

SENATE BILL No. 169

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-2.5; IC 35-50-2-11.5.

Synopsis: Providing firearms to a felon. Makes it a Level 6 felony for a person to provide an individual with a firearm if the person knows or has reason to believe that the individual: (1) is legally barred from possessing a firearm due to the commission of a crime; or (2) intends to use the firearm to commit a crime. Makes it a Level 6 felony for a person to purchase a handgun with the intent of reselling it to an individual that the person knows or has reason to believe intends to use the handgun in the commission of a crime. Specifies that a person who unlawfully provides an individual with a handgun or firearm may receive an enhanced sentence if the individual who unlawfully received the handgun or firearm uses the handgun or firearm to commit a crime, and provides that the enhanced sentence is: (1) up to one year if the crime is a misdemeanor; (2) the same sentence as the most serious crime committed by the individual if the crime is a Level 2 through Level 6 felony; and (3) the same sentence as a Level 1 felony if the crime is murder or a Level 1 felony.

Effective: July 1, 2014.

Young R Michael

January 8, 2014, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 169

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 35-47-2.5-1, AS AMENDED BY P.L.190-2006,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 1. (a) **Sections 2 through 5** of this chapter ~~does~~
4 **do** not apply to the following:
5 (1) Transactions between persons who are licensed as firearms
6 importers or collectors or firearms manufacturers or dealers under
7 18 U.S.C. 923.
8 (2) Purchases by or sales to a law enforcement officer or agent of
9 the United States, the state, or a county or local government.
10 (3) Indiana residents licensed to carry handguns under
11 IC 35-47-2-3.
12 (b) Notwithstanding any other provision of this chapter, the state
13 shall participate in the NICS if federal funds are available to assist the
14 state in participating in the NICS. If:
15 (1) the state participates in the NICS; and
16 (2) there is a conflict between:



- 1 (A) a provision of this chapter; and
 2 (B) a procedure required under the NICS;
 3 the procedure required under the NICS prevails over the conflicting
 4 provision of this chapter.
 5 SECTION 2. IC 35-47-2.5-14, AS AMENDED BY P.L.158-2013,
 6 SECTION 586, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) This section does not apply
 8 to a person who provides a handgun to the following:
 9 (1) A child who is attending a hunters safety course or a firearms
 10 safety course or an adult who is supervising the child during the
 11 course.
 12 (2) A child engaging in practice in using a firearm for target
 13 shooting at an established range or in an area where the discharge
 14 of a firearm is not prohibited or is supervised by:
 15 (A) a qualified firearms instructor; or
 16 (B) an adult who is supervising the child while the child is at
 17 the range.
 18 (3) A child engaging in an organized competition involving the
 19 use of a firearm or participating in or practicing for a performance
 20 by an organized group under Section 501(c)(3) of the Internal
 21 Revenue Code that uses firearms as a part of a performance or an
 22 adult who is involved in the competition or performance.
 23 (4) A child who is hunting or trapping under a valid license issued
 24 to the child under IC 14-22.
 25 (5) A child who is traveling with an unloaded firearm to or from
 26 an activity described in this section.
 27 (6) A child who:
 28 (A) is on real property that is under the control of the child's
 29 parent, an adult family member of the child, or the child's legal
 30 guardian; and
 31 (B) has permission from the child's parent or legal guardian to
 32 possess a firearm.
 33 (b) A person who purchases a handgun with the intent to:
 34 (1) resell or otherwise provide the handgun to another person who
 35 the person knows or has reason to believe is ineligible for any
 36 reason to purchase or otherwise receive from a dealer a handgun;
 37 or
 38 **(2) resell or otherwise provide the handgun to another person**
 39 **who the person knows or has reason to believe intends to use**
 40 **the handgun to commit a crime; or**
 41 ~~(3)~~ **(3) transport the handgun out of the state to be resold or**
 42 **otherwise provided to another person who the transferor knows is**



1 ineligible to purchase or otherwise receive a firearm;
 2 commits **the straw purchase of a handgun**, a Level 6 felony.

3 (c) If the violation of this section involves a transfer of more than
 4 one (1) handgun, the offense is a Level 5 felony.

