

Title 35. Criminal Law and Procedure

Article 47. Weapons and Instruments of Violence

Chapter 1. Definitions

35-47-1-1. Applicability of definitions in chapter. The definitions in this chapter apply throughout this article.

35-47-1-2. Alcohol abuser. "Alcohol abuser" means an individual who has had two (2) or more alcohol related offenses, any one (1) of which resulted in conviction by a court or treatment in an alcohol abuse facility within three (3) years prior to the date of the application.

35-47-1-3. Dealer. "Dealer" means any person who holds himself out as a buyer and seller of handguns on a regular and continuing basis.

35-47-1-4. Drug abuser. "Drug abuser" means an individual who has had two (2) or more violations of IC 35-48-1, IC 35-48-2, IC 35-48-3, or IC 35-48-4, any one (1) of which resulted in conviction by a court or treatment in a drug abuse facility within five (5) years prior to the date of application.

35-41-1-4.3. Bomb.

(a) "Bomb" means an explosive or incendiary device designed to release:

- (1) destructive materials or force; or
- (2) dangerous gases;

that is detonated by impact, proximity to an object, a timing mechanism, a chemical reaction, ignition, or other predetermined means.

(b) The term does not include the following:

(1) A firearm (as defined in IC 35-47-1-5) or the ammunition or components for handloading ammunition for a firearm.

(2) Fireworks regulated under IC 22-11-14.

(3) Boating, railroad, and other safety flares.

(4) Propellants used in model rockets or similar hobby activities.

(5) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

35-47-1-5. Firearm. "Firearm" means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion.

35-47-1-5.5. Gun show. "Gun show" has the meaning set forth in 27 C.F.R. 178.100.

35-47-1-6. Handgun. "Handgun" means any firearm:

(1) designed or adapted so as to be aimed and fired from one (1) hand, regardless of barrel length; or

(2) any firearm with:

(A) a barrel less than sixteen (16) inches in length; or

(B) an overall length of less than twenty-six (26) inches.

35-47-1-7. Proper person. "Proper person" means a person who does not:

(1) have a conviction for resisting law enforcement under IC 35-44-3-3 within five (5) years before the person applies for a license or permit under this chapter;

(2) have a conviction for a crime for which he could have been sentenced for more than one (1) year;

(3) have a record of being an alcohol or drug abuser as defined in this chapter;

(4) have documented evidence which would give rise to a reasonable belief that he has a propensity for violent or emotionally unstable conduct;

(5) make a false statement of material fact on his application;

(6) have a conviction for any crime involving an inability to safely handle a handgun;

(7) have a conviction for violation of the provisions of this article within five (5) years of his application; or

(8) have an adjudication as a delinquent child for an act that would be a felony if committed by an adult, if the person applying for a license or permit under this chapter is less than twenty-three (23) years of age

35-47-1-8. Proper reason. "Proper reason" means for the defense of oneself or the state of Indiana.

35-47-1-9. Retail. "Retail" means the sale of handguns singly or in small quantities to one who intends to be the ultimate user thereof.

35-47-1-10. Sawed-off shotgun. "Sawed-off shotgun" means:

(1) a shotgun having one (1) or more barrels less than eighteen (18) inches in length; and

(2) any weapon made from a shotgun (whether by alteration, modification, or otherwise) if the weapon as modified has an overall length of less than twenty-six (26) inches.

35-47-1-11. Shotgun. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

35-47-1-12. Superintendent. "Superintendent" refers to the superintendent of the Indiana state police department.

35-47-1-13. Wholesale. "Whole-sale" means the sale of handguns singly or in bulk lots to one lawfully licensed to deal in handguns, or the sale of a handgun to a governmental law enforcement agency for issue to its employees.

Chapter 2. Regulation of Handguns

35-47-2-1. License required to carry handgun. Except as provided in section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about his person, except in his dwelling, on his property or fixed place of business, without a license issued under this chapter being in his possession

35-47-2-2. Persons excepted. Section 1 of this chapter does not apply to:

(1) marshals;

(2) sheriffs;

(3) the commissioner of the department of correction or persons authorized by him in writing to carry firearms;

(4) judicial officers;

(5) law enforcement officers;

(6) members of the armed forces of the United States or of the national guard or organized reserves while they are on duty;

(7) regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state who are at or are going to or from their place of assembly or target practice;

(8) employees of the United States duly authorized to carry handguns;

(9) employees of express companies when engaged in company business;

(10) any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a handgun in the usual or ordinary course of that business; or

(11) any person while carrying a handgun unloaded and in a secure wrapper from the place of purchase to his dwelling or fixed place of business, or to a place of repair or back to his dwelling or fixed place of business, or in moving from one dwelling or business to another.

35-47-2-6. Time for review of applications. Every initial application for any license under this chapter shall be granted or rejected within sixty (60) days after the application is filed. If the application for renewal of an existing license is filed within thirty (30) days of its expiration, the existing license is automatically extended until the application for renewal is passed upon.

35-47-2-7. Prohibited sales or transfers.

(a) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10, a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or assault weapon (as defined in IC 35-50-2-11) to any person under eighteen (18) years of age.

(b) It is unlawful for a person to sell, give, or in any manner transfer the ownership or possession of a handgun to another person who the person has reasonable cause to believe:

(1) has been:

(A) convicted of a felony; or

(B) adjudicated a delinquent child for an act that would be a felony if committed by an adult, if the person seeking to obtain ownership or possession of the handgun is less than twenty-three (23) years of age;

(2) is a drug abuser;

(3) is an alcohol abuser; or

(4) is mentally incompetent.

35-47-2-8. Persons to whom sale regulations apply. The regulation of the sale of handguns imposed by this chapter shall apply equally to an occasional sale, trade, or transfer between individual persons and to retail transactions between dealers and individual persons.

35-47-2-14. License requirements for retail dealer - Failure to display license. A retail dealer who:

(1) sells;

(2) trades;

(3) transfers;

(4) exposes for sale, trade, or transfer; or

(5) possesses with intent to sell, trade, or transfer; any handgun without being licensed under sections 15 and 16 of this chapter and without displaying his license at all times commits a Class B misdemeanor.

35-47-2-15. Issuance of retail handgun dealer's license - Investigation and fingerprinting.

(a) A person desiring a retail handgun dealer's license shall apply to the sheriff of the county in which he resides, or if he is a resident of another state and has a regular place of business in Indiana, then to the sheriff of the county in which he has a regular place of business.

The applicant shall state his name, full address, occupation, sex, race, age, place of birth, date of birth, nationality, height, weight, build, color of eyes, color of hair, complexion, scars and marks, and any criminal record (minor traffic offenses excepted). The officer to whom the application is made shall verify the application and search his records concerning the applicant's character and reputation.

