that may be used by the receiving
 38 law enforcement agency for the purchase and maintenance
 39 of firearms, ammunition, vests, and other law enforcement
 40 equipment; and
- 41 (ii) used by the agency exclusively to train law enforcement
 42 officers in the proper use of firearms or other law



- 1 enforcement duties, and to purchase and maintain firearms,
2 ammunition, vests, and other law enforcement equipment.
3 A law enforcement agency may not sell a firearm to the general
4 public if the firearm is unsafe to operate because it has been
5 damaged or altered.
- 6 (2) Sale of the firearms to a licensed firearms dealer as follows:
7 (A) Notice of the sale must be:
8 (i) posted for ten (10) days in the county courthouse in a
9 place readily accessible to the general public; and
10 (ii) advertised in the principal newspaper of the county for
11 two (2) days in an advertisement that appears in the
12 newspaper at least five (5) days before the sale.
13 (B) Disposition of the firearm shall be by auction with
14 disposition going to the highest bidder who is a licensed
15 firearms dealer.
16 (C) Money collected from the sales shall first be used to defray
17 the necessary costs of administering this subdivision and any
18 surplus shall be:
19 (i) deposited into the receiving law enforcement agency's
20 firearms training fund, other appropriate training activities
21 fund, or any other fund that may be used by the receiving
22 law enforcement agency for the purchase and maintenance
23 of firearms, ammunition, vests, and other law enforcement
24 equipment; and
25 (ii) used by the agency exclusively to train law enforcement
26 officers in the proper use of firearms or other law
27 enforcement duties, and to purchase and maintain firearms,
28 ammunition, vests, and other law enforcement equipment.
29 A law enforcement agency may sell a firearm to a licensed
30 firearms dealer for salvage or repair, even if the firearm is unsafe
31 to operate because it has been damaged or altered.
- 32 (3) Sale or transfer of the firearms to another law enforcement
33 agency.
34 (4) Release to the state police department laboratory or other
35 forensic laboratory administered by the state or a political
36 subdivision (as defined in IC 36-1-2-13) for the purposes of
37 research, training, and comparison in conjunction with the
38 forensic examination of firearms evidence.
39 (5) Destruction of the firearms. A firearm that is to be destroyed
40 may be sold to a salvage company and destroyed by dismantling
41 the firearm for parts, scrap metal, or recycling, or for resale as
42 parts for other firearms.



1 (d) (e) Notwithstanding the requirement of this section mandating
2 disposal of firearms not more than one hundred twenty (120) days
3 following receipt, the receiving law enforcement agency may at its
4 discretion hold firearms it may receive until a sufficient number has
5 accumulated to defray the costs of administering this section if a delay
6 does not exceed one hundred eighty (180) days from the date of receipt
7 of the first firearm in the sale lot. In addition, the A receiving law
8 enforcement agency may, at its discretion, jointly sell firearms it has
9 received with another law enforcement agency, or permit another law
10 enforcement agency to sell firearms it has received on behalf of the
11 receiving law enforcement agency. In any event, all confiscated
12 firearms shall be disposed of as promptly as possible.

13 (e) (f) When a firearm is delivered to the state police department
14 laboratory or other forensic laboratory under subsection (c)(4)
15 subsection (d)(4) and the state police department laboratory or other
16 forensic laboratory determines the laboratory has no further need for
17 the firearm in question, the laboratory shall return the firearm to the
18 law enforcement agency for disposal under subsection (c): subsection
19 (d).



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 191, has had the same under consideration and begs leave to report the same back to the Senate 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 be reassigned to the Senate Committee on Homeland Security and Transportation.

(Reference is to SB 191 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 191, 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 191 as printed January 13, 2017.)

CRIDER, Chairperson

Committee Vote: Yeas 9, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 191, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-47-2-1, AS AMENDED BY P.L.158-2013, SECTION 573, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Except as provided in subsections (b) and (c) and ~~section 2~~ **sections 2 through 2.1** of this



chapter, a person shall not carry a handgun in any vehicle or on or about the person's body without being licensed under this chapter to carry a handgun.

