



Reprinted
February 25, 2010

ENGROSSED
SENATE BILL No. 175

DIGEST OF SB 175 (Updated February 24, 2010 6:03 pm - DI 77)

Citations Affected: IC 7.1-5; IC 12-7; IC 12-24; IC 16-18; IC 16-20; IC 16-37; IC 16-41; IC 31-11.

Synopsis: Various health matters. Prohibits smoking in: (1) public places; (2) enclosed areas of a place of employment; and (3) certain state vehicles. Provides exceptions for certain gaming facilities. Requires the alcohol and tobacco commission to enforce the prohibition. Makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three unrelated prior offenses. Repeals the current clean indoor air law that prohibits smoking in public buildings. Establishes certain procedures, enforcement actions, and penalties concerning inspections and investigations to determine compliance with public health laws and rules. Changes the date that the state department of health must establish the birth registration system to January 1, 2012. Authorizes a physician last in attendance of a deceased to initiate the document
(Continued next page)

Effective: Upon passage; July 1, 2010.

Miller, Lawson C
(HOUSE SPONSOR — BROWN C)

January 5, 2010, read first time and referred to Committee on Health and Provider Services.
January 14, 2010, amended, reported favorably — Do Pass.
January 26, 2010, read second time, amended, ordered engrossed.
January 27, 2010, engrossed.
January 28, 2010, read third time, passed. Yeas 35, nays 13.
HOUSE ACTION
February 2, 2010, read first time and referred to Committee on Public Health.
February 22, 2010, amended, reported — Do Pass.
February 24, 2010, read second time, amended, ordered engrossed.

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process for the death record. Maintains current system for reporting of stillbirths after changes in the reporting of births and deaths are implemented. Provides that certain health professionals are subject to disciplinary sanctions, instead of a Class B misdemeanor, for failure to comply birth and death reporting requirements. Requires the state department to establish a lead-based paint poisoning prevention program concerning renovations performed for compensation in target housing and child-occupied facilities. Establishes the lead-based paint poisoning prevention program fund. Requires the state department of health to post HIV and communicable disease materials on the department's web site in a format that allows a clerk of a circuit court to print and distribute the materials to marriage license applicants (current law requires the state department of health to distribute the materials).

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED SENATE BILL No. 175

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 7.1-5-12 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]:
4 **Chapter 12. Prohibition on Smoking**
5 **Sec. 1. As used in this chapter, "public place" means an enclosed**
6 **area in which the public is invited or permitted.**
7 **Sec. 2. As used in this chapter, "smoking" means the:**
8 **(1) carrying or holding of a lighted cigarette, cigar, pipe, or**
9 **any other lighted smoking equipment; or**
10 **(2) inhalation or exhalation of smoke from lighted smoking**
11 **equipment.**
12 **Sec. 3. (a) Except as provided in section 4 of this chapter,**
13 **smoking is prohibited in the following:**
14 **(1) A public place.**
15 **(2) Enclosed areas of a place of employment.**
16 **(3) A vehicle owned, leased, or operated by the state if the**
17 **vehicle is being used for a governmental function.**

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1 (b) An employer shall inform each of the employer's employees
2 and prospective employees of the smoking prohibition in the place
3 of employment.

4 (c) An owner, an operator, a manager, or another individual
5 with authority shall remove ashtrays or other smoking
6 paraphernalia from areas where smoking is prohibited under this
7 chapter.

8 Sec. 4. (a) Notwithstanding section 3(a) of this chapter, the
9 following facilities may allow smoking:

10 (1) A horse racing facility that is operated under a permit
11 issued under IC 4-31-5.

12 (2) A riverboat (as defined in IC 4-33-2-17) that is operated
13 under a license issued under IC 4-33-6 or a contract as an
14 operating agent under IC 4-33-6.5.

15 (3) A facility that operates under a gambling game license
16 under IC 4-35-5.

17 (4) A satellite facility that is licensed under IC 4-31-5.5.

18 (b) The official in charge of a facility that allows smoking under
19 this section shall post a conspicuous sign at each public entrance of
20 the facility stating that the facility is a smoking facility.

21 Sec. 5. The commission shall enforce this chapter. The
22 commission may inspect premises that are subject to this chapter
23 to ensure that the person responsible for the premises is in
24 compliance with this chapter.

25 Sec. 6. (a) The official in charge of a public place shall do the
26 following:

27 (1) Post conspicuous signs that read "Smoking Is Prohibited
28 By State Law" or other similar language.