(b) The officer to whom the application is made shall send to the superintendent:

- (1) the verified application;
- (2) the results of the officer's investigation; and
- (3) the officer's recommendation for approval or disapproval of the application; in as many copies as the superintendent shall designate, and one (1) set of legible and classifiable fingerprints of the applicant. The superintendent may make whatever further investigation he deems necessary. Whenever disapproval is recommended by the officer to whom the application was made, he shall provide the superintendent and the applicant with his complete reasons for the disapproval in writing. If the officer to whom the application is made recommends approval, he shall instruct the applicant in the proper method of taking legible and classifiable fingerprints. If it appears to the superintendent that the applicant is of good character and reputation and a proper person to be licensed, he shall issue to the applicant a retail handgun dealer's license which shall be valid for a period of two (2) years from the date of issue. The fee for the license shall be twenty dollars (\$20), which shall be deposited with the officer to whom the application is made, who shall in turn forward it to the superintendent for deposit with the treasurer of state when the application is approved by the superintendent. In the event that the application is disapproved by the superintendent, the fee shall be returned to the applicant along with the complete reasons, in writing, for the disapproval.

(c) No retail dealer's license shall be issued to any person who has been:

- (1) convicted of a felony; or
 - (2) adjudicated a delinquent child for an act that would be a felony if committed by an adult, if the person applying for the retail dealer's license is less than twenty-three (23) years of age; in Indiana or any other state or country.
- (d) A retail dealer's license shall permit the licensee to sell handguns at retail within this state subject to the conditions specified in this chapter. The license may be suspended or revoked in accordance with applicable law, and the licensee may be subject to punishment as provided in this chapter.

35-47-2-16. License-designated business site - Display of license - Restrictions on sale of handguns - Display, sale or transfer at gun shows.

(a) A retail dealer's business shall be carried on only in the site designated in the license. A separate license shall be required for each separate retail outlet. Whenever a licensed dealer moves his place of business, he shall promptly notify the superintendent, who shall at once issue an amended license certificate valid for the balance of the license period. This subsection does not apply to sales at wholesale.

(b) The license, certified by the issuing authority, shall be displayed on the business

premises in a prominent place where it can be seen easily by prospective customers.

(c) No handgun shall be sold:
(1) in violation of any provision of this chapter; or

(2) under any circumstances unless the purchaser is personally known to the seller or presents clear evidence of his identity.

(d) Notwithstanding subsection (a), a retail dealer may display, sell, or transfer handguns at a gun show in accordance with this chapter and federal law.

35-47-2-17. False information - Confiscation and disposal of handgun. No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry a handgun, shall give false information or offer false evidence of identity. In addition to any penalty provided by this chapter, any handgun obtained through false information shall be subject to confiscation and disposition as provided in this chapter. Upon notice of a violation of this section by the superintendent, it shall be the duty of the sheriff or chief of police or corresponding officer of the jurisdiction in which the purchaser resides to confiscate the firearm and retain it as evidence pending trial for the offense.

35-47-2-18. Alteration, removal, obliteration of identifying marks prohibited - Possession of such handguns prohibited. No person shall:

(1) change, alter, remove, or obliterate the name of the maker, model, manufacturer's serial number, or other mark of identification on any handgun; or

(2) possess any handgun on which the name of the maker, model, manufacturer's serial number, or other mark of identification has been changed, altered, removed, or obliterated; except as provided by applicable United States statute.

35-47-2-19. Firearms exempted. This chapter does not apply to any firearm not designed to use fixed cartridges or fixed ammunition, or any firearm made before January 1, 1899.

35-47-2-20. Effect of full or conditional pardon.

(a) A full pardon from the governor of Indiana for:

(1) a felony other than a felony that is included in IC 35-42; or

(2) a violation of this chapter; removes any disability under this chapter imposed because of that offense, if fifteen (15) years have elapsed between the time of the offense and the application for a license under this chapter.

(b) A conditional pardon described in IC 11-9-2-4 for:

(1) a felony; or

(2) a violation of this chapter; removes a disability under this chapter if the superintendent determines after an investigation that circumstances have changed since the pardoned conviction was entered to such an extent that the pardoned person is likely to handle handguns in compliance with the law.

35-47-2-21. Foreign licenses.

(a) Retail dealers' licenses issued by other states or foreign countries will not be recognized in Indiana except for sales at wholesale.

(b) Licenses to carry handguns, issued by other states or foreign countries, will be recognized according to the terms thereof but only while the holders are not residents of Indiana.

35-47-2-22. Use of false or altered handgun license unlawful. It is unlawful for any person to use, or to attempt to use, a false, counterfeit, spurious, or altered handgun-carrying license to

obtain a handgun contrary to the provisions of this chapter.

35-47-2-24. Burden of proof - When prosecutions dismissed.

(a) In an information or indictment brought for the enforcement of any provision of this chapter, it is not necessary to negate any exemption specified under this chapter, or to allege the absence of a license required under this chapter. The burden of proof is on the defendant to prove that he is exempt under section 2 of this chapter, or that he has a license as required under this chapter.

(b) Whenever a person who has been arrested or charged with a violation of section 1 of this chapter presents a valid license to the prosecuting attorney or establishes that he is exempt under section 2 of this chapter, any prosecution for a violation of section 1 of this chapter shall be dismissed immediately, and all records of an arrest or proceedings following arrest shall be destroyed immediately.

Chapter 2.5. Sale of Handguns

35-47-2-5-1. Applicability. This chapter does not apply to the following:

(1) Transactions between persons who are licensed as firearms importers or collectors or firearms manufacturers or dealers under 18 U.S.C. 923.

(2) Purchases by or sales to a law enforcement officer or agent of the United States, the state, or a county or local government.

(3) Indiana residents licensed to carry handguns under IC 35-47-2-3.

35-47-2-5-2. "Dealer" defined. As used in this chapter, "dealer" includes any person licensed under 18 U.S.C. 923.

35-47-2-5-3. Criminal history information; form.

(a) Notwithstanding any other law, a person purchasing a handgun from a dealer shall consent in writing, on a form to be provided by the superintendent, to have the dealer obtain criminal history information.

(b) The form shall include, in addition to the information required by section 4 of this chapter, the same information required to be included on the firearms transaction record required by federal regulations administered by the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury. However, the form may not include any information related to the handgun.

(c) The copies of the forms shall be mailed or delivered to the state police department before the last day of the month following the sale.

35-47-2-5-4. Dealer's responsibilities. A dealer may not sell, rent, trade, or transfer from the dealer's inventory a handgun to a person until the dealer has done all of the following:

(1) Obtained from the prospective purchaser written consent to a criminal history check, as specified in section 3 of this chapter.

(2) Provided the state police department with the prospective purchaser's name, birth date, gender, race, Social Security number, and any other identification required of the prospective purchaser.

(3) Requested and received criminal history information from the state police department by means of:

(A) a telephone call; or

(B) other electronic means.

35-47-2-5-5. Photographic identification required - Other documentation of residence.

(a) To establish personal identification and residence in Indiana for purposes of this chap-

ter, a dealer must require a prospective purchaser to present one (1) photographic identification form issued by a governmental agency of the state or by the United States Department of Defense, or other documentation of residence.

