

IC 35-46

ARTICLE 46. MISCELLANEOUS OFFENSES

IC 35-46-1

Chapter 1. Offenses Against the Family

IC 35-46-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

- (1) The amendments made to section 12 of this chapter by P.L.145-2001 apply only to crimes committed after June 30, 2001.
- (2) The amendments made to section 15.1 of this chapter by P.L.280-2001 apply only to offenses committed after May 11, 2001.
- (3) The amendments made to section 9.5 of this chapter by P.L.61-2003 apply to an offense committed after June 30, 2003.
- (4) The amendments made to sections 4 and 8 of this chapter by P.L.46-2004 apply only to offenses committed after June 30, 2004.
- (5) The amendments made to section 9 of this chapter by P.L.130-2005 apply only to crimes committed after June 30, 2005.
- (6) The amendments made to section 4 of this chapter by P.L.26-2006 apply only to crimes committed after June 30, 2006.
- (7) The amendments made to section 4 of this chapter by P.L.15-2007 apply only to crimes committed after June 30, 2007.
- (8) The amendments made to section 4 of this chapter by P.L.109-2007 apply only to crimes committed after June 30, 2007.
- (9) The addition of sections 21 and 22 of this chapter by P.L.146-2007 applies only to crimes committed after June 30, 2007.

As added by P.L.220-2011, SEC.615.

IC 35-46-1-1

Definitions

Sec. 1. As used in this chapter:

"Dependent" means:

- (1) an unemancipated person who is under eighteen (18) years of age; or
- (2) a person of any age who has a mental or physical disability.

"Endangered adult" has the meaning set forth in IC 12-10-3-2.

"Support" means food, clothing, shelter, or medical care.

"Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise in which:

- (1) the primary activity is the sale of tobacco, tobacco products,

and tobacco accessories; and

(2) the sale of other products is incidental.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.84; P.L.185-1984, SEC.2; P.L.208-1986, SEC.1; P.L.41-1987, SEC.19; P.L.2-1992, SEC.881; P.L.256-1996, SEC.10; P.L.99-2007, SEC.210.

IC 35-46-1-1.3

"Dissolvable tobacco product"

Sec. 1.3. As used in this chapter, "dissolvable tobacco product" means a smokeless tobacco product that dissolves in the mouth of the user.

As added by P.L.10-2011, SEC.1.

IC 35-46-1-1.7

"Tobacco"

Sec. 1.7. As used in this chapter, "tobacco" includes:

- (1) chewing tobacco;
- (2) cigars, cigarettes, and snuff that contain tobacco;
- (3) pipe tobacco; and
- (4) a dissolvable tobacco product.

As added by P.L.318-1987, SEC.2. Amended by P.L.10-2011, SEC.2.

IC 35-46-1-2

Bigamy

Sec. 2. (a) A person who, being married and knowing that his spouse is alive, marries again commits bigamy, a Class D felony.

(b) It is a defense that the accused person reasonably believed that he was eligible to remarry.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.85.

IC 35-46-1-3

Incest

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or deviate sexual conduct with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Class C felony. However, the offense is a Class B felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise incestuous relation with the other person was based on their marriage, if it was valid where entered into.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.86; P.L.158-1987, SEC.5; P.L.79-1994, SEC.16.

IC 35-46-1-4

Neglect of a dependent; child selling

Sec. 4. (a) A person having the care of a dependent, whether

assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug); or

(ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug);

- (2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

- (3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

- (4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

- (1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

- (2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

- (1) under a court order made in connection with a proceeding

under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.87; Acts 1978, P.L.144, SEC.8; Acts 1980, P.L.208, SEC.1; Acts 1981, P.L.299, SEC.2; Acts 1981, P.L.301, SEC.3; P.L.1-1997, SEC.151; P.L.197-1999, SEC.6; P.L.133-2000, SEC.10; P.L.46-2004, SEC.1; P.L.26-2006, SEC.2; P.L.15-2007, SEC.1; P.L.109-2007, SEC.1.

IC 35-46-1-5

Nonsupport of a dependent child

Sec. 5. (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars (\$15,000).

(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.

(d) It is a defense that the accused person was unable to provide support.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.88; Acts 1978, P.L.144, SEC.9; P.L.213-1996, SEC.4; P.L.123-2001, SEC.4.

