



April 1, 2011

**ENGROSSED
SENATE BILL No. 411**

DIGEST OF SB 411 (Updated March 31, 2011 9:38 am - DI 96)

Citations Affected: IC 10-14; IC 34-28.

Synopsis: Disclosure of firearm or ammunition information. Provides that a civil action may be brought against a public or private employer that has: (1) required an applicant for employment or an employee to disclose information under certain circumstances about whether the applicant or employee owns, possesses, uses, or transports a firearm or ammunition; or (2) conditioned employment, or any rights, benefits, privileges, or opportunities offered by the employment, upon an agreement that the applicant for employment or the employee forgo the otherwise lawful ownership, possession, storage, transportation, or use of a firearm or ammunition. Provides that a governmental entity may not restrict the possession of a firearm at a person's residence during a declared emergency.

Effective: July 1, 2011.

Nugent, Tomes

(HOUSE SPONSORS — EBERHART, BURTON, CHEATHAM)

January 11, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 27, 2011, amended, reported favorably — Do Pass.

February 3, 2011, read second time, ordered engrossed. Engrossed.

February 8, 2011, read third time, passed. Yeas 38, nays 10.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

March 31, 2011, reported — Do Pass.

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April 1, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

**ENGROSSED
SENATE BILL No. 411**



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

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

1 SECTION 1. IC 10-14-3-33.5, AS ADDED BY P.L.90-2010,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 33.5. (a) Except as provided in subsection (b), the
4 state, a political subdivision, or any other person may not prohibit or
5 restrict the lawful possession, transfer, sale, transportation, storage,
6 display, or use of firearms or ammunition during:
7 (1) a disaster emergency;
8 (2) an energy emergency; or
9 (3) a local disaster emergency;
10 declared under this chapter.
11 (b) Subsection (a) does not authorize the possession, transfer, sale,
12 transportation, storage, display, or use of firearms or ammunition
13 during an emergency described in subsection (a):
14 (1) in or on school property, in or on property that is being used
15 by a school for a school function, or on a school bus in violation
16 of IC 20-33-8-16 or IC 35-47-9-2;
17 (2) on the property of:

ES 411—LS 6743/DI 96+



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- 1 (A) a child caring institution;
- 2 (B) an emergency shelter care child caring institution;
- 3 (C) a private secure facility;
- 4 (D) a group home; or
- 5 (E) an emergency shelter care group home;
- 6 in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465
- 7 IAC 2-11-80, 465 IAC 2-12-78, or 465 IAC 2-13-77;
- 8 (3) on the property of a penal facility (as defined in
- 9 IC 35-41-1-21);
- 10 (4) in violation of federal law;
- 11 (5) in or on property belonging to an approved postsecondary
- 12 educational institution (as defined in IC 21-7-13-6(b));
- 13 (6) on the property of a domestic violence shelter; **or**
- 14 ~~(7) at a person's residence; or~~
- 15 ~~(8) (7) on property owned, operated, controlled, or used by an~~
- 16 ~~entity that:~~

- 17 (A) is required to:
- 18 (i) conduct a vulnerability assessment; and
- 19 (ii) develop and implement a site security plan;
- 20 under the United States Department of Homeland Security's
- 21 Chemical Facility Anti-Terrorism Standards issued April 9,
- 22 2007; or
- 23 (B) is required to have a security plan under the Maritime
- 24 Transportation Security Act of 2002, Public Law 107-295.

25 SECTION 2. IC 34-28-8 IS ADDED TO THE INDIANA CODE AS
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2011]:

28 **Chapter 8. Disclosure of Firearm or Ammunition Information**
 29 **as a Condition of Employment**

30 **Sec. 1. As used in this chapter, "firearm" has the meaning set**
 31 **forth in IC 35-47-1-5.**

32 **Sec. 2. As used in this chapter, "political subdivision" has the**
 33 **meaning set forth in IC 36-1-2-13.**

34 **Sec. 3. As used in this chapter, "private employer" means:**

- 35 (1) an individual;
- 36 (2) a partnership;
- 37 (3) a firm;
- 38 (4) an association;
- 39 (5) a corporation; or
- 40 (6) a nonprofit organization;

41 **that employs or offers to employ one (1) or more individuals in**
 42 **Indiana.**

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Sec. 4. As used in this chapter, "public employer" means:
(1) the state; or
(2) a political subdivision;
including, but not limited to, a department, agency, board, commission, institution, authority, or instrumentality of the state or a political subdivision.

