

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE ENROLLED ACT No. 229

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AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 34-28-7-2, AS AMENDED BY P.L.114-2012, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce an ordinance, a resolution, a policy, or a rule that:

- (1) prohibits; or
- (2) has the effect of prohibiting;

an employee of the person, including a contract employee, 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.

(b) Subsection (a) does not prohibit the adoption or enforcement of an ordinance, a resolution, a policy, or a rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from possessing a firearm or ammunition:

- ~~(1) in or on school property; in or on property that is being used by a school for a school function; or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9-2;~~
- ~~(2) (1) on the property of:~~
  - (A) a child caring institution;

SEA 229 — CC 1



- (B) an emergency shelter care child caring institution;
  - (C) a private secure facility;
  - (D) a group home;
  - (E) an emergency shelter care group home; or
  - (F) a child care center;
- in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470 IAC 3-4.7-19;
- ~~(3)~~ **(2)** on the property of a penal facility (as defined in IC 35-31.5-2-232);
  - ~~(4)~~ **(3)** in violation of federal law;
  - ~~(5)~~ **(4)** in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));
  - ~~(6)~~ **(5)** on the property of a domestic violence shelter;
  - ~~(7)~~ **(6)** at a **person's the employer's** residence;
  - ~~(8)~~ **(7)** on the property of a person that is:
    - (A) subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued April 9, 2007; and
    - (B) licensed by the United States Nuclear Regulatory Commission under Title 10 of the Code of Federal Regulations;
  - ~~(9)~~ **(8)** on property owned by:
    - (A) a public utility (as defined in IC 8-1-2-1) that generates and transmits electric power; or
    - (B) a department of public utilities created under IC 8-1-11.1;
 or
  - ~~(10)~~ **(9)** in the employee's personal vehicle if the employee, including a contract employee, is a direct support professional who:
    - (A) works directly with individuals with developmental disabilities to assist the individuals to become integrated into the individuals' community or least restrictive environment; and
    - (B) uses the employee's personal vehicle while transporting an individual with developmental disabilities.

SECTION 2. IC 35-47-3-2, AS AMENDED BY P.L.119-2012, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) This section applies only to firearms which are not required to be registered in the National Firearms Registration and Transfer Record.

(b) Firearms shall be returned to the rightful owner at once



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

- (1) except as provided in subdivision (2), to the sheriff's department of the county in which the offense occurred; or
- (2) to the city or town police force that confiscated the firearm. ~~if:~~
  - ~~(A) a member of the city or town police force confiscated the firearm; and~~
  - ~~(B) the city or town has a population of more than two thousand five hundred (2,500) and less than six hundred thousand (600,000):~~

(c) The receiving law enforcement agency shall dispose of firearms under subsection (b), at the discretion of the law enforcement agency, not more than one hundred twenty (120) days following receipt by use of any of the following procedures:

- (1) Public sale of the firearms to the general public as follows:
  - (A) Notice of the sale shall be:
    - (i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and
    - (ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale.
  - (B) Disposition of the firearm shall be by public auction in a place convenient to the general public, with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.
  - (C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article.
  - (D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:
    - (i) deposited into the receiving law enforcement agency's firearms training fund, ~~if the law enforcement agency is a~~



county law enforcement agency, or into a continuing education fund established under IC 5-2-8-2; if the law enforcement agency is a city or town law enforcement agency **other appropriate training activities fund, or any other fund that may be used by the receiving law enforcement agency for the purchase and maintenance of firearms, ammunition, vests, and other law enforcement equipment;** and

(ii) used by the agency exclusively for the purpose of **training to train** law enforcement officers in the proper use of firearms or other law enforcement duties, **and to purchase and maintain firearms, ammunition, vests, and other law enforcement equipment.** if the law enforcement agency is a county law enforcement agency; or for law enforcement purposes; if the law enforcement agency is a city or town law enforcement agency.

**A law enforcement agency may not sell a firearm to the general public if the firearm is unsafe to operate because it has been damaged or altered.**

(2) Sale of the firearms to a licensed firearms dealer as follows:

(A) Notice of the sale must be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale.

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer.

(C) Money collected from the sales shall first be used to defray the necessary costs of administering this subdivision and any surplus shall be:

(i) deposited into the receiving law enforcement agency's firearms training fund, **or other appropriate training activities fund, or any other fund that may be used by the receiving law enforcement agency for the purchase and maintenance of firearms, ammunition, vests, and other law enforcement equipment;** and

(ii) used by the agency exclusively for the purpose of **training to train** law enforcement officers in the proper use of firearms or other law enforcement duties, **and to purchase and maintain firearms, ammunition, vests, and**



**other law enforcement equipment.**

**A law enforcement agency may sell a firearm to a licensed firearms dealer for salvage or repair, even if the firearm is unsafe to operate because it has been damaged or altered.**

(3) Sale or transfer of the firearms to another law enforcement agency.

(4) Release to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of research, training, and comparison in conjunction with the forensic examination of firearms evidence.