(b) Except when photographic identification was issued by the United States Department of Defense, other documentation of residence must show an address identical to that shown on the photographic identification form or as amended by proper notice of change of address filed with the issuing authority. Suitable other documentation of residence includes:

(1) evidence of currently paid personal property tax or real estate tax, a current lease, utility, or telephone bill, a voter registration card, a bank check, a passport, an automobile registration, or a hunting or fishing license;

(2) other current identification allowed as evidence of residency by 27 CFR 178.124 and United States Alcohol, Tobacco, and Firearms Ruling 79-7; or

(3) other documentation of residence, determined to be acceptable by the state police department, that corroborates that the prospective purchaser currently resides in Indiana.

(c) If the photographic identification was issued by the United States Department of Defense, permanent orders may be used as documentation of residence.

35-47-2.5-6. Duties of state police. Upon receipt of a request for a criminal history check under this chapter, the state police department shall:

(1) review its criminal history information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law;

(2) inform the dealer if the state police department's record indicates that the buyer or transferee is a prohibited buyer or transferee; and

(3) provide the dealer with a unique reference number for the inquiry.

35-47-2.5-7. State police response - Dealer's response.

(a) The state police department shall provide its response to a requesting dealer under section 6 of this chapter during the dealer's call, or by return call without delay.

(b) If a criminal history check indicates that a prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the division of mental health, the state police department has until the end of the next business day of the state police department to advise the dealer that the records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

(c) If a dealer:

(1) is not advised of a prohibition before the end of the next business day of the state police department; and

(2) has fulfilled the requirements of section 4 of this chapter; the dealer may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

(d) In case of electronic failure or other circumstances beyond the control of the state police department, the dealer shall be advised immediately of the reason for the delay and be given an estimate of the length of the delay. However, after a notification under this subsection, the state police department shall inform the requesting dealer whether state police department records indicate the buyer or transferee is pro-

hibited from possessing or transporting a firearm by state or federal law not later than:

(1) the end of the next business day of the state police department following correction of the problem that caused the delay; or

(2) three (3) business days of the state police department; whichever is earlier.

(e) A dealer that fulfills the requirements of section 4 of this chapter and is told by the state police department that a response will not be available under subsection (d) may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

35-47-2.5-8. State police maintenance of records - Log of request.

(a) Except as otherwise provided in this section, the state police department may not maintain records in any form, including a computer data base, longer than thirty (30) days after a dealer's request for a criminal history check concerning a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law.

(b) A log of requests made to the state police department may be maintained for not more than twelve (12) months, if the log consists only of:

- (1) the name of the purchaser;
- (2) the dealer identification number;
- (3) the unique approval number;
- (4) the transaction date; and

(5) a record indicating that the fee collected by the dealer under section 11 of this chapter has been transferred to the state police department.

35-47-2.5-10. Penalty. A person who knowingly or intentionally:

(1) requests, obtains, or seeks to obtain under false pretenses;

(2) wrongfully maintains; or

(3) disseminates or seeks to disseminate; criminal history information except as authorized in this chapter commits a Class A misdemeanor.

35-47-2.5-11. Fee for history check.

(a) All licensed firearms dealers shall collect a fee of three dollars (\$3) for every transaction for which a criminal history check is required under this chapter. The fee must be transferred to the state police department before the last day of the month following the sale.

(b) The state police department shall deposit the fees received under this section in a special fund for use in offsetting the cost of conducting criminal history checks under this chapter.

35-47-2.5-12. False statement a felony. A person who knowingly or intentionally makes a materially false statement on the consent form required by section 3 of this chapter commits a Class D felony.

35-47-2.5-13. Violation by dealer a misdemeanor. Except as otherwise provided in this chapter, a dealer who knowingly or intentionally sells, rents, trades, or transfers a handgun in violation of this chapter commits a Class A misdemeanor.

35-47-2.5-14. Exemptions for children and resale of guns.

(a) This section does not apply to a person who provides a handgun to the following:

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

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

(A) a qualified firearms instructor; or

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

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

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

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

(6) A child who:

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

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

(b) A person who purchases a handgun with the intent to:

(1) resell or otherwise provide the handgun to another person who the person knows or has reason to believe is ineligible for any reason to purchase or otherwise receive from a dealer a handgun; or

(2) transport the handgun out of the state to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm; commits a Class D felony.

(c) If the violation of this section involves a transfer of more than one (1) handgun, the offense is a Class C felony.

35-47-2.5-15. Violation of exemptions a felony.

(a) A person who is ineligible to purchase or otherwise receive or possess a handgun in Indiana who knowingly or intentionally solicits, employs, or assists any person in violating section 14 of this chapter commits a Class D felony.

(b) If the violation involves a transfer of more than one (1) handgun, the offense is a Class C felony.

Chapter 3. Disposal of Confiscated Weapons

35-47-3-1. Disposal of confiscated weapons. All firearms confiscated pursuant to statute shall, upon conviction of the person for the offense for which the confiscation was made, be disposed of in accordance with this chapter.

35-47-3-2. Firearms not required to be registered - Return to rightful owner - Disposal by law enforcement agency.

(a) This section applies only to firearms which are not required to be registered in the National Firearms Registration and Transfer Record.

(b) Firearms shall be returned to the rightful owner at once following final disposition of the cause if a return has not already occurred under the terms of IC 35-33-5. If the rightful ownership is not known the law enforcement agency holding the firearm shall make a reasonable attempt to ascertain the rightful ownership and cause the return of the firearm. However, nothing in this chapter shall be construed as requiring the return of firearms to rightful owners who have been convicted for the misuse of firearms. In such cases, the court may provide for the return of the firearm in question or order that the firearm be at once delivered:

(1) except as provided in subdivision (2), to the sheriff's department of the county in which the offense occurred; or

(2) to the city or town police force that confiscated the firearm, if:

(A) a member of the city or town police force confiscated the firearm; and

(B) the city or town has a population of more than two thousand five hundred (2,500) and less than two hundred fifty thousand (250,000).

(c) The receiving law enforcement agency shall dispose of firearms under subsection (b), at the discretion of the law enforcement agency, not more than one hundred twenty (120) days following receipt by use of any of the following procedures:

(1) Public sale of the firearms to the general public as follows:

(A) Notice of the sale shall be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days prior to the sale.

(B) Disposition of the firearm shall be by public auction in a place convenient to the general public, with disposition going to the highest bidder. However, no firearm shall be transferred to any bidder if that bidder is not lawfully eligible to receive and possess firearms according to the laws of the United States and Indiana.

(C) All handguns transferred under this subdivision shall also be transferred according to the transfer procedures set forth in this article.

(D) Money collected pursuant to the sales shall first be used to defray the necessary costs of administering this subdivision with any surplus to be:

(i) deposited into the receiving law enforcement agency's firearms training fund, if the law enforcement agency is a county law enforcement agency, or into a continuing education fund established under IC 5-2-8-2, if the law enforcement agency is a city or town law enforcement agency; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, if the law enforcement agency is a county law enforcement agency, or for law enforcement purposes, if the law enforcement agency is a city or town law enforcement agency.

(2) Sale of the firearms to a licensed firearms dealer as follows:

(A) Notice of the sale must be:

(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale.

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer.

(C) Money collected from the sales shall first be used to defray the necessary costs of administering this subdivision and any surplus shall be:

(i) deposited into the receiving law enforcement agency's firearms training fund or other appropriate training activities fund; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(3) Sale or transfer of the firearms to another law enforcement agency.

