

SENATE BILL No. 391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-20-1; IC 16-22-8-21; IC 16-41; IC 32-30-8-12; IC 32-31; IC 36-1-3-8.

Synopsis: Property matters. Requires a local health officer to have information establishing probable cause of a public health law or rule violation before a court may issue certain orders concerning the property. (Current law requires reliable information.) Requires a health officer's order of abatement to include the name of the person making the complaint and requires the health officer to report to the county prosecutor certain information concerning a person who provided false information. Requires the health and hospital corporation of Marion County to post notice of an ordinance pending final action on the county's Internet web site. Requires a health officer to provide information concerning a person who made a false report concerning a communicable disease to the person against whom a false report was made. States that a dwelling is unfit for human habitation when the dwelling places a person's health or life in danger. (Current law states that the dwelling is dangerous or detrimental to life or health.) Requires a health officer to provide notice concerning an unfit dwelling and provide a reasonable amount of time to comply with the notice, and removes language providing that each day the dwelling remains unfit is a separate offense. Specifies language to be included in a notice to quit concerning personal property left on the property after eviction. Repeals the chapter requiring a landlord to transfer a tenant's abandoned personal property to a warehouseman or storage facility, and adds language providing that a landlord is not responsible for a tenant's personal property once it is abandoned. Specifies that a landlord is not responsible for a health code violation by a tenant. Reduces the fines for certain ordinance violations from: (1) \$2,500 to \$250; and (2) \$7,500 to \$750.

Effective: July 1, 2020.

Bohacek

January 15, 2020, read first time and referred to Committee on Judiciary.



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.

SENATE BILL No. 391

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 16-20-1-23, AS AMENDED BY P.L.122-2012,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 23. (a) Upon:
4 (1) showing official identification; and
5 (2) except as provided in subsection (b), receiving consent of the
6 owner or occupant of the premises;
7 a local health officer or the officer's designee may enter any premises
8 at any reasonable time and inspect, investigate, evaluate, conduct tests,
9 or take specimens or samples for testing that may be reasonably
10 necessary to determine compliance with public health laws and rules
11 and for the prevention and suppression of disease.
12 (b) A local health officer or the officer's designee shall obtain the
13 consent of the owner or the occupant of the premises under subsection
14 (a), except as provided in any of the following circumstances:
15 (1) Subject to subsection (c), the local health officer or the
16 officer's designee obtains an order from a circuit or superior court
17 in the jurisdiction where the premises is located to authorize the



1 inspection, investigation, evaluation, testing, or taking of
2 specimens or samples for testing.

3 (2) An emergency condition that poses an imminent and serious
4 threat to the health of an individual or the public and the local
5 health officer or the officer's designee believes that a delay could
6 result in a greater health risk.

7 (3) Entry by a local health officer or the officer's designee to a
8 public place or an area in plain and open view to determine
9 compliance with public health laws and rules.

10 (4) Entry under the terms and conditions of a license issued by the
11 local health department at any reasonable time if reasonably
12 necessary to determine compliance with public health laws and
13 rules and the terms and conditions of the license.

14 (c) A court described in subsection (b)(1) may issue an order to
15 inspect, investigate, evaluate, conduct tests, or take specimens or
16 samples for testing if the court finds that the local health officer or the
17 officer's designee, by ~~oath or affirmation~~, **affidavit**, has provided
18 ~~reliable~~ information establishing **the probable cause that there is a**
19 violation of a public health law or rule at the premises.

20 (d) However, a local health officer, or the officer's designee, shall
21 not inspect property in which the local health officer has any interest,
22 whether real, equitable, or otherwise. Any such inspection or any
23 attempt to make such inspection is grounds for removal as provided for
24 in this article.

25 (e) This section does not prevent inspection of premises in which a
26 local health officer has an interest if the premises cannot otherwise be
27 inspected. If the premises cannot otherwise be inspected, the county
28 health officer shall inspect the premises personally.

29 SECTION 2. IC 16-20-1-25, AS AMENDED BY P.L.292-2013,
30 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2020]: Sec. 25. (a) A person shall not institute, permit, or
32 maintain any conditions that may transmit, generate, or promote
33 disease.

