



January 21, 2000

HOUSE BILL No. 1213

DIGEST OF HB 1213 (Updated January 20, 2000 10:31 AM - DI 101)

Citations Affected: IC 12-17.4; IC 20-5; IC 22-12; IC 22-13; IC 22-14; IC 31-19; IC 34-24; IC 35-41; IC 35-43; IC 35-44; IC 35-45; IC 35-47; IC 35-47.5; IC 35-50.

Synopsis: Regulation of explosives. Defines a regulated explosive to include a destructive device, an explosive, and a poison gas. Requires the office of the state fire marshal to periodically inspect places where regulated explosives are manufactured or stored. Requires a manufacturer or handler of a regulated explosive to maintain insurance covering fire and explosion losses. Requires the office of the state fire marshal to issue a regulated explosives magazine permit to an applicant if the applicant meets certain qualifications. Creates criminal offenses for the manufacture, transport, distribution, possession, or use of certain regulated explosives or devices. Requires a physician or hospital administrator who treats a person for an injury that was inflicted while the person was making or using a destructive device to report the case to a local law enforcement agency not more than 72 hours after the time the person is treated. Makes conforming amendments.

Effective: July 1, 2000.

Weinzapfel

January 10, 2000, read first time and referred to Committee on Commerce and Economic Development.
January 20, 2000, amended, reported — Do Pass.

HB 1213—LS 7195/DI 100+



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January 21, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1213

A BILL FOR AN ACT to amend the Indiana Code concerning regulation of explosives.

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

- 1 SECTION 1. IC 12-17.4-4-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) The division
3 shall deny a license when an applicant fails to meet the requirements
4 for a license. The division shall deny a license to an applicant who has
5 been convicted of any of the following felonies:
6 (1) Murder (IC 35-42-1-1).
7 (2) Causing suicide (IC 35-42-1-2).
8 (3) Assisting suicide (IC 35-42-1-2.5).
9 (4) Voluntary manslaughter (IC 35-42-1-3).
10 (5) Reckless homicide (IC 35-42-1-5).
11 (6) Battery (IC 35-42-2-1).
12 (7) Aggravated battery (IC 35-42-2-1.5).
13 (8) Kidnapping (IC 35-42-3-2).
14 (9) Criminal confinement (IC 35-42-3-3).
15 (10) A felony sex offense under IC 35-42-4.
16 (11) Carjacking (IC 35-42-5-2).
17 (12) Arson (IC 35-43-1-1).

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- 1 (13) Incest (IC 35-46-1-3).
- 2 (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and
- 3 IC 35-46-1-4(a)(2)).
- 4 (15) Child selling (IC 35-46-1-4(b)).
- 5 (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5.**
- 6 (17) A felony relating to controlled substances under IC 35-48-4.
- 7 (18) An offense relating to material or a performance that is
- 8 harmful to minors or obscene under IC 35-49-3.
- 9 (19) A felony that is substantially equivalent to a felony listed in
- 10 subdivisions (1) through (18) for which the conviction was
- 11 entered in another state.

12 The division may deny a license to an applicant who has been
 13 convicted of a felony that is not listed in this subsection.

14 (b) The division shall send written notice by certified mail that the
 15 application has been denied and give the reasons for the denial.

16 (c) An administrative hearing concerning the denial of a license
 17 shall be provided upon written request by the applicant. The request
 18 must be made not more than thirty (30) days after receiving the written
 19 notice under subsection (b).

20 (d) An administrative hearing shall be held not more than sixty (60)
 21 days after receiving a written request.

22 (e) An administrative hearing shall be held in accordance with
 23 IC 4-21.5-3.

24 (f) The division shall issue a decision not more than sixty (60) days
 25 after the conclusion of a hearing.

26 SECTION 2. IC 20-5-2-8, AS AMENDED BY P.L.197-1999,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2000]: Sec. 8. (a) This section applies to:

- 29 (1) a school corporation; and
- 30 (2) an entity:
 - 31 (A) with which the school corporation contracts for services;
 - 32 and
 - 33 (B) that has employees who are likely to have direct, ongoing
 - 34 contact with children within the scope of the employees'
 - 35 employment.

36 (b) A school corporation or entity may use information obtained
 37 under section 7 of this chapter concerning an individual's conviction for
 38 one (1) of the following offenses as grounds to not employ or contract
 39 with the individual:

- 40 (1) Murder (IC 35-42-1-1).
- 41 (2) Causing suicide (IC 35-42-1-2).
- 42 (3) Assisting suicide (IC 35-42-1-2.5).

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- 1 (4) Voluntary manslaughter (IC 35-42-1-3).
 2 (5) Reckless homicide (IC 35-42-1-5).
 3 (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from
 4 the date the individual was discharged from probation,
 5 imprisonment, or parole, whichever is later.
 6 (7) Aggravated battery (IC 35-42-2-1.5).
 7 (8) Kidnapping (IC 35-42-3-2).
 8 (9) Criminal confinement (IC 35-42-3-3).
 9 (10) A sex offense under IC 35-42-4.
 10 (11) Carjacking (IC 35-42-5-2).
 11 (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from
 12 the date the individual was discharged from probation,
 13 imprisonment, or parole, whichever is later.
 14 (13) Incest (IC 35-46-1-3).
 15 (14) Neglect of a dependent as a Class B felony unless ten (10)
 16 years have elapsed from the date the individual was discharged
 17 from probation, imprisonment, or parole, whichever is later.
 18 (15) Child selling (IC 35-46-1-4(c)).
 19 (16) Contributing to the delinquency of a minor (IC 35-46-1-8)
 20 unless ten (10) years have elapsed from the date the individual
 21 was discharged from probation, imprisonment, or parole,
 22 whichever is later.
 23 (17) An offense involving a weapon under IC 35-47 **or**
 24 **IC 35-47.5** unless ten (10) years have elapsed from the date the
 25 individual was discharged from probation, imprisonment, or
 26 parole, whichever is later.
 27 (18) An offense relating to controlled substances under
 28 IC 35-48-4 unless ten (10) years have elapsed from the date the
 29 individual was discharged from probation, imprisonment, or
 30 parole, whichever is later.
 31 (19) An offense relating to material or a performance that is
 32 harmful to minors or obscene under IC 35-49-3 unless ten (10)
 33 years have elapsed from the date the individual was discharged
 34 from probation, imprisonment, or parole, whichever is later.
 35 (20) An offense relating to operating a motor vehicle while
 36 intoxicated under IC 9-30-5 unless five (5) years have elapsed
 37 from the date the individual was discharged from probation,
 38 imprisonment, or parole, whichever is later.
 39 (21) An offense that is substantially equivalent to any of the
 40 offenses listed in this subsection in which the judgment of
 41 conviction was entered under the law of any other jurisdiction.
 42 (c) An individual employed by a school corporation or an entity

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1 described in subsection (a) shall notify the governing body of the
 2 school corporation if during the course of the individual's employment
 3 the individual is convicted in Indiana or another jurisdiction of an
 4 offense described in subsection (b).

5 SECTION 3. IC 22-12-6-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) The commission
 7 may adopt rules under IC 4-22-2 setting a fee schedule for the
 8 following:

9 (1) Fireworks display permits issued under IC 22-11-14-2.

10 (2) Explosives magazine permits issued under ~~IC 22-14-4~~
 11 **IC 35-47.5-4.**

12 (3) Design releases issued under IC 22-15-3.

13 (4) Certification of industrialized building systems and mobile
 14 structures under IC 22-15-4.

15 (5) Inspection of regulated amusement devices under IC 22-15-7.

16 (6) Application fees for variance requests under IC 22-13-2-11
 17 and inspection fees for exemptions under IC 22-13-4-5.

18 (b) Fee schedules set under this section must be sufficient to pay all
 19 of the costs, direct and indirect, that are payable from the fund into
 20 which the fee must be deposited, after deducting other money deposited
 21 in the fund. In setting these fee schedules, the commission may
 22 consider differences in the degree or complexity of the activity being
 23 performed for each fee.

24 (c) The fee schedule set for design releases issued under subsection
 25 (a)(3) may not be changed more than one (1) time each year. The
 26 commission may include in this fee schedule a fee for the review of
 27 plans and specifications and, if a political subdivision does not have a
 28 program to periodically inspect the construction covered by the design
 29 release, a fee for inspecting the construction.