(4) Release to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of re-

search, training, and comparison in conjunction with the forensic examination of firearms evidence.

(5) Destruction of the firearms.

(d) Notwithstanding the requirement of this section mandating disposal of firearms not more than one hundred twenty (120) days following receipt, the receiving law enforcement agency may at its discretion hold firearms it may receive until a sufficient number has accumulated to defray the costs of administering this section if a delay does not exceed one hundred eighty (180) days from the date of receipt of the first firearm in the sale lot. In any event, all confiscated firearms shall be disposed of as promptly as possible.

(e) When a firearm is delivered to the state police department laboratory or other forensic laboratory under subsection (c)(4) and the state police department laboratory or other forensic laboratory determines the laboratory has no further need for the firearm in question, the laboratory shall return the firearm to the law enforcement agency for disposal under subsection (c).

35-47-3-3. Firearms required to be registered - Return to rightful owners - Delivery to law enforcement agency.

(a) This section applies to firearms that are required to be registered in the National Firearms Registration and Transfer Record.

(b) Firearms shall be returned to the rightful owner at once following final disposition of the cause, if such return has not already occurred under the terms of IC 35-33-5, and if such owner remains lawfully entitled to possess such firearms according to applicable United States and Indiana statutes. If rightful ownership is not known, the law enforcement agency holding the firearm shall make a reasonable and diligent effort to ascertain the rightful ownership and cause the return of the firearm being held, providing the owner remains lawfully entitled to possess such firearms.

(c) Firearms that are not returnable under this section shall be at once delivered to:

(1) the sheriff's department of the county in which the offense occurred, unless subdivision (2) applies; or

(2) the city or town police force that confiscated the firearm, if:

(A) a member of the city or town police force confiscated the firearm; and

(B) the city or town has a population of more than two thousand five hundred (2,500) and less than two hundred fifty thousand (250,000); following final disposition of the cause.

(d) When firearms are sent to a law enforcement agency under subsection (c), the law enforcement agency may upon request release the firearms to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of research, training, and comparison in conjunction with the forensic examination of firearms evidence.

(e) The receiving law enforcement agency or laboratory shall cause the registry of such firearms in the United States National Firearms Registration and Transfer Record within thirty (30) days following receipt from the court.

(f) The court may order such firearms as are not returnable destroyed, specifying the exact manner of destruction and requiring the receiving law enforcement agency or laboratory to make due return to the ordering court the time, date, method of destruction, and disposition of the remains of the destroyed firearm.

(g) No portion of this section shall be construed as requiring the receiving law enforce-

ment agency or laboratory to retain firearms which are inoperable or unserviceable, or which the receiving law enforcement agency or laboratory may choose to transfer as public property in the ordinary course of lawful commerce and exchange.

35-47-3-4. Unlawful disposal of confiscated firearms. A person who knowingly or intentionally:

(1) delivers a confiscated firearm to a person convicted of a felony:

(A) involving use of a firearm; and

(B) which is the basis of the confiscation;

(2) delivers a confiscated firearm to another with knowledge that there is a rightful owner to whom the firearm must be returned; or

(3) fails to deliver a confiscated firearm to the sheriff's department, a city or town police force, the state police department laboratory or a forensic laboratory under this chapter, the state under IC 14-22-39-6, or for disposition after a determination that the rightful owner of the firearm cannot be ascertained or is no longer entitled to possess the confiscated firearm; commits a Class D felony.

Chapter 4. Miscellaneous Provisions

35-47-4-1. Sale or delivery of deadly weapon to intoxicated person unlawful. A person who sells, barter, gives, or delivers any deadly weapon to any person at the time in a state of intoxication, knowing him to be in a state of intoxication, or to any person who is in the habit of becoming intoxicated, and knowing him to be a person who is in the habit of becoming intoxicated, commits a Class B misdemeanor.

35-47-4-2. Making loan secured by mortgage, deposit or pledge handgun unlawful. A person who makes a loan secured by a:

(1) mortgage;

(2) deposit; or

(3) pledge; of a handgun commits a Class B misdemeanor.

35-47-4-3. Pointing a firearm.

(a) This section does not apply to a law enforcement officer who is acting within the scope of the law enforcement officer's official duties or to a person who is justified in using reasonable force against another person under:

(1) IC 35-41-3-2; or

(2) IC 35-41-3-3.

(b) A person who knowingly or intentionally points a firearm at another person commits a Class D felony. However, the offense is a Class A misdemeanor if the firearm was not loaded.

35-47-4-5. Possession of firearm by serious violent felon.

(a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

- (2) voluntary manslaughter (IC 35-42-1-3);
 - (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
 - (4) battery as a:
 - (A) Class A felony (IC 35-42-2-1(a)(5));
 - (B) Class B felony (IC 35-42-2-1(a)(4)); or
 - (C) Class C felony (IC 35-42-2-1(a)(3));
 - (5) aggravated battery (IC 35-42-2-1.5);
 - (6) kidnapping (IC 35-42-3-2);
 - (7) criminal confinement (IC 35-42-3-3);
 - (8) rape (IC 35-42-4-1);
 - (9) criminal deviate conduct (IC 35-42-4-2);
 - (10) child molesting (IC 35-42-4-3);
 - (11) sexual battery as a Class C felony (IC 35-42-4-8);
 - (12) robbery (IC 35-42-5-1);
 - (13) carjacking (IC 35-42-5-2);
 - (14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
 - (15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
 - (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
 - (17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);
 - (18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
 - (19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
 - (20) criminal gang intimidation (IC 35-45-9-4);
 - (21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
 - (22) incest (IC 35-46-1-3);
 - (23) dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1);
 - (24) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
 - (25) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
 - (26) dealing in a schedule V controlled substance (IC 35-48-4-4).
- (c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

Chapter 5. Prohibited Instruments of Violence

35-47-5-4.1. Dealing in sawed-off shotguns prohibited - Exceptions.

- (a) A person who:
- (1) manufactures;
 - (2) causes to be manufactured;
 - (3) imports into Indiana;
 - (4) keeps for sale;
 - (5) offers or exposes for sale; or
 - (6) gives, lends, or possesses; any sawed-off shotgun commits dealing in a sawed-off shotgun, a Class D felony.
- (b) The presence of a weapon referred to in subsection (a) in a motor vehicle (as defined under IC 9-13-2-105(a)) except for school buses and a vehicle operated in the transportation of passengers by a common carrier (as defined in IC 8-2.1-17-4) creates an inference that the weapon is in the possession of the persons occupying the motor vehicle. However, the inference does not apply to all the persons occupying the motor vehicle if the weapon is found upon, or under the control of, one (1) of the occupants. In addition, the inference does not apply to a duly licensed driver of a motor vehicle for hire who finds the weapon in the licensed driver's motor vehicle in the proper pursuit of the licensed driver's trade.
- (c) This section does not apply to a law enforcement officer who is acting in the course of

the officer's official duties or to a person who manufactures or imports for sale or sells a sawed-off shotgun to a law enforcement agency.