29 (2) Request an individual who is smoking in violation of this
30 chapter to refrain from smoking.

31 (3) Remove an individual who is smoking in violation of this
32 chapter and fails to refrain from smoking after being
33 requested to do so.

34 (b) The proprietor of a restaurant shall post conspicuous signs
35 at each entrance to the restaurant, informing the public that
36 smoking is prohibited in the establishment.

37 Sec. 7. A person who smokes in an area where smoking is
38 prohibited by this chapter commits prohibited smoking, a Class B
39 infraction. However, the violation is a Class A infraction if the
40 person has at least three (3) prior unrelated judgments for a
41 violation of this chapter.

42 Sec. 8. An owner, manager, or operator of a public place or

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1 place of employment that fails to comply with this chapter commits
2 a Class B infraction. However, the violation is a Class A infraction
3 if the person has at least three (3) prior unrelated judgments for a
4 violation under this chapter.

5 Sec. 9. This chapter does not prohibit a county, city, town, or
6 other governmental unit from adopting an ordinance more
7 restrictive than this chapter.

8 SECTION 2. IC 12-7-2-178.8 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 178.8. "Smoking", for
10 purposes of IC 12-24-2-8, has the meaning set forth in ~~IC 16-41-37-3.~~
11 **IC 7.1-5-12-2.**

12 SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Notwithstanding
14 IC 12-27-3-3, the superintendent of a state institution has complete
15 authority to regulate smoking (as defined in ~~IC 16-41-37-3~~)
16 **IC 7.1-5-12-2**) within the state institution.

17 (b) A physician licensed under IC 25-22.5 may prescribe nicotine
18 as is medically necessary for a resident of a state institution.

19 SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.101-2007,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2010]: Sec. 10. (a) "Agency", for purposes of IC 16-23.5, has
22 the meaning set forth in IC 16-23.5-1-2.

23 (b) "Agency", for purposes of IC 16-40-5, has the meaning set forth
24 in IC 16-40-5-1.

25 ~~(c) "Agency", for purposes of IC 16-41-37, has the meaning set forth~~
26 ~~in IC 16-41-37-1.~~

27 SECTION 5. IC 16-18-2-54.7, AS ADDED BY P.L.57-2009,
28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 UPON PASSAGE]: Sec. 54.7. "Child-occupied facility", for purposes
30 of lead-based paint activities, **IC 16-41-39.2**, and IC 16-41-39.8, means
31 a building or a portion of a building that:

- 32 (1) was constructed before 1978;
- 33 (2) does not qualify as target housing (as defined in section 346.3
34 of this chapter); and
- 35 (3) is visited regularly by a child who is not more than six (6)
36 years of age under the following circumstances described in
37 clause (A), (B), or (C):
 - 38 (A) The child visits at least two (2) days a week (Sunday
39 through Saturday) and each of the visits lasts at least three (3)
40 hours.
 - 41 (B) The child visits at least six (6) hours each week.
 - 42 (C) The child's combined annual visits during a calendar year

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1 total at least sixty (60) hours.
2 The term includes day care centers, preschools, and kindergarten
3 classrooms. **The term also includes common areas and building**
4 **exteriors.**

5 SECTION 6. IC 16-18-2-346.3, AS ADDED BY P.L.57-2009,
6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: Sec. 346.3. (a) "Target housing", for purposes of
8 lead-based paint activities, **IC 16-41-39.2**, and IC 16-41-39.8, means
9 housing constructed before January 1, 1978.

10 (b) The term does not include the following:
11 (1) Housing for the elderly or individuals with disabilities that is
12 not occupied by or expected to be occupied by a child of not more
13 than six (6) years of age.
14 (2) A building without a bedroom.

15 SECTION 7. IC 16-20-1-23 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) ~~Except as~~
17 ~~provided in subsection (b); the local health officer or the officer's~~
18 ~~designee may enter upon and inspect private property, at proper times~~
19 ~~after due notice, in regard to the possible presence, source, and cause~~
20 ~~of disease. The local health officer or designee may order what is~~
21 ~~reasonable and necessary for prevention and suppression of disease and~~
22 ~~in all reasonable and necessary ways protect the public health.~~

23 (a) **Upon showing official identification and having the consent**
24 **of the owner or occupant of a premises, a local health officer or the**
25 **local health officer's designee may enter the premises at any**
26 **reasonable time to inspect, investigate, evaluate, conduct tests, or**
27 **take specimens or samples for testing that may be reasonably**
28 **necessary to determine compliance with public health laws and**
29 **rules.**

