

HOUSE BILL No. 1125

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-9-12; IC 34-31-12.

Synopsis: Community use of school kitchens. Allows school cities, school towns, and joint districts to open school kitchens and lunchrooms for community use to: (1) improve access to knowledge about food preparation; (2) support local entrepreneurship; and (3) process and store fresh food during after school hours. Limits liability arising from the public use of school kitchens and lunchrooms. Urges the legislative council to assign an appropriate interim study committee the topic of expanding access to commercial or shared kitchens for food related entrepreneurship and expanding pathways for small business growth in agricultural and food related businesses including: (1) preparation; (2) copacking; (3) distribution; and (4) marketing.

Effective: Upon passage; July 1, 2020.

Davisson

January 8, 2020, read first time and referred to Committee on Education.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1125



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

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

1 SECTION 1. IC 20-26-9-12, AS AMENDED BY P.L.233-2015,
2 SECTION 134, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) School cities, school towns,
4 and joint districts may:
5 (1) establish, equip, operate, and maintain school kitchens and
6 school lunchrooms for the improvement of the health of students
7 and for the advancement of the educational work of their
8 respective schools **and, after school hours, may be used for**
9 **community use in a manner prescribed by an agreement**
10 **established by a school city, school town, or joint district to:**
11 **(A) improve access to knowledge of food preparation;**
12 **(B) support local entrepreneurship; and**
13 **(C) process and store fresh food;**
14 (2) employ all necessary directors, assistants, and agents; and
15 (3) appropriate funds for the school lunch program.
16 Participation in a school lunch program under this chapter is
17 discretionary with the governing board of a school corporation.



1 (b) If federal funds are not available to operate a school lunch
2 program:

- 3 (1) the state may not participate in a school lunch program; and
4 (2) money appropriated by the state for that purpose and not
5 expended shall immediately revert to the state general fund.

6 (c) Failure on the part of the state to participate in the school lunch
7 program does not invalidate any appropriation made or school lunch
8 program carried on by a school corporation by means of gifts or money
9 appropriated from state tuition support distributions received by the
10 school corporation.

11 SECTION 2. IC 34-31-12 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2020]:

14 **Chapter 12. Limited Liability Arising From the Public Use of**
15 **School Kitchens and Lunchrooms**

16 **Sec. 1. The limited liability provided in this chapter is in**
17 **addition to any immunity or limited liability provided by the**
18 **Indiana tort claims act (IC 34-13-3).**

19 **Sec. 2. This chapter does not apply to an activity if the**
20 **participant is paid by the school to participate in the activity.**

21 **Sec. 3. (a) As used in this chapter, "inherent risk of using a**
22 **school kitchen or lunchroom activity" means a condition, danger,**
23 **or hazard that is an integral part of:**

- 24 (1) a school kitchen or lunchroom activity;
25 (2) the use of kitchen or lunchroom equipment; or
26 (3) the use of a facility provided by a school;

27 **as determined by a reasonable person considering the nature of the**
28 **activity, equipment, or facility.**

29 **(b) The term includes the negligent acts of a participant that**
30 **may contribute to injury to the participant or others, including:**

- 31 (1) failing to follow instructions;
32 (2) failing to exercise reasonable caution while engaging in an
33 activity; or
34 (3) failing to obey written warnings or postings.

35 **Sec. 4. (a) As used in this chapter, "participant" means a person**
36 **who is engaging in a school kitchen or lunchroom activity.**

37 **(b) The term does not include the following individuals if the**
38 **individual is using the school's facilities in the course of the school**
39 **employment or is participating in an activity as part of an official**
40 **school function:**

- 41 (1) A school employee.
42 (2) A person providing, directing, or supervising a school



1 kitchen or lunchroom activity.

2 (3) A student who attends the school or another school in the
3 school corporation of the school.

4 Sec. 5. As used in this chapter, "school" means:

5 (1) a public school (as defined in IC 20-18-2-15); or

6 (2) an accredited nonpublic school (as defined in
7 IC 20-18-2-12).