Sec. 5. As used in this chapter, "public official" means an elected or appointed official in the executive, legislative, or judicial branch of the state or a political subdivision, as well as an individual acting on behalf of a public employer, whether temporarily or permanently, including but not limited to, members of boards, committees, commissions, authorities, and other instrumentalities of the state or a political subdivision.

Sec. 6. A public or private employer doing business in Indiana may not:

- (1) require an applicant for employment or an employee to disclose information about whether the applicant or employee owns, possesses, uses, or transports a firearm or ammunition, unless the disclosure concerns the possession, use, or transportation of a firearm or ammunition that is used in fulfilling the duties of the employment of the individual; or**
 - (2) condition employment, or any rights, benefits, privileges, or opportunities offered by the employment, upon an agreement that the applicant for employment or the employee forego the:**
 - (A) rights of the applicant or employee under this chapter; or**
 - (B) otherwise lawful:**
 - (i) ownership;**
 - (ii) possession;**
 - (iii) storage;**
 - (iv) transportation; or**
 - (v) use;**
- of a firearm or ammunition.**

Sec. 7. (a) An individual aggrieved by what the individual believes is a violation of section 6 of this chapter may bring a civil action in a court with jurisdiction against a public or private employer or a public official that is alleged to have violated section 6 of this chapter.

(b) If a person is found by a court in an action brought under subsection (a) to have violated section 6 of this chapter, the court may do the following:

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1 **(1) Award:**
2 **(A) actual damages;**
3 **(B) court costs and attorney's fees; and**
4 **(C) in the case of a knowing and willful violation,**
5 **exemplary or punitive damages;**
6 **to the prevailing plaintiff.**
7 **(2) Enjoin further violations of this chapter.**
8 **Sec. 8. IC 34-13-3 does not apply whenever:**
9 **(1) a public employer or public official is sued for civil**
10 **damages; and**
11 **(2) the civil action arises out of a violation of section 6 of this**
12 **chapter.**
13 **Sec. 9. Notwithstanding section 6 of this chapter, this chapter**
14 **does not prohibit a public or private employer from:**
15 **(1) regulating or prohibiting the possession or carrying of a**
16 **firearm by an employee during and in the course of the duties**
17 **of the employee on behalf of the employer or while on the**
18 **property of the employer; or**
19 **(2) enforcing a regulation or prohibition adopted under**
20 **subdivision (1).**
21 **However, a regulation or prohibition adopted under subdivision (1)**
22 **may not apply to a firearm stored or transported in accordance**
23 **with IC 34-28-7.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 411, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-14-3-33.5, AS ADDED BY P.L.90-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 33.5. (a) Except as provided in subsection (b), the state, a political subdivision, or any other person may not prohibit or restrict the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during:

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

declared under this chapter.

(b) Subsection (a) does not authorize the possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during an emergency described in subsection (a):

- (1) in or on school property, in or on property that is being used by a school for a school function, or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9-2;
- (2) on the property of:
 - (A) a child caring institution;
 - (B) an emergency shelter care child caring institution;
 - (C) a private secure facility;
 - (D) a group home; or
 - (E) an emergency shelter care group home;
 in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, or 465 IAC 2-13-77;
- (3) on the property of a penal facility (as defined in IC 35-41-1-21);
- (4) in violation of federal law;
- (5) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));
- (6) on the property of a domestic violence shelter; **or**
- ~~(7) at a person's residence; or~~
- ~~(8) (7) on property owned, operated, controlled, or used by an entity that:~~
 - (A) is required to:

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- (i) conduct a vulnerability assessment; and
- (ii) develop and implement a site security plan; under the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued April 9, 2007; or
- (B) is required to have a security plan under the Maritime Transportation Security Act of 2002, Public Law 107-295."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 411 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 411, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 11, nays 1.

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