30 (b) **If a local health officer or the local health officer's designee**
31 **does not obtain consent under subsection (a), the local health**
32 **officer or the local health officer's designee may seek from a circuit**
33 **or superior court in the jurisdiction where the premises are located**
34 **an order authorizing the investigation, evaluation, inspection,**
35 **testing, or taking of specimens or samples for testing.**

36 (c) **A court referred to in subsection (b) may authorize an order**
37 **to inspect, investigate, evaluate, conduct tests, or take specimens or**
38 **samples for testing after finding that the local health officer or**
39 **local health officer's designee, upon oath or affirmation, provided**
40 **reliable information establishing the violation of a public health**
41 **law or rule at the premises.**

42 (d) **If a condition poses an imminent and serious threat to the**

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1 health of an individual or the public and the local health officer or
2 the health officer's designee believes that the delay could result in
3 a greater health risk, the local health officer or the health officer's
4 designee may enter the affected premises to inspect, investigate,
5 and evaluate the conditions on the premises without obtaining
6 consent under subsection (a) or an order under subsection (b).

7 (e) A local health officer or the health officer's designee may
8 enter:

- 9 (1) a public place; and
 - 10 (2) an area in plain or open view;
- 11 to inspect, investigate, evaluate, conduct tests, or take specimens or
12 samples for testing that may be reasonably necessary to determine
13 compliance with public health laws and rules without obtaining
14 consent under subsection (a) or an order under subsection (b).

15 (f) Consistent with the terms and condition of a license issued by
16 a local health department or a health and hospital corporation, a
17 local health officer or the local health officer's designee may enter
18 a premises at any reasonable time to inspect, investigate, evaluate,
19 conduct tests, or take specimens or samples for testing that may be
20 reasonably necessary to determine compliance with public health
21 laws and rules and the terms and conditions of the license.

22 (g) However, a local health officer, or a person acting under the
23 local health officer, shall not inspect property in which the local health
24 officer has any interest, whether real, equitable, or otherwise. Any such
25 inspection or any attempt to make such inspection is grounds for
26 removal as provided for in this article.

27 (h) This section does not prevent inspection of premises in
28 which a local health officer has an interest if the premises cannot
29 otherwise be inspected. ~~If the premises cannot otherwise be inspected,~~
30 ~~the county health officer shall inspect the premises personally.~~

31 SECTION 8. IC 16-20-1-26 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) A local board
33 of health or local health officer may enforce the board's or officer's
34 orders, citations, and administrative notices by an action in the
35 circuit or superior court. ~~In the action,~~ The court may enforce ~~take any~~
36 ~~appropriate action in a proceeding under this section, including~~
37 ~~any of the order by following:~~

- 38 (1) Issuing an injunction.
- 39 (2) Entering a judgment.
- 40 (3) Issuing an order and conditions under IC 16-41-9.
- 41 (4) Ordering the suspension or revocation of a license.
- 42 (5) Ordering an inspection.

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- 1 **(6) Ordering that a property be vacated.**
- 2 **(7) Ordering that a structure be demolished.**
- 3 **(8) Imposing a penalty not to exceed the amount set forth in**
- 4 **IC 36-1-3-8(a)(10).**
- 5 **(9) Imposing court costs and fees in accordance with**
- 6 **IC 33-37-4-2 and IC 33-37-5.**
- 7 **(10) Ordering the respondent to take appropriate action to**
- 8 **comply with the order of the local board of health or local**
- 9 **health officer within a specified time.**
- 10 **(11) Ordering a local board of health or local health officer to**
- 11 **take appropriate action to enforce the board's or officer's**
- 12 **order within a specified time.**

13 (b) The county attorney in which a local board of health or local
 14 health officer has jurisdiction shall represent the local health board and
 15 local health officer in the action unless the county executive, **local**
 16 **board of health, or health and hospital corporation** employs other
 17 legal counsel or the matter has been referred through law enforcement
 18 authorities to the prosecuting attorney.

19 SECTION 9. IC 16-37-1-3.1, AS ADDED BY P.L.61-2009,
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2010]: Sec. 3.1. (a) Beginning January 1, ~~2011~~, **2012**, the state
 22 department shall establish the Indiana birth registration system (IBRS)
 23 for recording in an electronic format live births in Indiana.

