

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 ENROLLED ACT No. 433

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 31-30-1-4, AS AMENDED BY P.L.168-2014, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
- (7) IC 35-42-5-2 (carjacking) (before its repeal);
- (8) IC 35-47-2-1 (carrying a handgun without a license), if charged as a felony;
- (9) IC 35-47-10 (children and firearms), if charged as a felony; **or**
- ~~(10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or~~
- ~~(11)~~ **(10)** any offense that may be joined under IC 35-34-1-9(a)(2)

SEA 433



with any crime listed in ~~subdivisions (1) through (10)~~; **this subsection;**
if the individual was at least sixteen (16) years of age at the time of the alleged violation.

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

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

SECTION 3. IC 35-47-1-10 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 10. "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.

SECTION 4. IC 35-47-5-4.1 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 4.1. (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 Level 6 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.

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

- (1) used a firearm; or
 - (2) possessed a:
 - (A) handgun in violation of IC 35-47-2-1;
 - (B) sawed-off shotgun in violation of ~~IC 35-47-5-4.1~~; **federal law**; or
 - (C) machine gun in violation of IC 35-47-5-8;
- while committing the offense.

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

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

- (1) If the firearm is a sawed-off shotgun, the court may sentence the person to an additional fixed term of imprisonment of not more than ten (10) years.
- (2) If the firearm is a machine gun or is equipped with a firearm silencer or firearm muffler, the court may sentence the person to an additional fixed term of imprisonment of not more than twenty (20) years. The additional sentence under this subdivision is in



addition to any additional sentence imposed under section 11 of this chapter for use of a firearm in the commission of an offense.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 433

