

HOUSE BILL No. 1117

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-17.

Synopsis: Second amendment protection. Provides that certain federal laws that infringe on the right to keep and bear arms are invalid, not recognized, and rejected, and shall not be enforced by Indiana. Specifies penalties and causes of action concerning a political subdivision or law enforcement agency that employs a: (1) law enforcement officer who enforces or attempts to enforce certain provisions or otherwise deprives a citizen of Indiana of particular constitutional rights or privileges; or (2) federal official, or person who gives material aid to a federal official, who knowingly enforces or attempts to enforce certain laws. Specifies exceptions. Makes findings and defines particular terms.

Effective: Upon passage.

Sweet

January 10, 2023, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1117

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

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

1 SECTION 1. IC 35-47-17 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:
4 **Chapter 17. Protection of the Second Amendment**
5 **Sec. 1. The following definitions apply throughout this chapter:**
6 (1) "Federal official" means a person who:
7 (A) currently acts or has previously acted as an official,
8 agent, employee, or deputy of the government of the United
9 States; or
10 (B) otherwise acts under color of federal law;
11 in Indiana.
12 (2) "Law abiding citizen" means a person who is not
13 otherwise precluded under state law from possessing a
14 firearm. The term does not include a person who is not legally
15 present in:
16 (A) Indiana; or
17 (B) the United States.



1 **(3) "Material aid and support" includes the voluntary act of**
 2 **giving or allowing another person to make use of one (1) or**
 3 **more of the following:**

4 **(A) Lodging.**

5 **(B) Communications equipment or services, including a**
 6 **social media account.**

7 **(C) Facilities.**

8 **(D) Weapons.**

9 **(E) Personnel.**

10 **(F) Transportation.**

11 **(G) Clothing.**

12 **(H) Other physical assets.**

13 **The term does not include the act of giving or allowing**
 14 **another person to use medicine or other materials necessary**
 15 **to treat physical injuries, or providing assistance to help a**
 16 **person escape a present and serious risk of life threatening**
 17 **injury.**

18 **Sec. 2. The general assembly finds the following:**

19 **(1) That the general assembly is:**

20 **(A) firmly resolved to support and defend the Constitution**
 21 **of the United States against every aggression, whether**
 22 **foreign or domestic; and**

23 **(B) bound by the duty to oppose every infraction of those**
 24 **principles that constitute the basis of the union of the**
 25 **states;**

26 **because only a faithful observance of those principles can**
 27 **secure the union's existence and the public happiness.**

28 **(2) That acting through the Constitution of the United States,**
 29 **the people of the several states created the federal government**
 30 **to be their agent in the exercise of a few defined powers, while**
 31 **reserving for the state governments the power to legislate on**
 32 **matters concerning the life, liberty, and property of citizens**
 33 **in the ordinary course of affairs.**

34 **(3) That the limitation of the power of the federal government**
 35 **is affirmed under the Tenth Amendment of the Constitution**
 36 **of the United States, which:**

37 **(A) defines the total scope of federal powers as those that**
 38 **have been delegated by the people of the several states to**
 39 **the federal government; and**

40 **(B) provides that all powers not delegated to the federal**
 41 **government in the Constitution of the United States are**
 42 **reserved to the states respectively or to the people**



- 1 themselves.
- 2 (4) That if the federal government assumes powers that the
- 3 people did not grant in the Constitution of the United States,
- 4 its acts:
- 5 (A) are without authority;
- 6 (B) are void; and
- 7 (C) have no force.
- 8 (5) That the several states of the United States respect the
- 9 proper role of the federal government but reject the
- 10 proposition that such respect requires unlimited submission.
- 11 (6) That if the federal government, created by a compact
- 12 among the states, was the exclusive or final judge of the extent
- 13 of the powers granted to it by the states through the
- 14 Constitution of the United States, the discretion of the federal
- 15 government, not the Constitution of the United States, would
- 16 necessarily become the measure of those powers.
- 17 (7) That to the contrary, as in all other cases of compacts
- 18 between powers that have no common judge, each party has
- 19 an equal right to judge for itself whether infractions of the
- 20 compact have occurred and to determine the mode and
- 21 measure of redress.
- 22 (8) That notwithstanding the grant of supremacy by the
- 23 several states to laws and treaties made under the powers
- 24 granted in the Constitution of the United States, this
- 25 supremacy does not extend to certain:
- 26 (A) federal statutes;
- 27 (B) executive orders;
- 28 (C) administrative orders;
- 29 (D) court orders;
- 30 (E) rules;
- 31 (F) regulations; or
- 32 (G) other actions;
- 33 that collect data concerning, restrict, or prohibit the
- 34 manufacture, ownership, or use of firearms, firearm
- 35 accessories, or ammunition exclusively within the borders of
- 36 Indiana.
- 37 (9) That the laws and actions described in subdivision (8)
- 38 exceed the powers granted to the federal government, except
- 39 to the extent the law or action is necessary and proper for:
- 40 (A) governing and regulating the armed forces of the
- 41 United States; or
- 42 (B) organizing, arming, and disciplining militia forces