34 (b) A health officer, upon receiving a complaint asserting the
35 existence of unlawful conditions described in subsection (a) within the
36 officer's jurisdiction, shall document the complaint as provided in
37 subsection (d). Upon verifying the information contained in the
38 complaint, the health officer shall order the abatement of those
39 conditions. The order must:

40 (1) be in writing;

41 (2) **include the name of the person making the complaint;**

42 (2) (3) specify the conditions that may transmit disease; and



- 1 ~~(3)~~ **(4)** name the shortest reasonable time for abatement.
- 2 (c) If a person refuses or neglects to obey an order issued under this
- 3 section, the attorney representing the county of the health jurisdiction
- 4 where the offense occurs shall, upon receiving the information from the
- 5 health officer, institute proceedings in the courts for enforcement. An
- 6 order may be enforced by injunction. If the action concerning public
- 7 health is a criminal offense, a law enforcement authority with
- 8 jurisdiction over the place where the offense occurred shall be notified.
- 9 (d) A complaint made under subsection (b) must include adequate
- 10 details to allow the health officer to verify the existence of the unlawful
- 11 conditions that are the subject of the complaint. A health officer shall
- 12 provide a copy of a complaint upon request to the person who is the
- 13 subject of the complaint.
- 14 (e) A person who provides false information upon which a health
- 15 officer relies in issuing an order under this section commits a Class C
- 16 misdemeanor. **The health officer shall report to the county**
- 17 **prosecutor the name, address, and telephone number, if known, of**
- 18 **the person who provided the false information.**
- 19 SECTION 3. IC 16-22-8-21, AS AMENDED BY P.L.88-2006,
- 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2020]: Sec. 21. (a) Not less than seven (7) days before a
- 22 meeting considering the final passage of a proposed ordinance, the
- 23 corporation shall publish a notice that the proposed ordinance is
- 24 pending final action. The notice must be published:
- 25 **(1)** one (1) time in two (2) newspapers with general circulation in
- 26 the county; **and**
- 27 **(2) on the county's Internet web site during the notice period.**
- 28 Notice of an ordinance establishing a budget must be in accordance
- 29 with the general law relating to budgets of first class cities.
- 30 (b) The notice must state the following:
- 31 (1) The general subject matter of the proposed ordinance.
- 32 (2) The time and place of the meeting.
- 33 (3) The proposed ordinance is available from the corporation.
- 34 (c) The corporation may publish in one (1) notice the general
- 35 subject matter of each ordinance pending final action for which notice
- 36 has not been given.
- 37 (d) An ordinance is not invalid because the reference to the subject
- 38 matter of the proposed ordinance was inadequate if the reference is
- 39 sufficient to advise the public of the general subject matter.
- 40 SECTION 4. IC 16-41-7-2 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) A carrier is a
- 42 "serious and present danger to the health of others" under the following



- 1 conditions:
- 2 (1) The carrier engages repeatedly in a behavior that has been
- 3 demonstrated epidemiologically (as defined by rules adopted by
- 4 the state department under IC 4-22-2) to transmit a dangerous
- 5 communicable disease or that indicates a careless disregard for
- 6 the transmission of the disease to others.
- 7 (2) The carrier's past behavior or statements indicate an imminent
- 8 danger that the carrier will engage in behavior that transmits a
- 9 dangerous communicable disease to others.
- 10 (3) The carrier has failed or refused to carry out the carrier's duty
- 11 to warn under section 1 of this chapter.
- 12 (b) A person who has reasonable cause to believe that a person:
- 13 (1) is a serious and present danger to the health of others as
- 14 described in subsection (a);
- 15 (2) has engaged in noncompliant behavior; or
- 16 (3) is suspected of being a person at risk (as described in section
- 17 1 of this chapter);
- 18 may report that information to a health officer.
- 19 (c) A person who makes a report under subsection (b) in good faith
- 20 is not subject to liability in a civil, an administrative, a disciplinary, or
- 21 a criminal action.
- 22 (d) A person who knowingly or recklessly makes a false report
- 23 under subsection (b) is civilly liable for actual damages suffered by a
- 24 person reported on and for punitive damages. **The health officer shall**
- 25 **report to the person against whom the false report was made the**
- 26 **following information, if known, concerning the person who made**
- 27 **the false report:**
- 28 (1) **The name of the person.**
- 29 (2) **The address of the person.**
- 30 (3) **The telephone number of the person.**
- 31 SECTION 5. IC 16-41-20-1 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. A dwelling is unfit
- 33 for human habitation when the dwelling is ~~dangerous or detrimental to~~
- 34 **places a person's life or health in danger** because of any of the
- 35 following:
- 36 (1) Want of repair.
- 37 (2) Defects in the drainage, plumbing, lighting, ventilation, or
- 38 construction.
- 39 (3) Infection with contagious disease.
- 40 (4) The existence on the premises of an unsanitary condition that
- 41 is likely to cause sickness among occupants of the dwelling.
- 42 SECTION 6. IC 16-41-20-7, AS AMENDED BY P.L.111-2018,



