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# HOUSE BILL No. 1187

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-41-37.

**Synopsis:** Smoking in enclosed public places. Prohibits a person from smoking in: (1) an indoor enclosed area where the general public is invited or permitted; (2) a public building; or (3) a school bus or public means of mass transit when passengers are present. Provides exceptions to the prohibition of smoking in an indoor enclosed area. Repeals the definition of "retail area" and "school bus" in the clean indoor area law.

**Effective:** July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Public Health.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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# HOUSE BILL No. 1187



A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-18-2-41.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2006]: **Sec. 41.5. "Bus", for purposes of**  
4 **IC 16-41-37, has the meaning set forth in IC 16-41-37-2.3.**

5 SECTION 2. IC 16-41-37-0.5 IS ADDED TO THE INDIANA  
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2006]: **Sec. 0.5. This chapter does not apply**  
8 **to the following:**

- 9 (1) **A private home or residence, unless the home or residence**
- 10 **is providing child care as a licensed child care home under**
- 11 **IC 12-17.2-5.**
- 12 (2) **A private motor vehicle, unless the vehicle is being used**
- 13 **for:**
  - 14 (A) **the public transportation of children; or**
  - 15 (B) **health care or day care transportation.**
- 16 (3) **A limousine used for private hire.**
- 17 (4) **A building owned and operated by a social, fraternal, or**



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**religious organization when the building is:**

**(A) used by the membership of the organization or a member's guests or family; or**

**(B) rented for a private social function when the seating arrangements are under the control of the sponsor of the function.**

**(5) A guest room in a hotel, motel, bed and breakfast establishment, or similar transient lodging. However, the total percent of the guest rooms that allow smoking may not be more than twenty-five percent (25%) of the total number of guest rooms.**

**(6) A theatric production site, if the smoking by the performer is an integral part of the performance.**

**(7) A medical treatment or research site, if the smoking is integral to the treatment or research being conducted.**

**(8) A state institution (as defined in IC 12-7-2-184) where smoking is permitted under IC 12-24-2-8(a).**

SECTION 3. IC 16-41-37-2, AS AMENDED BY P.L.1-2005, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "public building" means an enclosed structure or the part of an enclosed structure that is one (1) of the following:

- (1) Occupied by an agency of state or local government.
- (2) **Used as a classroom building or a dining area at a state educational institution (as defined in IC 20-12-0.5-1), a vocational school, or a private institution (as defined in IC 20-12-71-20).**
- (3) **Used as a public school (as defined in IC 20-18-2-15) or a nonpublic school (as defined in IC 20-18-2-12).**
- (4) **Except for a private residence in a health facility, licensed as a health facility under IC 16-21 or IC 16-28.**
- (5) Used as a station for paid firefighters.
- (6) Used as a station for paid police officers.
- (7) Licensed as a child care center or child care home or registered as a child care ministry under IC 12-17.2.
- (8) Licensed as a hospital under IC 16-21 or a county hospital subject to IC 16-22.
- (9) Used as a provider's office.
- (10) **Used as a restaurant or food service establishment, including a kitchen or catering facility in which food is prepared.**
- (11) **A facility that has a permit under IC 7.1-3 to sell**

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- 1           alcoholic beverages to the public.
- 2           (12) An indoor sports facility, including a gymnasium,
- 3           bowling alley, or billiard and pool hall.
- 4           (13) A casino or pari-mutuel wagering facility.
- 5           (14) A theater, a concert hall, or an auditorium.
- 6           (15) A museum or library.
- 7           (16) A retail store, an office or other place of work, an indoor
- 8           shopping mall, a laundromat, a barbershop, a hair salon, or
- 9           an arcade.
- 10          (17) Restrooms, waiting rooms, lobbies, reception areas,
- 11          elevators, and other common use areas, including common use
- 12          areas in apartment buildings, condominiums, and other
- 13          multiunit residential facilities.

