

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 292**

Citations Affected: IC 14-22-31.5-5; IC 35-47.

Synopsis: Preemption of local firearm regulation. Conference committee report for ESB 292. Prohibits, with certain exceptions, a political subdivision from regulating: (1) firearms, ammunition, and firearm accessories; (2) the ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories; and (3) commerce in and taxation of firearms, firearm ammunition, and firearm accessories. Allows a person to file an action against a political subdivision if the person is adversely affected by an ordinance, a measure, an enactment, a rule, or a policy of the political subdivision that violates the law. Repeals a conflicting statute concerning local regulation of firearms. **(This conference committee report does the following: (1) Specifies a political subdivision may not regulate: (A) firearms, ammunition, and firearm accessories; (B) the ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories; and (C) commerce in and taxation of firearms, firearm ammunition, and firearm accessories. (2) Removes: (A) references to "lawful discharge"; and (B) an exception concerning a city or town enacting or enforcing a provision prohibiting or restricting the lawful discharge of a firearm at a shooting range located within the boundaries of the city or town or a consolidated city from enacting or enforcing a provision prohibiting or restricting the lawful discharge of a firearm at a shooting range located within the territory of the consolidated city that comprised the first class city before it became a consolidated city. (3) Specifies that a unit that prohibits or restricts the possession of a firearm in a building owned or administered by the unit by locating metal detection devices at each public entrance to the building: (A) must have at least one law enforcement officer at each public entrance who has been adequately trained to conduct inspections of persons entering the building; and (B) may not prohibit or restrict the possession of a handgun in the building by a person who has been issued a valid license to carry the handgun.)**

Effective: July 1, 2011.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 292 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 14-22-31.5-5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. Except as
4 specifically prohibited by this chapter **and subject to IC 35-47-11.1**,
5 a local unit of government may regulate the location, use, operation,
6 safety, and construction of a shooting range.
7 SECTION 2. IC 35-47-1-2.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2011]: **Sec. 2.5. "Ammunition", for purposes of IC 35-47-11.1,**
10 **means:**
11 **(1) fixed cartridge ammunition;**
12 **(2) shotgun shells;**
13 **(3) the individual components of fixed cartridge ammunition**
14 **and shotgun shells;**
15 **(4) projectiles for muzzle loading firearms; and**
16 **(5) any propellant used in a firearm or in firearm**
17 **ammunition.**
18 SECTION 3. IC 35-47-1-5.1 IS ADDED TO THE INDIANA CODE
19 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2011]: **Sec. 5.1. "Firearm accessory" means:**
21 **(1) any device specifically adapted to enable:**
22 **(A) the wearing or carrying about one's person; or**

- 1 **(B) the storage or mounting in or on any conveyance;**
 2 **of a firearm; and**
 3 **(2) any attachment or device specifically adapted to be**
 4 **inserted into or affixed onto any firearm to enable, alter, or**
 5 **improve the functioning or capabilities of the firearm.**
 6 SECTION 4. IC 35-47-11.1 IS ADDED TO THE INDIANA CODE
 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2011]:
 9 **Chapter 11.1. Local Regulation of Firearms, Ammunition, and**
 10 **Firearm Accessories**
 11 **Sec. 1. This chapter applies to a political subdivision (as defined**
 12 **in IC 3-5-2-38).**
 13 **Sec. 2. Except as provided in section 4 of this chapter, a political**
 14 **subdivision may not regulate:**
 15 **(1) firearms, ammunition, and firearm accessories;**
 16 **(2) the ownership, possession, carrying, transportation,**
 17 **registration, transfer, and storage of firearms, ammunition,**
 18 **and firearm accessories; and**
 19 **(3) commerce in and taxation of firearms, firearm**
 20 **ammunition, and firearm accessories.**
 21 **Sec. 3. Any provision of an ordinance, measure, enactment, rule,**
 22 **or policy or exercise of proprietary authority of a political**
 23 **subdivision or of an employee or agent of a political subdivision**
 24 **acting in an official capacity:**
 25 **(1) enacted or undertaken before, on, or after June 30, 2011;**
 26 **and**
 27 **(2) that pertains to or affects the matters listed in section 2 of**
 28 **this chapter;**
 29 **is void.**
 30 **Sec. 4. This chapter may not be construed to prevent any of the**
 31 **following:**
 32 **(1) A law enforcement agency of a political subdivision from**
 33 **enacting and enforcing regulations pertaining to firearms,**
 34 **ammunition, or firearm accessories issued to or used by law**
 35 **enforcement officers in the course of their official duties.**
 36 **(2) Subject to IC 34-28-7-2, an employer from regulating or**
 37 **prohibiting the employees of the employer from carrying**
 38 **firearms and ammunition in the course of the employee's**
 39 **official duties.**
 40 **(3) A court or administrative law judge from hearing and**
 41 **resolving any case or controversy or issuing any opinion or**
 42 **order on a matter within the jurisdiction of the court or**
 43 **judge.**
 44 **(4) The enactment or enforcement of generally applicable**
 45 **zoning or business ordinances that apply to firearms**
 46 **businesses to the same degree as other similar businesses.**
 47 **However, a provision of an ordinance that is designed or**
 48 **enforced to effectively restrict or prohibit the sale, purchase,**
 49 **transfer, manufacture, or display of firearms, ammunition, or**
 50 **firearm accessories that is otherwise lawful under the laws of**
 51 **this state is void. A unit (as defined in IC 36-1-2-23) may not**