(b) Except as provided in subsection (c), a person may carry a handgun without being licensed under this chapter to carry a handgun if:

(1) the person carries the handgun on or about the person's body in or on property that is owned, leased, rented, or otherwise legally controlled by the person;

(2) the person carries the handgun on or about the person's body while lawfully present in or on property that is owned, leased, rented, or otherwise legally controlled by another person, if the person:

(A) has the consent of the owner, renter, lessor, or person who legally controls the property to have the handgun on the premises;

(B) is attending a firearms related event on the property, including a gun show, firearms expo, gun owner's club or convention, hunting club, shooting club, or training course; or

(C) is on the property to receive firearms related services, including the repair, maintenance, or modification of a firearm;

(3) the person carries the handgun in a vehicle that is owned, leased, rented, or otherwise legally controlled by the person, if the handgun is:

(A) unloaded;

(B) not readily accessible; and

(C) secured in a case;

(4) the person carries the handgun while lawfully present in a vehicle that is owned, leased, rented, or otherwise legally controlled by another person, if the handgun is:

(A) unloaded;

(B) not readily accessible; and

(C) secured in a case; ~~or~~

(5) the person carries the handgun:

(A) at a shooting range (as defined in IC 14-22-31.5-3);

(B) while attending a firearms instructional course; or

(C) while engaged in a legal hunting activity; **or**

(6) the person is permitted to carry a handgun without a license under section 2.1 of this chapter (persons protected by a protection order).

(c) Unless the person's right to possess a firearm has been restored



under IC 35-47-4-7, a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun.

(d) This section may ~~be~~ not ~~be~~ construed:

(1) to prohibit a person who owns, leases, rents, or otherwise legally controls private property from regulating or prohibiting the possession of firearms on the private property;

(2) to allow a person to adopt or enforce an ordinance, resolution, policy, or rule that:

(A) prohibits; or

(B) has the effect of prohibiting;

an employee of the person from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle, unless the person's adoption or enforcement of the ordinance, resolution, policy, or rule is allowed under IC 34-28-7-2(b); or

(3) to allow a person to adopt or enforce a law, statute, ordinance, resolution, policy, or rule that allows a person to possess or transport a firearm or ammunition if the person is prohibited from possessing or transporting the firearm or ammunition by state or federal law.

(e) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Level 5 felony:

(1) if the offense is committed:

(A) on or in school property;

(B) within five hundred (500) feet of school property; or

(C) on a school bus; or

(2) if the person:

(A) has a prior conviction of any offense under:

(i) this section; or

(ii) section 22 of this chapter; or

(B) has been convicted of a felony within fifteen (15) years before the date of the offense.

SECTION 2. IC 35-47-2-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 2.1. (a) As used in this section, "protection order" means a civil protection order issued under IC 34-26-5.**

(b) A person may carry a handgun without a license if the person is:

(1) protected by a protection order;

(2) at least eighteen (18) years of age; and



(3) not otherwise barred by state or federal law from possessing a handgun;
during the period described in subsection (c).

(c) A person described in subsection (b) may carry a handgun without a license for a period ending sixty (60) days after the date:

- (1) the protection order is issued; or
- (2) the person applies for a license to carry a handgun, if the person applies for a license to carry a handgun during the sixty (60) day period described in subdivision (1);

whichever is later."

Page 4, line 13, delete "(e)", begin a new paragraph and insert "(e)".

Page 4, after line 19, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(b) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.
- (2) An interim study committee.

(c) The legislative council is urged to assign to the appropriate study committee the topic of studying the repeal of the law that requires a person to obtain a license to carry a handgun in Indiana.

(d) If an appropriate study committee is assigned the topic described under subsection (c), the study committee may consider, as part of its study, the following:

- (1) The fiscal impact of a repeal of the handgun licensure law.
- (2) The issuance and use of reciprocity licenses.
- (3) Any persons who should be prohibited from possessing or carrying a handgun.
- (4) The rate in which handguns are used in suicides in Indiana.
- (5) The rate in which handguns are used in criminal acts in Indiana.

(e) If the topic described in subsection (c) is assigned to an interim study committee, the interim study committee shall issue to the legislative council a final report containing the interim study committee's findings and recommendations, including any recommended legislation concerning the repeal of the handgun licensure law, in an electronic format under IC 5-14-6, not later than November 1, 2017.

(f) This SECTION expires December 31, 2017.



SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 191 as printed January 25, 2017.)

SMALTZ

Committee Vote: yeas 9, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 191 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 39.

Page 6, delete lines 34 through 42.

Delete page 7.

Renumber all SECTIONS consecutively.

(Reference is to ESB 191 as printed March 24, 2017.)

SMALTZ