IC 35-46-1-6

Nonsupport of a spouse

Sec. 6. (a) A person who knowingly or intentionally fails to provide support to his spouse, when the spouse needs support, commits nonsupport of a spouse, a Class D felony.

(b) It is a defense that the accused person was unable to provide support.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.89; Acts 1978, P.L.144, SEC.10.

IC 35-46-1-7

Nonsupport of a parent

Sec. 7. (a) A person who knowingly or intentionally fails to provide support to his parent, when the parent is unable to support himself, commits nonsupport of a parent, a Class A misdemeanor.

(b) It is a defense that the accused person had not been supported by the parent during the time he was a dependent child under

eighteen (18) years of age, unless the parent was unable to provide support.

(c) It is a defense that the accused person was unable to provide support.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.90; Acts 1978, P.L.144, SEC.11.

IC 35-46-1-8

Contributing to the delinquency of a minor

Sec. 8. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is a Class C felony:

(1) if:

(A) the person committing the offense is at least twenty-one

(21) years of age and knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person committing the offense knew or reasonably should have known that the person furnished the alcoholic beverage was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) the consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

(A) IC 35-48-4-1.

(B) IC 35-48-4-1.1.

(C) IC 35-48-4-2.

(D) IC 35-48-4-3.

(E) IC 35-48-4-4.

(F) IC 35-48-4-4.5.

(G) IC 35-48-4-4.6.

(H) IC 35-48-4-5.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.91; Acts 1978, P.L.144, SEC.12; Acts 1979, P.L.276, SEC.58; P.L.216-1996, SEC.24; P.L.1-1997, SEC.152; P.L.46-2004, SEC.2; P.L.2-2005, SEC.126; P.L.1-2006, SEC.533; P.L.151-2006, SEC.18.

IC 35-46-1-9

Profiting from adoption

Sec. 9. (a) Except as provided in subsection (b), a person who, with respect to an adoption, transfers or receives any property in connection with the waiver of parental rights, the termination of parental rights, the consent to adoption, or the petition for adoption commits profiting from an adoption, a Class D felony.

(b) This section does not apply to the transfer or receipt of:

- (1) reasonable attorney's fees;
- (2) hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's birth mother;
- (3) reasonable charges and fees levied by a child placing agency licensed under IC 31-27 or the department of child services;
- (4) reasonable expenses for psychological counseling relating to adoption incurred by the adopted person's birth parents;
- (5) reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth;
- (6) reasonable costs of maternity clothing for the adopted person's birth mother;
- (7) reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption;
- (8) any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth, not listed in subdivisions (5) through (7) in an amount not to exceed one thousand dollars (\$1,000); or
- (9) other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:
 - (A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and
 - (B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician.

In determining the amount of reimbursable lost wages, if any, that are reasonably payable to the adopted person's birth mother under subdivision (9), the court shall offset against the reimbursable lost wages any amounts paid to the adopted person's birth mother under subdivisions (5) and (8) and any unemployment compensation received by or owed to the adopted person's birth mother.

(c) Except as provided in this subsection, payments made under subsection (b)(5) through (b)(9) may not exceed three thousand dollars (\$3,000) and must be disclosed to the court supervising the adoption. The amounts paid under subsection (b)(5) through (b)(9) may exceed three thousand dollars (\$3,000) to the extent that a court in Indiana with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:

(1) the expenses are not being offered as an inducement to proceed with an adoption; and

(2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the child and the direct relationship is documented by a licensed social worker or the attending physician.

(d) The payment limitation under subsection (c) applies to the total amount paid under subsection (b)(5) through (b)(9) in connection with an adoption from all prospective adoptive parents, attorneys, and licensed child placing agencies.

(e) An attorney or licensed child placing agency shall inform a birth mother of the penalties for committing adoption deception under section 9.5 of this chapter before the attorney or agency transfers a payment for adoption related expenses under subsection (b) in relation to the birth mother.

(f) The limitations in this section apply regardless of the state or country in which the adoption is finalized.

As added by Acts 1980, P.L.208, SEC.2. Amended by P.L.117-1990, SEC.6; P.L.2-1992, SEC.882; P.L.81-1992, SEC.39; P.L.1-1993, SEC.241; P.L.4-1993, SEC.326; P.L.5-1993, SEC.333; P.L.226-1996, SEC.1; P.L.200-1999, SEC.32; P.L.130-2005, SEC.14; P.L.145-2006, SEC.371; P.L.146-2007, SEC.18; P.L.146-2008, SEC.683.