- 1 use the unit's planning and zoning powers under IC 36-7-4 to
2 prohibit the sale of firearms within a prescribed distance of
3 any other type of commercial property or of school property
4 or other educational property.
- 5 (5) The enactment or enforcement of a provision prohibiting
6 or restricting the possession of a firearm in any building that
7 contains the courtroom of a circuit, superior, city, town, or
8 small claims court. However, if a portion of the building is
9 occupied by a residential tenant or private business, any
10 provision restricting or prohibiting the possession of a firearm
11 does not apply to the portion of the building that is occupied
12 by the residential tenant or private business, or to common
13 areas of the building used by a residential tenant or private
14 business.
- 15 (6) The enactment or enforcement of a provision prohibiting
16 or restricting the intentional display of a firearm at a public
17 meeting.
- 18 (7) The enactment or enforcement of a provision prohibiting
19 or restricting the possession of a firearm in a public hospital
20 corporation that contains a secure correctional health unit
21 that is staffed by a law enforcement officer twenty-four (24)
22 hours a day.
- 23 (8) The imposition of any restriction or condition placed on a
24 person participating in:
- 25 (A) a community corrections program (IC 11-12-1);
26 (B) a forensic diversion program (IC 11-12-3.7); or
27 (C) a pretrial diversion program (IC 33-39-1).
- 28 (9) The enforcement or prosecution of the offense of criminal
29 recklessness (IC 35-42-2-2) involving the use of a firearm.
- 30 (10) For an event occurring on property leased from a
31 political subdivision or municipal corporation by the
32 promoter or organizer of the event:
- 33 (A) the establishment, by the promoter or organizer, at the
34 promoter's or organizer's own discretion, of rules of
35 conduct or admission upon which attendance at or
36 participation in the event is conditioned; or
37 (B) the implementation or enforcement of the rules of
38 conduct or admission described in clause (A) by a political
39 subdivision or municipal corporation in connection with
40 the event.
- 41 (11) The enactment or enforcement of a provision prohibiting
42 or restricting the possession of a firearm in a hospital
43 established and operated under IC 16-22-2 or IC 16-23.
- 44 (12) A unit from using the unit's planing and zoning powers
45 under IC 36-7-4 to prohibit the sale of firearms within two
46 hundred (200) feet of a school by a person having a business
47 that did not sell firearms within two hundred (200) feet of a
48 school before April 1, 1994.
- 49 (13) A unit (as defined in IC 36-1-2-23) from enacting or
50 enforcing a provision prohibiting or restricting the possession
51 of a firearm in a building owned or administered by the unit

- 1 **if:**
 2 **(A) metal detection devices are located at each public**
 3 **entrance to the building;**
 4 **(B) each public entrance to the building is staffed by at**
 5 **least one (1) law enforcement officer:**
 6 **(i) who has been adequately trained to conduct**
 7 **inspections of persons entering the building by use of**
 8 **metal detection devices and proper physical pat down**
 9 **searches; and**
 10 **(ii) when the building is open to the public; and**
 11 **(C) each:**
 12 **(i) individual who enters the building through the public**
 13 **entrance when the building is open to the public; and**
 14 **(ii) bag, package, and other container carried by the**
 15 **individual;**
 16 **is inspected by a law enforcement officer described in**
 17 **clause (B).**

18 **However, except as provided in subdivision (5) concerning a**
 19 **building that contains a courtroom, a unit may not prohibit or**
 20 **restrict the possession of a handgun under this subdivision in**
 21 **a building owned or administered by the unit if the person**
 22 **who possesses the handgun has been issued a valid license to**
 23 **carry the handgun under IC 35-47-2.**

24 **Sec. 5. A person adversely affected by an ordinance, a measure,**
 25 **an enactment, a rule, or a policy adopted or enforced by a political**
 26 **subdivision that violates this chapter may file an action in a court**
 27 **with competent jurisdiction against the political subdivision for:**

- 28 **(1) declarative and injunctive relief; and**
 29 **(2) actual and consequential damages attributable to the**
 30 **violation.**

31 **Sec. 6. A person is "adversely affected" for purposes of section**
 32 **5 of this chapter if either of the following applies:**

33 **(1) The person is an individual who meets all of the following**
 34 **requirements:**

35 **(A) The individual lawfully resides within the United**
 36 **States.**

37 **(B) The individual may legally possess a firearm under the**
 38 **laws of Indiana.**

39 **(C) The individual is or was subject to the ordinance,**
 40 **measure, enactment, rule, or policy of the political**
 41 **subdivision that is the subject of an action filed under**
 42 **section 5 of this chapter. An individual is or was subject to**
 43 **the ordinance, measure, enactment, rule, or policy of the**
 44 **political subdivision if the individual is or was physically**
 45 **present within the boundaries of the political subdivision**
 46 **for any reason.**

47 **(2) The person is a membership organization that:**

48 **(A) includes two (2) or more individuals described in**
 49 **subdivision (1); and**

50 **(B) is dedicated in whole or in part to protecting the rights**
 51 **of persons who possess, own, or use firearms for**

1 **competitive, sporting, defensive, or other lawful purposes.**
2 **Sec. 7. A prevailing plaintiff in an action under section 5 of this**
3 **chapter is entitled to recover from the political subdivision the**
4 **following:**
5 **(1) The greater of the following:**
6 **(A) Actual damages, including consequential damages.**
7 **(B) Liquidated damages of three (3) times the plaintiff's**
8 **attorney's fees.**
9 **(2) Court costs (including fees).**
10 **(3) Reasonable attorney's fees.**
11 SECTION 5. IC 35-47-11 IS REPEALED [EFFECTIVE JULY 1,
12 2011]
 (Reference is to ESB 292 as reprinted April 18, 2011.)

Conference Committee Report
on
Engrossed Senate Bill 292

Signed by:

Senator Hershman
Chairperson

Representative Torr

Senator Hume

Representative Goodin

Senate Conferees

House Conferees