1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2020]: Sec. 7. The state department, local board of health, or
3 county health officer may order purified, cleansed, disinfected,
4 renewed, altered, repaired, decontaminated, or improved a dwelling,
5 excavation, building, structure, sewer, plumbing, pipe, passage,
6 premises, ground, or thing in or about a dwelling that is found to ~~be~~
7 ~~unfit for human habitation or the dwelling's lot.~~ **place a person's life**
8 **or health in danger.**

9 SECTION 7. IC 16-41-20-13 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. (a) Except as
11 otherwise provided, ~~a~~ **after a health officer has provided to a person**
12 **who recklessly violates or fails to comply with this chapter proper**
13 **notice of a violation and a reasonable amount of time to comply,**
14 **the person who recklessly violates or fails to comply with this chapter**
15 **commits a Class B misdemeanor.**

16 (b) ~~Each day a violation continues constitutes a separate offense.~~

17 SECTION 8. IC 32-30-8-12 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) The court, after
19 a hearing under this chapter, may grant a judgment of restitution or the
20 possession of the property to the owner if:

21 (1) the owner and tenant are parties to the action; and

22 (2) the tenant has failed to obey an order issued under section 10
23 or 11 of this chapter.

24 (b) If the court orders the owner to have possession of the property,
25 the court shall require the sheriff to execute the order of possession not
26 later than five (5) days after the order is issued.

27 (c) If the owner is awarded possession of the property, the owner
28 may seek an order from the court allowing removal of a tenant's
29 personal property under IC ~~32-31-4.~~ **IC 32-31-1-23.**

30 SECTION 9. IC 32-31-1-7 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. The following form
32 of notice may be used when a tenant fails or refuses to pay rent:

33 (insert date here)

34 To (insert name of tenant here):

35 You are notified to vacate the following property not more than ten
36 (10) days after you receive this notice unless you pay the rent due on
37 the property within ten (10) days: (insert description of property here).
38 **YOU MAY SUFFER THE LOSS OF PERSONAL PROPERTY IF**
39 **THE PERSONAL PROPERTY IS NOT REMOVED FROM THE**
40 **PROPERTY BEFORE TEN (10) DAYS AFTER THE TENANT'S**
41 **EVICION FROM THE PROPERTY.**

42 (insert name of landlord here)



1 SECTION 10. IC 32-31-1-23 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2020]: **Sec. 23. (a) A landlord has no liability**
 4 **for loss or damage to a tenant's personal property if the tenant's**
 5 **personal property has been abandoned by the tenant.**

6 **(b) For purposes of this section, a tenant's personal property is**
 7 **considered abandoned if at least ten (10) days have passed from the**
 8 **date the tenant was evicted.**

9 **(c) The landlord may remove and dispose of the abandoned**
 10 **personal property after the period of time described in subsection**
 11 **(b) without any liability to the tenant.**

12 **(d) If a tenant reenters the property after ten (10) days from the**
 13 **date of eviction, the tenant shall be considered to have been**
 14 **trespassing upon the property.**

15 SECTION 11. IC 32-31-2.9-2, AS AMENDED BY P.L.22-2007,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 2. As used in this chapter, "residential
 18 landlord-tenant statute" refers to any of the following:

- 19 (1) IC 32-31-3.
- 20 (2) ~~IC 32-31-4.~~
- 21 (3) IC 32-31-5.
- 22 (4) IC 32-31-6.
- 23 (5) IC 32-31-7.
- 24 (6) IC 32-31-8.
- 25 (7) IC 32-31-9.

26 SECTION 12. IC 32-31-4 IS REPEALED [EFFECTIVE JULY 1,
 27 2020]. (Moving and Storage of Tenant's Property).

28 SECTION 13. IC 32-31-5-5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. (a) Except as
 30 provided in IC 16-41-27-29, IC 32-31-3, or ~~IC 32-31-4~~ **IC 32-31-1-23**,
 31 a landlord may not:

- 32 (1) take possession of;
- 33 (2) remove from a tenant's dwelling unit;
- 34 (3) deny a tenant access to; or
- 35 (4) dispose of;

36 a tenant's personal property in order to enforce an obligation of the
 37 tenant to the landlord under a rental agreement.

