Reprinted
February 28, 2023

SENATE BILL No. 343

DIGEST OF SB 343 (Updated February 27, 2023 3:13 pm - DI 106)

Citations Affected: IC 33-39; IC 34-24; IC 35-31.5; IC 35-38; IC 35-43; IC 35-45; IC 35-47.

Synopsis: Various criminal law matters. Makes it organized retail theft, a Level 6 felony, for a person to exercise unauthorized control over the property of a retail merchant with the intent to directly or indirectly distribute the property for resale, and increases the penalty to a Level 5 felony if certain circumstances exist. Permits a person to petition for expungement of an arrest if no charges have been filed within one year of the arrest. (Under current law, the arrest is expunged without a petition after 180 days.) Allows disclosure of expunged records to a school in connection with the employment of a person likely to have contact with a student. Repeals the requirement that certain acts taken by a prosecuting attorney are invalid without a seal. Revises, for purposes of an enhancement and certain criminal offenses, a definition of "machine gun" to include a particular part or combination of parts designed and intended for use in converting a weapon into a weapon that fires automatically more than one shot, without manual reloading, by a single function of the trigger.

Effective: July 1, 2023.

Freeman, Sandlin

January 19, 2023, read first time and referred to Committee on Corrections and Criminal Law.
February 23, 2023, amended, reported favorably — Do Pass.
February 27, 2023, read second time, amended, ordered engrossed.

Reprinted
February 28, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 343

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:

SECTION 1. IC 33-39-2-2 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 2. A prosecuting attorney or deputy prosecuting attorney may not perform a duty set forth in section 1 of this chapter until the prosecuting attorney or deputy prosecuting attorney obtains a seal that stamps upon paper a distinct impression:~~

~~(1) in words or letters sufficiently indicating the official character of the prosecuting attorney or deputy prosecuting attorney; and~~

~~(2) that may include any other device chosen by the prosecuting attorney or deputy prosecuting attorney.~~

~~All acts not attested by a seal are void.~~

SECTION 2. IC 34-24-1-1, AS AMENDED BY P.L.174-2021, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

(iv) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(v) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(vi) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vii) Dealing in a counterfeit substance (IC 35-48-4-5).

(viii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(ix) Possession of methamphetamine (IC 35-48-4-6.1).

(x) Dealing in paraphernalia (IC 35-48-4-8.5).

(xi) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(xii) An offense under IC 35-48-4 involving a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).

(B) Any stolen (IC 35-43-4-2 **or IC 35-43-4-2.2)** or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

(D) A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under

IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), dealing in a controlled substance resulting in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Manufacturing methamphetamine (IC 35-48-4-1.2).

(D) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(E) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(F) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(G) Dealing in a synthetic drug (as defined in IC 35-31.5-2-321) or synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019).

(H) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5.

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a vehicle used by a person who operates the vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) Real or personal property, including a vehicle, that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in death).

(2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a

narcotic drug).
(3) IC 35-48-4-1.1 (dealing in methamphetamine).
(4) IC 35-48-4-1.2 (manufacturing methamphetamine).
(5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
(6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
(7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.
(8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.
(9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.
(10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.
(11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

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

SECTION 3. IC 34-24-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) For purposes of determining the amount of damages recoverable under section 1(1) of this chapter, there is an irrebuttable presumption that a retailer who brings a civil action under this chapter (or IC 34-4-30 before its repeal) as the result of a violation of IC 35-43-4-2 (theft), **IC 35-43-4-2.2 (organized retail theft),** or IC 35-43-4-3 (conversion) suffers a pecuniary loss in the amount of:
(1) one hundred dollars ($100) regardless of whether:
(A) the property is returned to the retailer; or
(B) the actual retail value of the property is less than one hundred dollars ($100); or
(2) the retailer's actual damages;
whichever is greater.

(b) An individual found liable in a civil action under this chapter (or IC 34-4-30 before its repeal) for violating IC 35-43-4-2, **IC 35-43-4-2.2,** or IC 35-43-4-3 may not be indemnified or insured for any penalties, damages, or settlement arising from the violation.