35-47-5-5. Firearms exempted. This chapter does not apply to any firearm not designed to use fixed cartridges or fixed ammunition, or any firearm made before January 1, 1899.

35-47-5-6. Interstate firearms sales.

- (a) Any resident of Indiana:
- (1) who is eighteen (18) years of age or older; and
 - (2) who is not prohibited by law from obtaining, possessing, or using a firearm; may purchase or obtain a rifle or shotgun in Ohio, Kentucky, Michigan, or Illinois.
- (b) Any resident of Ohio, Kentucky, Michigan, or Illinois:
- (1) who is eighteen (18) years of age or older; and
 - (2) who is not prohibited by the laws of Indiana, his domicile, or the United States from obtaining, possessing, or using a firearm; may purchase or obtain a rifle, shotgun, or ammunition for a rifle or a shotgun in Indiana.

(c) Any transaction under this section is subject to the provisions of the Gun Control Act of 1968 (82 Stat. 1213, 18 U.S.C. 0.922(B)(3)).

35-47-5-8. Ownership or possession of machine gun prohibited. A person who owns or possesses a machine gun commits a Class C felony.

35-47-5-9. Operation of loaded machine gun prohibited. A person who operates a loaded machine gun commits a Class B felony.

35-47-5-10. Exemptions to machine gun prohibitions. The provisions of section 8 or 9 of this chapter shall not be construed to apply to any of the following:

- (1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.
- (2) Machine guns kept for display as relics and which are rendered harmless and not usable.

(3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.

(4) Persons lawfully engaged in the display, testing, or use of fireworks.

(5) Agencies of state government.

(6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, bombs, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.

(7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.

(8) Persons lawfully engaged in the manufacture, transportation, distribution, use, or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

35-47-5-11. Use of armor-piercing handgun ammunition prohibited - Exception.

(a) As used in this section, "armor-piercing handgun ammunition" means a cartridge that:

- (1) can be fired in a handgun; and
 - (2) will, upon firing, expel a projectile that has a metal core and an outer coating of plastic.
- (b) A person who knowingly or intentionally:
- (1) manufactures;
 - (2) possesses;
 - (3) transfers possession of; or

(4) offers to transfer possession of; armor-piercing handgun ammunition commits a Class C felony.

(c) This section does not apply to nylon coated ammunition, plastic shot capsules, or ammunition designed to be used in rifles or shotguns.

(d) This section does not apply to a law enforcement officer who is acting in the course of the officer's official duties or to a person who manufactures or imports for sale or sells armor-piercing handgun ammunition to a law enforcement agency.

Chapter 9. Possession of Firearms on School Property and School Buses

35-47-9-1. Security guards - School functions. This chapter does not apply to the following:

- (1) A:
 - (A) federal;
 - (B) state; or
 - (C) local; law enforcement officer.
- (2) A person who has been employed or authorized by: (A) a school; or (B) another person who owns or operates property being used by a school for a school function; to act as a security guard, perform or participate in a school function, or participate in any other activity authorized by a school.

(3) A person who: (A) may legally possess a firearm; and (B) possesses the firearm in a motor vehicle that is being operated by the person to transport another person to or from a school or a school function.

35-47-9-2. Possession of firearm on school property or school bus. A person who possesses a firearm:

- (1) in or on school property;
- (2) in or on property that is being used by a school for a school function; or
- (3) on a school bus; commits a Class D felony.

Chapter 10. Children and Handguns

35-47-10-1. Applicability. This chapter does not apply to the following:

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

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

- (A) a qualified firearms instructor; or
- (B) an adult who is supervising the child while the child is at the range.

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

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

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

- (6) A child who:
 - (A) is on real property that is under the control of the child's parent, an adult family member of the child, or the child's legal guardian; and
 - (B) has permission from the child's parent or legal guardian to possess a firearm.
- (7) A child who:
 - (A) is at the child's residence; and

(B) has the permission of the child's parent, an adult family member of the child, or the child's legal guardian to possess a firearm.

35-47-10-2. "Adult" defined. As used in this chapter, "adult" means a person who is at least eighteen (18) years of age.

35-47-10-3. "Child" defined. As used in this chapter, "child" means a person who is less than eighteen (18) years of age.

35-47-10-4. "Loaded" defined. As used in this chapter, "loaded" means having any of the following:

(1) A cartridge in the chamber or cylinder of a firearm.

(2) Ammunition in close proximity to a firearm so that a person can readily place the ammunition in the firearm.

35-47-10-5. Dangerous possession of firearm. A child who knowingly, intentionally, or recklessly:

(1) possesses a firearm for any purpose other than a purpose described in section 1 of this chapter; or

(2) provides a firearm to another child with or without remuneration for any purpose other than a purpose described in section 1 of this chapter; commits dangerous possession of a firearm, a Class A misdemeanor. However, the offense is a Class C felony if the child has a prior conviction under this section.

35-47-10-6. Provision of a firearm by adult to child. An adult who knowingly, intentionally, or recklessly provides a firearm to a child for any purpose other than those described in section 1 of this chapter, with or without remuneration, commits dangerous control of a firearm, a Class C felony. However, the offense is a Class B felony if the adult has a prior conviction under this section.

Chapter 11: Local Regulations of Firearms

35-47-11-1. Applicability.

(a) Section 2 of this chapter applies to all units (as defined in IC 36-1-2-23). All other sections of this chapter apply to all units other than townships.

(b) This chapter applies only if a statute expressly grants a legislative body the authority to adopt an emergency ordinance under this chapter.

(c) This chapter does not affect the validity of an ordinance adopted before, and in effect on, January 1, 1994.

35-47-11-2. Regulation of ownership, sale, transfer, etc. of firearms or ammunition. Notwithstanding IC 36-1-3, a unit may not regulate in any manner the ownership, possession, sale, transfer, or transportation of firearms (as defined in IC 35-47-1-5) or ammunition except as follows:

(1) This chapter does not apply to land, buildings, or other real property owned or administered by a unit, except highways (as defined in IC 8-23-1-23) or public highways (as defined in IC 8-2.1-17-14).

(2) Notwithstanding the limitation in this section, a unit may use the unit's planning and zoning powers under IC 36-7-4 to prohibit the sale of firearms within two hundred (200) feet of a school by a person having a business that did not sell firearms within two hundred (200) feet of a school before April 1, 1994.

(3) Notwithstanding the limitation in this section, a legislative body of a unit other than a township may adopt an emergency ordinance or a unit other than a township may take other action allowed under section 6 of this chapter to regulate the sale of firearms anywhere within the

unit for a period of not more than seventy-two (72) hours after the regulatory action takes effect.

35-47-11-3. Emergency ordinance - Adoption for disaster. The legislative body of a unit may adopt an emergency ordinance under this chapter if:

(1) a disaster (as defined in IC 10-4-1-3) has occurred or is likely to occur in the unit; and

(2) a local disaster emergency has been declared in the unit under IC 10-4-1-23.

35-47-11-4. Emergency ordinance - Adoption procedure. Notwithstanding any other law, if the conditions described under section 3 of this chapter are present within a unit, the legislative body of the unit may adopt an emergency ordinance under this chapter:

(1) without complying with the public notice and public meeting provisions of:

(A) IC 5-14-1.5; or

(B) any other statute;

(2) on the same day that the ordinance is presented to the legislative body; and

(3) by a majority vote of the members of the legislative body.

