DIGEST OF SB 336 (Updated March 26, 2019 5:15 pm - DI 106)

Citations Affected:  IC 3-14; IC 4-30; IC 4-31; IC 4-33; IC 4-35; IC 5-10.4; IC 5-11; IC 5-13; IC 7.1-3; IC 7.1-5; IC 10-13; IC 20-33; IC 22-11; IC 24-3; IC 27-1; IC 27-10; IC 35-31.5; IC 35-43; IC 35-44.1; IC 35-44.2; IC 35-45; IC 35-46.

Synopsis: Misdemeanor penalties. Makes numerous misdemeanors civil infractions for the first offense. Repeals the crimes of vending machine vandalism and refusing to yield a party line. Increases the penalty for obstructing a medical person from a Class B misdemeanor to a Class A misdemeanor. Makes conforming provisions and repeals obsolete provisions.

Effective: July 1, 2019.

Young M, Sandlin, Glick, Bohacek, Randolph Lonnie M

(HOUSE SPONSORS — YOUNG J, DELANEY)

January 8, 2019, read first time and referred to Committee on Corrections and Criminal Law.
February 21, 2019, amended, reported favorably — Do Pass.
February 25, 2019, read second time, amended, ordered engrossed.

HOUSE ACTION
March 4, 2019, read first time and referred to Committee on Courts and Criminal Code.
March 21, 2019, amended, reported — Do Pass.
March 26, 2019, read second time, amended, ordered engrossed.
ENGROSSED
SENATE BILL No. 336

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:

SECTION 1. IC 3-14-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. A person who, knowing the person is not a voter and will not be a voter at the next election, applies for registration or procures registration as a voter commits a Class A misdemeanor. However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 2. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. A person not authorized by this title who recklessly:

1. enters the polls;
2. enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or
3. remains within the polls or within the chute in violation of IC 3-11-8-15 or IC 3-11-8-16;

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commits a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 3. IC 4-30-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A person who knowingly:

(1) sells a lottery ticket and is not authorized by the commission or this article to engage in such a sale; or

(2) sells a lottery ticket to a minor; or

(3) sells a lottery ticket at a price other than that established by the commission;

commits a Class A misdemeanor.

(b) A person who knowingly sells a lottery ticket to a minor commits a Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 4. IC 4-31-7-9, AS AMENDED BY P.L.268-2017, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) After December 31, 2013, the following individuals may not wager on horse racing at a licensed facility:

(1) A member of the commission.

(2) An employee of the commission.

(3) A racing official.

(4) The spouse of any individual listed in subdivisions (1) through (3).

(b) After December 31, 2017, the following individuals may not wager on gambling games at a facility licensed under IC 4-35:

(1) A member of the commission.

(2) The following individuals employed by the commission:

(A) The executive director.

(B) The assistant executive director.

(C) The director of security.

(D) The general counsel.

(E) The deputy general counsel.

(F) A steward.

(G) A judge.

(3) The spouse of an individual described in subdivision (1) or (2).

(c) A person who knowingly or intentionally violates this section
commits a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 5. IC 4-33-10-6, as added by P.L.221-2013, section 4, is amended to read as follows [effective July 1, 2019]: Sec. 6. (a) The following individuals may not wager on gambling games at a riverboat:

(1) A member of the commission.

(2) An employee of the commission.

(3) The spouse of any individual listed in subdivisions (1) and (2).

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 6. IC 4-35-9-6, as added by P.L.221-2013, section 5, is amended to read as follows [effective July 1, 2019]: Sec. 6. (a) The following individuals may not wager on gambling games at a facility licensed under this article:

(1) A member of the commission.

(2) An employee of the commission.

(3) The spouse of any individual listed in subdivisions (1) and (2).

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 7. IC 5-10.4-3-16, as amended by P.L.126-2012, section 16, is amended to read as follows [effective July 1, 2019]: Sec. 16. A person who recklessly violates section 10, 12, 14, or 15 of this chapter is subject to criminal prosecution under IC 35-44.2-2-4.

SECTION 8. IC 5-11-10-3, as amended by P.L.126-2012, section 20, is amended to read as follows [effective July 1, 2019]: Sec. 3. A person who violates section 1 of this chapter is subject to criminal prosecution under IC 35-44.2-2-3.