24 (b) Beginning January 1, ~~2011~~, **2012**, the state department shall
 25 establish the Indiana death registration system (IDRS) for recording in
 26 an electronic format deaths in Indiana.

27 (c) Submission of records on births and deaths shall be entered by:
 28 (1) funeral directors;
 29 (2) physicians;
 30 (3) coroners;
 31 (4) medical examiners;
 32 (5) persons in attendance at birth; and
 33 (6) local health departments;
 34 using the electronic system created by the state department under this
 35 section.

36 (d) A person in attendance at a live birth shall report a birth to the
 37 local health officer in accordance with IC 16-37-2-2.

38 (e) Death records shall be submitted as follows, using the Indiana
 39 death registration system:
 40 (1) The:
 41 **(A) physician last in attendance upon the deceased; or**
 42 **(B) person in charge of interment;**

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1 shall initiate the document process. ~~and~~ **If the person in charge**
 2 **of interment initiates the process, the person in charge of**
 3 **interment shall** electronically submit the certificate required
 4 under IC 16-37-3-5 to the physician last in attendance upon the
 5 deceased not later than five (5) days after the death.

6 (2) The physician last in attendance upon the deceased shall
 7 electronically certify to the local health department the cause of
 8 death on the certificate of death not later than five (5) days after:

9 **(A) initiating the document process; or**

10 **(B) receiving under IC 16-37-3-5 the electronic notification**
 11 **from the person in charge of interment.**

12 (3) The local health officer shall submit the reports required under
 13 IC 16-37-1-5 to the state department not later than five (5) days
 14 after electronically receiving under IC 16-37-3-5 the completed
 15 certificate of death from the physician last in attendance.

16 SECTION 10. IC 16-37-1-5, AS AMENDED BY P.L.61-2009,
 17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2010]: Sec. 5. (a) The local health officer, on the fourth day
 19 of each month, shall report to the state department concerning the
 20 births, deaths, and stillbirths that occurred within the local health
 21 officer's jurisdiction within the preceding month. ~~However,~~

22 **(b)** After December 31, 2010, the local health officer, beginning
 23 five (5) days after electronically receiving the form required for the
 24 Indiana birth registration system or the Indiana death registration
 25 system, shall use the Indiana birth registration system and the Indiana
 26 death registration system established under section 3.1 of this chapter
 27 to report the births and deaths that occur in the local health officer's
 28 jurisdiction, and shall report each birth or death to the state department
 29 not later than five (5) days after being informed of the birth or death.

30 **The local health department shall continue to report stillbirths in**
 31 **the manner described in subsection (a).**

32 ~~(b)~~ **(c)** If there are no births, deaths, or stillbirths to report, the local
 33 health officer shall indicate that information each month in a format
 34 prescribed by the state department.

35 SECTION 11. IC 16-37-1-13 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Except as
 37 otherwise provided, a person who recklessly violates or fails to comply
 38 with this chapter commits a Class B misdemeanor.

39 (b) Each day a violation continues constitutes a separate offense.

40 **(c) Notwithstanding subsection (a), a person who:**

41 **(1) is licensed under IC 25 in a profession listed in section**
 42 **3.1(c) of this chapter; and**

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1 **(2) recklessly violates or fails to comply with this chapter;**
2 **is subject to sanctions under IC 25-1-9 following a hearing by the**
3 **appropriate licensing board.**

4 SECTION 12. IC 16-41-37-4 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A person who
6 smokes **(as defined in IC 7.1-5-12-2)**

7 **(1) in a public building, except in an area designated as a smoking**
8 **area under section 5 of this chapter;**

9 **(2) in the retail area of a grocery store or drug store that is**
10 **designated as a nonsmoking area by the store's proprietor;**

11 **(3) in the dining area of a restaurant that is designated and posted**
12 **as the restaurant's nonsmoking area by the restaurant's proprietor;**
13 **or**

14 **(4) in a school bus during a school week or while the school bus**
15 **is being used for a purpose described in section 2.3(3) of this**
16 **chapter commits a Class B infraction. However, the violation is**
17 **a Class A infraction if the person has at least three (3) previous**
18 **unrelated judgments for violating this section that are accrued**
19 **within the twelve (12) months immediately preceding the**
20 **violation.**

21 SECTION 13. IC 16-41-39.2 IS ADDED TO THE INDIANA
22 CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS
23 [EFFECTIVE UPON PASSAGE]:

