
HOUSE BILL No. 1011

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14-3; IC 35-47-11.

Synopsis: Regulation of firearms during an emergency. Prohibits the state, a political subdivision, or any other person from prohibiting or restricting the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during a declared disaster emergency, energy emergency, or local disaster emergency. Repeals provisions that allow certain political subdivisions to adopt emergency ordinances to regulate firearms if a local disaster emergency has been declared.

Effective: July 1, 2007.

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January 8, 2007, read first time and referred to Committee on Interstate and International Cooperation.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1011

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

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

1 SECTION 1. IC 10-14-3-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The governor
3 shall declare a disaster emergency by executive order or proclamation
4 if the governor determines that a disaster has occurred or that the
5 occurrence or the threat of a disaster is imminent. The state of disaster
6 emergency continues until the governor:

7 (1) determines that the threat or danger has passed or the disaster
8 has been dealt with to the extent that emergency conditions no
9 longer exist; and
10 (2) terminates the state of disaster emergency by executive order
11 or proclamation.

12 A state of disaster emergency may not continue for longer than thirty
13 (30) days unless the state of disaster emergency is renewed by the
14 governor. The general assembly, by concurrent resolution, may
15 terminate a state of disaster emergency at any time. If the general
16 assembly terminates a state of disaster emergency under this
17 subsection, the governor shall issue an executive order or proclamation



1 ending the state of disaster emergency. All executive orders or
 2 proclamations issued under this subsection must indicate the nature of
 3 the disaster, the area or areas threatened, and the conditions which have
 4 brought the disaster about or that make possible termination of the state
 5 of disaster emergency. An executive order or proclamation under this
 6 subsection shall be disseminated promptly by means calculated to bring
 7 the order's or proclamation's contents to the attention of the general
 8 public. Unless the circumstances attendant upon the disaster prevent or
 9 impede, an executive order or proclamation shall be promptly filed
 10 with the secretary of state and with the clerk of the city or town affected
 11 or with the clerk of the circuit court.

12 (b) An executive order or proclamation of a state of disaster
 13 emergency:

14 (1) activates the disaster response and recovery aspects of the
 15 state, local, and interjurisdictional disaster emergency plans
 16 applicable to the affected political subdivision or area; and

17 (2) is authority for:

18 (A) deployment and use of any forces to which the plan or
 19 plans apply; and

20 (B) use or distribution of any supplies, equipment, materials,
 21 and facilities assembled, stockpiled, or arranged to be made
 22 available under this chapter or under any other law relating to
 23 disaster emergencies.

24 (c) During the continuance of any state of disaster emergency, the
 25 governor is commander-in-chief of the organized and unorganized
 26 militia and of all other forces available for emergency duty. To the
 27 greatest extent practicable, the governor shall delegate or assign
 28 command authority by prior arrangement embodied in appropriate
 29 executive orders or regulations. This section does not restrict the
 30 governor's authority to delegate or assign command authority by orders
 31 issued at the time of the disaster emergency.

32 (d) In addition to the governor's other powers, the governor may do
 33 the following while the state of emergency exists:

34 (1) Suspend the provisions of any regulatory statute prescribing
 35 the procedures for conduct of state business, or the orders, rules,
 36 or regulations of any state agency if strict compliance with any of
 37 these provisions would in any way prevent, hinder, or delay
 38 necessary action in coping with the emergency.

39 (2) Use all available resources of the state government and of
 40 each political subdivision of the state reasonably necessary to
 41 cope with the disaster emergency.

42 (3) Transfer the direction, personnel, or functions of state

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- 1 departments and agencies or units for performing or facilitating
- 2 emergency services.
- 3 (4) Subject to any applicable requirements for compensation
- 4 under section 31 of this chapter, commandeer or use any private
- 5 property if the governor finds this action necessary to cope with
- 6 the disaster emergency.
- 7 (5) Assist in the evacuation of all or part of the population from
- 8 any stricken or threatened area in Indiana if the governor
- 9 considers this action necessary for the preservation of life or other
- 10 disaster mitigation, response, or recovery.
- 11 (6) Prescribe routes, modes of transportation, and destinations in
- 12 connection with evacuation.
- 13 (7) Control ingress to and egress from a disaster area, the
- 14 movement of persons within the area, and the occupancy of
- 15 premises in the area.
- 16 (8) Suspend or limit the sale, dispensing, or transportation of
- 17 alcoholic beverages, ~~firearms~~, explosives, and combustibles.
- 18 (9) Make provision for the availability and use of temporary
- 19 emergency housing.
- 20 (10) Allow persons who hold a license to practice medicine,
- 21 dentistry, pharmacy, nursing, engineering, and similar other
- 22 professions as may be specified by the governor to practice their
- 23 respective profession in Indiana during the period of the state of
- 24 emergency if the state in which a person's license was issued has
- 25 a mutual aid compact for emergency management with Indiana.
- 26 (11) Give specific authority to allocate drugs, foodstuffs, and
- 27 other essential materials and services.

28 SECTION 2. IC 10-14-3-33.5 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2007]: **Sec. 33.5. The state, a political**
 31 **subdivision, or any other person may not prohibit or restrict the**
 32 **lawful possession, transfer, sale, transportation, storage, display,**
 33 **or use of firearms or ammunition during:**

- 34 (1) a disaster emergency;
- 35 (2) an energy emergency; or
- 36 (3) a local disaster emergency;

37 **declared under this chapter.**

38 SECTION 3. IC 35-47-11-1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~Section 2 of This~~
 40 ~~chapter applies to all units (as defined in IC 36-1-2-23). All other~~
 41 ~~sections of this chapter apply to all units other than townships.~~

42 (b) ~~This chapter applies only if a statute expressly grants a~~

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1 legislative body the authority to adopt an emergency ordinance under
2 this chapter:

3 (c) (b) This chapter does not affect the validity of an ordinance
4 adopted before, and in effect on, January 1, 1994.

5 SECTION 4. IC 35-47-11-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Notwithstanding
7 IC 36-1-3, a unit may not regulate in any manner the ownership,
8 possession, sale, transfer, or transportation of firearms (as defined in
9 IC 35-47-1-5) or ammunition except as follows:

10 (1) This chapter does not apply to land, buildings, or other real
11 property owned or administered by a unit, except highways (as
12 defined in IC 8-23-1-23) or public highways (as defined in
13 IC 8-2.1-17-14).

14 (2) Notwithstanding the limitation in this section, a unit may use
15 the unit's planning and zoning powers under IC 36-7-4 to prohibit
16 the sale of firearms within two hundred (200) feet of a school by
17 a person having a business that did not sell firearms within two
18 hundred (200) feet of a school before April 1, 1994.

19 (3) Notwithstanding the limitation in this section, a legislative
20 body of a unit other than a township may adopt an emergency
21 ordinance or a unit other than a township may take other action
22 allowed under section 6 of this chapter to regulate the sale of
23 firearms anywhere within the unit for a period of not more than
24 seventy-two (72) hours after the regulatory action takes effect.

25 SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE
26 JULY 1, 2007]: IC 35-47-11-3; IC 35-47-11-4; IC 35-47-11-5;
27 IC 35-47-11-6.

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