

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1365

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

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

SECTION 1. IC 35-31.5-2-190, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 190. (a) "Machine gun" means a weapon that:

(1) shoots; ~~or~~

(2) is designed to shoot; or

~~(2)~~ **(3) can be readily restored to shoot;**

automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

(b) The term includes:

(1) the frame or receiver of a weapon described in subsection (a);

(2) a:

(A) part designed and intended solely and exclusively; or

(B) combination of parts designed and intended;

for use in converting a weapon into a machine gun; and

(3) any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

SECTION 2. IC 35-47-2-7, AS AMENDED BY P.L.183-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) As used in this section, "machine gun"

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means any weapon that shoots; is designed to shoot; or can be readily restored to shoot automatically more than one (1) shot; without manual reloading; by a single function of the trigger. The term includes the frame or receiver of any such weapon; any part designed and intended solely and exclusively; or a combination of parts designed and intended; for use in converting a weapon into a machine gun; and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person: **has the meaning set forth in IC 35-31.5-2-190.**

(b) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10 (governing children and firearms) and federal law, a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or machine gun to any person under eighteen (18) years of age.

(c) A person who knowingly or intentionally sells, gives, or in any other manner transfers ownership or possession of a machine gun to a person under eighteen (18) years of age commits a Level 5 felony. However, the offense is a Level 4 felony if the person who sells, gives, or transfers ownership of the machine gun has a prior conviction under this section, and a Level 3 felony if a person under eighteen (18) years of age uses the machine gun to commit murder (IC 35-42-1-1).

(d) A person who knowingly or intentionally sells, gives, or in any other manner transfers the ownership or possession of a handgun to another person who the person knows:

- (1) is ineligible for any reason other than the person's age to purchase or otherwise receive from a dealer a handgun; or
- (2) intends to use the handgun to commit a crime;

commits criminal transfer of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(e) A person who purchases a handgun with the intent to:

- (1) resell or otherwise provide the handgun to another person who the person knows is ineligible for any reason to purchase or otherwise receive from a dealer a handgun;
 - (2) resell or otherwise provide the handgun to another person who the person knows intends to use the handgun to commit a crime;
- or

(3) transport the handgun outside Indiana to be resold or otherwise provided to another person who the transferor knows:

- (A) is ineligible to purchase or otherwise receive a handgun;
- or



(B) intends to use the handgun to commit a crime; commits the straw purchase of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(f) As used in this subsection, "NICS" has the meaning set forth in IC 35-47-2.5-2.5. It is a defense to a prosecution under subsection (d)(1) that:

- (1) the accused person contacted NICS (or had a dealer contact NICS on the person's behalf) to request a background check on the other person before the accused person sold, gave, or in any other manner transferred the ownership or possession of the handgun to the other person; and
- (2) the accused person (or dealer acting on the person's behalf) received authorization from NICS to sell, give, or in any other manner transfer ownership or possession of the handgun to the other person.

SECTION 3. IC 35-47-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The provisions of section 8 or 9 of this chapter ~~shall do not be construed to~~ apply to any of the following:

- (1) **The ownership, possession, or operation of a machine gun by** members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.
- (2) **The ownership or possession of** machine guns kept for display as relics and which are rendered harmless and not usable.
- (3) **The ownership, possession, or operation of a machine gun by** any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.
- (4) ~~Persons lawfully engaged in~~ The **lawful** display, testing, or use of fireworks.
- (5) ~~Agencies~~ **The ownership, possession, or operation of a machine gun by an agency** of state government.
- (6) **The ownership, possession, or operation of a machine gun by** persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while **the person is** acting within the scope of such business.
- (7) **The ownership, possession, or operation of a machine gun by** persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns



must be transferred as provided in this article.

(8) The ownership, possession, or operation of a machine gun by persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

(9) The ownership, possession, or operation of:

(A) a machine gun; or

(B) another item;

not required to be registered in the National Firearms Registration and Transfer Record maintained by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

SECTION 4. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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