5 SECTION 3. IC 35-47-2.5-16 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2014]: **Sec. 16. (a) This section does not apply**
 8 **to a person who provides a firearm to the following:**

9 (1) **A child who is attending a hunters safety course or a**
 10 **firearms safety course or an adult who is supervising the child**
 11 **during the course.**

12 (2) **A child engaging in practice in using a firearm for target**
 13 **shooting at an established range or in an area where the**
 14 **discharge of a firearm is not prohibited or is supervised by:**

15 (A) **a qualified firearms instructor; or**

16 (B) **an adult who is supervising the child while the child is**
 17 **at the range.**

18 (3) **A child engaging in an organized competition involving the**
 19 **use of a firearm or participating in or practicing for a**
 20 **performance by an organized group under Section 501(c)(3)**
 21 **of the Internal Revenue Code that uses firearms as a part of**
 22 **a performance or an adult who is involved in the competition**
 23 **or performance.**

24 (4) **A child who is hunting or trapping under a valid license**
 25 **issued to the child under IC 14-22.**

26 (5) **A child who is traveling with an unloaded firearm to or**
 27 **from an activity described in this section.**

28 (6) **A child who:**

29 (A) **is on real property that is under the control of the**
 30 **child's parent, an adult family member of the child, or the**
 31 **child's legal guardian; and**

32 (B) **has permission from the child's parent or legal**
 33 **guardian to possess a firearm.**

34 (b) **A person who provides a firearm to an individual who the**
 35 **person knows or has reason to believe:**

36 (1) **is ineligible to purchase or otherwise receive or possess a**
 37 **firearm due to the commission of a crime; or**

38 (2) **intends to use the firearm to commit a crime;**

39 **commits criminal transfer of a firearm, a Level 6 felony.**

40 SECTION 4. IC 35-50-2-11.5 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2014]: **Sec. 11.5. (a) The state may seek, on**



1 a page separate from the rest of a charging instrument, to have a
2 person who allegedly committed the offense of straw purchase of
3 a handgun (IC 35-47-2.5-14) or criminal transfer of a firearm
4 (IC 35-47-2.5-16) sentenced to an additional fixed term of
5 imprisonment if the state can show beyond a reasonable doubt that
6 the individual who unlawfully received the handgun or firearm
7 used the handgun or firearm while committing a crime.

8 (b) If the person was convicted of the offense under
9 IC 35-47-2.5-14 or IC 35-47-2.5-16 in a jury trial, the jury shall
10 reconvene to hear evidence in the enhancement hearing. If the trial
11 was to the court, or the judgment was entered on a guilty plea, the
12 court alone shall hear evidence in the enhancement hearing.

13 (c) If the jury (if the hearing is by jury) or the court (if the
14 hearing is to the court alone) finds that the state has proved beyond
15 a reasonable doubt that the individual who unlawfully received the
16 handgun or firearm used the handgun or firearm while committing
17 a crime, the court shall sentence the person to an additional fixed
18 term of imprisonment as follows:

19 (1) If the most serious crime committed by the individual who
20 unlawfully received the handgun or firearm was a
21 misdemeanor, the court shall sentence the person to an
22 additional fixed term of not more than one (1) year.

23 (2) If the most serious crime committed by the individual who
24 unlawfully received the handgun or firearm was a Level 6
25 felony, the court shall sentence the person to an additional
26 fixed term that is within the sentencing range for a Level 6
27 felony.

28 (3) If the most serious crime committed by the individual who
29 unlawfully received the handgun or firearm was a Level 5
30 felony, the court shall sentence the person to an additional
31 fixed term that is within the sentencing range for a Level 5
32 felony.

33 (4) If the most serious crime committed by the individual who
34 unlawfully received the handgun or firearm was a Level 4
35 felony, the court shall sentence the person to an additional
36 fixed term that is within the sentencing range for a Level 4
37 felony.

38 (5) If the most serious crime committed by the individual who
39 unlawfully received the handgun or firearm was a Level 3
40 felony, the court shall sentence the person to an additional
41 fixed term that is within the sentencing range for a Level 3
42 felony.



- 1 **(6) If the most serious crime committed by the individual who**
- 2 **unlawfully received the handgun or firearm was a Level 2**
- 3 **felony, the court shall sentence the person to an additional**
- 4 **fixed term that is within the sentencing range for a Level 2**
- 5 **felony.**
- 6 **(7) If the most serious crime committed by the individual who**
- 7 **unlawfully received the handgun or firearm was a murder or**
- 8 **a Level 1 felony, the court shall sentence the person to an**
- 9 **additional fixed term that is within the sentencing range for**
- 10 **a Level 1 felony.**
- 11 **(d) It is not a defense that the individual who unlawfully**
- 12 **received the handgun or firearm:**
- 13 **(1) has not been prosecuted;**
- 14 **(2) has not been convicted;**
- 15 **(3) cannot be prosecuted for any reason; or**
- 16 **(4) lacked the capacity to commit the crime.**