SECTION 9. IC 5-13-5-1, as amended by P.L.126-2012, section 21, is amended to read as follows [effective July 1, 2019]: Sec. 1. (a) Every public officer who receives or distributes public funds shall:

(1) keep a cashbook into which the public officer shall enter daily,
by item, all receipts of public funds; and
(2) balance the cashbook daily to show funds on hand at the close
of each day.
(b) The cashbook is a public record and is open to public inspection
in accordance with IC 5-14-3.
(c) A person who violates this section is subject to criminal
prosecution under IC 35-44.2-2-2.
SECTION 10. IC 5-13-14-3, AS AMENDED BY P.L.126-2012,
SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 3. A public servant who violates the depository
duties in this article is subject to criminal prosecution under
IC 35-44.2-2-1. The public servant also is liable upon the public
servant's official bond for any loss or damage that accrues.
SECTION 11. IC 7.1-3-18.5-1, AS AMENDED BY P.L.86-2018,
SECTION 113, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A person may not sell or
otherwise distribute in exchange for consideration a tobacco product or
electronic cigarette at retail without a valid tobacco sales certificate
issued by the commission.
(b) A certificate may be issued only to a person who owns or
operates at least one (1) of the following:
(1) A premises consisting of a permanent building or structure
where the tobacco product or electronic cigarette is sold or
distributed.
(2) A premises upon which a cigarette vending machine (as
defined by IC 35-43-4-7) is located.
SECTION 12. IC 7.1-5-1-1, AS AMENDED BY P.L.159-2014,
SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 1. (a) It is unlawful for a person to manufacture
for sale, bottle, sell, barter, import, transport, deliver, furnish, or
possess, alcohol or alcoholic beverages, malt, malt syrup, malt extract,
liquid malt or wort, for commercial purposes except as authorized in
this title.
(b) A person who knowingly or intentionally violates this section
commits a Class B misdemeanor. However, the
violation is a Class B misdemeanor if the person has a prior
unrelated adjudication or conviction for a violation of this section
within the previous five (5) years.
SECTION 13. IC 7.1-5-1-6, AS AMENDED BY P.L.117-2012,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 6. (a) Subject to section 6.5 of this chapter, it is a
Class B misdemeanor Class C infraction for a person to be, or to

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become, intoxicated as a result of the person's use of alcohol or a controlled substance (as defined in IC 35-48-1-9) in or upon a vehicle commonly used for the public transportation of passengers, or in or upon a common carrier, or in or about a depot, station, airport, ticket office, waiting room or platform, if the person:

1. endangers the person's life;
2. endangers the life of another person;
3. breaches the peace or is in imminent danger of breaching the peace; or
4. harasses, annoys, or alarms another person.

However, the violation is a Class B misdemeanor if the violation is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

(b) A person may not initiate or maintain an action against a law enforcement officer based on the officer's failure to enforce this section.

SECTION 14. IC 7.1-5-6-3, AS AMENDED BY P.L.191-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) It is unlawful for a person to act as a clerk in a package liquor store, or as a bartender, waiter, waitress, or manager for a retailer permittee unless that person has applied for and been issued the appropriate permit. This section does not apply to dining car or boat employees, to a person described in IC 7.1-3-1.7, or to a person described in IC 7.1-3-18-9(d). A person who knowingly or intentionally violates this subsection commits a Class B misdemeanor. A person who knowingly or intentionally violates this subsection commits a Class C infraction. However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

(b) It is a defense to a charge under this section if, not later than thirty (30) days after being cited by the commission, the person who was cited produces evidence that the appropriate permit was issued by the commission on the date of the citation.

(c) It is a defense to a charge under this section for a new applicant for a permit if, not later than thirty (30) days after being cited by the commission, the new applicant who was cited produces a receipt for a cashier's check or money order showing that an application for the appropriate permit was applied for on the date of the citation.

SECTION 15. IC 7.1-5-7-8, AS AMENDED BY P.L.159-2014, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) It is a Class B misdemeanor for a person to
recklessly, knowingly, or intentionally sell, barter, exchange,
provide, or furnish an alcoholic beverage to a minor. or
(2) knowingly or intentionally:
   (A) rent property; or
   (B) provide or arrange for the use of property;
for the purpose of allowing or enabling a minor to consume an
alcoholic beverage on the property.