30 (d) The fee schedule set under subsection (a) for design releases
 31 may provide that a portion of the fees collected shall be deposited in
 32 the statewide fire and building safety education fund established under
 33 section 3 of this chapter.

34 SECTION 4. IC 22-13-3-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The commission
 36 shall adopt fire safety rules that prohibit the following:

37 (1) The storage of regulated explosives (**as defined in**
 38 **IC 35-47.5-2-15**) in quantities exceeding the maximum quantity
 39 specified by the commission.

40 (2) The storage of regulated explosives (**as defined in**
 41 **IC 35-47.5-2-15**) at a site that is located less than the minimum
 42 distance specified by the commission from a railroad, highway, or

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1 other place of habitation or assembly.

2 (3) The use of a receptacle, burning fixture or equipment, heating
3 fixture or equipment, or structure for an explosive, flammable, or
4 other combustible matter that does not meet the design and
5 composition standards specified by the commission.

6 (4) The keeping, storage, use, manufacture, sale, handling,
7 transportation, or disposition of an explosive, flammable, or other
8 combustible matter in violation of any other requirements
9 specified by the commission.

10 SECTION 5. IC 22-13-3-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) This section
12 applies to the following laboratories:

13 (1) Analytical laboratories approved by the office of the state fire
14 marshal under the alternative criteria established by the
15 commission in its rules.

16 (2) Laboratories that are:

17 (A) operated by a college, university, school, or other
18 educational entity for the purpose of instruction or research;
19 and

20 (B) approved by the office of the state fire marshal under the
21 alternative criteria established by the commission in the rules.

22 (b) The commission may:

23 (1) apply different rules to the manufacture of regulated
24 explosives (**as defined in IC 35-47.5-2-15**) in a laboratory
25 described in subsection (a) than apply to other places where
26 regulated explosives (**as defined in IC 35-47.5-2-15**) are
27 manufactured; and

28 (2) adopt rules under IC 4-22-2 to exempt laboratories described
29 in subsection (a) from the regulated explosive magazines permit
30 requirement under ~~IC 22-14-4~~ **IC 35-47.5-4**.

31 SECTION 6. IC 31-19-11-1, AS AMENDED BY P.L.200-1999,
32 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2000]: Sec. 1. (a) Whenever the court has heard the evidence
34 and finds that:

35 (1) the adoption requested is in the best interest of the child;

36 (2) the petitioner or petitioners for adoption are of sufficient
37 ability to rear the child and furnish suitable support and
38 education;

39 (3) the report of the investigation and recommendation under
40 IC 31-19-8-5 has been filed;

41 (4) the attorney or agency arranging an adoption has filed with the
42 court an affidavit prepared by the state department of health under

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1 IC 31-19-5-16 indicating whether a man is entitled to notice of the
2 adoption because the man has registered with the putative father
3 registry in accordance with IC 31-19-5;

4 (5) proper notice arising under subdivision (4), if notice is
5 necessary, of the adoption has been given;

6 (6) the attorney or agency has filed with the court an affidavit
7 prepared by the state department of health under:

8 (A) IC 31-19-6 indicating whether a record of a paternity
9 determination; or

10 (B) IC 16-37-2-2(g) indicating whether a paternity affidavit
11 executed under IC 16-37-2-2.1;

12 has been filed in relation to the child;

13 (7) proper consent, if consent is necessary, to the adoption has
14 been given; and

15 (8) the petitioner for adoption is not prohibited from adopting the
16 child as the result of an inappropriate criminal history described
17 in subsection (c);

18 the court shall grant the petition for adoption and enter an adoption
19 decree.

20 (b) A court may not grant an adoption unless the department's
21 affidavit under IC 31-19-5-16 is filed with the court as provided under
22 subsection (a)(4).

23 (c) A conviction of a felony or a misdemeanor related to the health
24 and safety of a child by a petitioner for adoption is a permissible basis
25 for the court to deny the petition for adoption. In addition, the court
26 may not grant an adoption if a petitioner for adoption has been
27 convicted of any of the felonies described as follows:

28 (1) Murder (IC 35-42-1-1).

29 (2) Causing suicide (IC 35-42-1-2).

30 (3) Assisting suicide (IC 35-42-1-2.5).

31 (4) Voluntary manslaughter (IC 35-42-1-3).

32 (5) Reckless homicide (IC 35-42-1-5).

33 (6) Battery as a felony (IC 35-42-2-1).

34 (7) Aggravated battery (IC 35-42-2-1.5).

35 (8) Kidnapping (IC 35-42-3-2).

36 (9) Criminal confinement (IC 35-42-3-3).

37 (10) A felony sex offense under IC 35-42-4.

38 (11) Carjacking (IC 35-42-5-2).

39 (12) Arson (IC 35-43-1-1).

40 (13) Incest (IC 35-46-1-3).

41 (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and

42 IC 35-46-1-4(a)(2)).

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- 1 (15) Child selling (IC 35-46-1-4(b)).
 2 (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5.**
 3 (17) A felony relating to controlled substances under IC 35-48-4.
 4 (18) An offense relating to material or a performance that is
 5 harmful to minors or obscene under IC 35-49-3.
 6 (19) A felony that is substantially equivalent to a felony listed in
 7 subdivisions (1) through (18) for which the conviction was
 8 entered in another state.

9 However, the court is not prohibited from granting an adoption based
 10 upon a felony conviction under subdivision (6), (11), (12), (16), or
 11 (17), or its equivalent under subdivision (19), if the offense was not
 12 committed within the immediately preceding five (5) year period.

13 SECTION 7. IC 34-24-1-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) The following
 15 may be seized:

16 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
 17 intended for use by the person or persons in possession of them to
 18 transport or in any manner to facilitate the transportation of the
 19 following:

20 (A) A controlled substance for the purpose of committing,
 21 attempting to commit, or conspiring to commit any of the
 22 following:

- 23 (i) Dealing in cocaine or narcotic drug (IC 35-48-4-1).
 24 (ii) Dealing in a schedule I, II, or III controlled substance (IC
 25 35-48-4-2).
 26 (iii) Dealing in a schedule IV controlled substance (IC
 27 35-48-4-3).
 28 (iv) Dealing in a schedule V controlled substance (IC
 29 35-48-4-4).
 30 (v) Dealing in a counterfeit substance (IC 35-48-4-5).
 31 (vi) Possession of cocaine or narcotic drug (IC 35-48-4-6).
 32 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
 33 (viii) Dealing in marijuana, hash oil, or hashish (IC
 34 35-48-4-10).

35 (B) Any stolen (IC 35-43-4-2) or converted property
 36 (IC35-43-4-3) if the retail or repurchase value of that property
 37 is one hundred dollars (\$100) or more.

38 (C) Any hazardous waste in violation of IC 13-30-6-6.

39 (2) All money, negotiable instruments, securities, weapons,
 40 communications devices, or any property commonly used as
 41 consideration for a violation of IC 35-48-4 (other than items
 42 subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1

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- 1 before its repeal):
- 2 (A) furnished or intended to be furnished by any person in
- 3 exchange for an act that is in violation of a criminal statute;
- 4 (B) used to facilitate any violation of a criminal statute; or
- 5 (C) traceable as proceeds of the violation of a criminal statute.
- 6 (3) Any portion of real or personal property purchased with
- 7 money that is traceable as a proceed of a violation of a criminal
- 8 statute.
- 9 (4) A vehicle that is used by a person to:
- 10 (A) commit, attempt to commit, or conspire to commit;
- 11 (B) facilitate the commission of; or
- 12 (C) escape from the commission of;
- 13 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 14 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 15 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4).
- 16 (5) Real property owned by a person who uses it to commit any of
- 17 the following as a Class A felony, a Class B felony, or a Class C
- 18 felony:
- 19 (A) Dealing in cocaine or narcotic drug (IC 35-48-4-1).
- 20 (B) Dealing in a schedule I, II, or III controlled substance (IC
- 21 35-48-4-2).
- 22 (C) Dealing in a schedule IV controlled substance (IC
- 23 35-48-4-3).
- 24 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 25 (6) Equipment and recordings used by a person to commit fraud
- 26 under IC 35-43-5-4(11).
- 27 (7) Recordings sold, rented, transported, or possessed by a person
- 28 in violation of IC 24-4-10.
- 29 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 30 defined by IC 35-45-6-1) that is the object of a corrupt business
- 31 influence violation (IC 35-45-6-2).
- 32 (9) Unlawful telecommunications devices (as defined in
- 33 IC 35-45-13-6) and plans, instructions, or publications used to
- 34 commit an offense under IC 35-45-13.
- 35 **(10) Destructive devices used, possessed, transported, or sold**
- 36 **in violation of IC 35-47.5.**
- 37 (b) A vehicle used by any person as a common or contract carrier in
- 38 the transaction of business as a common or contract carrier is not
- 39 subject to seizure under this section, unless it can be proven by a
- 40 preponderance of the evidence that the owner of the vehicle knowingly
- 41 permitted the vehicle to be used to engage in conduct that subjects it to
- 42 seizure under subsection (a).

