
SENATE BILL No. 505

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-2-1; IC 1-1.5.

Synopsis: Applicability of federal law in Indiana. Provides that any federal act, order, law, rule, regulation, or statute found by the general assembly to be inconsistent with the power granted to the federal government in the Constitution of the United States is void in Indiana. Provides that a resident of Indiana has a cause of action to enjoin the enforcement or implementation or the attempted enforcement or implementation of a federal act, order, law, rule, regulation, or statute declared void by the general assembly. Provides that a plaintiff who prevails in such an action is entitled to reasonable attorney fees and costs. Finds that the federal Patient Protection and Affordable Care Act and the federal Health Care and Education Reconciliation Act of 2010 are inconsistent with the power granted to the federal government in the Constitution of the United States.

Effective: Upon passage.

Tomes, Kruse, Banks

January 18, 2011, read first time and referred to Committee on Judiciary.

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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.

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SENATE BILL No. 505



A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

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

1 SECTION 1. IC 1-1-2-1 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: Sec. 1. The law governing ~~this state~~
 3 **Indiana** is declared to be **the following**:
 4 ~~First:~~ **(1)** The Constitution of the United States and ~~the~~
 5 **Constitution** of ~~this state~~: **the State of Indiana**.
 6 ~~Second:~~ **(2)** All statutes of the **Indiana** general assembly ~~of the~~
 7 ~~state~~ in force, and not inconsistent with ~~such constitutions~~: **the**
 8 **Constitution of the United States and the Constitution of the**
 9 **State of Indiana**.
 10 ~~Third:~~ **(3)** All statutes of the United States in force, and relating
 11 to subjects over which congress has power to legislate. ~~for the~~
 12 ~~states and not A statute of the United States found~~ inconsistent
 13 with the Constitution of the United States **under IC 1-1.5 or**
 14 **other lawful authority is not law in Indiana**.
 15 ~~Fourth:~~ **(4)** The common law of England and statutes of the
 16 British Parliament made in aid ~~thereof~~ **of the common law of**
 17 **England**:



- 1 (A) prior to the fourth year of the reign of James the First
- 2 (except the second section of the sixth chapter of forty-third
- 3 Elizabeth, the eighth chapter of thirteenth Elizabeth, and the
- 4 ninth chapter of thirty-seventh Henry the Eighth); ~~and which~~
- 5 ~~are~~
- 6 (B) of a general nature **and** not local to that kingdom; and
- 7 (C) not inconsistent with the ~~first, second and third~~
- 8 ~~specifications of this section: law specified in subdivision (1),~~
- 9 ~~(2), or (3).~~

10 SECTION 2. IC 1-1.5 IS ADDED TO THE INDIANA CODE AS A
 11 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
 12 PASSAGE]:

13 **ARTICLE 1.5. INAPPLICABILITY OF CERTAIN FEDERAL**
 14 **LAW IN INDIANA**

15 **Chapter 1. Legislative Statements**

16 **Sec. 1. The general assembly finds the following:**

- 17 (1) The people of the several states comprising the United
- 18 States of America created the federal government to be their
- 19 agent for certain enumerated purposes as set forth in the
- 20 Constitution of the United States and for nothing more.
- 21 (2) The Tenth Amendment to the Constitution of the United
- 22 States defines the total scope of federal power as being that
- 23 which has been delegated by the people of the several states to
- 24 the federal government and all powers not delegated to the
- 25 federal government in the Constitution of the United States
- 26 are reserved to the states respectively, or to the people
- 27 themselves. Furthermore, as stated in the Ninth Amendment
- 28 of the Constitution of the United States: "The enumeration in
- 29 the Constitution, of certain rights, shall not be construed to
- 30 deny or disparage others retained by the people."

31 **Sec. 2. The general assembly finds that the power that the**
 32 **federal government has assumed by enacting the federal Patient**
 33 **Protection and Affordable Care Act (P.L.111-148) and the federal**
 34 **Health Care and Education Reconciliation Act of 2010**
 35 **(P.L.111-152):**

- 36 (1) is nowhere expressly granted by the Constitution of the
- 37 United States;
- 38 (2) interferes with the right of the people of Indiana to
- 39 regulate health care as they see fit; and
- 40 (3) is inconsistent with the power granted to the federal
- 41 government in the Constitution of the United States.

42 **Chapter 2. Status of Federal Law Found Inconsistent with the**

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1 **Power of Congress Defined in the Constitution of the United States**
2 **Sec. 1. As used in this chapter, "law" includes an act, a law, an**
3 **order, a rule, a regulation, or a statute.**
4 **Sec. 2. A federal law found in IC 1-1.5-1 to be inconsistent with**
5 **the power granted to the federal government in the Constitution of**
6 **the United States is void in Indiana.**
7 **Sec. 3. (a) A resident of Indiana has a private right of action to**
8 **enjoin the enforcement or implementation, or the attempted**
9 **enforcement or implementation, of a federal law declared void**
10 **under section 2 of this chapter.**
11 **(b) A plaintiff who prevails in an action brought under this**
12 **section is entitled to recover reasonable attorney's fees and costs of**
13 **the action.**
14 **SECTION 3. An emergency is declared for this act.**

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