

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1044

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

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

SECTION 1. IC 35-44-3-9, AS AMENDED BY P.L.243-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) As used in this section, "juvenile facility" means the following:

- (1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.
- (2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) **Except as provided in subsection (d)**, a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

- (1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;
- (2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; or
- (3) delivers, or carries to a ~~work site~~ **worksite** with the intent to

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deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew; commits trafficking with an inmate, a Class A misdemeanor. ~~However, the offense is a Class C felony if the article is a controlled substance or a deadly weapon.~~

(c) If the person who committed the offense under subsection (b) is an employee of:

- (1) the department of correction; or**
- (2) a penal facility;**

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall impose a mandatory five thousand dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.

(d) The offense under subsection (b) is a Class C felony if the article is:

- (1) a controlled substance; or**
- (2) a deadly weapon.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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