

## ENGROSSED SENATE BILL No. 195

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DIGEST OF SB 195 (Updated February 17, 1998 6:38 pm - DI 77)

**Citations Affected:** IC 35-46; noncode.

**Synopsis:** Vending machine tobacco sales. Prohibits the placement of tobacco vending machines in common areas that are accessible to persons less than 18 years of age. Increases the penalty for illegally distributing tobacco from a vending machine to a Class misdemeanor. Provides that if Congress requires Indiana to prohibit the sale of tobacco products through vending machines to be eligible for tobacco settlement funds, that after certain state action, tobacco vending machines are prohibited.

**Effective:** July 1, 1998.

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### Gard, Miller, Simpson

(HOUSE SPONSORS — HASLER, MURPHY, KRUZAN, KRUSE)

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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.

February 17, 1998, read second time, amended, ordered engrossed.

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Reprinted  
February 18, 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 35-46-1-11.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11.5. (a) This section  
3 does not apply to a coin machine that is located in the following:  
4 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)  
5 where entry is limited to persons who are at least eighteen (18)  
6 years of age. **However, this subdivision does not apply to part**  
7 **of a licensed premises that is a restroom or other common**  
8 **area that is accessible to persons who are less than eighteen**  
9 **(18) years of age.**  
10 (2) Private industrial or office locations that are customarily  
11 accessible only to persons who are at least eighteen (18) years of  
12 age.  
13 (3) Private clubs if the membership is limited to persons who are  
14 at least eighteen (18) years of age.  
15 ~~(4) A location where the vending machine can be operated only~~  
16 ~~by:~~

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- 1           (A) the owner; or  
 2           (B) an employee;  
 3           who is at least eighteen (18) years of age. The vending machine  
 4           may be operated directly or through a remote control device if the  
 5           device is inaccessible to all customers.  
 6           (b) As used in this section, "coin machine" has the meaning set forth  
 7           in IC 35-43-5-1.  
 8           (c) A person may not:  
 9               (1) distribute or sell tobacco by use of a coin machine; or  
 10              (2) install or maintain a coin machine that is intended to be used  
 11              for the sale or distribution of tobacco.  
 12           (d) A person who **knowingly or intentionally** violates this section  
 13           commits a ~~Class C~~ **Class A misdemeanor**.  
 14           (e) **A coin machine operated in violation of this section may be**  
 15           **sealed, removed, impounded, or disabled by a law enforcement**  
 16           **officer having jurisdiction in the county where the violation occurs.**  
 17           SECTION 2. [EFFECTIVE JULY 1, 1998] (a) As used in this  
 18           SECTION, "settlement" refers to the Universal Tobacco  
 19           Settlement that was agreed to in June 1997 by tobacco industry  
 20           representatives and the attorneys general of several states.  
 21           (b) As used in this SECTION, "tobacco product" means any  
 22           product that is made:  
 23               (1) in whole or in part from tobacco; and  
 24               (2) for smoking or chewing, or both.  
 25           The term includes snuff.  
 26           (c) If the implementation of the settlement by the United States  
 27           Congress requires Indiana to prohibit the sale or distribution of  
 28           tobacco products through vending machines in order to be eligible  
 29           to receive financial benefits of the settlement, the attorney general  
 30           shall file an affidavit with the governor that specifies the earliest  
 31           date required by the United States Congress for Indiana to receive  
 32           financial benefits under the settlement. The sale or distribution of  
 33           tobacco products in Indiana through vending machines is  
 34           prohibited as of the date specified in the attorney general's  
 35           affidavit under this subsection.  
 36           (d) This SECTION expires July 1, 2003.

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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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## HOUSE MOTION

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

Page 1, delete lines 1 through 16.

Page 2, delete lines 1 through 38.

Page 2, line 40, reset in roman "This section".

Page 2, reset in roman lines 41 through 42.

Page 3, reset in roman lines 1 through 2.

Page 3, line 2, after "age." insert "**However, this subdivision does not apply to part of a licensed premises that is a restroom or other common area that is accessible to persons who are less than eighteen (18) years of age.**".

Page 3, reset in roman lines 3 through 7.

Page 3, line 15, reset in roman "(b)".

Page 3, line 17, reset in roman "(c)".

Page 3, line 17, delete "(b)".

Page 3, line 17, reset in roman "A".

Page 3, line 17, delete "Except upon riverboats licensed and operated under".

Page 3, line 18, delete IC 4-33, a".

Page 3, line 22, reset in roman "(d)".

Page 3, line 22, delete "(c)".

Page 3, line 22, after "who" insert "**knowingly or intentionally**".

Page 3, line 22, strike "Class C".

Page 3, line 23, strike "infraction." and insert "**Class A misdemeanor**".

Page 3, line 24, delete "(d)" and insert "(e)".

Page 3, delete lines 27 through 28, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 1998] (a) **As used in this SECTION, "settlement" refers to the Universal Tobacco Settlement that was agreed to in June 1997 by tobacco industry representatives and the attorneys general of several states.**

(b) **As used in this SECTION, "tobacco product" means any product that is made:**

(1) **in whole or in part from tobacco; and**

(2) **for smoking or chewing, or both.**

**The term includes snuff.**

(c) **If the implementation of the settlement by the United States Congress requires Indiana to prohibit the sale or distribution of tobacco products through vending machines in order to be eligible to receive financial benefits of the settlement, the attorney general**

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**shall file an affidavit with the governor that specifies the earliest date required by the United States Congress for Indiana to receive financial benefits under the settlement. The sale or distribution of tobacco products in Indiana through vending machines is prohibited as of the date specified in the attorney general's affidavit under this subsection.**

**(d) This SECTION expires July 1, 2003."**

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 195 as printed February 13, 1998.)

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