



January 30, 2015

SENATE BILL No. 375

DIGEST OF SB 375 (Updated January 28, 2015 11:26 am - DI 106)

Citations Affected: IC 34-24.

Synopsis: Human trafficking and asset forfeiture. Allows a law enforcement agency to seize real or personal property, including a vehicle, that is used by a person to: (1) commit, attempt to commit, or conspire to commit; (2) facilitate the commission of; or (3) escape from the commission of; an offense concerning human trafficking.

Effective: July 1, 2015.

**Houchin, Head, Steele, Zakas,
Taylor, Delph, Randolph, Buck**

January 12, 2015, read first time and referred to Committee on Judiciary.
January 29, 2015, reported favorably — Do Pass.

SB 375—LS 6521/DI 69



January 30, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 375

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

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

- 1 SECTION 1. IC 34-24-1-1, AS AMENDED BY P.L.217-2014,
2 SECTION 187, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The following may be seized:
4 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
5 or are intended for use by the person or persons in possession of
6 them to transport or in any manner to facilitate the transportation
7 of the following:
8 (A) A controlled substance for the purpose of committing,
9 attempting to commit, or conspiring to commit any of the
10 following:
11 (i) Dealing in or manufacturing cocaine or a narcotic drug
12 (IC 35-48-4-1).
13 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
14 (iii) Dealing in a schedule I, II, or III controlled substance
15 (IC 35-48-4-2).
16 (iv) Dealing in a schedule IV controlled substance

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- 1 (IC 35-48-4-3).
 2 (v) Dealing in a schedule V controlled substance
 3 (IC 35-48-4-4).
 4 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
 5 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
 6 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
 7 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
 8 (x) Dealing in marijuana, hash oil, hashish, or salvia
 9 (IC 35-48-4-10).
 10 (xi) Dealing in a synthetic drug or synthetic drug lookalike
 11 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 12 amendment in 2013).
 13 (B) Any stolen (IC 35-43-4-2) or converted property
 14 (IC 35-43-4-3) if the retail or repurchase value of that property
 15 is one hundred dollars (\$100) or more.
 16 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 17 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 18 mass destruction (as defined in IC 35-31.5-2-354) used to
 19 commit, used in an attempt to commit, or used in a conspiracy
 20 to commit an offense under IC 35-47 as part of or in
 21 furtherance of an act of terrorism (as defined by
 22 IC 35-31.5-2-329).
 23 (2) All money, negotiable instruments, securities, weapons,
 24 communications devices, or any property used to commit, used in
 25 an attempt to commit, or used in a conspiracy to commit an
 26 offense under IC 35-47 as part of or in furtherance of an act of
 27 terrorism or commonly used as consideration for a violation of
 28 IC 35-48-4 (other than items subject to forfeiture under
 29 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
 30 (A) furnished or intended to be furnished by any person in
 31 exchange for an act that is in violation of a criminal statute;
 32 (B) used to facilitate any violation of a criminal statute; or
 33 (C) traceable as proceeds of the violation of a criminal statute.
 34 (3) Any portion of real or personal property purchased with
 35 money that is traceable as a proceed of a violation of a criminal
 36 statute.
 37 (4) A vehicle that is used by a person to:
 38 (A) commit, attempt to commit, or conspire to commit;
 39 (B) facilitate the commission of; or
 40 (C) escape from the commission of;
 41 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 42 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting



- 1 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 2 under IC 35-47 as part of or in furtherance of an act of terrorism.
 3 (5) Real property owned by a person who uses it to commit any of
 4 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
 5 felony:
 6 (A) Dealing in or manufacturing cocaine or a narcotic drug
 7 (IC 35-48-4-1).
 8 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 9 (C) Dealing in a schedule I, II, or III controlled substance
 10 (IC 35-48-4-2).
 11 (D) Dealing in a schedule IV controlled substance
 12 (IC 35-48-4-3).
 13 (E) Dealing in marijuana, hash oil, hashish, or salvia
 14 (IC 35-48-4-10).
 15 (F) Dealing in a synthetic drug or synthetic drug lookalike
 16 substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its
 17 amendment in 2013).
 18 (6) Equipment and recordings used by a person to commit fraud
 19 under IC 35-43-5-4(10).
 20 (7) Recordings sold, rented, transported, or possessed by a person
 21 in violation of IC 24-4-10.
 22 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 23 defined by IC 35-45-6-1) that is the object of a corrupt business
 24 influence violation (IC 35-45-6-2).
 25 (9) Unlawful telecommunications devices (as defined in
 26 IC 35-45-13-6) and plans, instructions, or publications used to
 27 commit an offense under IC 35-45-13.
 28 (10) Any equipment, including computer equipment and cellular
 29 telephones, used for or intended for use in preparing,
 30 photographing, recording, videotaping, digitizing, printing,
 31 copying, or disseminating matter in violation of IC 35-42-4.
 32 (11) Destructive devices used, possessed, transported, or sold in
 33 violation of IC 35-47.5.
 34 (12) Tobacco products that are sold in violation of IC 24-3-5,
 35 tobacco products that a person attempts to sell in violation of
 36 IC 24-3-5, and other personal property owned and used by a
 37 person to facilitate a violation of IC 24-3-5.
 38 (13) Property used by a person to commit counterfeiting or
 39 forgery in violation of IC 35-43-5-2.
 40 (14) After December 31, 2005, if a person is convicted of an
 41 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 42 following real or personal property:



- 1 (A) Property used or intended to be used to commit, facilitate,
 2 or promote the commission of the offense.
- 3 (B) Property constituting, derived from, or traceable to the
 4 gross proceeds that the person obtained directly or indirectly
 5 as a result of the offense.
- 6 (15) Except as provided in subsection (e), a vehicle used by a
 7 person who operates the vehicle:
- 8 (A) while intoxicated, in violation of IC 9-30-5-1 through
 9 IC 9-30-5-5, if in the previous five (5) years the person has two
 10 (2) or more prior unrelated convictions:
- 11 (i) for operating a motor vehicle while intoxicated in
 12 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 13 (ii) for an offense that is substantially similar to IC 9-30-5-1
 14 through IC 9-30-5-5 in another jurisdiction; or
- 15 (B) on a highway while the person's driving privileges are
 16 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
 17 if in the previous five (5) years the person has two (2) or more
 18 prior unrelated convictions:
- 19 (i) for operating a vehicle while intoxicated in violation of
 20 IC 9-30-5-1 through IC 9-30-5-5; or
 21 (ii) for an offense that is substantially similar to IC 9-30-5-1
 22 through IC 9-30-5-5 in another jurisdiction.
- 23 If a court orders the seizure of a vehicle under this subdivision,
 24 the court shall transmit an order to the bureau of motor vehicles
 25 recommending that the bureau not permit a vehicle to be
 26 registered in the name of the person whose vehicle was seized
 27 until the person possesses a current driving license (as defined in
 28 IC 9-13-2-41).
- 29 (16) The following real or personal property:
- 30 (A) Property used or intended to be used to commit, facilitate,
 31 or promote the commission of an offense specified in
 32 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 33 IC 30-2-13-38(f).
- 34 (B) Property constituting, derived from, or traceable to the
 35 gross proceeds that a person obtains directly or indirectly as a
 36 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 37 IC 30-2-10-9(b), or IC 30-2-13-38(f).
- 38 (17) An automated sales suppression device (as defined in
 39 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
 40 IC 35-43-5-4.6(a)(3)).
- 41 **(18) Real or personal property, including a vehicle, that is**
 42 **used by a person to:**



- 1 **(A) commit, attempt to commit, or conspire to commit;**
 2 **(B) facilitate the commission of; or**
 3 **(C) escape from the commission of;**
 4 **a violation of IC 35-42-3.5-1 (human trafficking).**
 5 (b) A vehicle used by any person as a common or contract carrier in
 6 the transaction of business as a common or contract carrier is not
 7 subject to seizure under this section, unless it can be proven by a
 8 preponderance of the evidence that the owner of the vehicle knowingly
 9 permitted the vehicle to be used to engage in conduct that subjects it to
 10 seizure under subsection (a).
 11 (c) Equipment under subsection (a)(10) may not be seized unless it
 12 can be proven by a preponderance of the evidence that the owner of the
 13 equipment knowingly permitted the equipment to be used to engage in
 14 conduct that subjects it to seizure under subsection (a)(10).
 15 (d) Money, negotiable instruments, securities, weapons,
 16 communications devices, or any property commonly used as
 17 consideration for a violation of IC 35-48-4 found near or on a person
 18 who is committing, attempting to commit, or conspiring to commit any
 19 of the following offenses shall be admitted into evidence in an action
 20 under this chapter as prima facie evidence that the money, negotiable
 21 instrument, security, or other thing of value is property that has been
 22 used or was to have been used to facilitate the violation of a criminal
 23 statute or is the proceeds of the violation of a criminal statute:
 24 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 25 narcotic drug).
 26 (2) IC 35-48-4-1.1 (dealing in methamphetamine).
 27 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 28 substance).
 29 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
 30 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 31 as a Level 4 felony.
 32 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 33 Level 3, Level 4, or Level 5 felony.
 34 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
 35 3, Level 4, or Level 5 felony.
 36 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 37 salvia) as a Level 5 felony.
 38 (9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic drug
 39 lookalike substance) as a Level 5 felony or Level 6 felony (or as
 40 a Class C felony or Class D felony under IC 35-48-4-10 before its
 41 amendment in 2013).
 42 (e) A vehicle operated by a person who is not:



1 (1) an owner of the vehicle; or
2 (2) the spouse of the person who owns the vehicle;
3 is not subject to seizure under subsection (a)(15) unless it can be
4 proven by a preponderance of the evidence that the owner of the
5 vehicle knowingly permitted the vehicle to be used to engage in
6 conduct that subjects it to seizure under subsection (a)(15).



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 375, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 375 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0