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1 (c) Money, negotiable instruments, securities, weapons,
 2 communications devices, or any property commonly used as
 3 consideration for a violation of IC 35-48-4 found near or on a person
 4 who is committing, attempting to commit, or conspiring to commit any
 5 of the following offenses shall be admitted into evidence in an action
 6 under this chapter as prima facie evidence that the money, negotiable
 7 instrument, security, or other thing of value is property that has been
 8 used or was to have been used to facilitate the violation of a criminal
 9 statute or is the proceeds of the violation of a criminal statute:

10 (1) IC 35-48-4-1 (dealing in cocaine or narcotic drug).

11 (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 12 substance).

13 (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

14 (4) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 15 as a Class B felony.

16 (5) IC 35-48-4-6 (possession of cocaine or narcotic drug) as a
 17 Class A felony, Class B felony, or Class C felony.

18 (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
 19 a Class C felony.

20 SECTION 8. IC 35-41-1-8 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. "Deadly weapon"
 22 means the following:

23 (1) A loaded or unloaded firearm.

24 (2) A **destructive device**, weapon, device, taser (as defined in
 25 IC 35-47-8-3) or electronic stun weapon (as defined in
 26 IC 35-47-8-1), equipment, chemical substance, or other material
 27 that in the manner it is used, or could ordinarily be used, or is
 28 intended to be used, is readily capable of causing serious bodily
 29 injury.

30 (3) An animal (as defined in IC 35-46-3-3) that is:

31 (A) readily capable of causing serious bodily injury; and

32 (B) used in the commission or attempted commission of a
 33 crime.

34 SECTION 9. IC 35-41-1-8.5 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2000]: **Sec. 8.5. "Destructive device" has the meaning set forth
 37 in IC 35-47.5-2-5.**

38 SECTION 10. IC 35-43-1-1, AS AMENDED BY P.L.88-1999,
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2000]: Sec. 1. (a) A person who, by means of fire, ~~or~~
 41 explosive, **or destructive device**, knowingly or intentionally damages:

42 (1) a dwelling of another person without the other person's

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1 consent;

2 (2) property of any person under circumstances that endanger

3 human life;

4 (3) property of another person without the other person's consent

5 if the pecuniary loss is at least five thousand dollars (\$5,000); or

6 (4) a structure used for religious worship without the consent of

7 the owner of the structure;

8 commits arson, a Class B felony. However, the offense is a Class A

9 felony if it results in either bodily injury or serious bodily injury to any

10 person other than a defendant.

11 (b) A person who commits arson for hire commits a Class B felony.

12 However, the offense is a Class A felony if it results in bodily injury to

13 any other person.

14 (c) A person who, by means of fire, ~~or~~ explosive, **or destructive**

15 **device**, knowingly or intentionally damages property of any person

16 with intent to defraud commits arson, a Class C felony.

17 (d) A person who, by means of fire, ~~or~~ explosive, **or destructive**

18 **device**, knowingly or intentionally damages property of another person

19 without the other person's consent so that the resulting pecuniary loss

20 is at least two hundred fifty dollars (\$250) but less than five thousand

21 dollars (\$5,000) commits arson, a Class D felony.

22 SECTION 11. IC 35-44-2-2 IS AMENDED TO READ AS

23 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) As used in this

24 section, "consumer product" has the meaning set forth in IC 35-45-8-1.

25 (b) A person who reports, by telephone, telegraph, mail, or other

26 written or oral communication, that:

27 (1) the person or another person has placed or intends to place an

28 explosive, **destructive device**, or other destructive substance in

29 a building or transportation facility; or

30 (2) there has been or there will be tampering with a consumer

31 product introduced into commerce;

32 knowing the report to be false commits false reporting, a Class D

33 felony.

34 (c) A person who:

35 (1) gives a false report of the commission of a crime or gives false

36 information in the official investigation of the commission of a

37 crime, knowing the report or information to be false;

38 (2) gives a false alarm of fire to the fire department of a

39 governmental entity, knowing the alarm to be false;

40 (3) makes a false request for ambulance service to an ambulance

41 service provider, knowing the request to be false; or

42 (4) gives a false report concerning a missing child (as defined in

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1 IC 10-1-7-2) or gives false information in the official
 2 investigation of a missing child knowing the report or information
 3 to be false;

4 commits false informing, a Class B misdemeanor. However, the offense
 5 is a Class A misdemeanor if it substantially hinders any law
 6 enforcement process or if it results in harm to an innocent person.

7 SECTION 12. IC 35-45-6-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this
 9 chapter:

10 "Documentary material" means any document, drawing, photograph,
 11 recording, or other tangible item containing compiled data from which
 12 information can be either obtained or translated into a usable form.

13 "Enterprise" means:

- 14 (1) a sole proprietorship, corporation, limited liability company,
 15 partnership, business trust, or governmental entity; or
 16 (2) a union, an association, or a group, whether a legal entity or
 17 merely associated in fact.

18 "Pattern of racketeering activity" means engaging in at least two (2)
 19 incidents of racketeering activity that have the same or similar intent,
 20 result, accomplice, victim, or method of commission, or that are
 21 otherwise interrelated by distinguishing characteristics that are not
 22 isolated incidents. However, the incidents are a pattern of racketeering
 23 activity only if at least one (1) of the incidents occurred after August
 24 31, 1980, and if the last of the incidents occurred within five (5) years
 25 after a prior incident of racketeering activity.

26 "Racketeering activity" means to commit, to attempt to commit, to
 27 conspire to commit a violation of, or aiding and abetting in a violation
 28 of any of the following:

- 29 (1) A provision of IC 23-2-1, or of a rule or order issued under
 30 IC 23-2-1.
 31 (2) A violation of IC 35-45-9.
 32 (3) A violation of IC 35-47.
 33 (4) A violation of IC 35-49-3.
 34 (5) Murder (IC 35-42-1-1).
 35 (6) Battery as a Class C felony (IC 35-42-2-1).
 36 (7) Kidnapping (IC 35-42-3-2).
 37 (8) Child exploitation (IC 35-42-4-4).
 38 (9) Robbery (IC 35-42-5-1).
 39 (10) Carjacking (IC 35-42-5-2).
 40 (11) Arson (IC 35-43-1-1).
 41 (12) Burglary (IC 35-43-2-1).
 42 (13) Theft (IC 35-43-4-2).



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- 1 (14) Receiving stolen property (IC 35-43-4-2).
- 2 (15) Forgery (IC 35-43-5-2).
- 3 (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- 4 (17) Bribery (IC 35-44-1-1).
- 5 (18) Official misconduct (IC 35-44-1-2).
- 6 (19) Conflict of interest (IC 35-44-1-3).
- 7 (20) Perjury (IC 35-44-2-1).
- 8 (21) Obstruction of justice (IC 35-44-3-4).
- 9 (22) Intimidation (IC 35-45-2-1).
- 10 (23) Promoting prostitution (IC 35-45-4-4).
- 11 (24) Promoting professional gambling (IC 35-45-5-4).
- 12 (25) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 13 (26) Dealing in a schedule I, II, or III controlled substance
- 14 (IC 35-48-4-2).
- 15 (27) Dealing in a schedule IV controlled substance
- 16 (IC 35-48-4-3).
- 17 (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 18 (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 19 (30) Money laundering (IC 35-45-15-5).