(b) However, the offense described in subsection (a) is:
   (1) a Class A misdemeanor if the person has a prior unrelated
   conviction under this section; and
   (2) a Level 6 felony if the consumption, ingestion, or use of the
   alcoholic beverage is the proximate cause of the serious bodily
   injury or death of any person.

(c) A person who knowingly or intentionally:
   (1) rents property; or
   (2) provides or arranges for the use of property;
for the purpose of allowing or enabling a minor to consume an
alcoholic beverage on the property commits a Class C infraction.
However, the violation is a Class B misdemeanor if the person has
a prior unrelated adjudication or conviction for a violation of this
section within the previous five (5) years.

(d) This section shall not be construed to impose civil liability
upon any postsecondary educational institution, including public and
private universities and colleges, business schools, vocational schools,
and schools for continuing education, or its agents for injury to any
person or property sustained in consequence of a violation of this
section unless the institution or its agent:
   (1) sells, barters, exchanges, provides, or furnishes an alcoholic
   beverage to a minor; or
   (2) either:
      (A) rents property; or
      (B) provides or arranges for the use of property;
for the purpose of allowing or enabling a minor to consume an
alcoholic beverage on the property.

SECTION 16. IC 7.1-5-10-23, AS AMENDED BY P.L.216-2011,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 23. It is a Class B misdemeanor Class C
infraction for a permittee or an employee or agent of a permittee to
recklessly, knowingly, or intentionally sell, barter, exchange, provide,
or furnish another person who is or reasonably appears to be less than
forty (40) years of age an alcoholic beverage for consumption off the
licensed premises without first requiring the person to produce:
(1) a driver's license;
(2) an identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government; or
(3) a government issued document;
bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.

SECTION 17. IC 10-13-3-27, AS AMENDED BY P.L.13-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:
(1) has applied for employment with a noncriminal justice organization or individual;
(2) has:
   (A) applied for a license or is maintaining a license; and
   (B) provided criminal history data as required by law to be provided in connection with the license;
(3) is a candidate for public office or a public official;
(4) is in the process of being apprehended by a law enforcement agency;
(5) is placed under arrest for the alleged commission of a crime;
(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
(9) is currently residing in a location designated by the department of child services (established by IC 31-25-1-1) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of the division.
of family resources;
(12) is being sought by the parent locator service of the child
support bureau of the department of child services;
(13) is or was required to register as a sex or violent offender
under IC 11-8-8;
(14) has been convicted of any of the following:
(A) Rape (IC 35-42-4-1), if the victim is less than eighteen
(18) years of age.
(B) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the
victim is less than eighteen (18) years of age.
(C) Child molesting (IC 35-42-4-3).
(D) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
(E) Possession of child pornography (IC 35-42-4-4(d) or
IC 35-42-4-4(e)).
(F) Vicarious sexual gratification (IC 35-42-4-5).
(G) Child solicitation (IC 35-42-4-6).
(H) Child seduction (IC 35-42-4-7).
(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(J) Incest (IC 35-46-1-3), if the victim is less than eighteen
(18) years of age.
(K) Attempt under IC 35-41-5-1 to commit an offense listed in
clauses (A) through (J).
(L) Conspiracy under IC 35-41-5-2 to commit an offense listed
in clauses (A) through (J).
(M) An offense in any other jurisdiction in which the elements
of the offense for which the conviction was entered are
substantially similar to the elements of an offense described
under clauses (A) through (J);
(15) is identified as a possible perpetrator of child abuse or
neglect in an assessment conducted by the department of child
services under IC 31-33-8; or
(16) is:
(A) a parent, guardian, or custodian of a child; or
(B) an individual who is at least eighteen (18) years of age and
resides in the home of the parent, guardian, or custodian;
with whom the department of child services or a county probation
department has a case plan, dispositional decree, or permanency
plan approved under IC 31-34 or IC 31-37 that provides for
reunification following an out-of-home placement.

However, limited criminal history information obtained from the
National Crime Information Center may not be released under this
section except to the extent permitted by the Attorney General of the

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United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

1. Federally chartered or insured banking institutions.
2. Officials of state and local government for any of the following purposes:
   - Employment with a state or local governmental entity.
   - Licensing.