35-47-11-5. Time of taking effect - Expiration. An emergency ordinance adopted under section 4 of this chapter:

(1) takes effect on the date and at the time of the adoption of the ordinance; and

(2) expires the earlier of:

(A) seventy-two (72) hours after the time of the adoption of the ordinance; or

(B) a time specified in the emergency ordinance.

35-47-11-6. Restriction on firearms for 72 hours. If:

(1) the conditions described under section 3 of this chapter are present within a unit;

(2) an unsuccessful attempt is made to convene the legislative body for the purpose of adopting an emergency ordinance under this chapter; and

(3) in the case of a municipality, an unsuccessful attempt is made to convene the works board to act under this chapter as if the works board were the legislative body; the executive of a municipality or the presiding officer of a county executive may declare a restriction on the sale of firearms anywhere within the unit for a period of not more than seventy-two (72) hours after the restriction is declared. A declaration under this section has the same effect as an ordinance adopted under section 4 of this chapter and becomes effective and expires as provided in section 5 of this chapter.

Article 47.5. Controlled Explosives

Chapter 2. Definitions

35-47.5-2-1. Applicability. The definitions in this chapter apply throughout this article.

35-47.5-2-4. Destructive device.

(a) "Destructive device" means:

(1) an explosive, incendiary, or overpressure device that is configured as a:

(A) bomb;

(B) grenade;

(C) rocket with a propellant charge of more than four (4) ounces;

(D) missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce;

(E) mine;

(F) Molotov cocktail; or

(G) device that is substantially similar to an item described in clauses (A) through (F);

(2) a type of weapon that may be readily converted to expel a projectile by the action of

an explosive or other propellant through a barrel that has a bore diameter of more than one-half (1/2) inch; or

(3) a combination of parts designed or intended for use in the conversion of a device into a destructive device.

(b) The term does not include the following:

(1) A pistol, rifle, shotgun, or weapon suitable for sporting or personal safety purposes or ammunition.

(2) A device that is neither designed nor redesigned for use as a weapon.

(3) A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

(4) A surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.

35-47.5-2-5. Detonator. "Detonator" means a device containing a detonating charge that is used to initiate detonation in an explosive, including the following:

(1) Electric blasting caps.

(2) Blasting caps for use with safety fuses.

(3) Detonating cord delay connectors.

(4) Blasting caps for use with a shock tube.

(5) Improvised devices designed to function as a detonator.

35-47.5-2-6. Distribute. "Distribute" means the actual, constructive, or attempted transfer from one (1) person to another.

35-47.5-2-7. Explosives. "Explosives" means a chemical compound or other substance or mechanical system intended to produce an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury to persons or damage to property, including the substances designated in IC 35-47.5-3. The term does not include the following:

(1) A model rocket and model rocket engine designed, sold, and used to propel recoverable aero models.

(2) A paper cap in which the explosive content does not average more than twenty-five hundredths (0.25) grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the paper cap is used as a component of a destructive device.

35-47.5-2-8. Hoax device. "Hoax device" or "replica" means a device or article that has the appearance of a destructive device or detonator.

35-47.5-2-9. Incendiary. "Incendiary" means a flammable liquid or compound with a flash point not greater than one hundred fifty (150) degrees Fahrenheit, as determined by a Tagliabue or an equivalent closed cup device, including gasoline, kerosene, fuel oil, or a derivative of these substances.

35-47.5-2-12. Property. "Property" means real or personal property of any kind, including money, choses in action, and other similar interests in property.

35-47.5-2-13. Regulated explosive.

(a) "Regulated explosive" includes:

(1) a destructive device; and

(2) an explosive.

(b) The term does not include the following:

(1) An explosive in a manufactured article that is designed and packaged in a manner that is likely to prevent an explosion resulting in property damage or personal injury. A manufactured article to which this subdivision applies includes

fixed ammuniton for small arms, a firework, and a safety fuse match.

(2) Gasoline, kerosene, naphtha, turpentine, or benzine.

(3) An explosive that is being transported on or in a vessel, railroad car, or highway vehicle in conformity with the regulations adopted by the United States Department of Transportation.

(4) A blasting explosive that is transported or used for agricultural purposes and that is in a quantity that does not exceed two hundred (200) pounds.

(5) Ammonium nitrate or other explosive compounds kept for mining purposes at coal mines regulated under IC 14-34.

Chapter 5. Offenses Relating to Regulated Explosives

35-47.5-5-1. Applicability. Sections 2, 3, 4, 5, and 6 of this chapter do not apply to the following:

(1) A person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator under the laws of the United States, as amended, or under Indiana law when the person is acting in accordance with the laws, regulations, and rules issued under federal or Indiana law.

(2) A person who is issued a permit for blasting or surface coal mining by the director of the department of natural resources under IC 14-34 when the person is acting under the laws and rules of Indiana and any ordinances and regulations of the political subdivision or authority of the state where blasting or mining operations are being performed.

(3) Fireworks (as defined in IC 22-11-14-1) and a person authorized by the laws of Indiana and of the United States to manufacture, possess, distribute, transport, store, exhibit, display, or use fireworks.

(4) A law enforcement agency, a fire service agency, or an emergency management agency of Indiana, an agency or an authority of a political subdivision of the state or the United States, and an employee or authorized agent of the United States while in performance of official duties.

(5) A law enforcement officer, a fire official, or an emergency management official of the United States or any other state if that person is attending training in Indiana.

(6) The armed forces of the United States or of Indiana.

(7) Research or educational programs conducted by or on behalf of a college, university, or secondary school that are:

(A) authorized by the chief executive officer of the educational institution or the officer's designee; or

(B) conducted under the policy of the educational institution;

and conducted in accordance with the laws of the United States and Indiana.

(8) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent published edition of the official United States Pharmacopoeia or the National Formulary.

(9) Small arms ammunition and reloading components of small arms ammunition.

(10) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

(11) An explosive that is lawfully possessed for use in legitimate agricultural or business activities.

35-47.5-5-2. Unauthorized possession, manufacture, transportation or distribution of destructive devices. A person who knowingly or intentionally: (1) possesses; (2) manufactures; (3) transports; (4) distributes; (5) possesses with the intent to distribute; or (6) offers to distribute;

a destructive device, unless authorized by law, commits a Class C felony.

35-47.5-5-3. Possession, manufacture, transportation or distribution by convicted felon. A person who has been convicted of a felony by an Indiana court or a court of any other state, the United States, or another country and knowingly or intentionally: (1) possesses; (2) manufactures; (3) transports; (4) distributes; (5) possesses with the intent to distribute; or (6) offers to distribute;

a regulated explosive commits a Class C felony. However, the offense is a Class B felony if the person has a prior unrelated conviction for an offense under this section.

35-47.5-5-4. Distribution to convicted felon. A person who knowingly or intentionally distributes a regulated explosive to a person who has been convicted of a felony by an Indiana court or a court of another state, the United States, or another country commits a Class C felony.