20 **(31) A violation of IC 35-47.5-5.**
 21 SECTION 13. IC 35-47-5-8 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A person who owns
 23 or possesses

- 24 (1) a machine gun or
 - 25 (2) a bomb loaded with either explosives or dangerous gases;
- 26 commits a Class C felony.

27 SECTION 14. IC 35-47-5-9 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. A person who
 29 (1) operates a loaded machine gun or
 30 (2) hurls or drops a bomb loaded with either explosives or
 31 dangerous gases;
 32 commits a Class B felony.

33 SECTION 15. IC 35-47-5-10 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The provisions of
 35 sections 8 or 9 of this chapter shall not be construed to apply to any of
 36 the following:

- 37 (1) Members of the military or naval forces of the United States,
 38 National Guard of Indiana, or Indiana State Guard, when on duty
 39 or practicing.
- 40 (2) Machine guns or bombs kept for display as relics and which
 41 are rendered harmless and not usable.
- 42 (3) Any of the law enforcement officers of this state or the United

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- 1 States while acting in the furtherance of their duties.
- 2 (4) Persons lawfully engaged in the display, testing, or use of
- 3 fireworks.
- 4 (5) Agencies of state government.
- 5 (6) Persons permitted by law to engage in the business of
- 6 manufacturing, assembling, conducting research on, or testing
- 7 machine guns, ~~bombs~~, airplanes, tanks, armored vehicles, or
- 8 ordnance equipment or supplies while acting within the scope of
- 9 such business.
- 10 (7) Persons possessing, or having applied to possess, machine
- 11 guns under applicable United States statutes. Such machine guns
- 12 must be transferred as provided in this article.

13 SECTION 16. IC 35-47-7-5 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2000]: **Sec. 5. The:**

- 16 (1) **physician who treats a person; or**
- 17 (2) **administrator or the administrator's designee of the**
- 18 **hospital or outpatient surgical center where a person was**
- 19 **treated;**

20 **for an injury that was inflicted while the person was making or**
 21 **using a destructive device shall report the case to a local law**
 22 **enforcement agency not more than seventy-two (72) hours after the**
 23 **time the person is treated. The report may be made orally or in**
 24 **writing.**

25 SECTION 17. IC 35-47.5 IS ADDED TO THE INDIANA CODE
 26 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2000]:

28 **ARTICLE 47.5. CONTROLLED EXPLOSIVES**

29 **Chapter 1. Applicability**

30 **Sec. 1. This article does not apply to:**

- 31 (1) **Fertilizers, propellant actuated devices, or propellant**
- 32 **activated industrial tools:**
- 33 (A) **manufactured;**
- 34 (B) **imported;**
- 35 (C) **distributed; or**
- 36 (D) **used;**
- 37 **for their intended purposes.**
- 38 (2) **A pesticide that is:**
- 39 (A) **manufactured;**
- 40 (B) **stored;**
- 41 (C) **transported;**
- 42 (D) **distributed;**

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1 (E) possessed; or
 2 (F) used;
 3 in accordance with Chapter 7 of Title 2, the federal
 4 Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163, as
 5 amended, and the federal Environmental Pesticide Control
 6 Act of 1972, Pub. L. 92-516, as amended.

7 Chapter 2. Definitions

8 Sec. 1. The definitions in this chapter apply throughout this
9 article.

10 Sec. 2. "Bacteriological weapon" or "biological weapon" means
11 a device:

- 12 (1) that is designed to permit the intentional release into the
- 13 population or environment of microbial or other biological
- 14 agents or toxins, whatever their origin or method of
- 15 production, in a manner not otherwise authorized by law; or
- 16 (2) the development, production, or stockpiling of which is
- 17 prohibited under the "Convention on the Prohibition of the
- 18 Development, Production, and Stockpiling of Bacteriological
- 19 (Biological) and Toxin Weapons and Their Destruction," 26
- 20 U.S.T. 583, TIAS 8063.

21 Sec. 3. "Booby trap" means a device meant to cause death or
22 bodily injury by:

- 23 (1) hiding the device; or
- 24 (2) activating the device by trip-wires, switches,
- 25 anti-disturbance, or other remote means.

26 Sec. 4. "Commission" refers to the fire prevention and building
27 safety commission.

28 Sec. 5. (a) "Destructive device" means:

- 29 (1) an explosive, incendiary, or over-pressure device or poison
- 30 gas that is configured as:
 - 31 (A) a bomb;
 - 32 (B) a grenade;
 - 33 (C) a rocket with a propellant charge of more than four (4)
 - 34 ounces;
 - 35 (D) a missile having an explosive or incendiary charge of
 - 36 more than one-quarter (1/4) ounce;
 - 37 (E) a poison gas;
 - 38 (F) a mine;
 - 39 (G) a Molotov cocktail; or
 - 40 (H) a device that is substantially similar to an item
 - 41 described in clauses (A) through (G);
- 42 (2) a type of weapon that may be readily converted to expel a

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1 projectile by the action of an explosive or other propellant
 2 through a barrel that has a bore diameter of more than
 3 one-half (1/2) inch;

4 (3) a weapon of mass destruction;

5 (4) a bacteriological weapon or biological weapon; or

6 (5) a combination of parts designed or intended for use in the
 7 conversion of a device into a destructive device.

8 (b) The term does not include the following:

9 (1) A pistol, rifle, shotgun, or weapon suitable for sporting or
 10 personal safety purposes or ammunition.

11 (2) A device that is neither designed nor redesigned for use as
 12 a weapon.

13 (3) A device that, although originally designed for use as a
 14 weapon, is redesigned for use as a signaling, pyrotechnic, line
 15 throwing, safety, or similar device.

16 (4) A surplus military ordnance sold, loaned, or given by
 17 authority of the appropriate official of the United States
 18 Department of Defense.

19 Sec. 6. "Detonator" means a device containing a detonating
 20 charge that is used to initiate detonation in an explosive, including
 21 the following:

22 (1) Electric blasting caps.

23 (2) Blasting caps for use with safety fuses.

24 (3) Detonating cord delay connectors.

25 (4) Blasting caps for use with a shock tube.

26 (5) Improvised devices designed to function as a detonator.

27 Sec. 7. "Distribute" means the actual, constructive, or
 28 attempted transfer from one (1) person to another.

29 Sec. 8. "Explosives" means a chemical compound or other
 30 substance or mechanical system intended to produce an explosion
 31 capable of causing injury to persons or damage to property or
 32 containing oxidizing and combustible units or other ingredients in
 33 such proportions or quantities that ignition, fire, friction,
 34 concussion, percussion, or detonation may produce an explosion
 35 capable of causing injury to persons or damage to property,
 36 including the substances designated in IC 35-47.5-4. The term does
 37 not include the following:

38 (1) A model rocket and model rocket engine designed, sold,
 39 and used to propel recoverable aero models.

40 (2) A paper cap in which the explosive content does not
 41 average more than twenty-five hundredths (0.25) grains of
 42 explosive mixture per paper cap for toy pistols, toy cannons,

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1 toy canes, toy guns, or other devices using paper caps unless
2 the paper cap is used as a component of a destructive device.

3 **Sec. 9. "Hoax device" or "replica" means a device or article**
4 **that has the appearance of a destructive device or detonator.**

5 **Sec. 10. "Incendiary" means a flammable liquid or compound**
6 **with a flash point of one hundred fifty (150) degrees Fahrenheit or**
7 **less, as determined by Tagliabue or an equivalent closed-cup**
8 **device, including gasoline, kerosene, fuel oil, or a derivative of**
9 **these substances.**

10 **Sec. 11. "Office" refers to the office of the state fire marshal.**

11 **Sec. 12. "Over-pressure device" means the following:**

12 (1) a frangible container filled with an explosive gas or
13 expanding gas that is designed or constructed to cause the
14 container to break or fracture in a manner that is capable of
15 causing death, bodily harm, or property damage; or

16 (2) a container filled with an explosive gas or expanding gas
17 or chemicals that generate an expanding gas.

18 **Sec. 13. "Poison gas" means a toxic chemical or its precursors**
19 **that through their chemical action or properties on life processes**
20 **cause death or permanent injury to human beings. The term does**
21 **not include the following:**

22 (1) Riot control agents, smoke, and obscurant materials or
23 medical products that are manufactured, possessed,
24 transported, or used in accordance with the laws of the United
25 States and of Indiana.