IC 35-46-1-9.5

Adoption deception

Sec. 9.5. A person who is a birth mother, or a woman who holds herself out to be a birth mother, and who knowingly or intentionally benefits from adoption related expenses paid:

(1) when the person knows or should have known that the person is not pregnant;

(2) by or on behalf of a prospective adoptive parent who is unaware that at the same time another prospective adoptive parent is also paying adoption related expenses described under section 9(b) of this chapter in an effort to adopt the same child; or

(3) when the person does not intend to make an adoptive placement;

commits adoption deception, a Class A misdemeanor. In addition to any other penalty imposed under this section, a court may order the person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense.

As added by P.L.200-1999, SEC.33. Amended by P.L.61-2003, SEC.21; P.L.146-2007, SEC.19.

IC 35-46-1-10

Sale or distribution of tobacco to minors; defenses

Sec. 10. (a) A person who knowingly:

(1) sells or distributes tobacco to a person less than eighteen

(18) years of age; or
(2) purchases tobacco for delivery to another person who is less than eighteen (18) years of age;
commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

As added by Acts 1980, P.L.209, SEC.1. Amended by P.L.330-1983, SEC.1; P.L.318-1987, SEC.3; P.L.125-1988, SEC.4; P.L.177-1999, SEC.10; P.L.1-2001, SEC.37; P.L.204-2001, SEC.65; P.L.252-2003, SEC.17.

IC 35-46-1-10.1

Establishment's selling or furnishing alcoholic beverages to minors; civil penalties; defenses

Sec. 10.1. (a) If a permit holder or an agent or employee of a permit holder violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed against the permit holder as follows:

(1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200).

(2) If the licensed premises at that specific business location has had one (1) citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400).

(3) If the licensed premises at that specific business location has had two (2) citations or summonses for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700).

(4) If the licensed premises at that specific business location has had three (3) or more citations or summonses for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000).

(b) The defenses set forth in IC 7.1-5-7-5.1 are available to a permit holder in an action under this section.

(c) Unless a person less than twenty-one (21) years of age buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a permit holder that sells alcoholic beverages is not liable under this section unless the person less than twenty-one (21) years of age who bought or received the alcoholic beverage is charged for violating IC 7.1-5-7-7.

(d) All civil penalties collected under this section shall be deposited in the alcohol and tobacco commission's enforcement and administration fund under IC 7.1-4-10.

As added by P.L.94-2008, SEC.61.

IC 35-46-1-10.2

Retail establishment's sale or distribution of tobacco to minors; defenses

Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of

this section in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400).

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal sale of tobacco, a Class B infraction.

As added by P.L.177-1999, SEC.11. Amended by P.L.14-2000, SEC.72; P.L.1-2001, SEC.38; P.L.250-2003, SEC.17; P.L.252-2003, SEC.18; P.L.94-2008, SEC.62.

IC 35-46-1-10.5

Purchase, acceptance, or possession of tobacco; defenses

Sec. 10.5. (a) A person less than eighteen (18) years of age who:

- (1) purchases tobacco;
- (2) accepts tobacco for personal use; or
- (3) possesses tobacco on his person;

commits a Class C infraction.

(b) It is a defense under subsection (a) that the accused person acted in the ordinary course of employment in a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

As added by P.L.125-1988, SEC.5. Amended by P.L.256-1996, SEC.13.

IC 35-46-1-11

Retail sale of tobacco; warning notices required; failure to post; offenses

Sec. 11. (a) A tobacco vending machine that is located in a public place must bear the following conspicuous notices:

- (1) A notice:
 - (A) that reads as follows, with the capitalization indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine."; or
 - (B) that:
 - (i) conveys a message substantially similar to the message described in clause (A); and
 - (ii) is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.
- (2) A notice that reads as follows, "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."
- (3) A notice printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(b) A person who owns or has control over a tobacco vending

machine in a public place and who:

- (1) fails to post a notice required by subsection (a) on the vending machine; or
- (2) fails to replace a notice within one (1) month after it is removed or defaced;

commits a Class C infraction.

(c) An establishment selling tobacco at retail shall post and maintain in a conspicuous place, at the point of sale, the following:

(1) Signs printed in letters at least one-half (1/2) inch high, reading as follows:

(A) "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law."