24 **Chapter 39.2. Lead-Based Paint Poisoning Prevention Program**

25 **Sec. 1. (a) The state department shall establish a lead-based**
26 **paint poisoning prevention program under the federal Toxic**
27 **Substances Control Act (15 U.S.C. 2682 et seq.) concerning**
28 **prerenovation education and renovation activities performed for**
29 **compensation in target housing and child-occupied facilities to**
30 **ensure the following:**

31 **(1) Individuals engaged in these activities are properly**
32 **trained.**

33 **(2) Training programs are accredited.**

34 **(3) Contractors engaged in these activities are certified.**

35 **(b) The state department shall include the following in the**
36 **program:**

37 **(1) Standards for performing renovations, including:**

38 **(A) reliability;**

39 **(B) effectiveness; and**

40 **(C) safety.**

41 **(2) A requirement that all renovation activities performed for**
42 **compensation in target housing and child-occupied facilities**

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1 **be done by or overseen by certified individuals.**
2 **(3) Rules governing education requirements that must be**
3 **completed by an individual before the renovation activities for**
4 **compensation may occur.**
5 **Sec. 2. The state department's program must:**
6 **(1) be as protective as, but not more protective than, the**
7 **federal regulations under 40 CFR Par 745, Subparts E and L;**
8 **and**
9 **(2) provide for adequate enforcement.**
10 **Sec. 3. The state department shall adopt rules under IC 4-22-2**
11 **necessary to implement this chapter.**
12 **Sec. 4. An individual who is certified under federal or state law**
13 **to perform activities described in this chapter is not required to**
14 **obtain another certification under this chapter.**
15 **Sec. 5. (a) The lead-based paint poisoning prevention program**
16 **fund is established for the purpose of receiving fees and grant**
17 **money and for the purpose of paying expenses related to**
18 **administration of the lead-based paint poisoning prevention**
19 **program established under this chapter. The fund shall be**
20 **administered by the state department.**
21 **(b) The expenses of administering the fund shall be paid from**
22 **money in the fund.**
23 **(c) The treasurer of state shall invest the money in the fund not**
24 **currently needed to meet the obligations of the fund in the same**
25 **manner as other public money may be invested.**
26 **(d) Money in the fund at the end of a state fiscal year does not**
27 **revert to the state general fund.**
28 SECTION 14. IC 31-11-4-5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The clerk of the
30 circuit court shall distribute to marriage license applicants written
31 information or videotaped information approved by the AIDS advisory
32 council of the state department of health concerning dangerous
33 communicable diseases that are sexually transmitted.
34 (b) Written information and videotaped information distributed by
35 each clerk of the circuit court under subsection (a) must provide
36 current information on human immunodeficiency virus (HIV) infection
37 and other dangerous communicable diseases that are sexually
38 transmitted. The information must include an explanation of the
39 following:
40 (1) The etiology of dangerous communicable diseases that are
41 sexually transmitted.
42 (2) The behaviors that create a high risk of transmission of such

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1 diseases.

2 (3) Precautionary measures that reduce the risk of contracting

3 such diseases.

4 (4) The necessity for consulting medical specialists if infection is

5 suspected.

6 (c) At the time of application for a marriage license, each clerk of

7 the circuit court shall:

8 (1) provide the marriage license applicants with written

9 information furnished under subsection (a) concerning dangerous

10 communicable diseases that are sexually transmitted; or

11 (2) show the marriage license applicants videotaped information

12 furnished under subsection (a) concerning dangerous

13 communicable diseases that are sexually transmitted.

14 (d) In addition to the information provided to marriage license

15 applicants under subsection (c), each clerk of the circuit court shall

16 inform each marriage license applicant that the applicant may be tested

17 on a voluntary basis for human immunodeficiency virus (HIV)

18 infection by the applicant's private physician or at another testing site.

19 The clerk shall provide the marriage applicants with a list of testing

20 sites in the community.

21 (e) An applicant who objects to the written information or

22 videotaped information on religious grounds is not required to receive

23 the information.

24 (f) If materials required by this section are not prepared by other

25 sources, the state department of health shall:

26 (1) prepare the materials; **and**

27 (2) **post the materials on the state department of health's web**

28 **site in a format that allows the clerk of the circuit court to**

29 **print and distribute the materials.**

30 (g) ~~The provider of the materials is responsible for all costs involved~~

31 ~~in the development, preparation, and distribution of the information~~

32 ~~required by this section.~~ Except for the materials developed by the

33 state, the state and county are not liable for the costs of materials used

34 to implement this section and section 4 of this chapter.