(c) Any person who knowingly or intentionally uses limited criminal history for any purpose not specified under this section commits a

Class A misdemeanor: Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 18. IC 20-33-2-4, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. Subject to the specific exceptions under this chapter, a student shall attend either:

1. a public school that the student is entitled to attend under IC 20-26-11; or
2. another school taught in the English language.

A person who knowingly or intentionally violates this section commits a Class C infraction. However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 19. IC 20-33-2-44, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 44. (a) This section does not apply to section 47 of this chapter.

(b) Except as otherwise provided, a person who knowingly violates this chapter commits a Class B misdemeanor.

SECTION 20. IC 22-11-14-6, AS AMENDED BY P.L.158-2013, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), 8(c), 8(d), 10, or 11(c) of this chapter commits a

Class A misdemeanor: Class C infraction. However, the offense is a Class A misdemeanor if the person has a prior unrelated judgment or conviction within
the previous five (5) years.

(b) A person who ignites, discharges, or uses consumer fireworks at
a site other than:
(1) a special discharge location;
(2) the property of the person; or
(3) the property of another who has given permission to use the
consumer fireworks;
commits a Class C infraction. However, if a person recklessly,
knowingly, or intentionally takes an action described in this subsection
within five (5) years after the person previously took an action
described in this subsection, whether or not there has been a judgment
that the person committed an infraction in taking the previous action,
the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or
uses a firework when an adult is not present and responsible at the
location of the possession or use commits a Class C infraction.
However, if a person possesses or uses a firework when an adult is not
present and responsible at the location of the possession or use within
five (5) years after a previous possession or use by the person as
described in this subsection, whether or not there has been a judgment
that the person committed an infraction in the previous possession or
use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:
(1) after 11 p.m. except on a holiday (as defined in IC 1-1-9-1(a))
or December 31, on which dates consumer fireworks may not be
ignited, discharged, or used after midnight; or
(2) before 9 a.m.;
commits a Class C infraction. However, if a person recklessly,
knowingly, or intentionally takes an action described in this subsection
within five (5) years after the person previously took an action
described in this subsection, whether or not there has been a judgment
that the person committed an infraction in taking the previous action,
the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation causes harm to the property of a
person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation results in serious bodily injury to
a person commits a Level 6 felony.

(g) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation results in the death of a person
commits a Level 5 felony.
(h) A person who knowingly or intentionally fails to collect or remit
to the state the public safety fees due under section 12 of this chapter
commits a Level 6 felony.

SECTION 21. IC 24-3-5.4-24 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 24. (a) A person shall
not:

(1) sell or distribute; or
(2) acquire, hold, own, possess, transport, import, or cause to be
imported;
cigarettes that the person knows or should know are intended for
distribution or sale in Indiana in violation of section 15 of this chapter.
(b) A person who violates this section commits a Class C
misdemeanor. However, the violation is a Class C misdemeanor if it is committed knowingly or intentionally and
the person has a prior unrelated adjudication or conviction for a
violation of this section within the previous five (5) years.

SECTION 22. IC 27-1-2-4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. A person who
recklessly violates the Indiana Insurance Law (chapters 2 through 20
of this article) commits a Class A misdemeanor, Class C infraction, except as otherwise provided. However, except as otherwise
provided, the violation is a Class C misdemeanor if the person has
a prior unrelated adjudication or conviction for a violation under
this section within the previous five (5) years.

SECTION 23. IC 27-10-4-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A bail agent or
recovery agent may not do any of the following:

(1) Suggest or advise the employment of or name for employment
any particular attorney to represent the bail agent's principal.
(2) Pay a fee or rebate or give any property to an attorney in bail
bond matters, except in defense of any action on a bond.
(3) Pay a fee or rebate or give or promise any property to the
principal or anyone in the bail agent's behalf.
(4) Participate in the capacity of an attorney at a trial or hearing
of one on whose bond the bail agent is surety.
(5) Accept any property from a principal except the premium, bail
bond filing fee (when applicable), and transfer fee (when
applicable), except that the bail agent or surety may accept
collateral security or other indemnity from the principal that must
be returned upon final termination of liability on the bond. The
collateral security or other indemnity required by the bail agent or
surety must be reasonable in relation to the amount of the bond.
(6) Solicit business in or about any place where prisoners are
confined or in or near any courtroom.