SECTION 4. IC 35-31.5-2-190, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 190. **(a)** "Machine gun" means a weapon that:

(1) shoots; ~~or~~

(2) is designed to shoot; or

~~(2)~~ **(3)** can be readily restored to shoot;

automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

(b) The term includes:

(1) the frame or receiver of a weapon described in subsection (a);

(2) a:

(A) part designed and intended solely and exclusively; or

(B) combination of parts designed and intended;

for use in converting a weapon into a machine gun; and

(3) any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

SECTION 5. IC 35-31.5-2-278.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 278.7. "Retail merchant", for purposes of IC 35-43-4-2.2, has the meaning set forth in IC 35-43-4-2.2(a).**

SECTION 6. IC 35-38-9-1, AS AMENDED BY P.L.14-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) This section applies only to a person who has been arrested, charged with an offense, or alleged to be a delinquent child, if:

(1) the arrest, criminal charge, or juvenile delinquency allegation:

(A) did not result in a conviction or juvenile adjudication, even if the arrest, criminal charge, or juvenile delinquency allegation resulted in an adjudication for an infraction; or

(B) resulted in a conviction or juvenile adjudication and the conviction or adjudication was expunged under sections 2 through 5 of this chapter, or was later vacated; and

(2) the person is not currently participating in a pretrial diversion program, unless the prosecuting attorney authorizes the person to petition for an expungement under this section.

(b) This subsection applies to a person charged with an offense or alleged to be a delinquent child after June 30, 2022. If:

(1) a court dismisses all:

(A) criminal charges; or
(B) juvenile delinquency allegations;
filed and pending against a person;
(2) one (1) year has passed since juvenile delinquency allegations were filed against a child, and:
(A) there is no disposition; and
(B) the state is not actively prosecuting the allegations; or
(3) in a:
(A) criminal trial a defendant is acquitted of all charges, or the defendant's conviction is later vacated; or
(B) juvenile proceeding the court finds all allegations not true, or the juvenile's true finding is later vacated;

the court shall immediately order all records related to the criminal charges or juvenile delinquency allegations expunged. An expungement order that is issued based on nonprosecution under subdivision (2) goes into effect immediately. An expungement order issued under subdivision (1) or (3) may not go into effect earlier than sixty (60) days from the date of the dismissal, acquittal, or no true finding. However, upon motion by the prosecuting attorney, if the court finds that specific facts exist in the particular case which justify a delay, the court may delay implementation of an expungement order under subdivision (1) or (3) for up to one (1) year from the date of the dismissal, acquittal, or no true finding.

(c) This subsection applies to a person arrested after June 30, 2022. If:
(1) a person is arrested;
(2) ~~one hundred eighty (180) days have~~ **one (1) year has** elapsed since the date of the arrest; and
(3) no charges are pending against the person;

~~the prosecuting attorney shall notify~~ **the person may petition** a judge exercising criminal jurisdiction in the county (or a designated judge, if applicable) ~~of~~ **for expungement, setting forth** these facts. Upon receipt of the ~~notification,~~ **petition,** the judge shall immediately order the expungement of all records related to the arrest.

(d) Not earlier than one (1) year after the date of arrest, criminal charge, or juvenile delinquency allegation (whichever is later), if the person was not convicted or adjudicated a delinquent child, or the opinion vacating the conviction or adjudication becomes final, the person may petition the court for expungement of the records related to the arrest, criminal charge, or juvenile delinquency allegation. However, a person may petition the court for expungement at an earlier time if the prosecuting attorney agrees in writing to an earlier time.