26 (2) Tear gas devices designed to be carried on or about the
27 person that contain not more than one-half (1/2) ounce of the
28 chemical.

29 **Sec. 14. "Property" means real or personal property of any**
30 **kind, including money, choses in action, and other similar interests**
31 **in property.**

32 **Sec. 15. (a) "Regulated explosive" includes:**

33 (1) a destructive device;

34 (2) an explosive; and

35 (3) a poison gas.

36 **(b) The term does not include the following:**

37 (1) An explosive in a manufactured article that is designed
38 and packaged in a manner that is likely to prevent an
39 explosion resulting in property damage or personal injury. A
40 manufactured article to which this subdivision applies
41 includes fixed ammunition for small arms, a firework, and a
42 safety fuse match.

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- 1 (2) Gasoline, kerosene, naphtha, turpentine, or benzine.
- 2 (3) An explosive that is being transported on or in a vessel,
- 3 railroad car, or highway vehicle in conformity with the
- 4 regulations adopted by the United States Department of
- 5 Transportation.
- 6 (4) A blasting explosive that is transported or used for
- 7 agricultural purposes and that is in a quantity that does not
- 8 exceed two hundred (200) pounds.
- 9 (5) Ammonium nitrate compounds kept for mining purposes
- 10 and in accordance with the regulations prescribed by the
- 11 Federal Bureau of Mines.
- 12 **Sec. 16. "Weapon of mass destruction" means a device that is**
- 13 **designed to release radiation or radioactivity at a level that will**
- 14 **result in internal or external bodily injury or death to a person.**
- 15 **Chapter 3. Classification of Regulated Explosives**
- 16 **Sec. 1. The following materials are regulated explosives within**
- 17 **the meaning of this article:**
- 18 (1) Acetylides of heavy metals.
- 19 (2) Aluminum containing polymeric propellant.
- 20 (3) Aluminum ophorite explosive.
- 21 (4) Amatex.
- 22 (5) Amatol.
- 23 (6) Ammonal.
- 24 (7) Ammonium nitrate explosive mixtures, cap sensitive.
- 25 (8) Ammonium nitrate explosive mixtures, noncap sensitive.
- 26 (9) Aromatic nitro-compound explosive mixtures.
- 27 (10) Ammonium perchlorate explosive mixtures.
- 28 (11) Ammonium perchlorate composite propellant.
- 29 (12) Ammonium picrate (picrate of ammonia, Explosive D).
- 30 (13) Ammonium salt lattice with isomorphously substituted
- 31 inorganic salts.
- 32 (14) Ammonium tri-iodide.
- 33 (15) ANFO (ammonium nitrate-fuel oil).
- 34 (16) Baratol.
- 35 (17) Baronol.
- 36 (18) BEAF (1,2-bis (2,2-difluoro-2-nitroacetoxyethane)).
- 37 (19) Black powder.
- 38 (20) Black powder based explosive mixtures.
- 39 (21) Blasting agents, nitro-carbo-nitrates, including noncap
- 40 sensitive slurry and water-gel explosives.
- 41 (22) Blasting caps.
- 42 (23) Blasting gelatin.

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- 1 (24) Blasting powder.
- 2 (25) BTNEC (bis (trinitroethyl) carbonate).
- 3 (26) Bulk salutes.
- 4 (27) BTNEN (bis (trinitroethyl) nitramine).
- 5 (28) BTTN (1,2,4 butanetriol trinitrate).
- 6 (29) Butyl tetryl.
- 7 (30) Calcium nitrate explosive mixture.
- 8 (31) Cellulose hexanitrate explosive mixture.
- 9 (32) Chlorate explosive mixtures.
- 10 (33) Composition A and variations.
- 11 (34) Composition B and variations.
- 12 (35) Composition C and variations.
- 13 (36) Copper acetylide.
- 14 (37) Cyanuric triazide.
- 15 (38) Cyclotrimethylenetrinitramine (RDX).
- 16 (39) Cyclotetramethylenetetranitramine (HMX).
- 17 (40) Cyclonite (RDX).
- 18 (41) Cyclotol.
- 19 (42) DATB (diaminotrinitrobenzene).
- 20 (43) DDNP (diazodinitrophenol).
- 21 (44) DEGDN (diethyleneglycol dinitrate).
- 22 (45) Detonating cord.
- 23 (46) Detonators.
- 24 (47) Dimethylol dimethyl methane dinitrate composition.
- 25 (48) Dinitroethyleneurea.
- 26 (49) Dinitroglycerine (glycerol dinitrate).
- 27 (50) Dinitrophenol.
- 28 (51) Dinitrophenolates.
- 29 (52) Dinitrophenyl hydrazine.
- 30 (53) Dinitroresorcinol.
- 31 (54) Dinitrotoluene-sodium nitrate explosive mixtures.
- 32 (55) DIPAM.
- 33 (56) Dipicryl sulfone.
- 34 (57) Dipicrylamine.
- 35 (58) DNDP (dinitropentano nitrile).
- 36 (59) DNPA (2,2-dinitropropyl acrylate).
- 37 (60) Dynamite.
- 38 (61) EDDN (ethylene diamine dinitrate).
- 39 (62) EDNA.
- 40 (63) Ednatol.
- 41 (64) EDNP (ethyl 4,4-dinitropentanoate).
- 42 (65) Erythritol tetranitrate explosives.

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- 1 (66) Esters of nitro-substituted alcohols.
2 (67) EGDN (ethylene glycol dinitrate).
3 (68) Ethyl-tetryl.
4 (69) Explosive conitrates.
5 (70) Explosive gelatins.
6 (71) Explosive mixtures containing oxygen-releasing inorganic
7 salts and hydrocarbons.
8 (72) Explosive mixtures containing oxygen-releasing inorganic
9 salts and nitro bodies.
10 (73) Explosive mixtures containing oxygen-releasing inorganic
11 salts and water insoluble fuels.
12 (74) Explosive mixtures containing oxygen-releasing inorganic
13 salts and water soluble fuels.
14 (75) Explosive mixtures containing sensitized nitromethane.
15 (76) Explosive mixtures containing tetranitromethane
16 (nitroform).
17 (77) Explosive nitro compounds of aromatic hydrocarbons.
18 (78) Explosive organic nitrate mixtures.
19 (79) Explosive liquids.
20 (80) Explosive powders.
21 (81) Flash powder.
22 (82) Fulminate of mercury.
23 (83) Fulminate of silver.
24 (84) Fulminating gold.
25 (85) Fulminating mercury.
26 (86) Fulminating platinum.
27 (87) Fulminating silver.
28 (88) Gelatinized nitrocellulose.
29 (89) Gem-dinitro aliphatic explosive mixtures.
30 (90) Guanyl nitrosamino guanyl tetrazene.
31 (91) Guanyl nitrosamino guanylidene hydrazine.
32 (92) Hexogene or octogene and a nitrated N-methylaniline.
33 (93) Hexolites.
34 (94) HMX (cyclo-1,3,5,7-tetramethylene-
35 2,4,6,8-tetranitramine; Octogen).
36 (95) Hydrazinium nitrate/hydrazine/aluminum explosive
37 system.
38 (96) Hydrazoic acid.
39 (97) Igniter cord.
40 (98) Igniters.
41 (99) Initiating tube systems.
42 (100) KDNBF (potassium dinitrobenzo-furoxane).