35-47.5-5-5. Distribution to minor. A person who knowingly or intentionally distributes or offers to distribute: (1) a destructive device; (2) an explosive; or (3) a detonator;

to a person who is less than eighteen (18) years of age commits a Class B felony.

35-47.5-5-6. Possession, manufacture, transportation or distribution of hoax device. A person who: (1) manufactures; (2) possesses; (3) transports; (4) distributes; or (5) uses;

a hoax device or replica with the intent to cause another to believe that the hoax device or replica is a destructive device or detonator commits a Class D felony.

35-47.5-5-8. Possession, transportation, receipt, placing or detonation of destructive device or explosive to kill, injure, or intimidate. A person who: (1) possesses; (2) transports; (3) receives; (4) places; or (5) detonates; a destructive device or explosive with the knowledge or intent that it will be used to kill, injure, or intimidate an individual or to destroy property commits a Class A felony.

[Current through 2002 Special Session, including 2002 Ind. Acts 123 (HB 1001)]

Revised Code of the Consolidated City & County of Indianapolis/Marion County

Title II. Public Order and Safety Chapter 451. Weapons

451-4. Display of dangerous weapons. No pistol, revolver or other dangerous weapon of a similar character, which may be concealed and carried upon the person, shall be displayed for sale where it can be seen in or through any window of any structure fronting on any street or alley in the city.

451-5. Unlawful disposition of dangerous weapons. No person shall sell, give, barter, exchange, lend or otherwise dispose of, or place in the possession of any known or suspected habitual user of narcotics or any known or suspected criminal or a person with criminal pur-

pose, any type of machine gun, sawed-off shotgun, pistol or revolver, or ammunition therefor, or any knucks, billy, sandbag, dagger, dirk, bowie knife or stiletto, or any spring gun, sword cane or any other dangerous weapon of any similar character, which may be carried or concealed on or about the person and which are commonly used and fit to be used unlawfully to inflict harm on or to any person; or any tools, devices or jimmies commonly used for burglary. However, ordinary pocketknives with blades not exceeding five (5) inches in length and so known and sold in legitimate trade shall not be included in the terms of this section, and the provisions of this section shall not apply to any military forces, peace officers or other persons so excepted by law for the possession, use or disposal of any such things.

[Revised Code of the Consolidated City & County of Indianapolis/Marion County codified through Ord. 42, 2002]

Municipal Code of the City of South Bend

Chapter 13. Offenses and Miscellaneous Provisions

Article 10. Selected Weapons and Instruments of Violence Prohibited Division 1. Loaded Assault Weapons Prohibited.

13-95. Definitions. The following definitions shall apply throughout this Article:

(a) **Ammunition** shall mean any ammunition cartridge, shell or other device containing explosive or incendiary material and designed and intended for use in any firearm.

(b) **Assault Weapons** shall mean and include:

(1) Any center fire rifle with automatic action or semi-automatic action or revolving cylinder weapon, or carbine which accepts a detachable magazine with a capacity of over fifteen (15) rounds;

(2) Any semiautomatic shotgun with a magazine capacity of more than nine (9) rounds;

(3) Firearms as defined in Indiana Code § 35-47-1-5, which have threads, lugs, or other characteristics which are designed to facilitate the direct attachment of a silencer, bayonet, grenade launcher, flash suppressor, or folding stock to the firearm; and

(4) Any part or combination of parts designed to facilitate the attachment of a silencer, bayonet, grenade launcher, flash suppressor, or folding stock to a firearm; and

(5) A detachable magazine, drum, belt, feed strip, or similar device which has a capacity of, or can be readily restored or converted to accept more than fifteen (15) rounds of ammunition; and

(6) Any combination of parts which are designed and intended solely and exclusively for assembling a firearm defined to be an assault weapon as defined above, or from which an assault weapon could be assembled into an operable assault weapon if such parts are located in the possession or under the control of one (1) person.

(c) **Automatic** shall describe the mechanically self-acting of a weapon in which the spent cartridge is ejected, and the weapon reloaded and fired, by the action of the gas generated in firing or by the force of the recoil, resulting in the

weapon continuing to fire as long as the trigger is depressed.

(d) Chambered shall mean ready to fire.

(e) Community Correction Officer shall mean any person employed by a governmental agency to oversee individuals who are in custody for alleged violation or convicted of a violation of the law.

(f) Dealer shall have the meaning set forth in Indiana Code § 35-47-1-3.

(g) Firearms shall have the meaning set forth in Indiana Code § 35-47-1-5.

(h) Magazine shall mean a storage place for ammunition which acts as a receptacle for cartridges which are to be fed into the breech or chamber of a rifle, shotgun, or other weapon.

(i) Minor shall mean any person who is under eighteen (18) years of age.

(j) Person shall mean any individual, corporation, company, association, firm, partnership, club or society.

(k) Rifle shall mean a weapon designed or redesigned, made or remade, and usually fired from the shoulder which has spiral grooves cut in the bore to use the energy of ammunition.

(l) Secured shall mean out of reach and in a safe condition.

(m) Security guard services shall mean an entity or individual that engages in the business of providing security guard service to the public for hire.

(n) Semi-automatic shall mean any weapon which fires a single projectile for each single pull of the trigger and which employs a magazine.

(o) Shooting or firing range shall mean a place for target practice with firearms.

(p) Shotgun shall have the meanings set forth in Indiana Code § 35-47-1-11.

13-96. Exceptions.

(a) This division shall not apply to any person listed as an "expected person" in Indiana Code § 35-47-2-2; individuals regulated and approved by the Bureau of Alcohol, Tobacco and Firearms (BATF); community correction officers, and individuals properly licensed or authorized by a BATF stamp to use such weapons in a City licensed shooting or firing range properly equipped and zoned for the use of such weapons. Such individuals shall be required to provide valid proof of their status as an exception to this Division upon reasonable request.

(b) The definition of "assault weapon" as set forth in Section 13-91 [sic] shall not include any of the following:

(1) Weapons that do not use fixed ammunition, weapons that were in production prior to 1898, manually operated bolt-action weapons, lever-action weapons, slide-action weapons, single-shot weapons, semi-automatic weapons which use exclusively manlicher-style clips semi-automatic weapons manufactured prior to 1954, and rim-fire weapons that employ a tubular magazine.

(2) Any antique or relic firearm;

(3) Any assault weapon which has been modified either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon.

(c) Any assault weapon may be possessed by any federal, state, county or local historical society, museum or educational institution of higher learning which is open to the public, provided such assault weapon is properly housed and secured from unauthorized handling and is always kept unloaded.

13-97. Restrictions on the possession and manufacturing of assault weapons.

(a) No person may manufacture any assault weapon, as defined herein, within the City of South Bend.

(b) No person may possess any loaded assault weapon, as defined herein, within the City of South Bend, except as specifically provided herein.

(c) No person may manufacture or possess any magazine with a capacity of more than fifteen (15) rounds for assault weapons within the City of South Bend, except as specifically provided herein.

13-98. Requirements for transporting and possessing unloaded assault weapons.

