



January 30, 2015

SENATE BILL No. 433

DIGEST OF SB 433 (Updated January 28, 2015 11:25 am - DI 106)

Citations Affected: IC 31-30; IC 35-31.5; IC 35-47; IC 35-50.

Synopsis: Shotguns. Repeals the prohibition against manufacturing, importing, selling, or possessing a sawed-off shotgun. Provides for a 10 year sentence enhancement if a person possesses a sawed-off shotgun in violation of federal law while committing certain offenses. Makes conforming amendments.

Effective: July 1, 2015.

**Tomes, Waltz, Steele, Yoder, Becker,
Buck, Walker, Arnold J, Messmer,
Smith J, Leising, Bray, Grooms,
Holdman, Delph, Raatz, Schneider**

January 12, 2015, read first time and referred to Committee on Judiciary.
January 29, 2015, reported favorably — Do Pass.

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January 30, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 433

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 31-30-1-4, AS AMENDED BY P.L.168-2014,
2 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 4. (a) The juvenile court does not have jurisdiction
4 over an individual for an alleged violation of:
5 (1) IC 35-41-5-1(a) (attempted murder);
6 (2) IC 35-42-1-1 (murder);
7 (3) IC 35-42-3-2 (kidnapping);
8 (4) IC 35-42-4-1 (rape);
9 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
10 (6) IC 35-42-5-1 (robbery) if:
11 (A) the robbery was committed while armed with a deadly
12 weapon; or
13 (B) the robbery results in bodily injury or serious bodily
14 injury;
15 (7) IC 35-42-5-2 (carjacking) (before its repeal);
16 (8) IC 35-47-2-1 (carrying a handgun without a license), if

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1 charged as a felony;
 2 (9) IC 35-47-10 (children and firearms), if charged as a felony; **or**
 3 ~~(10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or~~
 4 ~~(11)~~ **(10)** any offense that may be joined under IC 35-34-1-9(a)(2)
 5 with any crime listed in subdivisions ~~(1)~~ through ~~(10)~~; **this**
 6 **subsection;**
 7 if the individual was at least sixteen (16) years of age at the time of the
 8 alleged violation.

9 (b) Once an individual described in subsection (a) has been charged
 10 with any crime listed in subsection (a), the court having adult criminal
 11 jurisdiction shall retain jurisdiction over the case even if the individual
 12 pleads guilty to or is convicted of a lesser included offense. A plea of
 13 guilty to or a conviction of a lesser included offense does not vest
 14 jurisdiction in the juvenile court.

15 SECTION 2. IC 35-31.5-2-282, AS ADDED BY P.L.114-2012,
 16 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2015]: Sec. 282. "Sawed-off shotgun", for purposes of
 18 ~~IC 35-47~~, has the meaning set forth in ~~IC 35-47-1-10~~. **IC 35-50-2-13**,
 19 **means:**

- 20 **(1) a shotgun having one (1) or more barrels less than eighteen**
 21 **(18) inches in length; and**
 22 **(2) any weapon made from a shotgun (whether by alteration,**
 23 **modification, or otherwise) if the weapon as modified has an**
 24 **overall length of less than twenty-six (26) inches.**

25 SECTION 3. IC 35-47-1-10 IS REPEALED [EFFECTIVE JULY 1,
 26 2015]. Sec. ~~10~~: "Sawed-off shotgun" means:

- 27 ~~(1) a shotgun having one (1) or more barrels less than eighteen~~
 28 ~~(18) inches in length; and~~
 29 ~~(2) any weapon made from a shotgun (whether by alteration;~~
 30 ~~modification; or otherwise) if the weapon as modified has an~~
 31 ~~overall length of less than twenty-six (26) inches.~~

32 SECTION 4. IC 35-47-5-4.1 IS REPEALED [EFFECTIVE JULY
 33 1, 2015]. Sec. ~~4.1~~: (a) A person who:

- 34 ~~(1) manufactures;~~
 35 ~~(2) causes to be manufactured;~~
 36 ~~(3) imports into Indiana;~~
 37 ~~(4) keeps for sale;~~
 38 ~~(5) offers or exposes for sale; or~~
 39 ~~(6) gives, lends, or possesses;~~

40 any sawed-off shotgun commits dealing in a sawed-off shotgun, a Level
 41 ~~6~~ felony.

42 (b) The presence of a weapon referred to in subsection (a) in a



1 motor vehicle (as defined under IC 9-13-2-105(a)) except for school
 2 buses and a vehicle operated in the transportation of passengers by a
 3 common carrier (as defined in IC 8-2.1-17-4) creates an inference that
 4 the weapon is in the possession of the persons occupying the motor
 5 vehicle. However, the inference does not apply to all the persons
 6 occupying the motor vehicle if the weapon is found upon, or under the
 7 control of, one (1) of the occupants. In addition, the inference does not
 8 apply to a duly licensed driver of a motor vehicle for hire who finds the
 9 weapon in the licensed driver's motor vehicle in the proper pursuit of
 10 the licensed driver's trade.

11 (c) This section does not apply to a law enforcement officer who is
 12 acting in the course of the officer's official duties or to a person who
 13 manufactures or imports for sale or sells a sawed-off shotgun to a law
 14 enforcement agency.

15 SECTION 5. IC 35-50-2-13, AS AMENDED BY P.L.71-2005,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2015]: Sec. 13. (a) The state may seek, on a page separate
 18 from the rest of a charging instrument, to have a person who allegedly
 19 committed an offense of dealing in a controlled substance under
 20 IC 35-48-4-1 through IC 35-48-4-4 sentenced to an additional fixed
 21 term of imprisonment if the state can show beyond a reasonable doubt
 22 that the person knowingly or intentionally:

23 (1) used a firearm; or

24 (2) possessed a:

25 (A) handgun in violation of IC 35-47-2-1;

26 (B) sawed-off shotgun in violation of ~~IC 35-47-5-4.1~~; **federal**
 27 **law**; or

28 (C) machine gun in violation of IC 35-47-5-8;

29 while committing the offense.

30 (b) If the person was convicted of the offense in a jury trial, the jury
 31 shall reconvene to hear evidence in the enhancement hearing. If the
 32 trial was to the court, or the judgment was entered on a guilty plea, the
 33 court alone shall hear evidence in the enhancement hearing.

34 (c) If the jury (if the hearing is by jury) or the court (if the hearing
 35 is to the court alone) finds that the state has proved beyond a
 36 reasonable doubt that the person knowingly or intentionally committed
 37 an offense as described in subsection (a), the court may sentence the
 38 person to an additional fixed term of imprisonment of not more than
 39 five (5) years, except as follows:

40 (1) If the firearm is a sawed-off shotgun, the court may sentence
 41 the person to an additional fixed term of imprisonment of not
 42 more than ten (10) years.



1 (2) If the firearm is a machine gun or is equipped with a firearm
2 silencer or firearm muffler, the court may sentence the person to
3 an additional fixed term of imprisonment of not more than twenty
4 (20) years. The additional sentence under this subdivision is in
5 addition to any additional sentence imposed under section 11 of
6 this chapter for use of a firearm in the commission of an offense.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 433, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 433 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 1

