

February 13, 1998

**ENGROSSED
SENATE BILL No. 195**

DIGEST OF SB195 (Updated February 12, 1998 1:44 pm - DI 77)

Citations Affected: IC 6-7; IC 12-7; IC 12-12; IC 35-46.

Synopsis: Ban sale of tobacco through coin machines. Prohibits the sale or distribution of tobacco products through vending and other coin machines. Provides law enforcement officers with the authority to seal, remove, impound, or disable a coin machine that is used to distribute or sell tobacco. Makes conforming amendments.

Effective: July 1, 1998.

Gard, Miller, Simpson

(HOUSE SPONSORS — HASLER, MURPHY, KRUZAN)

January 6, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 22, 1998, amended, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

January 28, 1998, engrossed.

January 30, 1998, read third time, passed. Yeas 29, nays 21.

HOUSE ACTION

February 4, 1998, read first time and referred to Committee on Public Health.

February 12, 1998, reported — Do Pass.

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ES 195—LS 6568/DI 88+



February 13, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED SENATE BILL No. 195

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 6-7-1-24 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1998]: Sec. 24. (a) Whenever the department
3 discovers any cigarettes which are subject to tax under this chapter and
4 upon which the tax has not been paid or the stamps affixed as required,
5 it may seize and take possession of the cigarettes together with any
6 ~~vending machine~~ or receptacle in which they are held for sale. The
7 seized cigarettes ~~vending machine~~, or receptacle, not including money
8 contained in the ~~vending machine~~ or receptacle, shall be forfeited to the
9 state. The department may, within a reasonable time after the seizure:
10 (1) sell the forfeited cigarettes and ~~vending machines~~ or
11 receptacles at public auction, but the department shall require the
12 purchaser to affix the proper amount of the stamps to the
13 cigarettes upon delivery to the purchaser;
14 (2) permit the person from whom the cigarettes were seized to
15 redeem the cigarettes and any ~~vending machine~~ or receptacle
16 seized therewith by the payment of the tax due together with a

ES 195—LS 6568/DI 88+



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1 penalty of fifty percent (50%) and the costs incurred in the
2 proceeding; or

3 (3) destroy the confiscated cigarettes and ~~vending machine or~~
4 receptacle.

5 (b) The confiscation, destruction, sale, or redemption of cigarettes
6 does not relieve any person of criminal penalties imposed for violation
7 of this chapter.

8 (c) Any person who sells or holds for sale any packages of cigarettes
9 not bearing Indiana tax stamps commits a Class A misdemeanor. This
10 subsection does not apply to distributors or to employees of the
11 department who are performing their official duties.

12 (d) The possession of more than one thousand five hundred (1,500)
13 cigarettes in packages not bearing Indiana tax stamps by any person
14 other than a distributor, a common carrier, or an employee of the state
15 or federal government performing his official duties in the enforcement
16 of this chapter constitutes prima facie evidence that the cigarettes are
17 possessed for the purpose of sale.

18 (e) A person who knowingly possesses more than twelve thousand
19 (12,000) cigarettes not bearing Indiana tax stamps and who has
20 previously been convicted of a misdemeanor for possession or sale of
21 unstamped cigarettes commits a Class D felony.

22 SECTION 2. IC 12-7-2-197 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 197. "Vending
24 facilities", for purposes of IC 12-12-5, means automatic vending
25 machines and snack bars and the auxiliary equipment necessary for the
26 sale of newspapers, periodicals, confections, ~~tobacco products~~, foods,
27 beverages, and other articles or services dispensed automatically or
28 manually and prepared on or off the premises in accordance with all
29 applicable health laws.

30 SECTION 3. IC 12-12-5-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Vending facilities
32 shall be established for the purpose of selling newspapers, periodicals,
33 confections, ~~tobacco products~~, food, beverages, and other articles
34 approved for sale by the bureau and the custodial authority of the
35 building.

36 (b) The location and type of vending facility shall be determined by
37 the bureau in cooperation with the custodial authority of the building
38 in which the vending facility will be operated.

39 SECTION 4. IC 35-46-1-11.5 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11.5. (a) ~~This section~~
41 ~~does not apply to a coin machine that is located in the following:~~

42 (1) ~~That part of a licensed premises (as defined in IC 7.1-1-3-20)~~

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1 where entry is limited to persons who are at least eighteen (18)
 2 years of age.
 3 (2) Private industrial or office locations that are customarily
 4 accessible only to persons who are at least eighteen (18) years of
 5 age.
 6 (3) Private clubs if the membership is limited to persons who are
 7 at least eighteen (18) years of age.
 8 (4) A location where the vending machine can be operated only
 9 by:
 10 (A) the owner; or
 11 (B) an employee;
 12 who is at least eighteen (18) years of age. The vending machine
 13 may be operated directly or through a remote control device if the
 14 device is inaccessible to all customers.
 15 (b) As used in this section, "coin machine" has the meaning set forth
 16 in IC 35-43-5-1.
 17 (c) ~~(b)~~ **Except upon riverboats licensed and operated under**
 18 **IC 4-33, a person may not:**
 19 (1) distribute or sell tobacco by use of a coin machine; or
 20 (2) install or maintain a coin machine that is intended to be used
 21 for the sale or distribution of tobacco.
 22 (d) ~~(c)~~ **A person who violates this section commits a Class C**
 23 **infraction.**
 24 **(d) A coin machine operated in violation of this section may be**
 25 **sealed, removed, impounded, or disabled by a law enforcement**
 26 **officer having jurisdiction in the county where the violation occurs.**
 27 SECTION 5. IC 35-46-1-11 IS REPEALED [EFFECTIVE JULY 1,
 28 1998].

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SENATE MOTION

Mr. President: I move that Senator Miller be added as second author of Senate Bill 195.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill 195, 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:

Page 3, line 20, delete "knowingly or intentionally".

Page 3, line 21, reset in roman "C infraction".

Page 3, line 21, after "infraction" insert ".".

Page 3, line 21, delete "A misdemeanor".

and when so amended that said bill do pass.

(Reference is to Senate Bill 195 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 1.

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SENATE MOTION

Mr. President: I move that Senate Bill 195 be amended to read as follows:

Page 3, line 16, strike "A" and insert

"Except upon riverboats licensed and operated under IC 4-33, a",

(Reference is to Senate Bill 195 printed January 23, 1998.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 195, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

C. BROWN, Chair

Committee Vote: yeas 8, nays 2.

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