(e) A petition for expungement of records must be verified and filed in a circuit or superior court in the county where the criminal charges or juvenile delinquency allegation was filed, or if no criminal charges or juvenile delinquency allegation was filed, in the county where the arrest occurred. The petition must set forth:

(1) the date of the arrest, criminal charges, or juvenile delinquency allegation, and conviction (if applicable);

(2) the county in which the arrest occurred, the county in which the information or indictment was filed, and the county in which the juvenile delinquency allegation was filed, if applicable;

(3) the law enforcement agency employing the arresting officer, if known;

(4) the court in which the criminal charges or juvenile delinquency allegation was filed, if applicable;

(5) any other known identifying information, such as:

(A) the name of the arresting officer;

(B) case number or court cause number;

(C) any aliases or other names used by the petitioner;

(D) the petitioner's driver's license number; and

(E) a list of each criminal charge and its disposition, if applicable;

(6) the date of the petitioner's birth; and

(7) the petitioner's Social Security number.

A person who files a petition under this section is not required to pay a filing fee.

(f) The court shall serve a copy of the petition on the prosecuting attorney.

(g) Upon receipt of a petition for expungement, the court:

(1) may summarily deny the petition if the petition does not meet the requirements of this section, or if the statements contained in the petition indicate that the petitioner is not entitled to relief; and

(2) shall grant the petition unless:

(A) the conditions described in subsection (a) have not been met; or

(B) criminal charges are pending against the person.

(h) Whenever the petition of a person under this section is granted, or if an expungement order is issued without a petition under subsection (b): ~~or (c).~~

(1) no information concerning the arrest, criminal charges, juvenile delinquency allegation, vacated conviction, or vacated juvenile delinquency adjudication (including information from a collateral action that identifies the petitioner), may be placed or

retained in any state central repository for criminal history information or in any other alphabetically arranged criminal history information system maintained by a local, regional, or statewide law enforcement agency;

(2) the clerk of the supreme court shall seal or redact any records in the clerk's possession that relate to the arrest, criminal charges, juvenile delinquency allegation, vacated conviction, or vacated juvenile delinquency adjudication;

(3) the records of:

(A) the sentencing court;

(B) a court that conducted a collateral action;

(C) a juvenile court;

(D) a court of appeals; and

(E) the supreme court;

concerning the person shall be redacted or permanently sealed; and

(4) with respect to the records of a person who is named as an appellant or an appellee in an opinion or memorandum decision by the supreme court or the court of appeals, or who is identified in a collateral action, the court shall:

(A) redact the opinion or memorandum decision as it appears on the computer gateway administered by the office of technology so that it does not include the petitioner's name (in the same manner that opinions involving juveniles are redacted); and

(B) provide a redacted copy of the opinion to any publisher or organization to whom the opinion or memorandum decision is provided after the date of the order of expungement.

The supreme court and the court of appeals are not required to redact, destroy, or otherwise dispose of any existing copy of an opinion or memorandum decision that includes the petitioner's name.

(i) If the court issues an order granting a petition for expungement under this section, or issues an order for expungement without a petition under subsection (b), ~~or (c),~~ the order must include the information described in subsection (e).

(j) If a person whose records are expunged brings an action that might be defended with the contents of the expunged records, the defendant is presumed to have a complete defense to the action. In order for the plaintiff to recover, the plaintiff must show that the contents of the expunged records would not exonerate the defendant. The plaintiff may be required to state under oath whether the plaintiff had records in the criminal or juvenile justice system and whether those records were expunged. If the plaintiff denies the existence of the records, the defendant may prove their existence in any manner compatible with the law of evidence.

SECTION 7. IC 35-38-9-6, AS AMENDED BY P.L.14-2022, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) If the court orders conviction records, including any records relating to the conviction and any records concerning a collateral action, expunged under sections 2 through 3 of this chapter, the court shall do the following with respect to the specific records expunged by the court:

(1) Order:

(A) the department of correction;

(B) the bureau of motor vehicles; and

(C) each:

(i) law enforcement agency; and

(ii) other person;

who incarcerated, prosecuted, provided treatment for, or provided other services for the person under an order of the court;

to prohibit the release of the person's records or information in the person's records to anyone without a court order, other than a law enforcement officer acting in the course of the officer's official duty.

