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# HOUSE BILL No. 1208

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47; IC 35-50-2-13.

**Synopsis:** Ban on assault weapons. Provides that the manufacture, importation, sale, or possession of a machine gun, an automatic weapon, or a convertible semiautomatic weapon is a Class C felony. Creates enhanced criminal penalties for a person who commits certain drug offenses while in possession of an automatic or a convertible semiautomatic weapon, and specifies that, if the person receives a jury trial for the underlying offense, the jury will determine whether the person committed the offense while using a prohibited firearm.

**Effective:** July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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## HOUSE BILL No. 1208



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 35-47-1-2.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]: **Sec. 2.5. "Automatic weapon" means a weapon that**  
4 **shoots or is designed to shoot more than one (1) shot, without**  
5 **manual reloading, by a single function of the trigger.**

6 SECTION 2. IC 35-47-1-2.7 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2005]: **Sec. 2.7. "Convertible semiautomatic weapon" means a**  
9 **weapon that can be readily restored to shoot more than one (1)**  
10 **shot, without manual reloading, by a single function of the trigger.**

11 SECTION 3. IC 35-47-5-8 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person who ~~owns~~  
13 ~~or possesses knowingly or intentionally:~~

- 14 (1) manufactures;
- 15 (2) imports into Indiana;
- 16 (3) sells;
- 17 (4) purchases;



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**(5) possesses; or**  
**(6) transfers possession of;**  
a machine gun, **an automatic weapon, or a convertible semiautomatic weapon** commits a Class C felony.

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

- (1) used a firearm; or
- (2) possessed a:
  - (A) handgun in violation of IC 35-47-2-1;
  - (B) sawed-off shotgun in violation of IC 35-47-5-4.1; or
  - (C) machine gun, **an automatic weapon, or a convertible semiautomatic weapon** in violation of IC 35-47-5-8;

while committing the offense.

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

**(c) If after a sentencing hearing a the jury (if the hearing is by jury) or the court (if the hearing is by the court) finds that a person committed an offense as described in subsection (a), the court may sentence the person to an additional fixed term of imprisonment of not more than five (5) years, except as follows:**

- (1) If the firearm is a sawed-off shotgun, the court may sentence the person to an additional fixed term of imprisonment of not more than ten (10) years.
- (2) If the firearm is a machine gun or is equipped with a firearm silencer or firearm muffler, the court may sentence the person to an additional fixed term of imprisonment of not more than twenty (20) years. The additional sentence under this subdivision is in addition to any additional sentence imposed under section 11 of this chapter for use of a firearm in the commission of an offense.

**SECTION 5. [EFFECTIVE JULY 1, 2005] IC 35-47-5-8, as amended by this act, applies to offenses committed after June 30, 2005.**

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