35 SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE

36 JULY 1, 2010]: IC 16-18-2-298; IC 16-18-2-318.1; IC 16-18-2-332;

37 IC 16-41-37-1; IC 16-41-37-2; IC 16-41-37-3; IC 16-41-37-3.1;

38 IC 16-41-37-5; IC 16-41-37-6; IC 16-41-37-7; IC 16-41-37-8.

39 SECTION 16. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 175, 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 1, delete lines 1 through 11.

Page 2, delete lines 25 through 42.

Page 3, delete lines 1 through 3.

Page 4, delete lines 20 through 27, begin a new paragraph and insert:

"SECTION 5. IC 16-37-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) The state department shall charge and collect a fee of ~~eight dollars (\$8)~~ **not to exceed fifteen dollars (\$15)** for each search of the records in the division of vital records. If the requested record is found, one (1) certification of the record will be issued without charge. Additional certifications of the same record will be issued at that time for an additional fee of ~~four dollars (\$4)~~ **not to exceed eight dollars (\$8)** for each record.

(b) The state department shall charge and collect an additional fee of ~~eight dollars (\$8)~~ **not to exceed fifteen dollars (\$15)** for any amendment to a record previously filed with the division of vital records.

(c) Verification without charge will be issued to an agency of local, state, or federal government upon written request by the agency."

Page 5, line 8, delete "performed by certified contractors." and insert "**done by or overseen by certified individuals.**"

Page 5, line 13, delete "at least as protective as" and insert "**as protective as, but not more protective than,**"

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"Sec. 4. An individual who is certified under federal or state law to perform activities described in this chapter is not required to obtain another certification under this chapter.

Sec. 5. (a) The lead-based paint poisoning prevention program fund is established for the purpose of receiving fees and grant money and for the purpose of paying expenses related to administration of the lead-based paint poisoning prevention program established under this chapter. The fund shall be administered by the state department.

(b) The expenses of administering the fund shall be paid from money in the fund.

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(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund."

Page 5, delete lines 35 through 36, begin a new paragraph and insert:

"SECTION 8. IC 31-11-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The clerk of the circuit court shall distribute to marriage license applicants written information or videotaped information approved by the AIDS advisory council of the state department of health concerning dangerous communicable diseases that are sexually transmitted.

(b) Written information and videotaped information distributed by each clerk of the circuit court under subsection (a) must provide current information on human immunodeficiency virus (HIV) infection and other dangerous communicable diseases that are sexually transmitted. The information must include an explanation of the following:

- (1) The etiology of dangerous communicable diseases that are sexually transmitted.
- (2) The behaviors that create a high risk of transmission of such diseases.
- (3) Precautionary measures that reduce the risk of contracting such diseases.
- (4) The necessity for consulting medical specialists if infection is suspected.

(c) At the time of application for a marriage license, each clerk of the circuit court shall:

- (1) provide the marriage license applicants with written information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted; or
- (2) show the marriage license applicants videotaped information furnished under subsection (a) concerning dangerous communicable diseases that are sexually transmitted.

(d) In addition to the information provided to marriage license applicants under subsection (c), each clerk of the circuit court shall inform each marriage license applicant that the applicant may be tested on a voluntary basis for human immunodeficiency virus (HIV) infection by the applicant's private physician or at another testing site. The clerk shall provide the marriage applicants with a list of testing sites in the community.

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(e) An applicant who objects to the written information or videotaped information on religious grounds is not required to receive the information.

(f) If materials required by this section are not prepared by other sources, the state department of health shall:

- (1) prepare the materials; **and**
- (2) **post the materials on the state department of health's web site in a format that allows the clerk of the circuit court to print and distribute the materials.**

(g) ~~The provider of the materials is responsible for all costs involved in the development, preparation, and distribution of the information required by this section. Except for the materials developed by the state, the state and county are not liable for the costs of materials used to implement this section and section 4 of this chapter."~~

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 175 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 175 be amended to read as follows:

Page 5, delete lines 17 through 19, begin a new line block indented and insert:

- "(3) Collect from a food establishment that:**
- (A) is located on state property;**
 - (B) is inspected by the state department under this chapter; and**
 - (C) fails the inspection;**
- a reasonable fee for a subsequent inspection that results from the food establishment's failure of the inspection under clause (B)."**

Page 5, between lines 26 and 27, begin a new paragraph and insert:

- "(d) The state department shall adopt rules to do the following:**
- (1) Establish the amount of the fee to be collected under subsection (a)(3) for the subsequent inspection of a food establishment.**



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(2) Set forth the occurrences that result in a food establishment's failure of an inspection and initiate the subsequent inspection process."

