

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 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1256

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

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

SECTION 1. IC 35-44.1-3-5, AS ADDED BY P.L.126-2012, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, "juvenile facility" means the following:

- (1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.
- (2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) Except as provided in subsection (d), a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

- (1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;
- (2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; **or**
- (3) delivers, or carries to a worksite with the intent to deliver,

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alcoholic beverages to an inmate or child of a jail work crew or community work crew; or

~~(4) possesses in or carries into a penal facility or a juvenile facility:~~

~~(A) a controlled substance; or~~

~~(B) a deadly weapon;~~

commits trafficking with an inmate, a Class A misdemeanor. **However, the offense is a Class C felony under subdivision (1) or (2) if the article is a controlled substance, a deadly weapon, or a cellular telephone or other wireless or cellular communications device.**

(c) If:

(1) the person who committed the offense under subsection (b) is an employee of:

~~(1) (A) the department of correction; or~~

~~(2) (B) a penal facility;~~

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall ~~impose a mandatory order the person to pay a fine of at least five hundred dollars (\$500) and not more than five thousand dollar dollars (\$5,000) fine~~ under IC 35-50-3-2 in addition to any term of imprisonment imposed under IC 35-50-3-2; or

(2) a person is convicted of committing a Class C felony under subsection (b)(1) or (b)(2) because the article was a cellular telephone or other wireless or cellular communication device, the court shall order the person to pay a fine of at least five hundred dollars (\$500) and not more than ten thousand dollars (\$10,000) under IC 35-50-2-6(a) in addition to any term of imprisonment imposed on the person under IC 35-50-2-6(a).

(d) The offense under subsection (b) is a Class C felony if the article is:

~~(1) a controlled substance;~~

~~(2) A person who:~~

~~(1) is not an inmate of a penal facility or a child of a juvenile facility; and~~

~~(2) knowingly or intentionally possesses in, or carries or causes to be brought into, the penal facility or juvenile facility a deadly weapon or~~

~~(3) a cellular telephone or other wireless or cellular communications device: without the prior authorization of the person in charge of the penal facility or juvenile facility;~~

commits a Class D felony.

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SECTION 2. IC 35-44.1-3-8, AS ADDED BY P.L.126-2012, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A person who knowingly or intentionally possesses a cellular telephone or other wireless or cellular communications device while incarcerated in a ~~county jail~~ **penal facility** commits a Class A misdemeanor.

SECTION 3. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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