



Reprinted
February 28, 2001

HOUSE BILL No. 1649

DIGEST OF HB 1649 (Updated February 27, 2001 10:47 AM - DI 98)

Citations Affected: IC 35-46.

Synopsis: Restrictions on violent video games. Requires a minor to be accompanied by a parent, guardian, or custodian when operating an amusement machine harmful to minors. Requires an establishment that possesses amusement machines harmful to minors to conspicuously post signs on each machine that state that minors may not operate the machine unless accompanied by a parent, guardian, or custodian. Requires an establishment to separate by at least ten feet amusement machines harmful to minors from other amusement machines, pinball machines, pool or billiard tables, or bowling machines or alleys. Requires an establishment that possesses amusement machines harmful to minors to conspicuously post signs that state that minors subject to
(Continued next page)

Effective: July 1, 2003.

**Summers, Alderman, Smith V,
Crawford, Kruse**

January 17, 2001, read first time and referred to Committee on Judiciary.
February 13, 2001, reassigned to Committee on Human Affairs.
February 20, 2001, amended, reported — Do Pass.
February 27, 2001, read second time, amended, ordered engrossed.

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compulsory school attendance may not be in the establishment on a school day after 7 a.m. and before 3:30 p.m. Requires an establishment that possesses amusement machines harmful to minors to prohibit minors subject to compulsory school attendance to be in the establishment on a school day after 7 a.m. and before 3:30 p.m. Makes a violation of this law by an establishment that possesses an amusement machine harmful to minors a Class B infraction and includes civil penalties that increase for repeat offenses that occur within 90 days. Establishes a defense if a minor presents a false driver's license or identification card that states the age of the minor is sufficient to allow the minor to operate an amusement machine harmful to minors without being accompanied by a parent, guardian, or custodian. Provides that a minor who presents false information to an establishment for the purpose of operating an amusement machine harmful to minors without being accompanied by a parent, guardian, or custodian commits a Class B infraction. Provides that a person who represents that the person is a parent, guardian, or custodian of a minor for the purpose of allowing the minor to operate an amusement machine harmful to minors commits a Class B infraction. Specifies that certain licensed areas, private industrial or office locations, private clubs, or riverboats are not covered by the requirements of this law.

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February 28, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1649

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 35-46-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 7. Amusement Machines**

5 **Sec. 1. This chapter does not apply to the following**
6 **establishments:**

- 7 (1) **The part of a licensed premises (as defined in**
8 **IC 7.1-1-3-20) in which entry is limited to persons who are at**
9 **least eighteen (18) years of age.**
10 (2) **Private industrial or office locations that are customarily**
11 **accessible only to persons who are at least eighteen (18) years**
12 **of age.**
13 (3) **Private clubs if the membership is limited to persons who**
14 **are at least eighteen (18) years of age.**
15 (4) **Riverboats on which lawful gambling is authorized if entry**

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- 1 is limited to persons who are at least twenty-one (21) years of
 2 age.
 3 **Sec. 2. (a) The definitions in this section apply throughout this**
 4 **chapter.**
 5 **(b) "Accompanied" means a parent, guardian, or custodian:**
 6 **(1) is within five (5) feet of the minor at all times while the**
 7 **minor is operating an amusement machine harmful to minors;**
 8 **or**
 9 **(2) has appeared in person with the minor at the**
 10 **establishment where an amusement machine harmful to**
 11 **minors is located and on that day has given permission for the**
 12 **minor to operate the amusement machine:**
 13 **(A) to the owner of the establishment where the**
 14 **amusement machine harmful to minors is located;**
 15 **(B) to an agent of the owner; or**
 16 **(C) to an employee of the owner.**
 17 **(c) "Amusement machine" means a video game or other**
 18 **electronic device offered to the public as a game or amusement that**
 19 **requires currency, tokens, cards, or tickets and awards points**
 20 **based on the skill of the operator.**
 21 **(d) "Harmful to minors" refers to an amusement machine that:**
 22 **(1) predominantly appeals to:**
 23 **(A) minors' morbid interest in violence; or**
 24 **(B) minors' prurient interest in sex;**
 25 **(2) is patently offensive to prevailing standards in the adult**
 26 **community as a whole with respect to what is suitable**
 27 **material for persons less than eighteen (18) years of age;**
 28 **(3) lacks serious literary, artistic, political, or scientific value**
 29 **as a whole for persons less than eighteen (18) years of age;**
 30 **and**
 31 **(4) contains:**
 32 **(A) graphic violence; or**
 33 **(B) strong sexual content.**
 34 **(e) "Graphic violence" means an amusement machine's visual**
 35 **depiction or representation of realistic serious injury to a human**
 36 **or human-like being, including amputation, decapitation,**
 37 **dismemberment, bloodshed, mutilation, maiming, or disfigurement.**
 38 **(f) "Strong sexual content" means the visual depiction or**
 39 **representation by an amusement machine of nudity (as defined in**
 40 **IC 35-49-1-5) or sexual conduct (as defined in IC 35-49-1-9) by a**
 41 **human or human-like being.**
 42 **(g) "Minor" has the meaning set forth in IC 35-49-1-4.**

