

SENATE BILL No. 387

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47.

Synopsis: Off duty and retired law officers and firearms. Provides that off duty law enforcement officers and retired law enforcement officers who meet the requirements of applicable federal and state laws concerning carrying firearms: (1) may possess firearms in the same locations that a law enforcement officer who is authorized to carry a firearm may possess a firearm while the law enforcement officer is engaged in the execution of the law enforcement officer's official duties; and (2) may not be prohibited from possessing a firearm on land or in buildings and other structures owned or leased by the state or any agency of state government or a political subdivision of the state. Provides for certain exceptions. Makes conforming amendments.

Effective: July 1, 2016.

Bassler

January 12, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 387

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 35-47-11.1-4, AS AMENDED BY P.L.147-2014,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 4. This chapter may not be construed to prevent
4 any of the following:

- 5 (1) A law enforcement agency of a political subdivision from
6 enacting and enforcing regulations pertaining to firearms,
7 ammunition, or firearm accessories issued to or used by law
8 enforcement officers in the course of their official duties.
- 9 (2) Subject to IC 34-28-7-2, an employer from regulating or
10 prohibiting the employees of the employer from carrying firearms
11 and ammunition in the course of the employee's official duties.
- 12 (3) A court or administrative law judge from hearing and
13 resolving any case or controversy or issuing any opinion or order
14 on a matter within the jurisdiction of the court or judge.
- 15 (4) The enactment or enforcement of generally applicable zoning
16 or business ordinances that apply to firearms businesses to the
17 same degree as other similar businesses. However, a provision of



1 an ordinance that is designed or enforced to effectively restrict or
 2 prohibit the sale, purchase, transfer, manufacture, or display of
 3 firearms, ammunition, or firearm accessories that is otherwise
 4 lawful under the laws of this state is void. A unit (as defined in
 5 IC 36-1-2-23) may not use the unit's planning and zoning powers
 6 under IC 36-7-4 to prohibit the sale of firearms within a
 7 prescribed distance of any other type of commercial property or
 8 of school property or other educational property.

9 (5) Subject to IC 35-47-16-1 and **IC 35-47-17-1**, the enactment
 10 or enforcement of a provision prohibiting or restricting the
 11 possession of a firearm in any building that contains the
 12 courtroom of a circuit, superior, city, town, or small claims court.
 13 However, if a portion of the building is occupied by a residential
 14 tenant or private business, any provision restricting or prohibiting
 15 the possession of a firearm does not apply to the portion of the
 16 building that is occupied by the residential tenant or private
 17 business, or to common areas of the building used by a residential
 18 tenant or private business.

19 (6) The enactment or enforcement of a provision prohibiting or
 20 restricting the intentional display of a firearm at a public meeting.

21 (7) The enactment or enforcement of a provision prohibiting or
 22 restricting the possession of a firearm in a public hospital
 23 corporation that contains a secure correctional health unit that is
 24 staffed by a law enforcement officer twenty-four (24) hours a day.

25 (8) The imposition of any restriction or condition placed on a
 26 person participating in:

27 (A) a community corrections program (IC 11-12-1);

28 (B) a forensic diversion program (IC 11-12-3.7); or

29 (C) a pretrial diversion program (IC 33-39-1).

30 (9) The enforcement or prosecution of the offense of criminal
 31 recklessness (IC 35-42-2-2) involving the use of a firearm.

32 (10) **Subject to IC 35-47-17-1**, for an event occurring on property
 33 leased from a political subdivision or municipal corporation by
 34 the promoter or organizer of the event:

35 (A) the establishment, by the promoter or organizer, at the
 36 promoter's or organizer's own discretion, of rules of conduct or
 37 admission upon which attendance at or participation in the
 38 event is conditioned; or

39 (B) the implementation or enforcement of the rules of conduct
 40 or admission described in clause (A) by a political subdivision
 41 or municipal corporation in connection with the event.

42 (11) The enactment or enforcement of a provision prohibiting or



1 restricting the possession of a firearm in a hospital established
2 and operated under IC 16-22-2 or IC 16-23.