(Reference is to SB 175 as printed January 15, 2010.)

MILLER

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 175, 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 2, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 16-20-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. ~~(a) Except as provided in subsection (b); the local health officer or the officer's designee may enter upon and inspect private property; at proper times after due notice; in regard to the possible presence, source, and cause of disease. The local health officer or designee may order what is reasonable and necessary for prevention and suppression of disease and in all reasonable and necessary ways protect the public health.~~

(a) Upon showing official identification and having the consent of the owner or occupant of a premises, a local health officer or the local health officer's designee may enter the premises at any reasonable time to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules.

(b) If a local health officer or the local health officer's designee does not obtain consent under subsection (a), the local health officer or the local health officer's designee may seek from a circuit or superior court in the jurisdiction where the premises are located an order authorizing the investigation, evaluation, inspection, testing, or taking of specimens or samples for testing.

(c) A court referred to in subsection (b) may authorize an order to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing after finding that the local health officer or local health officer's designee, upon oath or affirmation, provided reliable information establishing the violation of a public health law or rule at the premises.

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(d) If a condition poses an imminent and serious threat to the health of an individual or the public and the local health officer or the health officer's designee believes that the delay could result in a greater health risk, the local health officer or the health officer's designee may enter the affected premises to inspect, investigate, and evaluate the conditions on the premises without obtaining consent under subsection (a) or an order under subsection (b).

(e) A local health officer or the health officer's designee may enter:

- (1) a public place; and
- (2) an area in plain or open view;

to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules without obtaining consent under subsection (a) or an order under subsection (b).

(f) Consistent with the terms and condition of a license issued by a local health department or a health and hospital corporation, a local health officer or the local health officer's designee may enter a premises at any reasonable time to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing that may be reasonably necessary to determine compliance with public health laws and rules and the terms and conditions of the license.

~~(b)~~ (g) However, a local health officer, or a person acting under the local health officer, shall not inspect property in which the local health officer has any interest, whether real, equitable, or otherwise. Any such inspection or any attempt to make such inspection is grounds for removal as provided for in this article.

~~(c)~~ (h) This section does not prevent inspection of premises in which a local health officer has an interest if the premises cannot otherwise be inspected. ~~If the premises cannot otherwise be inspected, the county health officer shall inspect the premises personally.~~

SECTION 4. IC 16-20-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) A local board of health or local health officer may enforce the board's or officer's orders, citations, and administrative notices by an action in the circuit or superior court. ~~In the action, The court may enforce~~ **take any appropriate action in a proceeding under this section, including any of the order by following:**

- (1) Issuing an injunction.
- (2) Entering a judgment.
- (3) Issuing an order and conditions under IC 16-41-9.
- (4) Ordering the suspension or revocation of a license.

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- (5) **Ordering an inspection.**
- (6) **Ordering that a property be vacated.**
- (7) **Ordering that a structure be demolished.**
- (8) **Imposing a penalty not to exceed the amount set forth in IC 36-1-3-8(a)(10).**
- (9) **Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.**
- (10) **Ordering the respondent to take appropriate action to comply with the order of the local board of health or local health officer within a specified time.**
- (11) **Ordering a local board of health or local health officer to take appropriate action to enforce the board's or officer's order within a specified time.**

(b) The county attorney in which a local board of health or local health officer has jurisdiction shall represent the local health board and local health officer in the action unless the county executive, **local board of health, or health and hospital corporation** employs other legal counsel or the matter has been referred through law enforcement authorities to the prosecuting attorney."

- Page 2, line 16, strike "2011," and insert "**2012**,".
- Page 2, line 19, strike "2011," and insert "**2012**,".
- Page 3, delete lines 30 through 42.
- Page 4, delete lines 1 through 2.
- Page 5, delete lines 10 through 38.
- Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 175 as reprinted January 27, 2010.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 175 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-5-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

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Chapter 12. Prohibition on Smoking

Sec. 1. As used in this chapter, "public place" means an enclosed area in which the public is invited or permitted.

Sec. 2. As used in this chapter, "smoking" means the:

- (1) carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment; or
- (2) inhalation or exhalation of smoke from lighted smoking equipment.