- 1 (101) Lead azide.
- 2 (102) Lead mannite.
- 3 (103) Lead mononitroresorcinate.
- 4 (104) Lead picrate.
- 5 (105) Lead salts, explosive.
- 6 (106) Lead styphnate (styphnate of lead, lead
- 7 trinitroresorcinate).
- 8 (107) Liquid nitrated polyol and trimethylolethane.
- 9 (108) Liquid oxygen explosives.
- 10 (109) Magnesium ophorite explosives.
- 11 (110) Mannitol hexanitrate.
- 12 (111) MDNP (methyl 4,4-dinitropentanoate).
- 13 (112) MEAN (monoethanolamine nitrate).
- 14 (113) Mercuric fulminate.
- 15 (114) Mercury oxalate.
- 16 (115) Mercury tartrate.
- 17 (116) Metriol trinitrate.
- 18 (117) Minol-2 (40% TNT, 40% ammonium nitrate, 20%
- 19 aluminum).
- 20 (118) MMAN (monomethylamine nitrate); methylamine
- 21 nitrate.
- 22 (119) Mononitrotoluene-nitroglycerin mixture.
- 23 (120) Monopropellants.
- 24 (121) NIBTN (nitroisobutametriol trinitrate).
- 25 (122) Nitrate sensitized with gelled nitroparaffin.
- 26 (123) Nitrated carbohydrate explosive.
- 27 (124) Nitrated glucoside explosive.
- 28 (125) Nitrated polyhydric alcohol explosives.
- 29 (126) Nitrates of soda explosive mixtures.
- 30 (127) Nitric acid and a nitro aromatic compound explosive.
- 31 (128) Nitric acid and carboxylic fuel explosive.
- 32 (129) Nitric acid explosive mixtures.
- 33 (130) Nitro aromatic explosive mixtures.
- 34 (131) Nitro compounds of furane explosive mixtures.
- 35 (132) Nitrocellulose explosive.
- 36 (133) Nitroderivative of urea explosive mixture.
- 37 (134) Nitrogelatin explosive.
- 38 (135) Nitrogen trichloride.
- 39 (136) Nitrogen tri-iodide.
- 40 (137) Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate,
- 41 trinitroglycerine).
- 42 (138) Nitroglycide.

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- 1 (139) Nitroglycol (ethylene glycol dinitrate, EGDN).
 2 (140) Nitroguanidine explosives.
 3 (141) Nitroparaffins explosive grade and ammonium nitrate
 4 mixtures.
 5 (142) Nitronium perchlorate propellant mixtures.
 6 (143) Nitrostarch.
 7 (144) Nitro-substituted carboxylic acids.
 8 (145) Nitrourea.
 9 (146) Octogen (HMX).
 10 (147) Octol (75% HMX, 25% TNT).
 11 (148) Organic amine nitrates.
 12 (149) Organic nitramines.
 13 (150) PBX (RDX and plasticizer).
 14 (151) Pellet powder.
 15 (152) Penthrinite composition.
 16 (153) Pentolit.
 17 (154) Perchlorate explosive mixtures.
 18 (155) Peroxide based explosive mixtures.
 19 (156) PETN (nitropentaerythrite, pentaerythrite tetranitrate,
 20 pentaerythritol tetranitrate).
 21 (157) Picramic acid and its salts.
 22 (158) Picramide.
 23 (159) Picrate of potassium explosive mixtures.
 24 (160) Picratol.
 25 (161) Picric acid (manufactured as an explosive).
 26 (162) Picryl chloride.
 27 (163) Picryl fluoride.
 28 (164) PLX (95% nitromethane, 5% ethylenediamine).
 29 (165) Polynitro aliphatic compounds.
 30 (166) Polyolpolynitrate-nitrocellulose explosive gels.
 31 (167) Potassium chlorate and lead sulfocyanate explosive.
 32 (168) Potassium nitrate explosive mixtures.
 33 (169) Potassium nitroaminotetrazole.
 34 (170) Pyrotechnic compositions.
 35 (171) PYX (2,6-bis(picrylamino)-3,5-dinitropyridine).
 36 (172) RDX (cyclonite, hexogen,
 37 T4, cyclo-1,3,5,-trimethylene-2,4,6,-rinitramine;
 38 hexahydro-1,3,5-trinitro-S-triazine).
 39 (173) Safety fuse.
 40 (174) Salutes (bulk).
 41 (175) Salts of organic amino sulfonic acid explosive mixture.
 42 (176) Silver acetylde.

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- 1 (177) Silver azide.
- 2 (178) Silver fulminate.
- 3 (179) Silver oxalate explosive mixtures.
- 4 (180) Silver styphnate.
- 5 (181) Silver tartrate explosive mixtures.
- 6 (182) Silver tetrazene.
- 7 (183) Slurried explosive mixtures of water, inorganic
- 8 oxidizing salt, gelling agent, fuel, and sensitizer, cap sensitive.
- 9 (184) Smokeless powder.
- 10 (185) Sodatol.
- 11 (186) Sodium amatol.
- 12 (187) Sodium azide explosive mixture.
- 13 (188) Sodium dinitro-ortho-cresolate.
- 14 (189) Sodium nitrate-potassium nitrate explosive mixture.
- 15 (190) Sodium picramate.
- 16 (191) Special fireworks (as defined in IC 22-11-14-1).
- 17 (192) Squibs.
- 18 (193) Styphnic acid explosives.
- 19 (194) Tacot (tetranitro-2,3,5,6-dibenzo-1,3a,4,6a
- 20 tetrazapentalene).
- 21 (195) TATB (triaminotrinitrobenzene).
- 22 (196) TATP (triacetone triperoxide).
- 23 (197) TEGDN (triethylene glycol dinitrate).
- 24 (198) Tetrazene (tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl
- 25 tetrazene hydrate).
- 26 (199) Tetranitrocarbazole.
- 27 (200) Tetryl (2,4,6 tetranitro-N-methylaniline).
- 28 (201) Tetrytol.
- 29 (202) Thickened inorganic oxidizer salt slurried explosive
- 30 mixture.
- 31 (203) TMETN (trimethylolethane trinitrate).
- 32 (204) TNEF (trinitroethyl formal).
- 33 (205) TNEOC (trinitroethylorthocarbonate).
- 34 (206) TNEOF (trinitroethylorthoformate).
- 35 (207) TNT (trinitrotoluene, trotyl, trilitite, triton).
- 36 (208) Torpex.
- 37 (209) Tridite.
- 38 (210) Trimethylol ethyl methane trinitrate composition.
- 39 (211) Trimethylolthane trinitrate-nitrocellulose.
- 40 (212) Trimonite.
- 41 (213) Trinitroanisole.
- 42 (214) Trinitrobenzene.

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- 1 (215) Trinitrobenzoic acid.
 2 (216) Trinitrocresol.
 3 (217) Trinitro-meta-cresol.
 4 (218) Trinitronaphthalene.
 5 (219) Trinitrophenetol.
 6 (220) Trinitrochloroglucinol.
 7 (221) Trinitroresorcinol.
 8 (222) Tritonal.
 9 (223) Urea nitrate.
 10 (224) Water bearing explosives having salts of oxidizing acids
 11 and nitrogen bases, sulfates, or sulfamates, cap sensitive.
 12 (225) Water-in-oil emulsion explosive compositions.
 13 (226) Xanthamomas hydrophilic colloid explosive mixture.

14 **Chapter 4. Registration and Control**

15 **Sec. 1. The office shall carry out a program to periodically**
 16 **inspect places where regulated explosives are manufactured.**

17 **Sec. 2. (a) The office may order any person engaged in the**
 18 **manufacture or handling of a regulated explosive and any person**
 19 **with control over a place where regulated explosives are**
 20 **manufactured or handled to maintain insurance covering fire and**
 21 **explosion losses. The order is not effective until sixty (60) days have**
 22 **elapsed after the date that notice of the order was received.**

23 **(b) The state fire marshal shall specify the insurance required**
 24 **under subsection (a) in an amount not less than ten thousand**
 25 **dollars (\$10,000) nor more than two hundred fifty thousand dollars**
 26 **(\$250,000).**

27 **(c) Proof of the insurance required under this section must be**
 28 **maintained with the department of insurance.**

29 **(d) The insurance commissioner may exempt a person from the**
 30 **insurance requirements under this section if an applicant for the**
 31 **exemption submits proof that the applicant has the financial ability**
 32 **to discharge all judgments in the amount specified by the state fire**
 33 **marshal. The insurance commissioner may revoke an exemption**
 34 **under this subsection if the commissioner requires additional proof**
 35 **of financial ability and:**

- 36 **(1) the exempted person fails to comply with the order; or**
 37 **(2) the insurance commissioner determines that the exempted**
 38 **person has failed to provide adequate proof of financial**
 39 **ability.**

40 **Sec. 3. The office shall carry out a program to periodically**
 41 **inspect places where regulated explosives are stored.**

42 **Sec. 4. (a) The office shall issue a regulated explosives magazine**

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1 permit to maintain an explosives magazine to an applicant who
2 qualifies under section 5 of this chapter.

3 (b) A permit issued under section 5 of this chapter expires one
4 (1) year after it is issued. The permit is limited to storage of the
5 types and maximum quantities of explosives specified in the permit
6 in the place covered by the permit and under the construction and
7 location requirements specified in the rules of the commission.

