

HOUSE BILL No. 1230

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-61.8; IC 14-22-31.5-5; IC 22-2-16; IC 32-31-1-20; IC 35-31.5-2-16; IC 35-47; IC 36-1; IC 36-7-2-11.

Synopsis: Repeal of statutes preempting local action. Repeals statutes that prohibit a unit of local government from doing the following: (1) Mandating employee benefits, scheduling, or leave policy that exceed federal or state requirements. (2) Regulating firearms, ammunition, and firearm accessories. (3) Requiring a landlord to participate in a housing program. (4) Regulating the manufacture or use of bags, bottles, and other single use containers. (5) Regulating the leasing or sale of real property.

Effective: July 1, 2019.

Chyung

January 10, 2019, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1230

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 8-1-2-61.8, AS ADDED BY P.L.107-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 61.8. (a) As used in this section, "rental unit
4 community" ~~has the meaning set forth in IC 36-1-20-1.5:~~ **means one
5 (1) or more parcels of contiguous real property upon which are
6 located one (1) or more structures containing rental units, if:**
7 **(1) the combined total of all rental units in all of the structures**
8 **is five (5) or more rental units; and**
9 **(2) the rental units are not occupied solely by the owner or the**
10 **owner's family.**
11 (b) As used in this section, "utility" refers to a wastewater utility,
12 whether or not the utility is under the jurisdiction of the commission for
13 the approval of rates and charges.
14 (c) If a utility charges different rates for different classes of property
15 based at least partially on consumption, the utility must charge a rental
16 unit community a rate based at least partially on consumption.
17 (d) A rate for a rental unit community required by subsection (c)



1 takes effect as follows:

2 (1) If the utility is not under the jurisdiction of the commission for
3 the approval of rates and charges, the first date after June 30,
4 2016, that a change in the utility's rate structure becomes
5 effective.

6 (2) If the utility is under the jurisdiction of the commission for the
7 approval of rates and charges, the first date that a change in the
8 utility's rate structure becomes effective after either of the
9 following has occurred:

10 (A) The commission began review of the utility's rates after
11 June 30, 2016.

12 (B) The utility sought a change in the utility's rates after June
13 30, 2016.

14 SECTION 2. IC 14-22-31.5-5, AS AMENDED BY P.L.152-2011,
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2019]: Sec. 5. Except as specifically prohibited by this
17 chapter, and ~~subject to IC 35-47-11.1~~, a local unit of government may
18 regulate the location, use, operation, safety, and construction of a
19 shooting range.

20 SECTION 3. IC 22-2-16 IS REPEALED [EFFECTIVE JULY 1,
21 2019]. (Employee Benefits).

22 SECTION 4. IC 32-31-1-20 IS REPEALED [EFFECTIVE JULY 1,
23 2019]. Sec. 20: (a) ~~Subject to IC 36-1-3-8.5, this section does not apply~~
24 ~~to privately owned real property for which government funds or~~
25 ~~benefits have been allocated from the United States government, the~~
26 ~~state, or a political subdivision for the express purpose of providing~~
27 ~~reduced rents to low or moderate income tenants.~~

28 (b) ~~A unit (as defined in IC 36-1-2-23) may not regulate rental rates~~
29 ~~for privately owned real property, through a zoning ordinance or~~
30 ~~otherwise, unless the regulation is authorized by an act of the general~~
31 ~~assembly.~~

32 SECTION 5. IC 35-31.5-2-16, AS ADDED BY P.L.114-2012,
33 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2019]: Sec. 16. "Ammunition", for purposes of IC 35-47, ~~has~~
35 ~~the meaning set forth in IC 35-47-1-2.5:~~ means:

36 (1) **fixed cartridge ammunition;**

37 (2) **shotgun shells;**

38 (3) **the individual components of fixed cartridge ammunition**
39 **and shotgun shells;**

40 (4) **projectiles for muzzle loading firearms; and**

41 (5) **any propellant used in a firearm or in firearm**
42 **ammunition.**



1 SECTION 6. IC 35-47-1-2.5 IS REPEALED [EFFECTIVE JULY
2 1, 2019]. Sec. 2.5: "Ammunition", for purposes of IC 35-47-11.1,
3 means:

- 4 (1) fixed cartridge ammunition;
5 (2) shotgun shells;
6 (3) the individual components of fixed cartridge ammunition and
7 shotgun shells;
8 (4) projectiles for muzzle loading firearms; and
9 (5) any propellant used in a firearm or in firearm ammunition.

10 SECTION 7. IC 35-47-11.1 IS REPEALED [EFFECTIVE JULY 1,
11 2019]. (Local Regulation of Firearms, Ammunition, and Firearm
12 Accessories).

13 SECTION 8. IC 36-1-3-8, AS AMENDED BY P.L.189-2016,
14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2019]: Sec. 8. (a) Subject to subsection (b), a unit does not
16 have the following:

- 17 (1) The power to condition or limit its civil liability, except as
18 expressly granted by statute.
19 (2) The power to prescribe the law governing civil actions
20 between private persons.
21 (3) The power to impose duties on another political subdivision,
22 except as expressly granted by statute.
23 (4) The power to impose a tax, except as expressly granted by
24 statute.
25 (5) The power to impose a license fee greater than that reasonably
26 related to the administrative cost of exercising a regulatory power.
27 (6) The power to impose a service charge or user fee greater than
28 that reasonably related to reasonable and just rates and charges
29 for services.
30 (7) The power to regulate conduct that is regulated by a state
31 agency, except as expressly granted by statute.
32 (8) The power to prescribe a penalty for conduct constituting a
33 crime or infraction under statute.
34 (9) The power to prescribe a penalty of imprisonment for an
35 ordinance violation.
36 (10) The power to prescribe a penalty of a fine as follows:
37 (A) More than ten thousand dollars (\$10,000) for the violation
38 of an ordinance or a regulation concerning air emissions
39 adopted by a county that has received approval to establish an
40 air permit program under IC 13-17-12-6.
41 (B) For a violation of any other ordinance:
42 (i) more than two thousand five hundred dollars (\$2,500) for