(B) "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."

(2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(d) A person who:

- (1) owns or has control over an establishment selling tobacco at retail; and
- (2) fails to post and maintain the sign required by subsection (c);

commits a Class C infraction.

As added by P.L.330-1983, SEC.2. Amended by P.L.318-1987, SEC.4; P.L.204-2001, SEC.66; P.L.94-2008, SEC.63.

IC 35-46-1-11.2

Operation of tobacco business near school prohibited

Sec. 11.2. (a) This section does not apply to a tobacco business:

- (1) operating as a tobacco business before April 1, 1996; or
- (2) that begins operating as a tobacco business after April 1, 1996, if at the time the tobacco business begins operation the tobacco business is not located in an area prohibited under this section.

(b) A person may not operate a tobacco business within two hundred (200) feet of a public or private elementary or secondary school, as measured between the nearest point of the premises occupied by the tobacco business and the nearest point of a building used by the school for instructional purposes.

(c) A person who violates this section commits a Class C misdemeanor.

As added by P.L.256-1996, SEC.11.

IC 35-46-1-11.3

Repealed

(Repealed by P.L.250-2003, SEC.19.)

IC 35-46-1-11.5

Coin machines for sale or distribution of tobacco

Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
- (3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
- (4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) Except as provided in subsection (a), an owner of a retail establishment may not:

- (1) distribute or sell tobacco by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

As added by P.L.49-1990, SEC.20. Amended by P.L.177-1999, SEC.13; P.L.14-2000, SEC.73; P.L.1-2001, SEC.40; P.L.252-2003,

SEC.20.

IC 35-46-1-11.7

Minors prohibited from entering retail establishment that primarily sells tobacco products; posting notices required; civil penalties

Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment the following:

(1) A sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the state department of health.

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200).

(2) If the person has had one (1) violation in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400).

(3) If the person has had two (2) violations in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700).

(4) If the person has had three (3) or more violations in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

(f) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal entrance by a minor, a Class B infraction.

As added by P.L.177-1999, SEC.14. Amended by P.L.14-2000, SEC.74; P.L.1-2001, SEC.41; P.L.252-2003, SEC.21; P.L.94-2008, SEC.64.

IC 35-46-1-11.8

Tobacco self-service displays

Sec. 11.8. (a) As used in this section, "self-service display" means a display that contains tobacco in an area where a customer:

- (1) is permitted; and
- (2) has access to the tobacco without assistance from a sales person.

(b) This section does not apply to a self-service display located in a retail establishment that:

- (1) has a primary purpose to sell tobacco; and
- (2) prohibits entry by persons who are less than eighteen (18) years of age.

(c) The owner of a retail establishment that sells or distributes tobacco through a self-service display, other than a coin operated machine operated under IC 35-46-1-11 or IC 35-46-1-11.5, commits a Class C infraction.

(d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

As added by P.L.37-2007, SEC.1. Amended by P.L.10-2011, SEC.3.

IC 35-46-1-12

Exploitation of dependent or endangered adult; financial exploitation of endangered adult; violation classification

Sec. 12. (a) Except as provided in subsection (b), a person who recklessly, knowingly, or intentionally exerts unauthorized use of the personal services or the property of:

- (1) an endangered adult; or
- (2) a dependent eighteen (18) years of age or older;

for the person's own profit or advantage or for the profit or advantage of another person commits exploitation of a dependent or an endangered adult, a Class A misdemeanor.

(b) The offense described in subsection (a) is a Class D felony if:

- (1) the fair market value of the personal services or property is more than ten thousand dollars (\$10,000); or
- (2) the endangered adult or dependent is at least sixty (60) years of age.

(c) Except as provided in subsection (d), a person who recklessly, knowingly, or intentionally deprives an endangered adult or a dependent of the proceeds of the endangered adult's or the dependent's benefits under the Social Security Act or other retirement program that the division of family resources has budgeted for the endangered adult's or dependent's health care commits financial exploitation of an endangered adult or a dependent, a Class A misdemeanor.

(d) The offense described in subsection (c) is a Class D felony if:

- (1) the amount of the proceeds is more than ten thousand dollars (\$10,000); or
- (2) the endangered adult or dependent is at least sixty (60) years of age.