8 Sec. 5. (a) To qualify for a regulated explosives permit an
9 applicant must:

10 (1) submit information on the form provided by the state fire
11 marshal describing:

12 (A) the location of the affected magazine;

13 (B) the types and maximum quantities of explosives that
14 will be kept in the place covered by the application; and

15 (C) the distance that the affected magazine will be located
16 from the nearest highway, railway, and structure that are
17 also used as places of habitation or assembly other than the
18 manufacture of explosives;

19 (2) demonstrate through an inspection that the magazine is
20 constructed and located in accordance with the rules adopted
21 by the commission; and

22 (3) pay the fee set under IC 22-12-6-6.

23 (b) To qualify for the renewal of a regulated explosives permit,
24 the applicant must pay the fee set under IC 22-12-6-6.

25 Sec. 6. (a) This section does not apply to storage that is
26 exempted from the requirements of this section in the rules
27 adopted by the commission under IC 22-13-3.

28 (b) A person who:

29 (1) stores a regulated explosive;

30 (2) has control over a regulated explosive that is stored; or

31 (3) has control over a place where a regulated explosive is
32 stored;

33 without a regulated explosives magazine permit issued under this
34 chapter that covers the storage, commits a Class C infraction.

35 Sec. 7. A physician or hospital that treats a person for an injury
36 inflicted while the person was making or using a destructive device
37 shall report the injury to a local law enforcement agency under
38 IC 35-47-7-5.

39 Chapter 5. Offenses Relating to Regulated Explosives

40 Sec. 1. Sections 2, 5, and 6 of this chapter do not apply to the
41 following:

42 (1) A person authorized to manufacture, possess, transport,

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- 1 distribute, or use a destructive device or detonator under the
2 laws of the United States, as amended, or under state law
3 when the person is acting in accordance with the laws and
4 regulations issued under federal or state law.
- 5 (2) A person who is issued a permit for blasting or surface
6 coal mining by the director of the department of natural
7 resources under IC 14-34 when the person is acting under the
8 laws and rules of Indiana and any ordinances and regulations
9 of the political subdivision or authority of the state where
10 blasting or mining operations are being performed.
- 11 (3) Fireworks (as defined in IC 22-11-14-1) and a person
12 authorized by the laws of Indiana and of the United States to
13 manufacture, possess, distribute, transport, store, exhibit,
14 display, or use fireworks.
- 15 (4) A law enforcement agency, a fire service agency, or an
16 emergency management agency of Indiana, an agency or an
17 authority of a political subdivision of Indiana, or the United
18 States and an employee or authorized agent of the United
19 States while in performance of official duties.
- 20 (5) A law enforcement officer, a fire official, or an emergency
21 management official of the United States or any other state if
22 that person is attending training in Indiana.
- 23 (6) The armed forces of the United States or of Indiana.
- 24 (7) Research or educational programs conducted by or on
25 behalf of a college, university, or secondary school that:
- 26 (A) are authorized by the chief executive officer of the
27 educational institution or the officer's designee; and
- 28 (B) are conducted in accordance with the laws of the
29 United States and of Indiana.
- 30 (8) The use of explosive materials in medicines and medicinal
31 agents in forms prescribed by the most recent published
32 edition of the official United States Pharmacopoeia or the
33 National Formulary.
- 34 (9) Small arms ammunition and reloading components of
35 small arms ammunition.
- 36 (10) Commercially manufactured black powder in quantities
37 not to exceed fifty (50) pounds, percussion caps, safety and
38 pyrotechnic fuses, quills, quick and slow matches, and friction
39 primers intended to be used solely for sporting, recreational,
40 or cultural purposes in antique firearms or antique devices.
- 41 (11) An explosive that is lawfully possessed for use in
42 legitimate agricultural activities.



- 1 **Sec. 2. A person who knowingly or intentionally:**
 2 (1) possesses;
 3 (2) manufactures;
 4 (3) transports;
 5 (4) distributes;
 6 (5) possesses with the intent to distribute; or
 7 (6) offers to distribute;
 8 **a destructive device, unless authorized by law, commits a Class B**
 9 **felony.**
- 10 **Sec. 3. A person who has been convicted of a felony by an**
 11 **Indiana court or a court of any other state, the United States, or**
 12 **another country and knowingly or intentionally:**
 13 (1) possesses;
 14 (2) manufactures;
 15 (3) transports;
 16 (4) distributes;
 17 (5) possesses with the intent to distribute; or
 18 (6) offers to distribute;
 19 **a regulated explosive commits a Class A felony.**
- 20 **Sec. 4. A person who knowingly or intentionally distributes a**
 21 **regulated explosive to a person who has been convicted of a felony**
 22 **by an Indiana court or a court of any other state, the United States,**
 23 **or another country commits a Class A felony.**
- 24 **Sec. 5. A person who knowingly or intentionally distributes or**
 25 **offers to distribute:**
 26 (1) a destructive device;
 27 (2) an explosive;
 28 (3) a poison gas; or
 29 (4) a detonator;
 30 **to a person who is less than twenty-one (21) years of age commits**
 31 **a Class B felony.**
- 32 **Sec. 6. A person who:**
 33 (1) manufactures;
 34 (2) possesses;
 35 (3) transports;
 36 (4) distributes; or
 37 (5) uses;
 38 **a hoax device or replica with the intent to cause another to believe**
 39 **that such hoax device or replica is a destructive device or detonator**
 40 **commits a Class D felony.**
- 41 **Sec. 7. A person who knowingly or intentionally hinders or**
 42 **obstructs:**

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- 1 **(1) a law enforcement officer;**
 2 **(2) a fire official;**
 3 **(3) an emergency management official;**
 4 **(4) an animal trained to detect destructive devices; or**
 5 **(5) a robot or mechanical device designed or used by a law**
 6 **enforcement officer, fire official, or emergency management**
 7 **official;**

8 **of this state or of the United States in the detection, disarming, or**
 9 **destruction of a destructive device commits a Class B felony.**

10 **Sec. 8. A person who:**

- 11 **(1) possesses;**
 12 **(2) transports; or**
 13 **(3) receives;**

14 **a destructive device or explosive with the knowledge or intent that**
 15 **it will be used to kill, injure, or intimidate an individual or to**
 16 **destroy property commits a Class A felony.**

17 **Sec. 9. A person who:**

- 18 **(1) possesses;**
 19 **(2) transports; or**
 20 **(3) receives;**

21 **an incendiary or poison gas with the knowledge or intent that it**
 22 **will be used to kill, injure, or intimidate an individual commits a**
 23 **Class B felony.**

24 **Sec. 10. A person who knowingly or intentionally uses an**
 25 **over-pressure device:**

- 26 **(1) commits a Class A misdemeanor for the first offense; or**
 27 **(2) commits a Class D felony for the second and subsequent**
 28 **offenses.**

29 **Sec. 11. A person who knowingly or intentionally deploys a**
 30 **booby trap commits a Class D felony.**

31 SECTION 18. IC 35-50-2-9 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The state may
 33 seek either a death sentence or a sentence of life imprisonment without
 34 parole for murder by alleging, on a page separate from the rest of the
 35 charging instrument, the existence of at least one (1) of the aggravating
 36 circumstances listed in subsection (b). In the sentencing hearing after
 37 a person is convicted of murder, the state must prove beyond a
 38 reasonable doubt the existence of at least one (1) of the aggravating
 39 circumstances alleged. However, the state may not proceed against a
 40 defendant under this section if a court determines at a pretrial hearing
 41 under IC 35-36-9 that the defendant is a mentally retarded individual.