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1 **Sec. 3. (a) An establishment that owns or possesses an**
 2 **amusement machine harmful to minors shall do the following:**

3 **(1) Require a minor in the establishment to be accompanied**
 4 **by a:**

- 5 **(A) parent;**
 6 **(B) guardian (as defined in IC 29-3-1-6); or**
 7 **(C) custodian (as defined in IC 35-42-4-7);**

8 **if the minor is operating an amusement machine harmful to**
 9 **minors.**

10 **(2) Place a conspicuous sign on each amusement machine**
 11 **harmful to minors stating that the amusement machine may**
 12 **not be operated by a minor unless the minor is accompanied**
 13 **by a parent, guardian, or custodian.**

14 **(3) Separate by at least ten (10) feet all amusement machines**
 15 **harmful to minors from:**

- 16 **(A) amusement machines not harmful to minors;**
 17 **(B) pool or billiard tables;**
 18 **(C) pinball machines; or**
 19 **(D) bowling machines or alleys.**

20 **(4) Prohibit a minor who is subject to compulsory school**
 21 **attendance laws as set forth in IC 20-8.1-3-17 from being**
 22 **present in the establishment on a day that school is in session:**

- 23 **(A) any time after 7 a.m.; and**
 24 **(B) any time before 3:30 p.m.;**

25 **unless the minor is accompanied by a parent, guardian, or**
 26 **custodian.**

27 **(5) Place a conspicuous sign inside the establishment that**
 28 **informs minors subject to compulsory school attendance laws**
 29 **as set forth in IC 20-8.1-3-17 of the requirements set forth in**
 30 **subdivision (4).**

31 **(6) If the establishment owns or possesses more than four (4)**
 32 **amusement machines, place a nontransferable, clearly visible**
 33 **designation on the minor indicating that the parent, guardian,**
 34 **or custodian has consented to allow the minor to operate an**
 35 **amusement machine harmful to minors if the parent,**
 36 **guardian, or custodian has appeared in person at the**
 37 **establishment and given permission for the minor to operate**
 38 **the amusement machine.**

39 **(b) The following defenses are available to establishments**
 40 **accused of violating this chapter:**

41 **(1) The minor produced a driver's license bearing the minor's**
 42 **photograph at the establishment where the amusement**

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1 machine harmful to minors is located to:

2 (A) the owner of the establishment;

3 (B) an agent of the owner; or

4 (C) an employee of the owner;

5 that indicated the minor was of legal age to operate the
6 amusement machine harmful to minors.

7 (2) The minor produced an identification card issued under
8 IC 9-24-16-1 that indicated the minor was of legal age to
9 operate the amusement machine harmful to minors.

10 Sec. 4. (a) An establishment that violates this chapter commits
11 a Class B infraction. Notwithstanding IC 34-28-5-4(b), a civil
12 judgment for an infraction committed under this chapter must be
13 imposed as follows:

14 (1) If the establishment has not been issued a citation or
15 summons for a violation of this chapter in the previous ninety
16 (90) days, a civil penalty of fifty dollars (\$50).