38 (b) The landlord and tenant may agree in a writing separate from the
 39 rental agreement that the landlord may hold property voluntarily
 40 tendered by the tenant as security in exchange for forbearance from an
 41 action to evict.

42 SECTION 14. IC 32-31-8-5 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. (a) A landlord shall
2 do the following:

3 (1) Deliver the rental premises to a tenant in compliance with the
4 rental agreement, and in a safe, clean, and habitable condition.

5 (2) Comply with all health and housing codes applicable to the
6 rental premises.

7 (3) Make all reasonable efforts to keep common areas of a rental
8 premises in a clean and proper condition.

9 (4) Provide and maintain the following items in a rental premises
10 in good and safe working condition, if provided on the premises
11 at the time the rental agreement is entered into:

12 (A) Electrical systems.

13 (B) Plumbing systems sufficient to accommodate a reasonable
14 supply of hot and cold running water at all times.

15 (C) Sanitary systems.

16 (D) Heating, ventilating, and air conditioning systems. A
17 heating system must be sufficient to adequately supply heat at
18 all times.

19 (E) Elevators, if provided.

20 (F) Appliances supplied as an inducement to the rental
21 agreement.

22 **(b) A landlord may not be held responsible for a health code**
23 **violation committed by a tenant.**

24 SECTION 15. IC 36-1-3-8, AS AMENDED BY P.L.19-2019,
25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2020]: Sec. 8. (a) Subject to subsection (b), a unit does not
27 have the following:

28 (1) The power to condition or limit its civil liability, except as
29 expressly granted by statute.

30 (2) The power to prescribe the law governing civil actions
31 between private persons.

32 (3) The power to impose duties on another political subdivision,
33 except as expressly granted by statute.

34 (4) The power to impose a tax, except as expressly granted by
35 statute.

36 (5) The power to impose a license fee greater than that reasonably
37 related to the administrative cost of exercising a regulatory power.

38 (6) The power to impose a service charge or user fee greater than
39 that reasonably related to reasonable and just rates and charges
40 for services.

41 (7) The power to regulate conduct that is regulated by a state
42 agency, except as expressly granted by statute.



- 1 (8) The power to prescribe a penalty for conduct constituting a
 2 crime or infraction under statute.
- 3 (9) The power to prescribe a penalty of imprisonment for an
 4 ordinance violation.
- 5 (10) The power to prescribe a penalty of a fine as follows:
 6 (A) More than ten thousand dollars (\$10,000) for the violation
 7 of an ordinance or a regulation concerning air emissions
 8 adopted by a county that has received approval to establish an
 9 air permit program under IC 13-17-12-6.
 10 (B) For a violation of any other ordinance:
 11 (i) more than two ~~thousand five~~ hundred **fifty** dollars
 12 ~~(\$2,500)~~ **(\$250)** for a first violation of the ordinance; and
 13 (ii) except as provided in subsection (c), more than seven
 14 ~~thousand five~~ hundred **fifty** dollars ~~(\$7,500)~~ **(\$750)** for a
 15 second or subsequent violation of the ordinance.
- 16 (11) The power to invest money, except as expressly granted by
 17 statute.
- 18 (12) The power to order or conduct an election, except as
 19 expressly granted by statute.
- 20 (13) The power to adopt or enforce an ordinance described in
 21 section 8.5 of this chapter.
- 22 (14) The power to take any action prohibited by section 8.6 of this
 23 chapter.
- 24 (15) The power to dissolve a political subdivision, except:
 25 (A) as expressly granted by statute; or
 26 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
 27 accordance with the procedure set forth in IC 36-1-8-17.7.
- 28 (16) After June 30, 2019, the power to enact an ordinance
 29 requiring a solid waste hauler or a person who operates a vehicle
 30 in which recyclable material is transported for recycling to collect
 31 fees authorized by IC 13-21 and remit the fees to:
 32 (A) a unit; or
 33 (B) the board of a solid waste management district established
 34 under IC 13-21.
- 35 (b) A township does not have the following, except as expressly
 36 granted by statute:
 37 (1) The power to require a license or impose a license fee.
 38 (2) The power to impose a service charge or user fee.
 39 (3) The power to prescribe a penalty.
- 40 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
 41 ordinance that regulates traffic or parking.