42 (b) The aggravating circumstances are as follows:



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- 1 (1) The defendant committed the murder by intentionally killing
 2 the victim while committing or attempting to commit any of the
 3 following:
- 4 (A) Arson (IC 35-43-1-1).
 - 5 (B) Burglary (IC 35-43-2-1).
 - 6 (C) Child molesting (IC 35-42-4-3).
 - 7 (D) Criminal deviate conduct (IC 35-42-4-2).
 - 8 (E) Kidnapping (IC 35-42-3-2).
 - 9 (F) Rape (IC 35-42-4-1).
 - 10 (G) Robbery (IC 35-42-5-1).
 - 11 (H) Carjacking (IC 35-42-5-2).
 - 12 (I) Criminal gang activity (IC 35-45-9-3).
 - 13 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 14 (2) The defendant committed the murder by the unlawful
 15 detonation of an explosive **or a destructive device** with intent to
 16 injure person or damage property.
- 17 (3) The defendant committed the murder by lying in wait.
- 18 (4) The defendant who committed the murder was hired to kill.
- 19 (5) The defendant committed the murder by hiring another person
 20 to kill.
- 21 (6) The victim of the murder was a corrections employee,
 22 probation officer, parole officer, community corrections worker,
 23 home detention officer, fireman, judge, or law enforcement
 24 officer, and either:
- 25 (A) the victim was acting in the course of duty; or
 - 26 (B) the murder was motivated by an act the victim performed
 27 while acting in the course of duty.
- 28 (7) The defendant has been convicted of another murder.
- 29 (8) The defendant has committed another murder, at any time,
 30 regardless of whether the defendant has been convicted of that
 31 other murder.
- 32 (9) The defendant was:
- 33 (A) under the custody of the department of correction;
 - 34 (B) under the custody of a county sheriff;
 - 35 (C) on probation after receiving a sentence for the commission
 36 of a felony; or
 - 37 (D) on parole;
- 38 at the time the murder was committed.
- 39 (10) The defendant dismembered the victim.
- 40 (11) The defendant burned, mutilated, or tortured the victim while
 41 the victim was alive.
- 42 (12) The victim of the murder was less than twelve (12) years of

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- 1 age.
- 2 (13) The victim was a victim of any of the following offenses for
- 3 which the defendant was convicted:
- 4 (A) Battery as a Class D felony or as a Class C felony under
- 5 IC 35-42-2-1.
- 6 (B) Kidnapping (IC 35-42-3-2).
- 7 (C) Criminal confinement (IC 35-42-3-3).
- 8 (D) A sex crime under IC 35-42-4.
- 9 (14) The victim of the murder was listed by the state or known by
- 10 the defendant to be a witness against the defendant and the
- 11 defendant committed the murder with the intent to prevent the
- 12 person from testifying.
- 13 (15) The defendant committed the murder by intentionally
- 14 discharging a firearm (as defined in IC 35-47-1-5):
- 15 (A) into an inhabited dwelling; or
- 16 (B) from a vehicle.
- 17 (16) The victim of the murder was pregnant and the murder
- 18 resulted in the intentional killing of a fetus that has attained
- 19 viability (as defined in IC 16-18-2-365).
- 20 (c) The mitigating circumstances that may be considered under this
- 21 section are as follows:
- 22 (1) The defendant has no significant history of prior criminal
- 23 conduct.
- 24 (2) The defendant was under the influence of extreme mental or
- 25 emotional disturbance when the murder was committed.
- 26 (3) The victim was a participant in or consented to the defendant's
- 27 conduct.
- 28 (4) The defendant was an accomplice in a murder committed by
- 29 another person, and the defendant's participation was relatively
- 30 minor.
- 31 (5) The defendant acted under the substantial domination of
- 32 another person.
- 33 (6) The defendant's capacity to appreciate the criminality of the
- 34 defendant's conduct or to conform that conduct to the
- 35 requirements of law was substantially impaired as a result of
- 36 mental disease or defect or of intoxication.
- 37 (7) The defendant was less than eighteen (18) years of age at the
- 38 time the murder was committed.
- 39 (8) Any other circumstances appropriate for consideration.
- 40 (d) If the defendant was convicted of murder in a jury trial, the jury
- 41 shall reconvene for the sentencing hearing. If the trial was to the court,
- 42 or the judgment was entered on a guilty plea, the court alone shall

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1 conduct the sentencing hearing. The jury or the court may consider all
 2 the evidence introduced at the trial stage of the proceedings, together
 3 with new evidence presented at the sentencing hearing. The court shall
 4 instruct the jury concerning the statutory penalties for murder and any
 5 other offenses for which the defendant was convicted, the potential for
 6 consecutive or concurrent sentencing, and the availability of good time
 7 credit and clemency. The defendant may present any additional
 8 evidence relevant to:

9 (1) the aggravating circumstances alleged; or

10 (2) any of the mitigating circumstances listed in subsection (c).

11 (e) Except as provided by IC 35-36-9, if the hearing is by jury, the
 12 jury shall recommend to the court whether the death penalty or life
 13 imprisonment without parole, or neither, should be imposed. The jury
 14 may recommend:

15 (1) the death penalty; or

16 (2) life imprisonment without parole;

17 only if it makes the findings described in subsection (k). The court shall
 18 make the final determination of the sentence, after considering the
 19 jury's recommendation, and the sentence shall be based on the same
 20 standards that the jury was required to consider. The court is not bound
 21 by the jury's recommendation. In making the final determination of the
 22 sentence after receiving the jury's recommendation, the court may
 23 receive evidence of the crime's impact on members of the victim's
 24 family.

25 (f) If a jury is unable to agree on a sentence recommendation after
 26 reasonable deliberations, the court shall discharge the jury and proceed
 27 as if the hearing had been to the court alone.

28 (g) If the hearing is to the court alone, except as provided by
 29 IC 35-36-9, the court shall:

30 (1) sentence the defendant to death; or

31 (2) impose a term of life imprisonment without parole;

32 only if it makes the findings described in subsection (k).

33 (h) If a court sentences a defendant to death, the court shall order
 34 the defendant's execution to be carried out not later than one (1) year
 35 and one (1) day after the date the defendant was convicted. The
 36 supreme court has exclusive jurisdiction to stay the execution of a
 37 death sentence. If the supreme court stays the execution of a death
 38 sentence, the supreme court shall order a new date for the defendant's
 39 execution.

40 (i) If a person sentenced to death by a court files a petition for
 41 post-conviction relief, the court, not later than ninety (90) days after the
 42 date the petition is filed, shall set a date to hold a hearing to consider

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1 the petition. If a court does not, within the ninety (90) day period, set
 2 the date to hold the hearing to consider the petition, the court's failure
 3 to set the hearing date is not a basis for additional post-conviction
 4 relief. The attorney general shall answer the petition for post-conviction
 5 relief on behalf of the state. At the request of the attorney general, a
 6 prosecuting attorney shall assist the attorney general. The court shall
 7 enter written findings of fact and conclusions of law concerning the
 8 petition not later than ninety (90) days after the date the hearing
 9 concludes. However, if the court determines that the petition is without
 10 merit, the court may dismiss the petition within ninety (90) days
 11 without conducting a hearing under this subsection.

12 (j) A death sentence is subject to automatic review by the supreme
 13 court. The review, which shall be heard under rules adopted by the
 14 supreme court, shall be given priority over all other cases. The supreme
 15 court's review must take into consideration all claims that the:

- 16 (1) conviction or sentence was in violation of the:
 - 17 (A) Constitution of the State of Indiana; or
 - 18 (B) Constitution of the United States;
- 19 (2) sentencing court was without jurisdiction to impose a
 20 sentence; and
- 21 (3) sentence:
 - 22 (A) exceeds the maximum sentence authorized by law; or
 - 23 (B) is otherwise erroneous.

24 If the supreme court cannot complete its review by the date set by the
 25 sentencing court for the defendant's execution under subsection (h), the
 26 supreme court shall stay the execution of the death sentence and set a
 27 new date to carry out the defendant's execution.

28 (k) Before a sentence may be imposed under this section, the jury,
 29 in a proceeding under subsection (e), or the court, in a proceeding
 30 under subsection (g), must find that:

- 31 (1) the state has proved beyond a reasonable doubt that at least
 32 one (1) of the aggravating circumstances listed in subsection (b)
 33 exists; and
- 34 (2) any mitigating circumstances that exist are outweighed by the
 35 aggravating circumstance or circumstances.

36 SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE
 37 JULY 1, 2000]: IC 22-12-1-21; IC 22-14-4; IC 35-47-5-1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1213, 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 15, line 9, after "rifle," delete "or".

Page 15, line 9, after "shotgun" insert ", or **weapon**".

and when so amended that said bill do pass.

(Reference is to HB 1213 as introduced.)

BOTTORFF, Chair

Committee Vote: yeas 9, nays 0.

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