(b) A person who recklessly violates this section or who operates as
a bail agent or recovery agent without a valid license commits a Class
A misdemeanor. Class C infraction. However, the offense is a Class
A misdemeanor if the person has a prior unrelated judgment or
conviction under this section within the previous five (5) years.

SECTION 24. IC 35-31.5-2-113 IS REPEALED [EFFECTIVE
JULY 1, 2019]. See: 113. "Emergency call", for purposes of
IC 35-45-2-3; has the meaning set forth in IC 35-45-2-3(c).

SECTION 25. IC 35-31.5-2-228 IS REPEALED [EFFECTIVE
has the meaning set forth in IC 35-45-2-3(b).

SECTION 26. IC 35-31.5-2-347 IS REPEALED [EFFECTIVE
JULY 1, 2019]. See: 347. "Vending machine", for purposes of
IC 35-43-4-7; has the meaning set forth in IC 35-43-4-7(a).

SECTION 27. IC 35-43-1-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) As used in this
section:
"Cave" means any naturally occurring subterranean cavity,
including a cavern, pit, pothole, sinkhole, well, grotto, and tunnel
whether or not it has a natural entrance.
"Owner" means the person who holds title to or is in possession of
the land on or under which a cave is located, or his lessee, or agent.
"Scientific purposes" means exploration and research conducted by
persons affiliated with recognized scientific organizations with the
intent to advance knowledge and with the intent to publish the results
of said exploration or research in an appropriate medium.
(b) A person who knowingly and without the express consent of the
cave owner:

1. disfigures, destroys, or removes any stalagnite, stalactite, or
   other naturally occurring mineral deposit or formation, or
   archeological or paleontological artifact in a cave, for other than
   scientific purposes;
2. breaks any lock, gate, fence, or other structure designed to
   control or prevent access to a cave; or
3. deposits trash, rubbish, chemicals, or other litter in a cave; or
   destroys, injures, removes, or harasses any cave-dwelling
   animal for other than scientific purposes;

commits a Class A misdemeanor.

(c) A person who knowingly and without the express consent of the
cave owner deposits trash, rubbish, chemicals, or other litter in
a cave commits a Class C infraction. However, the violation is a
Class C misdemeanor if it is committed knowingly or intentionally
and the person has a prior unrelated adjudication or conviction for
a violation of this section within the previous five (5) years.

SECTION 28. IC 35-43-2-3, AS AMENDED BY P.L.79-2009,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 3. (a) As used in this section:

"Access" means to:

(1) approach;
(2) instruct;
(3) communicate with;
(4) store data in;
(5) retrieve data from; or
(6) make use of resources of;
a computer, computer system, or computer network.

"Computer network" means the interconnection of communication
lines or wireless telecommunications with a computer or wireless
telecommunication device through:

(1) remote terminals;
(2) a complex consisting of two (2) or more interconnected
computers; or
(3) a worldwide collection of interconnected networks operating
as the Internet.

"Computer system" means a set of related computer equipment,
software, or hardware.

"Hoarding program" means a computer program designed to bypass
or neutralize a security measure, access control system, or similar
system used by the owner of a computer network or computer system
to limit the amount of merchandise that one (1) person may purchase
by means of a computer network.

(b) A person who knowingly or intentionally accesses:

(1) a computer system;
(2) a computer network; or
(3) any part of a computer system or computer network;
without the consent of the owner of the computer system or computer
network, or the consent of the owner's licensee, commits computer
trespass, a Class A misdemeanor.

(c) A person who knowingly or intentionally uses a hoarding
program to purchase merchandise by means of a computer network
commits computer merchandise hoarding, a Class A misdemeanor.
Class C infraction. A person commits a separate infraction for
each item of merchandise purchased. However, the violation is a
Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years. It is a defense to a prosecution under this subsection that the person used the hoarding program with the permission of the person selling the merchandise.

(d) A person who knowingly or intentionally sells, purchases, or distributes a hoarding program commits unlawful distribution of a hoarding program, a Class A misdemeanor. A person commits a separate infraction for each sale, purchase, or distribution of a hoarding program. However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years. It is a defense to a prosecution under this subsection that the person used the hoarding program with the permission of the person selling the merchandise.

SECTION 29. IC 35-43-4-7 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 7. (a) As used in this section, "vending machine" means a mechanical or an electronic device or a receptacle designed:

1. (1) to receive a coin, bill, or token made for that purpose; and
2. (2) to automatically dispense goods, wares, merchandise, or other property in return for the insertion or deposit of a coin, bill, or token.