8 Sec. 6. As used in this chapter, "school kitchen or lunchroom
9 activity" means an activity in which the general public is invited to
10 use:

11 (1) school property;

12 (2) school equipment; or

13 (3) a school facility;

14 to participate in an activity that is approved as described in section
15 12 of this chapter.

16 Sec. 7. Except as provided in sections 8 through 10 of this
17 chapter, a school is not liable for the death or injury of a
18 participant that results from an inherent risk of using a school
19 kitchen or lunchroom. A participant or the representative of a
20 participant may not:

21 (1) make a claim against;

22 (2) bring or maintain an action against; or

23 (3) recover damages from;

24 a school for injury, loss, damage, or death of a participant that
25 results from the inherent risk of using a school kitchen or
26 lunchroom.

27 Sec. 8. Section 7 of this chapter does not prevent or limit liability
28 of a school:

29 (1) that has actual knowledge of, or that knows or reasonably
30 should have known of, a dangerous condition on the property,
31 facilities, or equipment used in the school kitchens or
32 lunchrooms;

33 (2) that fails to properly train a school employee or other
34 person providing, directing, or supervising the use of school
35 kitchens or lunchrooms, if the school provides an employee or
36 other person to provide, direct, or supervise the activity and
37 the act or omission of the school employee or other person
38 proximately causes the injury, loss, damage, or death; or

39 (3) for an act or omission that is the result of willful, wanton,
40 or intentional misconduct.

41 Sec. 9. Section 7 of this chapter does not prevent or limit the
42 liability of a school that receives monetary consideration for use of



1 school kitchens or lunchrooms from any person other than a
2 government agency unless the school:

3 (1) posts and maintains a sign on which is printed the warning
4 notice set forth in section 11 of this chapter; or

5 (2) has received a signed release from the participant
6 indicating that the participant has received written notice of
7 the warning set forth in section 11 of this chapter.

8 **Sec. 10.** If there is a written contract between a school and a
9 participant for the provision of use of school kitchens or
10 lunchrooms, section 7 of this chapter does not prevent or limit the
11 liability of the school unless the contract contains the warning
12 notice set forth in section 11 of this chapter.

13 **Sec. 11. (a)** The warning notice described in sections 9 through
14 10 of this chapter must state the following:

15 **WARNING**

16 Under Indiana law, a school is not liable for an injury to, or
17 the death of, a participant in the community use of school
18 kitchens or lunchrooms at this location if the death or injury
19 results from the inherent risks of the community use of school
20 kitchens or lunchrooms, the use of kitchen or lunchroom
21 equipment, or the use of a facility provided by a school.
22 Inherent risks also include the potential that you may act in
23 a negligent manner that may contribute to your injury or
24 death, or that other participants may act in a manner that
25 may result injury or death to you. You are assuming the risk
26 of participating in this school kitchen or lunchroom activity.

27 (b) If the warning notice set forth in subsection (a) is posted on
28 a sign described in section 9(1) of this chapter, the warning must be
29 posted on the sign in letters at least one (1) inch in height and the
30 sign must be placed in a location where participants will likely be
31 present during the school kitchen or lunchroom activity.

32 (c) If the warning notice set forth in subsection (a) is included in
33 a written contract as described in section 10 of this chapter, the
34 notice must be in at least 14 point boldface type.

35 **Sec. 12.** A board of school trustees, a board of school
36 commissioners, a school board of an incorporated town and city,
37 or township school trustee must approve the types of activities that
38 may occur at a school kitchen or lunchroom activity under this
39 chapter.

40 **SECTION 3. [EFFECTIVE UPON PASSAGE]** (a) The legislative
41 council is urged to assign to an appropriate interim study
42 committee the topic of expanding access to commercial or shared



1 **kitchens for food related entrepreneurship and expanding**
2 **pathways for small business growth in agricultural and food**
3 **related businesses including:**
4 **(1) preparation;**
5 **(2) copacking;**
6 **(3) distribution; and**
7 **(4) marketing.**
8 **(b) The interim study committee shall include its**
9 **recommendations in the interim study committee's final report.**
10 **(c) This SECTION expires January 1, 2021.**
11 **SECTION 4. An emergency is declared for this act.**