- 1 actively employed in the service of the armed forces of the
 2 United States.
- 3 **(10) That the people of the several states have given the**
 4 **Congress of the United States the power to regulate commerce**
 5 **with foreign nations and among the several states, but the**
 6 **regulation of commerce does not include the power to:**
- 7 **(A) limit a citizen's right to keep and bear arms in defense**
 8 **of the citizen's family, neighbor, person, or property; or**
 9 **(B) dictate the types of arms and accessories that law**
 10 **abiding citizens of Indiana may:**
- 11 **(i) buy;**
 12 **(ii) sell;**
 13 **(iii) exchange; or**
 14 **(iv) otherwise possess;**
 15 **within the borders of Indiana.**
- 16 **(11) That the people of the several states have also granted to**
 17 **the Congress of the United States the power to:**
- 18 **(A) lay and collect taxes, duties, imposts, and excises to pay**
 19 **the debts and provide for the common defense and general**
 20 **welfare of the United States; and**
- 21 **(B) make all laws that shall be necessary and proper for**
 22 **carrying into execution the powers vested by the**
 23 **Constitution of the United States in the government of the**
 24 **United States, or in any department or office thereof.**
- 25 **(12) That the provisions described in subdivision (11):**
- 26 **(A) identify the means by which the federal government**
 27 **may execute its limited powers; and**
- 28 **(B) may not be construed to grant unlimited power;**
 29 **because construing the provisions in subdivision (11) in the**
 30 **manner described in clause (B) would destroy the carefully**
 31 **constructed equilibrium between the federal and state**
 32 **governments.**
- 33 **(13) That the taxing and spending powers of the Congress of**
 34 **the United States may not be used to diminish in any way the**
 35 **right of the people to keep and bear arms.**
- 36 **(14) That the federal excise tax rate on arms and ammunition,**
 37 **which funds programs under the federal Wildlife Restoration**
 38 **Act, does not have a chilling effect on the purchase or**
 39 **ownership of such arms and ammunition.**
- 40 **(15) That the people of Indiana have vested the general**
 41 **assembly with the authority to regulate the manufacture,**
 42 **possession, exchange, and use of firearms within the borders**



1 of Indiana, subject only to the limits imposed by the Second
 2 Amendment of the Constitution of the United States and the
 3 Constitution of the State of Indiana.

4 (16) That the general assembly strongly promotes responsible
 5 gun ownership, including the following:

6 (A) Parental supervision of minors in the proper use,
 7 storage, and ownership of all firearms.

8 (B) The prompt reporting of stolen firearms.

9 (C) The proper enforcement of all state firearms laws.

10 (17) That the general assembly condemns the unlawful
 11 transfer of firearms and the use of a firearm in a criminal or
 12 unlawful activity.

13 Sec. 3. (a) Certain federal acts, laws, executive orders,
 14 administrative orders, rules, and regulations infringe on the right
 15 of the people to keep and bear arms within the borders of Indiana,
 16 as guaranteed by the Second Amendment of the Constitution of the
 17 United States and Article 1, Section 32 of the Constitution of the
 18 State of Indiana.

19 (b) The acts, laws, executive orders, administrative orders,
 20 rules, and regulations described in subsection (a) include the
 21 following:

22 (1) A tax, levy, fee, or stamp imposed on firearms, firearm
 23 accessories, or ammunition that is not also applicable to all
 24 other goods and services and may reasonably be expected to
 25 create a chilling effect on the purchase or ownership of
 26 firearms, firearm accessories, or ammunition by law abiding
 27 citizens.

28 (2) A registration or tracking of firearms, firearm accessories,
 29 or ammunition.

30 (3) A registration or tracking of the ownership of firearms,
 31 firearm accessories, or ammunition.

32 (4) An act forbidding the possession, ownership, use, or
 33 transfer of a firearm, firearm accessory, or ammunition by a
 34 law abiding citizen.

35 (5) An act ordering the confiscation of firearms, firearm
 36 accessories, or ammunition from a law abiding citizen.

37 Sec. 4. A federal act, law, executive order, administrative order,
 38 rule, or regulation that infringes on the people's right to keep and
 39 bear arms, as guaranteed by the Second Amendment of the
 40 Constitution of the United States and Article 1, Section 32 of the
 41 Constitution of the State of Indiana:

42 (1) is invalid in Indiana;



- 1 (2) shall not be recognized in Indiana;
 2 (3) shall be specifically rejected by Indiana; and
 3 (4) shall not be enforced by Indiana.