(e) It is not a defense to an offense committed under subsection

(b)(2) or (d)(2) that the accused person reasonably believed that the endangered adult or dependent was less than sixty (60) years of age at the time of the offense.

(f) It is a defense to an offense committed under subsection (a), (b), or (c) if the accused person:

(1) has been granted a durable power of attorney or has been appointed a legal guardian to manage the affairs of an endangered adult or a dependent; and

(2) was acting within the scope of the accused person's fiduciary responsibility.

As added by Acts 1981, P.L.299, SEC.3. Amended by P.L.185-1984, SEC.3; P.L.37-1990, SEC.26; P.L.2-1992, SEC.883; P.L.4-1993, SEC.327; P.L.5-1993, SEC.334; P.L.145-2001, SEC.1; P.L.145-2006, SEC.372; P.L.146-2008, SEC.684.

IC 35-46-1-13

Battery, neglect, or exploitation of endangered adult; failure to report; unlawful disclosure; referrals; retaliation

Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E); and

(2) knowingly fails to report the facts supporting that belief to the division of disability and rehabilitative services, the division of aging, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class B misdemeanor.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of aging under IC 12-10-3-12 through IC 12-10-3-15 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E) shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

As added by Acts 1981, P.L.299, SEC.4. Amended by P.L.185-1984, SEC.4; P.L.39-1985, SEC.3; P.L.41-1987, SEC.20; P.L.42-1987, SEC.14; P.L.2-1992, SEC.884; P.L.4-1993, SEC.328; P.L.5-1993, SEC.335; P.L.2-1997, SEC.75; P.L.281-2003, SEC.4; P.L.141-2006, SEC.112; P.L.153-2011, SEC.19.

IC 35-46-1-14

Reporting or documenting battery, neglect, or exploitation; immunity from civil or criminal liability

Sec. 14. Any person acting in good faith who:

- (1) makes or causes to be made a report of neglect, battery, or exploitation under this chapter, IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(a)(2)(E);
- (2) makes or causes to be made photographs or x-rays of a victim of suspected neglect or battery of an endangered adult or a dependent eighteen (18) years of age or older; or
- (3) participates in any official proceeding or a proceeding resulting from a report of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be imposed because of these actions. However, this section does not apply to a person accused of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older. *As added by Acts 1981, P.L.299, SEC.5. Amended by P.L.185-1984, SEC.5; P.L.2-1997, SEC.76; P.L.2-1998, SEC.81; P.L.2-2005, SEC.127.*

IC 35-46-1-15

Repealed

(Repealed by P.L.1-1991, SEC.200.)

IC 35-46-1-15.1

Invasion of privacy; offense; penalties

Sec. 15.1. A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- (3) a workplace violence restraining order issued under IC 34-26-6;
- (4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order to prevent domestic or family violence

issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9);

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; or

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

As added by P.L.1-1991, SEC.201. Amended by P.L.49-1993, SEC.14; P.L.242-1993, SEC.5; P.L.1-1994, SEC.170; P.L.23-1994, SEC.17; P.L.303-1995, SEC.1; P.L.1-1997, SEC.153; P.L.37-1997, SEC.3; P.L.1-1998, SEC.199; P.L.1-2001, SEC.42; P.L.280-2001, SEC.53; P.L.1-2002, SEC.150; P.L.133-2002, SEC.67; P.L.104-2008, SEC.22; P.L.94-2010, SEC.12.

IC 35-46-1-16

Invasion of privacy convictions; record of persons protected by orders

Sec. 16. The law enforcement agency with custody of a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter shall maintain a confidential record of the:

(1) name;

(2) address; and

(3) telephone number;

of each person that the person convicted under section 15.1 of this chapter is required to refrain from direct or indirect contact with under an order described by section 15.1 of this chapter.

As added by P.L.53-1989, SEC.10. Amended by P.L.1-1991, SEC.202.

IC 35-46-1-17**Persons convicted of invasion of privacy; denial of access to protective order information**

Sec. 17. A person convicted of a crime under section 15.1 of this chapter may not have access to the information maintained under section 16 of this chapter.

As added by P.L.53-1989, SEC.11. Amended by P.L.1-1991, SEC.203.