Sec. 3. (a) Except as provided in section 4 of this chapter, smoking is prohibited in the following:

- (1) A public place.
- (2) Enclosed areas of a place of employment.
- (3) A vehicle owned, leased, or operated by the state if the vehicle is being used for a governmental function.

(b) An employer shall inform each of the employer's employees and prospective employees of the smoking prohibition in the place of employment.

(c) An owner, an operator, a manager, or another individual with authority shall remove ashtrays or other smoking paraphernalia from areas where smoking is prohibited under this chapter.

Sec. 4. (a) Notwithstanding section 3(a) of this chapter, the following facilities may allow smoking:

- (1) A horse racing facility that is operated under a permit issued under IC 4-31-5.
- (2) A riverboat (as defined in IC 4-33-2-17) that is operated under a license issued under IC 4-33-6 or a contract as an operating agent under IC 4-33-6.5.
- (3) A facility that operates under a gambling game license under IC 4-35-5.
- (4) A satellite facility that is licensed under IC 4-31-5.5.

(b) The official in charge of a facility that allows smoking under this section shall post a conspicuous sign at each public entrance of the facility stating that the facility is a smoking facility.

Sec. 5. The commission shall enforce this chapter. The commission may inspect premises that are subject to this chapter to ensure that the person responsible for the premises is in compliance with this chapter.

Sec. 6. (a) The official in charge of a public place shall do the following:

- (1) Post conspicuous signs that read "Smoking Is Prohibited By State Law" or other similar language.

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(2) Request an individual who is smoking in violation of this chapter to refrain from smoking.

(3) Remove an individual who is smoking in violation of this chapter and fails to refrain from smoking after being requested to do so.

(b) The proprietor of a restaurant shall post conspicuous signs at each entrance to the restaurant, informing the public that smoking is prohibited in the establishment.

Sec. 7. A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) prior unrelated judgments for a violation of this chapter.

Sec. 8. An owner, manager, or operator of a public place or place of employment that fails to comply with this chapter commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) prior unrelated judgments for a violation under this chapter.

Sec. 9. This chapter does not prohibit a county, city, town, or other governmental unit from adopting an ordinance more restrictive than this chapter.

SECTION 2. IC 12-7-2-178.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 178.8. "Smoking", for purposes of IC 12-24-2-8, has the meaning set forth in ~~IC 16-41-37-3~~. IC 7.1-5-12-2.

SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Notwithstanding IC 12-27-3-3, the superintendent of a state institution has complete authority to regulate smoking (as defined in ~~IC 16-41-37-3~~) IC 7.1-5-12-2) within the state institution.

(b) A physician licensed under IC 25-22.5 may prescribe nicotine as is medically necessary for a resident of a state institution.

SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.101-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) "Agency", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-2.

(b) "Agency", for purposes of IC 16-40-5, has the meaning set forth in IC 16-40-5-1.

(c) "Agency", for purposes of ~~IC 16-41-37~~, has the meaning set forth in ~~IC 16-41-37-1~~."

Page 5, between lines 33 and 34, begin a new paragraph and insert: "SECTION 11. IC 16-41-37-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A person who smokes (as defined in IC 7.1-5-12-2)

(1) in a public building, except in an area designated as a smoking area under section 5 of this chapter;

(2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor;

(3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor;

or

(4) in a school bus during a school week or while the school bus is being used for a purpose described in section 2.3(3) of this chapter commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section that are accrued within the twelve (12) months immediately preceding the violation."

Page 8, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 16-18-2-298; IC 16-18-2-318.1; IC 16-18-2-332; IC 16-41-37-1; IC 16-41-37-2; IC 16-41-37-3; IC 16-41-37-3.1; IC 16-41-37-5; IC 16-41-37-6; IC 16-41-37-7; IC 16-41-37-8."

Re-number all SECTIONS consecutively.

(Reference is to ESB 175 as printed February 22, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 175 be amended to read as follows:

Page 5, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 7. IC 16-37-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

(c) Notwithstanding subsection (a), a person who:

(1) is licensed under IC 25 in a profession listed in section 3.1(c) of this chapter; and

(2) recklessly violates or fails to comply with this chapter;

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is subject to sanctions under IC 25-1-9 following a hearing by the appropriate licensing board."

Renumber all SECTIONS consecutively.

(Reference is to ESB 175 as printed February 22, 2010.)

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