(b) A person who knowingly or intentionally:

1. (1) damages a vending machine; or
2. (2) removes goods, wares, merchandise, or other property from a vending machine without:
   1. (A) inserting or depositing a coin, bill, or token made for that purpose; or
   2. (B) the consent of the owner or operator of the vending machine;

commits vending machine vandalism, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the amount of the damage or the value of the goods, wares, merchandise, or other property removed from the vending machine is at least two hundred fifty dollars ($250).

SECTION 30. IC 35-44.1-4-9, AS AMENDED BY P.L.13-2013, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) As used in this section, "emergency medical person" means a person who holds a certificate issued by the Indiana emergency medical services commission to provide emergency medical services.

(b) A person who knowingly or intentionally obstructs or interferes
with an emergency medical person performing or attempting to perform
the emergency medical person's emergency functions or duties commits
obstructing an emergency medical person, a Class B misdemeanor.

Class A misdemeanor.

SECTION 31. IC 35-44.2-2-1, AS AMENDED BY P.L.158-2013,
SECTION 520, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2019]: Sec. 1. A public servant who knowingly
or intentionally fails to deposit public funds (as defined in
IC 5-13-4-20) not later than one (1) business day following the receipt
of the funds, in a depository in the name of the state or political
subdivision by the public servant having control of the funds, commits
a violation of the depository rule, a Class A misdemeanor. Class C
infraction. However, the violation is a Class A misdemeanor if the
person has a prior unrelated adjudication or conviction for a
violation of this section within the previous five (5) years. However,
the offense is a Level 6 felony if the amount involved is at least seven
hundred fifty dollars ($750); and a Level 5 felony if the amount
involved is at least fifty thousand dollars ($50,000).

SECTION 32. IC 35-44.2-2-2, AS ADDED BY P.L.126-2012,
SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 2. A public servant who receives public funds (as
defined in IC 5-13-4-20) and fails to:
(1) keep a cashbook (as defined in IC 5-13-5-1);
(2) not later than one (1) business day following the receipt of the
funds, enter into the cashbook, by item, all receipts of public
funds; or
(3) balance the cashbook daily to show funds on hand at the close
of each day;
commits a violation of the cashbook rule, a Class B misdemeanor.
Class C infraction. However, the violation is a Class B
misdemeanor if it is committed knowingly or intentionally and the
person has a prior unrelated adjudication or conviction for a
violation of this section within the previous five (5) years.

SECTION 33. IC 35-44.2-2-3, AS AMENDED BY P.L.121-2016,
SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 3. (a) This subsection does not apply to the
following:
(1) A state educational institution (as defined in IC 21-7-13-32).
(2) A municipality (as defined in IC 36-1-2-11).
(3) A county.
(4) An airport authority operating in a consolidated city.
(5) A capital improvements board of managers operating in a
(6) A board of directors of a public transportation corporation operating in a consolidated city.

(7) A municipal corporation organized under IC 16-22-8-6.

(8) A public library.

(9) A library services authority.

(10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.

(11) A school corporation (as defined in IC 36-1-2-17).

(12) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(13) A municipally owned utility (as defined in IC 8-1-2-1).

(14) A board of an airport authority under IC 8-22-3.

(15) A conservancy district.

(16) A board of aviation commissioners under IC 8-22-2.

(17) A public transportation corporation under IC 36-9-4.

(18) A commuter transportation district under IC 8-5-15.

(19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(20) A county building authority under IC 36-9-13.

(21) A soil and water conservation district established under IC 14-32.

(22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(b) A disbursing officer (as described in IC 5-11-10) who knowingly or intentionally pays a claim that is not:

(1) fully itemized; and

(2) properly certified to by the claimant or some authorized person in the claimant's behalf, with the following words of certification: "I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid;"

commits a violation of the itemization and certification rule, a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 34. IC 35-44.2-2-4, AS ADDED BY P.L.126-2012, SECTION 55, IS AMENDED TO READ AS FOLLOWS (EFFECTIVE JULY 1, 2019): Sec. 4. (a) As used in this section, a "purchase" means:

(1) the purchase of materials, equipment, goods and supplies for at least ten thousand dollars ($10,000); or

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(2) the leasing of equipment for at least five thousand dollars ($5,000).