IC 35-46-1-18**Invasion of privacy convictions; release and hearings; notice to persons protected by orders**

Sec. 18. The law enforcement agency having custody of a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter shall:

(1) provide each person described in section 16 of this chapter with written notification of:

(A) the release of a person convicted of a crime under section 15.1 of this chapter; and

(B) the date, time, and place of any substantive hearing concerning a violation of section 15.1 of this chapter by a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter; and

(2) attempt to notify each person described in section 16 of this chapter by telephone to provide the information described in subdivision (1).

As added by P.L.53-1989, SEC.12. Amended by P.L.1-1991, SEC.204.

IC 35-46-1-19**Invasion of privacy convictions; time of notice to persons protected by orders**

Sec. 19. The law enforcement agency shall:

(1) provide written notice; and

(2) attempt notification by telephone;

under section 18 of this chapter at least twenty-four (24) hours before the release or hearing.

As added by P.L.53-1989, SEC.13.

IC 35-46-1-20**Enforcement of foreign protection orders**

Sec. 20. A law enforcement officer shall enforce a foreign protection order (as defined in IC 34-6-2-48.5) in conformity with the procedures in IC 34-26-5-17.

As added by P.L.280-2001, SEC.54. Amended by P.L.133-2002, SEC.68.

IC 35-46-1-21

Unauthorized adoption advertising; telephone directory publisher requirements

Sec. 21. (a) Only a person that is an attorney licensed to practice law or a child placing agency licensed under the laws of Indiana may place a paid advertisement or paid listing of the person's telephone number, on the person's own behalf, in a telephone directory that:

- (1) a child is offered or wanted for adoption; or
- (2) the person is able to place, locate, or receive a child for adoption.

(b) A person that publishes a telephone directory that is distributed in Indiana:

(1) shall include, at the beginning of any classified heading for adoption and adoption services, a statement that informs directory users that only attorneys licensed to practice law and licensed child placing agencies may legally provide adoption services under Indiana law; and

(2) may publish an advertisement described in subsection (a) in the telephone directory only if the advertisement contains the following:

(A) For an attorney licensed to practice law in Indiana, the person's attorney number.

(B) For a child placing agency licensed under the laws of Indiana, the number on the person's child placing agency license.

(c) A person who knowingly or intentionally violates subsection (a) commits unauthorized adoption advertising, a Class A misdemeanor.

As added by P.L.146-2007, SEC.20. Amended by P.L.21-2010, SEC.10.

IC 35-46-1-22

Unauthorized adoption facilitation

Sec. 22. (a) As used in this section, "adoption services" means at least one (1) of the following services that is provided for compensation, an item of value, or reimbursement, either directly or indirectly, and provided either before or after the services are rendered:

- (1) Arranging for the placement of a child.
- (2) Identifying a child for adoption.
- (3) Matching adoptive parents with biological parents.
- (4) Arranging or facilitating an adoption.
- (5) Taking or acknowledging consents or surrenders for termination of parental rights for adoption purposes.
- (6) Performing background studies on:
 - (A) a child who is going to be adopted; or
 - (B) adoptive parents.
- (7) Making determinations concerning the best interests of a child and the appropriateness in placing the child for adoption.
- (8) Postplacement monitoring of a child before the child is adopted.

(b) As used in this section, the term "adoption services" does not include the following:

- (1) Legal services provided by an attorney licensed in Indiana.
- (2) Adoption related services provided by a governmental entity or a person appointed to perform an investigation by the court.
- (3) General education and training on adoption issues.
- (4) Postadoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

(c) Subsection (d) does not apply to the following persons:

- (1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency or county office with similar responsibilities in another state.
- (2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency or county office with similar responsibilities in another state.
- (3) A child placing agency licensed under the laws of Indiana.
- (4) An attorney licensed to practice law in Indiana.
- (5) A prospective biological parent or adoptive parent acting on the individual's own behalf.

(d) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a birth parent who lives in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

(e) Subsection (f) does not apply to the following persons:

- (1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency or county office with similar responsibilities in another state.
- (2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency or county office with similar responsibilities in another state.
- (3) A child placing agency licensed under the laws of Indiana or another state.
- (4) An attorney licensed to practice law in Indiana or another state.
- (5) A prospective biological parent or adoptive parent acting on the individual's own behalf.

(f) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a prospective adoptive parent who lives in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

As added by P.L.146-2007, SEC.21. Amended by P.L.146-2008, SEC.685; P.L.21-2010, SEC.11; P.L.31-2011, SEC.1.