

# HOUSE BILL No. 1256

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-44.1-3.

**Synopsis:** Cellular telephones in penal facilities. Requires a court to impose a fine of at least \$5,000 on a person who is convicted of committing trafficking with an inmate involving a cellular telephone or other wireless or cellular communications device as a Class C felony. Makes it a Class A misdemeanor for a person to knowingly or intentionally possess a cellular telephone or other wireless or cellular communications device while incarcerated in any penal facility.

**Effective:** July 1, 2013.

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January 14, 2013, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 118th General Assembly (2013)

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.

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# HOUSE BILL No. 1256



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 35-44.1-3-5, AS ADDED BY P.L.126-2012,  
2 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 5. (a) As used in this section, "juvenile facility"  
4 means the following:  
5 (1) A secure facility (as defined in IC 31-9-2-114) in which a  
6 child is detained under IC 31 or used for a child awaiting  
7 adjudication or adjudicated under IC 31 as a child in need of  
8 services or a delinquent child.  
9 (2) A shelter care facility (as defined in IC 31-9-2-117) in which  
10 a child is detained under IC 31 or used for a child awaiting  
11 adjudication or adjudicated under IC 31 as a child in need of  
12 services or a delinquent child.  
13 (b) Except as provided in subsection (d), a person who, without the  
14 prior authorization of the person in charge of a penal facility or juvenile  
15 facility knowingly or intentionally:  
16 (1) delivers, or carries into the penal facility or juvenile facility  
17 with intent to deliver, an article to an inmate or child of the



1 facility;  
 2 (2) carries, or receives with intent to carry out of the penal facility  
 3 or juvenile facility, an article from an inmate or child of the  
 4 facility;  
 5 (3) delivers, or carries to a worksite with the intent to deliver,  
 6 alcoholic beverages to an inmate or child of a jail work crew or  
 7 community work crew; or  
 8 (4) possesses in or carries into a penal facility or a juvenile  
 9 facility:  
 10 (A) a controlled substance; or  
 11 (B) a deadly weapon;  
 12 commits trafficking with an inmate, a Class A misdemeanor.  
 13 (c) If the person who committed the offense under subsection (b) is  
 14 an employee of:  
 15 (1) the department of correction; or  
 16 (2) a penal facility;  
 17 and the article is a cigarette or tobacco product (as defined in  
 18 IC 6-7-2-5), the court shall impose a mandatory five thousand dollar  
 19 (\$5,000) fine under IC 35-50-3-2, in addition to any term of  
 20 imprisonment imposed under IC 35-50-3-2.  
 21 (d) The offense under subsection (b) is a Class C felony if the article  
 22 is:  
 23 (1) a controlled substance;  
 24 (2) a deadly weapon; or  
 25 (3) a cellular telephone or other wireless or cellular  
 26 communications device.  
 27 **The court shall order a person convicted of a Class C felony under**  
 28 **subdivision (3) to pay a fine of at least five thousand dollars**  
 29 **(\$5,000) under IC 35-50-2-6(a) in addition to any term of**  
 30 **imprisonment imposed on the person under IC 35-50-2-6(a).**  
 31 SECTION 2. IC 35-44.1-3-8, AS ADDED BY P.L.126-2012,  
 32 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2013]: Sec. 8. A person who knowingly or intentionally  
 34 possesses a cellular telephone or other wireless or cellular  
 35 communications device while incarcerated in a ~~county jail~~ **penal**  
 36 **facility** commits a Class A misdemeanor.

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