

HOUSE BILL No. 1540

DIGEST OF INTRODUCED BILL

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

Synopsis: Preemption of local firearm regulation. Prohibits, with certain exceptions, a political subdivision from regulating any matter pertaining to firearms, ammunition, and firearm accessories. Allows a person to file an action against a political subdivision if the person is adversely affected by an ordinance, measure, enactment, rule, or policy of the political subdivision that violates the law.

Effective: July 1, 2011.

Speedy, Koch, Eberhart, Goodin

January 20, 2011, read first time and referred to Committee on Public Policy.

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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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HOUSE BILL No. 1540



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 14-22-31.5-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. Except as
3 specifically prohibited by this chapter **and subject to IC 35-47-11.1**,
4 a local unit of government may regulate the location, use, operation,
5 safety, and construction of a shooting range.

6 SECTION 2. IC 35-47-1-2.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2011]: **Sec. 2.5. "Ammunition", for purposes of IC 35-47-11.1,**
9 **means:**

- 10 (1) **fixed cartridge ammunition;**
- 11 (2) **shotgun shells;**
- 12 (3) **the individual components of fixed cartridge ammunition**
13 **and shotgun shells;**
- 14 (4) **projectiles for muzzle loading firearms; and**
- 15 (5) **any propellant used in a firearm or in firearm**
16 **ammunition.**

17 SECTION 3. IC 35-47-1-5.1 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2011]: **Sec. 5.1. "Firearm accessory" means:**

- 3 (1) any device specifically adapted to enable:
 - 4 (A) the wearing or carrying about one's person; or
 - 5 (B) the storage or mounting in or on any conveyance;
 - 6 of a firearm; and
- 7 (2) any attachment or device specifically adapted to be
 - 8 inserted into or affixed onto any firearm to enable, alter, or
 - 9 improve the functioning or capabilities of the firearm.

10 SECTION 4. IC 35-47-11.1 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2011]:

13 **Chapter 11.1. Local Regulation of Firearms, Ammunition, and**
14 **Firearm Accessories**

15 **Sec. 1. This chapter applies to a political subdivision (as defined**
16 **in IC 3-5-2-38).**

17 **Sec. 2. Except as provided in section 4 of this chapter, a political**
18 **subdivision may not regulate:**

- 19 (1) firearms, ammunition, and firearm accessories;
- 20 (2) the ownership, possession, use, discharge, carrying,
- 21 transportation, registration, transfer, and storage of firearms,
- 22 ammunition, and firearm accessories;
- 23 (3) commerce in and taxation of firearms, firearm
- 24 ammunition, and firearm accessories; and
- 25 (4) any other matter pertaining to or relating to firearms,
- 26 ammunition, and firearm accessories.

27 **Sec. 3. Any ordinance, measure, enactment, rule, policy, or**
28 **exercise of proprietary authority of a political subdivision or of an**
29 **employee or agent of a political subdivision acting in an official**
30 **capacity:**

- 31 (1) enacted or undertaken before, on, or after June 30, 2011;
- 32 and
- 33 (2) that pertains to or affects the matters listed in section 2 of
- 34 this chapter;

35 **is void.**

36 **Sec. 4. This chapter may not be construed to prevent:**

- 37 (1) a law enforcement agency of a political subdivision from
- 38 enacting and enforcing regulations pertaining to firearms,
- 39 ammunition, or firearm accessories issued to or used by law
- 40 enforcement officers in the course of their official duties;
- 41 (2) subject to IC 34-28-7-2, an employer from regulating or
- 42 prohibiting the employees of the employer from carrying

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- 1 firearms and ammunition in the course of the employee's
- 2 official duties;
- 3 (3) a court or administrative law judge from hearing and
- 4 resolving any case or controversy or issuing any opinion or
- 5 order on a matter within the jurisdiction of the court or
- 6 judge; or
- 7 (4) the enactment or enforcement of generally applicable
- 8 zoning or business ordinances that apply to firearms
- 9 businesses to the same degree as other businesses. However,
- 10 an ordinance that is designed or enforced to effectively
- 11 restrict or prohibit the sale, purchase, transfer, manufacture,
- 12 or display of firearms, ammunition, or firearm accessories
- 13 that is otherwise lawful under the laws of this state is void. A
- 14 unit (as defined in IC 36-1-2-23) may not use the unit's
- 15 planning and zoning powers under IC 36-7-4 to prohibit the
- 16 sale of firearms within a prescribed distance of any other type
- 17 of commercial property or of school property or other
- 18 educational property.

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

- 23 (1) declarative and injunctive relief; and
- 24 (2) actual and consequential damages attributable to the
- 25 violation.

26 **Sec. 6.** A person is "adversely affected" for purposes of section
 27 5 of this chapter if either of the following applies:

- 28 (1) The person is an individual who meets all of the following
- 29 requirements:
 - 30 (A) The individual lawfully resides within the United
 - 31 States.
 - 32 (B) The individual may legally possess a firearm under the
 - 33 laws of Indiana.
 - 34 (C) The individual is or was subject to the ordinance,
 - 35 measure, enactment, rule, or policy of the political
 - 36 subdivision that is the subject of an action filed under
 - 37 section 5 of this chapter. An individual is or was subject to
 - 38 the ordinance, measure, enactment, rule, or policy of the
 - 39 political subdivision if the individual is or was physically
 - 40 present within the boundaries of the political subdivision
 - 41 for any reason.
- 42 (2) The person is a membership organization that:

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1 (A) includes two (2) or more individuals described in
 2 subdivision (1); and
 3 (B) is dedicated in whole or in part to protecting the rights
 4 of persons who possess, own, or use firearms for
 5 competitive, sporting, defensive, or other lawful purposes.
 6 Sec. 7. A prevailing plaintiff in an action under section 5 of this
 7 chapter is entitled to recover from the political subdivision the
 8 following:
 9 (1) The greater of the following:
 10 (A) Actual damages, including consequential damages.
 11 (B) Liquidated damages of three (3) times the plaintiff's
 12 attorney's fees.
 13 (2) Court costs (including fees).
 14 (3) Reasonable attorney's fees.
 15 SECTION 5. IC 35-47-11 IS REPEALED [EFFECTIVE JULY 1,
 16 2011].

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