(b) A state purchaser of materials (as described in IC 5-17-1) who fails to advertise (as defined in IC 5-3-1) for, receive, or consider bids for purchase commits unlawful competitive bidding, a Class A misdemeanor. However, the violation is a Class C infraction. However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 35. IC 35-44.2-2-5, AS ADDED BY P.L.126-2012, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. A person who knowingly, intentionally, or recklessly violates:

(1) IC 5-10.4-3-10;
(2) IC 5-10.4-3-12;
(3) IC 5-10.4-3-14; or
(4) IC 5-10.4-3-15;

commits improper teacher's retirement fund accounting, a Class A misdemeanor. Class C infraction. However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 36. IC 35-45-2-3 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 3. (a) A person who knowingly or intentionally:

(1) refuses to yield a party line upon request by another person who states that he wishes to make an emergency call from a telephone on that party line;
(2) refuses to yield a Citizens Radio Service channel upon request by another person who states that he wishes to make an emergency call on that channel; or
(3) obtains the use of a party line or Citizens Radio Service channel by falsely stating that he wishes to make an emergency call;

commits unlawful use of a communications medium; a Class B misdemeanor.

(b) "Party line" means a common telephone line for two (2) or more subscribers.

c) "Emergency call" means a telephone call or radio message in which the caller or sender reasonably believes that a human being or property is in jeopardy and that prompt summoning of aid is essential.

SECTION 37. IC 35-45-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. A person who, while

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committing a crime or to further the commission of a crime, knowingly or intentionally:

(1) possesses a code grabbing device; or

(2) uses a code grabbing device to disarm the security alarm system of a motor vehicle;

commits a Class C misdemeanor. Class C infraction. However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.

SECTION 38. IC 35-45-13-7, AS AMENDED BY P.L.158-2013, SECTION 543, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A person who knowingly or intentionally

makes, distributes, possesses, uses, or assembles an unlawful telecommunications device that is designed, adapted, or used to commit a theft of telecommunications service commits criminal use of telecommunications services, a Class A misdemeanor. However, if the commission of the offense involves at least five (5) unlawful telecommunications devices, the offense is a Level 6 felony.

(b) A person who knowingly or intentionally:

(1) makes, distributes, possesses, uses, or assembles an unlawful telecommunications device that is designed, adapted, or used to:

(A) acquire or facilitate the acquisition of telecommunications service without the consent of the telecommunications service provider; or

(B) conceal, or assist another in concealing, from a telecommunications services provider or authority, or from another person with enforcement authority, the existence or place of origin or destination of telecommunications;

(2) sells, possesses, distributes, gives, transports, or otherwise transfers to another or offers or advertises for sale:

(A) an unlawful telecommunications device, with the intent to use the unlawful telecommunications device or allow the device to be used for a purpose described in subdivision (1), subsection (a) or (b), or while knowing or having reason to believe that the device is intended to be so used;

(B) plans or instructions for making or assembling an unlawful telecommunications device, knowing or having reason to believe that the plans or instructions are intended to be used for making or assembling an unlawful telecommunications
device; or
(C) material, including hardware, cables, tools, data, computer
software, or other information or equipment, knowing that the
purchaser or a third person intends to use the material in the
manufacture of an unlawful telecommunications device; or
(3) publishes:
(A) the number or code of an existing, a canceled, a revoked,
or a nonexistent telephone number, credit number, or other
credit device; or
(B) the method of numbering or coding that is employed in the
issuance of telephone numbers, credit numbers, or other credit
devices;
with knowledge or reason to believe that the information may be
used to avoid the payment of a lawful telephone or telegraph toll
charge;
commits unauthorized use of telecommunications services, a Class A
misdemeanor. Class C infraction. A person commits a separate
violation for each unlawful telecommunications device involved.
However, the offense is a Class A misdemeanor if the person has a
prior adjudication or conviction under this section within the
previous five (5) years, and a Level 6 felony if the person has a
prior adjudication or conviction under this section within the
previous five (5) years and if the commission of the offense involves
at least five (5) unlawful telecommunications devices. the offense is a
Level 6 felony.