(5) Destruction of the firearms. **A firearm that is to be destroyed may be sold to a salvage company and destroyed by dismantling the firearm for parts, scrap metal, or recycling, or for resale as parts for other firearms.**

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

(e) When a firearm is delivered to the state police department laboratory or other forensic laboratory under subsection (c)(4) and the state police department laboratory or other forensic laboratory determines the laboratory has no further need for the firearm in question, the laboratory shall return the firearm to the law enforcement agency for disposal under subsection (c).

SECTION 3. IC 35-47-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 3.5. Firearm Buyback Programs Prohibited**

**Sec. 1. This chapter applies to a unit (as defined in IC 36-1-2-23), including a law enforcement agency of a unit.**

**Sec. 2. As used in this chapter, "firearm buyback program" means a program to purchase privately owned firearms from individual firearm owners for the purpose of:**



- (1) reducing the number of firearms owned by civilians; or
- (2) permitting civilians to sell a firearm to the government without fear of prosecution.

The term does not include the purchase of firearms from a licensed firearms dealer or a program to purchase firearms for law enforcement purposes.

**Sec. 3.** A unit, including a law enforcement agency of a unit, may not conduct a firearm buyback program unless the firearm buyback program is financed or funded with private funds or grants, and not public funds.

**Sec. 4. (a)** A unit having possession of a firearm obtained from a firearm buyback program shall transfer the firearm to a law enforcement agency of the unit.

**(b)** A law enforcement agency of a unit that has possession of a firearm obtained under subsection (a), or otherwise as the result of a firearm buyback program, shall dispose of the firearm in accordance with IC 35-47-3.

SECTION 4. IC 35-47-9-1, AS AMENDED BY P.L.172-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. **(a)** This chapter does not apply to the following:

(1) A:

- (A) federal;
- (B) state; or
- (C) local;

law enforcement officer.

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

- (A) a school board (as defined by IC 20-26-9-4); or
- (B) the body that administers a charter school established under IC 20-24;

to carry a firearm in or on school property.

(3) **Except as provided in subsection (b) or (c)**, a person who:

- (A) may legally possess a firearm; and
- (B) possesses the firearm in a motor vehicle. ~~that is being operated by the person to transport another person to or from a school or a school function.~~

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

(5) **Except as provided in subsection (b) or (c)**, a person who:

- (A) may legally possess a firearm; and
- (B) possesses only a firearm that is:



- (i) locked in the trunk of the person's motor vehicle;
- (ii) kept in the glove compartment of the person's locked motor vehicle; or
- (iii) stored out of plain sight in the person's locked motor vehicle.

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

- (1) enrolled as a student in any high school except if the person is a high school student and is a member of a shooting sports team and the school's principal has approved the person keeping a firearm concealed in the person's motor vehicle on the days the person is competing or practicing as a member of a shooting sports team; or
- (2) a former student of the school if the person is no longer enrolled in the school due to a disciplinary action within the previous twenty-four (24) months.

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

SECTION 5. IC 35-47-9-2, AS AMENDED BY P.L.172-2013, SECTION 13, AND AS AMENDED BY P.L.158-2013, SECTION 601, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person may not be charged with an offense under this subsection if the person may be charged with an offense described in subsection (c). A person who knowingly or intentionally possesses a firearm:

- (1) in or on school property; or
- ~~(2) in or on property that is being used by a school for a school function; or~~
- ~~(2) on a school bus;~~

commits a ~~Class D~~ Level 6 felony.

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

- (1) the person is permitted to legally possess the firearm; and
- (2) the firearm is:
  - (A) locked in the trunk of the person's motor vehicle;
  - (B) kept in the glove compartment of the person's locked motor vehicle; or
  - (C) stored out of plain sight in the person's locked motor vehicle.

(c) A person who is permitted to legally possess a firearm and



**who knowingly, intentionally, or recklessly leaves the firearm in plain view in a motor vehicle that is parked in a school parking lot commits a Class A misdemeanor.**

SECTION 6. IC 35-47-14-9, AS ADDED BY P.L.1-2006, SECTION 537, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. If at least five (5) years have passed since a court conducted the first hearing to retain a firearm under this chapter, the court, after giving notice to the parties and conducting a hearing, may order the law enforcement agency having custody of the firearm to ~~destroy or otherwise permanently~~ dispose of the firearm **in accordance with IC 35-47-3.**

SECTION 7. IC 35-47-14-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 10. (a) If a court has ordered a law enforcement agency to retain an individual's firearm under section 6 of this chapter, the individual may request the court to order the law enforcement agency to sell the firearm at auction under IC 35-47-3-2 and return the proceeds to the individual.**

**(b) An individual may make the request described in subsection (a):**

- (1) at the retention hearing described in section 9 of this chapter; or**
- (2) at any time before the retention hearing described in section 9 of this chapter is held.**

**(c) If an individual timely requests a sale of a firearm under subsection (a), the court shall order the law enforcement agency having custody of the firearm to sell the firearm at auction under IC 35-47-3-2, unless the serial number of the firearm has been obliterated.**

**(d) If the court issues an order under subsection (c), the court's order must require:**

- (1) that the firearm be sold not more than one (1) year after receipt of the order; and**
- (2) that the proceeds of the sale be returned to the individual who owns the firearm. However, the law enforcement agency may retain not more than eight percent (8%) of the sale price to pay the costs of the sale, including administrative costs and the auctioneer's fee.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