3 (12) A unit from using the unit's planning and zoning powers
4 under IC 36-7-4 to prohibit the sale of firearms within two
5 hundred (200) feet of a school by a person having a business that
6 did not sell firearms within two hundred (200) feet of a school
7 before April 1, 1994.

8 (13) Subject to IC 35-47-16-1 **and IC 35-47-17-1**, a unit (as
9 defined in IC 36-1-2-23) from enacting or enforcing a provision
10 prohibiting or restricting the possession of a firearm in a building
11 owned or administered by the unit if:

12 (A) metal detection devices are located at each public entrance
13 to the building;

14 (B) each public entrance to the building is staffed by at least
15 one (1) law enforcement officer:

16 (i) who has been adequately trained to conduct inspections
17 of persons entering the building by use of metal detection
18 devices and proper physical pat down searches; and

19 (ii) when the building is open to the public; and

20 (C) each:

21 (i) individual who enters the building through the public
22 entrance when the building is open to the public; and

23 (ii) bag, package, and other container carried by the
24 individual;

25 is inspected by a law enforcement officer described in clause

26 (B).

27 However, except as provided in subdivision (5) concerning a
28 building that contains a courtroom, a unit may not prohibit or
29 restrict the possession of a handgun under this subdivision in a
30 building owned or administered by the unit if the person who
31 possesses the handgun has been issued a valid license to carry the
32 handgun under IC 35-47-2.

33 SECTION 2. IC 35-47-17 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2016]:

36 **Chapter 17. Possession of Firearms by Off Duty and Retired**
37 **Law Enforcement Officers**

38 **Sec. 1. (a) A person listed in subsection (b):**

39 **(1) may possess a firearm in the same locations that a law**
40 **enforcement officer who is authorized to carry a firearm**
41 **under IC 5-2-1 may possess a firearm while the law**
42 **enforcement officer is engaged in the execution of the law**



1 enforcement officer's official duties; and
 2 (2) may not be prohibited from possessing a firearm on land
 3 or in buildings and other structures owned or leased by:
 4 (A) the state or any agency of state government; or
 5 (B) a political subdivision (as defined in IC 3-5-2-38);
 6 including on land or in buildings or other structures leased
 7 from the state, an agency of state government, or a political
 8 subdivision by an organizer or promoter of an event.

9 (b) The following persons may possess firearms as described in
 10 subsection (a):

11 (1) A law enforcement officer:

12 (A) who:

13 (i) is authorized to carry a firearm under IC 5-2-1; and

14 (ii) meets the requirements of 18 U.S.C. 926B; and

15 (B) who is:

16 (i) off duty; and

17 (ii) not engaged in the execution of the law enforcement
 18 officer's official duties.

19 (2) A retired law enforcement officer who meets the
 20 requirements of:

21 (A) 18 U.S.C. 926C; and

22 (B) IC 35-47-15;

23 concerning possession of firearms by retired law enforcement
 24 officers.

25 **Sec. 2.** A law enforcement officer who is off duty or a retired law
 26 enforcement officer who possesses a firearm as described in section
 27 1 of this chapter has the same civil and criminal immunities and
 28 defenses concerning possession of the firearm that a law
 29 enforcement officer has when the law enforcement officer:

30 (1) possesses a firearm; and

31 (2) is engaged in the execution of the law enforcement officer's
 32 official duties.

33 **Sec. 3.** Section 1 of this chapter may not be construed to prevent
 34 any of the following:

35 (1) A law enforcement agency from enacting and enforcing
 36 rules or policies concerning firearms, ammunition, or firearm
 37 accessories issued to or used by law enforcement officers in
 38 the course of the officers' official duties.

39 (2) A court or an administrative law judge from hearing and
 40 resolving any case or controversy, or issuing any opinion or
 41 order, on a matter within the jurisdiction of the court or
 42 judge.



- 1 **(3) The imposition of any restriction or condition placed on a**
- 2 **person participating in:**
- 3 **(A) a community corrections program (IC 11-12-1);**
- 4 **(B) a forensic diversion program (IC 11-12-3.7); or**
- 5 **(C) a pretrial diversion program (IC 33-39-1).**