SECTION 39. IC 35-45-18-2, AS ADDED BY P.L.112-2007,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 2. A person who knowingly or intentionally
participates in combative fighting commits unlawful combative
fighting, a Class C misdemeanor. Class C infraction. However, the
violation is a Class C misdemeanor if the person has a prior
unrelated adjudication or conviction for a violation of this section
within the previous five (5) years.

SECTION 40. IC 35-45-18-3, AS AMENDED BY P.L.158-2013,
SECTION 546, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2019]: Sec. 3. A person who knowingly or
intentionally promotes or organizes combative fighting commits unlawful promotion or organization of combative fighting, a Class A
misdemeanor. Class C infraction. However, the offense is a Level 6
felony Class A misdemeanor if, within the five (5) years preceding the
commission of the offense, the person had a prior unrelated
adjudication or conviction under this section.

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SECTION 41. IC 35-46-8-4, AS ADDED BY P.L.94-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A person who knowingly or intentionally uses an audiovisual recording device in a motion picture exhibition facility with the intent to transmit or record a motion picture commits unlawful recording, a Class B misdemeanor. However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.
(b) It is a defense to a prosecution under this section that the accused person had the written permission of the motion picture exhibition facility owner to transmit or record the motion picture.
COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 336, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, after "infraction." insert "However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 1, line 15, after "infraction." insert "However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 2, line 9, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 2, line 33, after "infraction." insert "However, the violation is a Class A misdemeanor if person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 2, line 42, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 3, line 9, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 4, line 16, after "infraction." insert "However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 4, between lines 30 and 31, begin a new line blocked left and insert:

"However, the violation is a Class B misdemeanor if the violation is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section

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within the previous five (5) years."

Page 5, line 1, after "infraction." insert "However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 5, line 31, after "infraction." insert "However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 6, line 8, after "alcohol." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 6, line 23, after "age." insert "However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 8, line 30, after "infraction." insert "However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 8, line 35, after "infraction." insert "However, the violation is a Class C misdemeanor if:

(1) it is committed knowingly or intentionally; and
(2) the person has a prior unrelated adjudication or conviction for a violation of this article within the previous five (5) years.".

Page 9, line 5, after "conviction" insert "within the previous five (5) years".

Page 9, line 19, after "infraction." insert "However, the violation is a Class C misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 9, line 30, after "infraction." insert "However, the violation is a Class C misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 9, line 40, after "infraction." insert "However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the
previous five (5) years."

Page 11, line 24, after "infraction." insert "However, the violation is a Class C misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 11, line 29, after "provided." insert "However, except as otherwise provided, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 12, line 12, delete "section." and insert "section within the previous five (5) years."

Page 13, line 6, after "infraction." insert "However, the violation is a Class C misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 14, line 2, after "purchased." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 14, line 9, after "program." insert "However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 15, line 9, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 15, line 24, after "infraction." insert "However, the violation is a Class B misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 16, line 25, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 16, line 36, after "infraction." insert "However, the violation is a Class A misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

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years."

Page 17, line 4, after "infraction." insert "However, the violation is a Class A misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 17, line 30, after "infraction." insert "However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years.".

Page 18, line 41, delete "section," and insert "section within the previous five (5) years,"

Page 19, line 1, after "section" insert "within the previous five (5) years,".

Page 19, line 8, after "infraction." insert "However, the violation is a Class C misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 19, line 23, after "infraction." insert "However, the violation is a Class B misdemeanor if the person has a prior unrelated adjudication or conviction for a violation of this section within the previous five (5) years."

Page 19, delete lines 27 through 42.

Delete page 20.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 336 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 1.
SENATE MOTION

Madam President: I move that Senate Bill 336 be amended to read as follows:
Page 9, delete lines 30 through 42.
Delete page 10.
Renumber all SECTIONS consecutively.
(Reference is to SB 336 as printed February 22, 2019.)

GLICK

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 336, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Page 3, line 2, after "if" insert "the".
Page 6, line 2, after "minor." insert "or".
Page 11, line 35, delete "of" and insert "under".
Page 19, line 6, strike "subdivision (1)," and insert "subsection (a) or (b).".
Page 19, line 35, delete "years," and insert "years".

and when so amended that said bill do pass.

(Reference is to SB 336 as reprinted February 26, 2019.)

MCNAMARA

Committee Vote: yeas 11, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 336 be amended to read as follows:
Page 6, delete lines 35 through 42.
Page 7, delete line 1.

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