4 **Sec. 5. The courts and law enforcement agencies of Indiana have**
 5 **a duty to:**

- 6 (1) protect the rights of law abiding citizens to keep and bear
 7 arms within the borders of Indiana; and
 8 (2) protect the rights described in subdivision (1) from
 9 infringements described in section 3 of this chapter.

10 **Sec. 6. (a) No person or entity, including a public officer or**
 11 **employee of Indiana or a political subdivision of Indiana, has the**
 12 **authority to enforce or attempt to enforce a federal act, law,**
 13 **executive order, administrative order, rule, regulation, statute, or**
 14 **ordinance that infringes on the right to keep and bear arms as**
 15 **described in section 3 of this chapter.**

16 **(b) Nothing in this chapter may be construed to prohibit**
 17 **officials of Indiana from accepting aid from federal officials in an**
 18 **effort to enforce the laws of Indiana.**

19 **Sec. 7. (a) This section applies to a political subdivision or law**
 20 **enforcement agency that employs a law enforcement officer after**
 21 **April 1, 2023, who, while acting under the color of state or federal**
 22 **law:**

- 23 (1) knowingly violates section 6 of this chapter; or
 24 (2) otherwise deprives a citizen of Indiana of the rights or
 25 privileges guaranteed by:

26 (A) the Second Amendment of the Constitution of the
 27 United States; or

28 (B) Article 1, Section 32 of the Constitution of the State of
 29 Indiana.

30 **(b) A political subdivision or law enforcement agency described**
 31 **under subsection (a) is:**

32 (1) liable in:

33 (A) an action at law or in equity; or

34 (B) a proper proceeding for redress;

35 to a person injured by the actions taken by a law enforcement
 36 officer under subsection (a); and

37 (2) subject to a civil penalty of fifty thousand dollars (\$50,000)
 38 for each violation of subsection (a).

39 **(c) A person who is injured by actions taken by a law**
 40 **enforcement officer under subsection (a) has standing to bring a**
 41 **action for a temporary restraining order and injunctive relief, with**
 42 **respect to the actions of the officer, in the:**



1 (1) circuit court of the county in which the actions allegedly
2 occurred; or

3 (2) circuit court of Marion County.

4 (d) The court must hold a hearing on an action filed under
5 subsection (c) within thirty (30) days of the date the action was
6 served on the responding party.

7 (e) The court may award reasonable attorney's fees and costs to
8 the prevailing party in an action filed under subsection (c).
9 However, the court may not award attorney's fees and costs if the
10 state or a political subdivision is the prevailing party.

11 (f) The state waives its sovereign immunity for purposes of an
12 action filed under this section.

13 **Sec. 8. (a) A political subdivision or law enforcement agency
14 that knowingly employs:**

15 (1) a federal official who knowingly enforces or attempts to
16 enforce any of the acts, laws, executive orders, administrative
17 orders, rules, and regulations described in section 3 of this
18 chapter; or

19 (2) a person who gives material aid and support to a federal
20 official described in subdivision (1);

21 is subject to a civil penalty of fifty thousand dollars (\$50,000) for
22 each employee described in subdivision (1) or (2).

23 (b) A person who believes that another person has violated
24 subsection (a) has standing to bring an action for a temporary
25 restraining order and injunctive relief, with respect to the actions
26 of the person described in subsection (a), in the:

27 (1) circuit court of the county in which the actions allegedly
28 occurred; or

29 (2) circuit court of Marion County.

30 (c) The court must hold a hearing on an action filed under
31 subsection (b) within thirty (30) days of the date the action was
32 served on the responding party.

33 (d) The court may award reasonable attorney's fees and costs to
34 the prevailing party in an action filed under subsection (b).
35 However, the court may not award attorney's fees and costs if the
36 state or a political subdivision is the prevailing party.

37 (e) The state waives its sovereign immunity for purposes of an
38 action filed under this section.

39 **Sec. 9. It is not a violation of this chapter for a person to provide
40 material aid to a:**

41 (1) federal official who is in pursuit of a suspect when:

42 (A) there is a criminal nexus that can be demonstrated



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- with another state or country; and
- (B) the suspect is not:
 - (i) a citizen of Indiana; or
 - (ii) present in Indiana; or
- (2) federal prosecution for a:
 - (A) felony committed against a person when the prosecution includes a weapons offense substantially similar to a weapons offense in IC 35-42 or this article, as long as the weapons offense is ancillary to the prosecution; or
 - (B) Class A or Class B felony substantially similar to an offense in IC 35-48 when the prosecution includes a weapons offense substantially similar to an offense in IC 35-42 or this article, as long as the weapons offense is ancillary to the prosecution.

Sec. 10. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application. The provisions of this chapter are severable in the manner provided by IC 1-1-1-8(b).

SECTION 2. An emergency is declared for this act.