14          SECTION 4. IC 16-41-37-2.3 IS AMENDED TO READ AS  
 15          FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. As used in this  
 16          chapter, "school "bus" means a motor vehicle that is:

- 17           (1) designed and constructed for the accommodation of at least
- 18           ten (10) passengers; **and**
- 19           (2) owned or operated by a public or governmental agency or
- 20           privately owned and operated for compensation. ~~and~~
- 21           ~~(3) used for the transportation of school children to and from the~~
- 22           ~~following:~~
- 23            (A) School;
- 24            (B) School athletic games or contests;
- 25            (C) Other school functions;

26          SECTION 5. IC 16-41-37-4 IS AMENDED TO READ AS  
 27          FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A person who  
 28          smokes:

- 29           (1) in an indoor enclosed area where the general public is
- 30           invited or permitted or in a public building, except in an area
- 31           designated as a smoking area under section 5 of this chapter;
- 32           (2) in the retail area of a grocery store or drug store that is
- 33           designated as a nonsmoking area by the store's proprietor;
- 34           (3) in the dining area of a restaurant that is designated and posted
- 35           as the restaurant's nonsmoking area by the restaurant's proprietor;
- 36           or
- 37           (4) in a school bus during a school week or while the school bus
- 38           is being used for a purpose described in section 2.3(3) of this
- 39           chapter; or
- 40           (2) in a public means of mass transportation, including a
- 41           taxicab, train, limousine, school bus, or bus, when passengers
- 42           are present;

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1 commits a Class B infraction. However, the violation is a Class A  
 2 infraction if the person has at least three (3) previous unrelated  
 3 judgments for violating this section that are accrued within the twelve  
 4 (12) months immediately preceding the violation.

5 SECTION 6. IC 16-41-37-5 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. ~~(a)~~ **If there are**  
 7 **sufficient nonsmoking lounges or break rooms to accommodate**  
 8 **nonsmokers**, the official in charge of a public building shall designate  
 9 a nonsmoking ~~an indoor enclosed~~ area ~~and~~ may designate a smoking  
 10 area in the ~~building~~ **indoor enclosed area. However, a designated**  
 11 **smoking area must comply with the following requirements:**

12 (1) **It may not be accessible to individuals who are less than**  
 13 **eighteen (18) years of age.**

14 (2) **It must be separated from other parts of the building or**  
 15 **structure by a solid floor to ceiling partition.**

16 (3) **It must be ventilated, and the air from the smoking area**  
 17 **may not be recirculated to other parts of the indoor enclosed**  
 18 **area.**

19 (4) **Except for custodial or maintenance work performed in**  
 20 **the smoking area when it is unoccupied, the smoking area**  
 21 **may not be located in an area where an employee is required**  
 22 **to enter as part of the employee's work responsibilities.**

23 (b) ~~When smoking and nonsmoking areas are designated, the~~  
 24 ~~official in charge of a public building may take reasonably necessary~~  
 25 ~~measures to accommodate both smokers and nonsmokers.~~

26 (c) ~~If a public building consists of a single room, any part or all of~~  
 27 ~~the room may be reserved and posted as a nonsmoking area.~~

28 SECTION 7. IC 16-41-37-6 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. ~~(a)~~ The official in  
 30 charge of a public building shall do the following:

31 (1) Post conspicuous signs that read "Smoking Is Prohibited By  
 32 State Law Except In Designated Smoking Areas" or other similar  
 33 language.

34 (2) Request persons who are smoking in violation of section 4 of  
 35 this chapter to refrain from smoking.

36 (3) Remove a person who is smoking in violation of section 4 of  
 37 this chapter and fails to refrain from smoking after being  
 38 requested to do so.

39 (b) ~~The proprietor of a restaurant shall, under sections 4 and 5 of~~  
 40 ~~this chapter, post conspicuous signs at each entrance to the restaurant,~~  
 41 ~~informing the public of the establishment's smoking policy.~~

42 SECTION 8. IC 16-41-37-8 IS AMENDED TO READ AS

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1       FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The state department  
2       may waive the requirements of ~~section 5(b), 5(c), or section 6~~ of this  
3       chapter if the state department determines that:  
4             (1) there are compelling reasons to do so; and  
5             (2) the waiver will not significantly affect the health and comfort  
6             of nonsmokers.  
7       SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE  
8       JULY 1, 2006]: IC 16-18-2-318.1; IC 16-18-2-323.1; IC 16-41-37-3.1.

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