17 (2) If the establishment has had one (1) citation or summons
18 issued for a violation of this chapter in the previous ninety
19 (90) days, a civil penalty of one hundred dollars (\$100).

20 (3) If the establishment has had two (2) citations or
21 summonses issued for a violation of this chapter in the
22 previous ninety (90) days, a civil penalty of two hundred fifty
23 dollars (\$250).

24 (4) If the establishment has had at least three (3) citations or
25 summonses issued for a violation of this chapter in the
26 previous ninety (90) days, a civil penalty of five hundred
27 dollars (\$500).

28 (b) If an establishment is issued a citation under a subdivision
29 of section 3(a) of this chapter, the establishment may not be cited
30 for a violation of the same subdivision within fourteen (14) days of
31 the date of the original citation.

32 Sec. 5. A minor who presents false information to an
33 establishment for the purpose of operating an amusement machine
34 harmful to minors without being accompanied by a parent,
35 guardian, or custodian commits a Class B infraction.

36 Sec. 6. A person who is not the parent, guardian, or custodian
37 of a minor who represents that the person is:

38 (1) a parent;

39 (2) a guardian; or

40 (3) a custodian;

41 of the minor for the purpose of allowing the minor to operate an
42 amusement machine harmful to minors commits a Class B

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1 **infraction.**
2 **Sec. 7. This chapter does not preempt an ordinance, a bylaw, or**
3 **a rule, or any amendment to an ordinance, bylaw, or rule, adopted**
4 **by:**
5 **(1) a county;**
6 **(2) a city;**
7 **(3) a township;**
8 **(4) a department, a board, or an agency of a:**
9 **(A) county;**
10 **(B) city; or**
11 **(C) township; or**
12 **(5) any other political subdivision or agency of the state;**
13 **concerning regulation of an amusement machine harmful to**
14 **minors that was enacted, promulgated, or adopted before the**
15 **effective date of this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1649, 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 1, line 3, delete "2001" and insert "2003".

Page 2, delete lines 21 through 27, begin a new paragraph and insert:

"(d) "Harmful to minors" refers to an amusement machine that:

(1) predominantly appeals to:

(A) minors' morbid interest in violence; or

(B) minors' prurient interest in sex;

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for persons less than eighteen (18) years of age;

(3) lacks serious literary, artistic, political, or scientific value as a whole for persons less than eighteen (18) years of age; and

(4) contains:

(A) graphic violence; or

(B) strong sexual content.

(e) "Graphic violence" means an amusement machine's visual depiction or representation of realistic serious injury to a human or human-like being, including amputation, decapitation, dismemberment, bloodshed, mutilation, maiming, or disfiguration.

(f) "Strong sexual content" means the visual depiction or representation by an amusement machine of nudity (as defined in IC 35-49-1-5) or sexual conduct (as defined in IC 35-49-1-9) by a human or human-like being."

Page 2, line 28, delete "(e)" and insert "(g)".

Page 4, after line 24, begin a new paragraph and insert:

"Sec. 7. This chapter does not preempt an ordinance, a bylaw, or a rule, or any amendment to an ordinance, bylaw, or rule, adopted by:

(1) a county;

(2) a city;

(3) a township;

(4) a department, a board, or an agency of a:

(A) county;

(B) city; or

(C) township; or

(5) any other political subdivision or agency of the state;

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concerning regulation of an amusement machine harmful to minors that was enacted, promulgated, or adopted before the effective date of this chapter."

and when so amended that said bill do pass.

(Reference is to HB 1649 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1649 be amended to read as follows:

Page 3, line 31, delete "Place" and insert "**If the establishment owns or possesses more than four (4) amusement machines, place**".

Page 4, line 9, after "4." insert "(a)".

Page 4, line 16, delete "summonses" and insert "**summons**".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"(b) If an establishment is issued a citation under a subdivision of section 3(a) of this chapter, the establishment may not be cited for a violation of the same subdivision within fourteen (14) days of the date of the original citation."

(Reference is to HB 1649 as printed February 21, 2001.)

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