(a) Any person who owns any assault weapon as defined herein must:

(1) Keep a flag safety (i.e., plastic tie or chamber plug) properly in place so that the chamber is plugged resulting in the firing pin being blocked at all times;

(2) Keep said assault weapon unloaded at all times; and

(3) Keep said assault weapon in a gun slip, glove, or case so that it is inoperable and secured at all times with a gun tie or padlock.

except when using such weapon at a City licensed shooting or firing range as specifically provided herein.

(b) Any person who owns any assault weapon must keep all of its ammunition and magazines separate from the assault weapon, and in a secured container, except as specifically provided herein.

13-99. Penalties; confiscation and destruction of assault weapons.

(a) Any person who violates any of the provisions of this Division shall be fined a minimum of two hundred and fifty dollars (\$250.00) and up to a maximum of two thousand five hundred dollars (\$2,500.00) for each and every violation.

(b) The owner of an assault weapon found with a seated magazine shall be fined two hundred fifty dollars (\$250.00), and if a round is chambered an additional one hundred dollars (\$100.00) shall be assessed for each round in the chamber and the magazine.

(c) Any loaded assault weapon or weapons, and/or any magazine with a capacity of more than fifteen (15) rounds found in violation of this division shall be seized and confiscated.

(d) Additionally, any person found in violation of this division shall be required to attend and successfully complete a minimum of two (2) educational seminars on firearms safety and perform a minimum of twenty (20) hours of community service for each violation. Said seminars shall be conducted by the South Bend Police Department and/or the City's duly authorized agent.

(e) Penalties up to a total of two thousand five hundred dollars (\$2,500.00) for all citations, seminar fees and fines may be imposed upon an adult when found in violation of this division for each and every violation.

Division 2. Access to Firearms by Minors Prohibited

13-103. Definitions. The definitions set forth in Division 1 of this Article, where applicable, shall be binding on the interpretation and enforcement of this division.

13-104. Parent and legal guardian required to properly store firearms/ammunition; dealers to conspicuously display signs.

(a) No person, including but not limited to parent(s) or legal guardian(s), shall store, leave, or give a loaded or unloaded firearm(s) and ammunition used by such firearm(s) in any place

where the person knows, or reasonably should know based on the totality of the circumstances, that a minor is able to gain access to such firearm(s) and/or ammunition.

(b) All persons purchasing firearm(s) within the city, must provide written proof that he or she has successfully completed a National Rifle Association (or comparable agency) firearms safety instruction program on the proper use and storage of such firearm(s). Written proof of such training must be turned into the front desk of the South Bend Police Department within sixty (60) days from the date of said purchase.

(c) Any licensed firearm dealer doing business in the city must conspicuously post, at every purchase counter in every store, shop, or sales outlet, signs with the following warning in block letters not less than one (1) inch in height:

"IT IS A VIOLATION OF CITY OF SOUTH BEND CODE § 13-100 TO STORE OR LEAVE A FIREARM AND AMMUNITION WHERE CHILDREN UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE CAN OBTAIN ACCESS."

"ALL PERSONS PURCHASING FIREARMS ARE REQUIRED TO PROVIDE TO THE SOUTH BEND POLICE DEPARTMENT WRITTEN PROOF OF SUCCESSFULLY COMPLETING AN APPROVED FIREARMS SAFETY INSTRUCTION SESSION ON THE PROPER USE AND STORAGE OF SUCH FIREARMS WITHIN SIXTY (60) DAYS OF DATE OF PURCHASE." Such warnings shall also be distributed by such licensed firearm dealer to each firearm purchaser at the time of the sale of a firearm.

(d) This section shall not apply when:

(1) A minor's access to a firearm and its ammunition is under the supervision or control of a responsible adult for purposes of lawful hunting or instruction in firearms safety, care, handling, or marksmanship;

(2) A minor has access to a firearm and its ammunition as a result of an unlawful entry into the place in which the firearm was found;

(3) A minor obtains a firearm and its ammunition in a lawful act of self-defense or defense of another person or persons within a domicile; or

(4) A minor, without permission of the lawful possessor of a firearm and its ammunition, obtains the firearm from the possessor's body, when the possessor is unable to prevent the removal of said firearm from his or her person.

13-105. Penalties/ citations/ educational training sessions required for parents, guardians, dealers and minors found in violation.

(a) Any parent or guardian whose firearm gets in the wrongful possession of a minor shall be considered in violation of this division. Said parent or guardian shall be issued an ordinance violation citation with a fine of one hundred dollars (\$100.00) for each offense, and said firearm shall be confiscated.

(b) Any person who fails to provide written proof that he or she has successfully completed a National Rifle Association (or comparable agency) approved firearms safety instruction program on the proper and storage of such firearm(s) required by Section 13-100 [sic] shall be considered in violation of this division. An ordinance violation citation shall be issued with a fine of fifty dollars (\$50.00), and the firearm shall be confiscated. ... Firearms confiscated under this paragraph shall be returned to the owner only upon said owner showing proof that he or she is the lawful owner and that said person has since successfully completed a National Rifle Association (or comparable agency) on firearms safety instruction program addressing the proper use and storage of firearms.

(c) Any licensed firearm dealer who fails to properly display the signs required in Section 13-100 [sic] shall be considered in violation of that section. Each day and each location required to have such signage which is not in compliance with Section 13-100 [sic], shall be considered a separate offense for which a separate citation may be issued. Said licensed firearm dealer shall be issued an ordinance violation citation with fines of twenty-five dollars (\$25.00) for the first violation, and fifty dollar (\$50.00) fines for all subsequent violations. ...

(d) In addition to adult violators being issued ordinance violation citation(s), any such person found in violation of this division shall be required to attend and successfully complete a minimum of two (2) educational seminars on firearms safety and perform a minimum of twenty (20) hours of community service for each violation. Said seminars shall be conducted by the South Bend Police Department and/or the City's

duly authorized agent. All costs related to said seminars shall be paid by the violator.

(e) Any firearm, found in the possession of a minor, shall be confiscated, and the South Bend Police Department shall be immediately contacted. Said minor shall be required to attend and successfully complete a minimum of two (2) educational seminars specifically focusing on minors and safety awareness. Said seminars shall be conducted by the South Bend Police Department and/or the City's duly authorized agent. All costs related to said safety awareness seminars shall be paid by said minor's parent(s) or guardian(s). Additionally, said minor shall be required to write, in his or her own handwriting, a minimum of a two-page report on safety awareness and perform a minimum of twenty (20) hours of community service for each violation, with credit being given against the community service hours for reports deemed acceptable by the department of the City's agent. Said report

must be turned into the principal of the minor's school within seventy-two (72) hours of successfully completing the last seminar. Copies of such reports with the name of the minor being held confidential, shall be sent to the Common Council's Health and Public Safety Committee on the last business day of the month when said seminar was held. Quarterly Committee reports shall be given on the progress of such youth educational safety awareness seminars.

(f) Penalties up to a total of two thousand five hundred dollars (\$2,500.00) for all citations, seminar fees and fines may be imposed upon an adult when found in violation of this division for each and every violation.

[Municipal Code of the City of South Bend codified through Ord. 9315-02, enacted March 25, 2002]