- 1 a first violation of the ordinance; and
 2 (ii) except as provided in subsection (c), more than seven
 3 thousand five hundred dollars (\$7,500) for a second or
 4 subsequent violation of the ordinance.
- 5 (11) The power to invest money, except as expressly granted by
 6 statute.
- 7 (12) The power to order or conduct an election, except as
 8 expressly granted by statute.
- 9 ~~(13) The power to adopt or enforce an ordinance described in~~
 10 ~~section 8.5 of this chapter.~~
- 11 ~~(14) The power to take any action prohibited by section 8.6 of this~~
 12 ~~chapter.~~
- 13 ~~(15)~~ **(13)** The power to dissolve a political subdivision, except:
 14 (A) as expressly granted by statute; or
 15 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
 16 accordance with the procedure set forth in IC 36-1-8-17.7.
- 17 (b) A township does not have the following, except as expressly
 18 granted by statute:
 19 (1) The power to require a license or impose a license fee.
 20 (2) The power to impose a service charge or user fee.
 21 (3) The power to prescribe a penalty.
- 22 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
 23 ordinance that regulates traffic or parking.
- 24 SECTION 9. IC 36-1-3-8.5 IS REPEALED [EFFECTIVE JULY 1,
 25 2019]. Sec. 8.5: A unit may not adopt or enforce an ordinance that
 26 requires or would have the effect of requiring a landlord to participate
 27 in:
 28 ~~(1) a Section 8 program of the federal Housing Act of 1937 (42~~
 29 ~~U.S.C. 1437f); or~~
 30 ~~(2) a similar program concerning housing.~~
- 31 SECTION 10. IC 36-1-3-8.6 IS REPEALED [EFFECTIVE JULY
 32 1, 2019]. Sec. 8.6: (a) As used in this section, "auxiliary container"
 33 means a bag, box, cup, bottle, or similar container that is:
 34 ~~(1) reusable or disposable;~~
 35 ~~(2) made of:~~
 36 ~~(A) cloth;~~
 37 ~~(B) paper;~~
 38 ~~(C) plastic;~~
 39 ~~(D) extruded polystyrene; or~~
 40 ~~(E) a similar material; and~~
 41 ~~(3) designed for:~~
 42 ~~(A) one time use; or~~



- 1 (B) transporting merchandise or food from food or retail
 2 facilities:
 3 (b) Except as provided in subsections (c) and (d), a unit may not:
 4 (1) regulate; or adopt or enforce an ordinance or resolution to
 5 regulate:
 6 (A) the:
 7 (i) manufacture;
 8 (ii) distribution;
 9 (iii) sale;
 10 (iv) provision;
 11 (v) use; or
 12 (vi) disposition or disposal;
 13 of auxiliary containers; or
 14 (B) a:
 15 (i) manufacturer of auxiliary containers;
 16 (ii) distributor of auxiliary containers; or
 17 (iii) food or retail facility that sells, provides, or otherwise
 18 makes use of auxiliary containers;
 19 in connection with the manufacture; distribution; sale;
 20 provision; use; or disposition or disposal of auxiliary
 21 containers; or
 22 (2) impose; or adopt or enforce an ordinance or resolution to
 23 impose; any:
 24 (A) prohibition;
 25 (B) restriction;
 26 (C) fee; or
 27 (D) tax;
 28 with respect to auxiliary containers or to any person described in
 29 subdivision (1)(B) in connection with the manufacture;
 30 distribution; sale; provision; use; or disposition or disposal of
 31 auxiliary containers.
 32 (c) This section does not prohibit, limit, or restrict:
 33 (1) a curbside recycling program available in; or offered by; a
 34 unit; or
 35 (2) the designation or operation of a residential or commercial
 36 recycling location within a unit.
 37 (d) This section does not apply to the distribution; sale; provision;
 38 use; or disposition or disposal of auxiliary containers at any event that:
 39 (1) is organized; sponsored; or permitted by a unit; and
 40 (2) takes place on property owned by the unit.
 41 SECTION 11. IC 36-1-20 IS REPEALED [EFFECTIVE JULY 1,
 42 2019]. (Regulation of Residential Leases).



1 SECTION 12. IC 36-1-24 IS REPEALED [EFFECTIVE JULY 1,
2 2019]. (Short Term Rentals).
3 SECTION 13. IC 36-1-24.2 IS REPEALED [EFFECTIVE JULY 1,
4 2019]. (Sales or Leases of Real Property; Prohibited Regulations).
5 SECTION 14. IC 36-7-2-11 IS REPEALED [EFFECTIVE JULY 1,
6 2019]. ~~Sec. 11. Any:~~
7 ~~(1) land use ordinance or regulation;~~
8 ~~(2) general or specific planning ordinance or regulation; or~~
9 ~~(3) land use petition (as described in IC 36-1-24.2-2) conditioned~~
10 ~~upon the:~~
11 ~~(A) payment of a fee; or~~
12 ~~(B) assumption of a requirement described in~~
13 ~~IC 36-1-24.2-1(1) or IC 36-1-24.2-1(2);~~
14 ~~that is adopted by a county or municipality after December 31, 2016;~~
15 ~~and that violates IC 36-1-24.2 is void.~~

