



February 20, 2004

**ENGROSSED
HOUSE BILL No. 1044**

DIGEST OF HB 1044 (Updated February 19, 2004 9:40 am - DI 106)

Citations Affected: IC 35-44.

Synopsis: Trafficking tobacco products with an inmate. Imposes a mandatory five thousand dollar (\$5,000) fine for trafficking with an inmate by an employee of the department of correction or a penal facility and the trafficked item is a tobacco product. (The introduced version of this bill was prepared by the interim study committee on juvenile law and corrections issues.)

Effective: July 1, 2004.

Smith V, Mays, Lawson L, Ulmer
(SENATE SPONSOR — LONG)

January 13, 2004, read first time and referred to Committee on Courts and Criminal Code.
January 22, 2004, reported — Do Pass.
January 29, 2004, read second time, ordered engrossed. Engrossed.
February 2, 2004, read third time, failed. Yeas 40, nays 50.
February 4, 2004, reread third time, recommitted to Committee of One, amended; passed.
Yeas 72, nays 21.
February 5, 2004, engrossed.

SENATE ACTION

February 9, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1044—LS 6461/DI 107+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1044

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 35-44-3-9, AS AMENDED BY P.L.243-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 9. (a) As used in this section, "juvenile facility"
4 means the following:

5 (1) A secure facility (as defined in IC 31-9-2-114) in which a
6 child is detained under IC 31 or used for a child awaiting
7 adjudication or adjudicated under IC 31 as a child in need of
8 services or a delinquent child.

9 (2) A shelter care facility (as defined in IC 31-9-2-117) in which
10 a child is detained under IC 31 or used for a child awaiting
11 adjudication or adjudicated under IC 31 as a child in need of
12 services or a delinquent child.

13 (b) **Except as provided in subsection (d)**, a person who, without
14 the prior authorization of the person in charge of a penal facility or
15 juvenile facility knowingly or intentionally:

16 (1) delivers, or carries into the penal facility or juvenile facility
17 with intent to deliver, an article to an inmate or child of the

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EH 1044—LS 6461/DI 107+



1 facility;
 2 (2) carries, or receives with intent to carry out of the penal facility
 3 or juvenile facility, an article from an inmate or child of the
 4 facility; or
 5 (3) delivers, or carries to a ~~work site~~ **worksite** with the intent to
 6 deliver, alcoholic beverages to an inmate or child of a jail work
 7 crew or community work crew;
 8 commits trafficking with an inmate, a Class A misdemeanor. ~~However,~~
 9 ~~the offense is a Class C felony if the article is a controlled substance or~~
 10 ~~a deadly weapon.~~
 11 **(c) If the person who committed the offense under subsection (b)**
 12 **is an employee of:**
 13 **(1) the department of correction; or**
 14 **(2) a penal facility;**
 15 **and the article is a cigarette or tobacco product (as defined in**
 16 **IC 6-7-2-5), the court shall impose a mandatory five thousand**
 17 **dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of**
 18 **imprisonment imposed under IC 35-50-3-2.**
 19 **(d) The offense under subsection (b) is a Class C felony if the**
 20 **article is:**
 21 **(1) a controlled substance; or**
 22 **(2) a deadly weapon.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1044, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1044 be reconsidered pursuant to Rule 95.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1044 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 2, line 12, delete "Class D felony" and insert "**Class A misdemeanor**".

(Reference is to HB 1044 as printed January 23, 2004.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1044, begs leave to report that said bill has been amended as directed.

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1044, 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 13, delete "subsection (c)," and insert "**subsection (d),**".

Page 2, line 11, delete "The" and insert "**If the person who committed the**".

Page 2, line 11, delete ":".

Page 2, line 12, delete "(1) a Class A misdemeanor if the person trafficking is".

Page 2, run in lines 11 through 12.

Page 2, line 14, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 2, line 15, delete "(B)", begin a new line block indented and insert:

"(2)".

Page 2, line 16, block left beginning with "and".

Page 2, line 17, delete "; or" and insert "**, the court shall impose a mandatory five thousand dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.**".

Page 2, line 18, delete "(2)", begin a new paragraph and insert:

"**(d) The offense under subsection (b) is**".

Page 2, line 19, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 2, line 20, delete "(B)", begin a new line block indented and insert:

"(2)".

and when so amended that said bill do pass.

(Reference is to HB 1044 as reprinted February 5, 2004.)

LONG, Chairperson

Committee Vote: Yeas 6, Nays 0.

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