(2) Order the central repository for criminal history information maintained by the state police department to seal the person's expunged conviction records, including information related to:

(A) an arrest or offense:

(i) in which no conviction was entered; and

(ii) that was committed as part of the same episode of criminal conduct as the case ordered expunged; and

(B) any other references to any matters related to the case ordered expunged, including in a collateral action.

This subdivision does not require the state police department to seal any record the state police department does not have legal authority to seal.

(3) Records sealed under subdivision (2) may be disclosed only to:

(A) a prosecuting attorney, if:

(i) authorized by a court order; and

(ii) needed to carry out the official duties of the prosecuting attorney;

(B) a defense attorney, if:
(i) authorized by a court order; and
(ii) needed to carry out the professional duties of the defense attorney;
(C) a probation department, if:
(i) authorized by a court order; and
(ii) necessary to prepare a presentence report;
(D) the Federal Bureau of Investigation and the Department of Homeland Security, if disclosure is required to comply with an agreement relating to the sharing of criminal history information;
(E) the:
(i) supreme court;
(ii) members of the state board of law examiners;
(iii) executive director of the state board of law examiners; and
(iv) employees of the state board of law examiners, in accordance with rules adopted by the state board of law examiners;
for the purpose of determining whether an applicant possesses the necessary good moral character for admission to the bar;
(F) a person required to access expunged records to comply with the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.) or regulations adopted under the Secure and Fair Enforcement for Mortgage Licensing Act; ~~and~~
(G) the bureau of motor vehicles, the Federal Motor Carrier Administration, and the Commercial Drivers License Information System (CDLIS), if disclosure is required to comply with federal law relating to reporting a conviction for a violation of a traffic control law; **and**
(H) a school (as defined in IC 22-4-2-37), for the purpose of determining whether to:
(i) employ a person seeking employment, including volunteer employment, with the school;
(ii) continue a person's employment, including volunteer employment at the school; or
(iii) grant access or admission to the school to an applicant contractor or a contractor,
if the person, contractor, or applicant contractor is likely to have contact with a student enrolled in the school, regardless of the age of the student.
(4) Notify the clerk of the supreme court to seal any records in the

clerk's possession that relate to the conviction, including any records concerning a collateral action.

A probation department may provide an unredacted version of a presentence report disclosed under subdivision (3)(C) to any person authorized by law to receive a presentence report.

(b) Except as provided in subsection (c), if a petition to expunge conviction records, including any records relating to the conviction and any records concerning a collateral action, is granted under sections 2 through 3 of this chapter, the records of:

(1) the sentencing court;

(2) a court that conducted a collateral action;

(3) a juvenile court;

(4) a court of appeals; and

(5) the supreme court;

concerning the person shall be permanently sealed. However, a petition for expungement granted under sections 2 through 3 of this chapter does not affect an existing or pending driver's license suspension.

(c) If a petition to expunge conviction records, including any records relating to the conviction and any records concerning a collateral action, is granted under sections 2 through 3 of this chapter with respect to the records of a person who is named as an appellant or an appellee in an opinion or memorandum decision by the supreme court or the court of appeals, or who is identified in a collateral action, the court shall:

(1) redact the opinion or memorandum decision as it appears on the computer gateway administered by the office of technology so that it does not include the petitioner's name (in the same manner that opinions involving juveniles are redacted); and

(2) provide a redacted copy of the opinion to any publisher or organization to whom the opinion or memorandum decision is provided after the date of the order of expungement.

The supreme court and court of appeals are not required to destroy or otherwise dispose of any existing copy of an opinion or memorandum decision that includes the petitioner's name.

(d) Notwithstanding subsection (b), a prosecuting attorney may submit a written application to a court that granted an expungement petition under this chapter to gain access to any records that were permanently sealed under subsection (b), if the records are relevant in a new prosecution of the person. If a prosecuting attorney who submits a written application under this subsection shows that the records are relevant for a new prosecution of the person, the court that granted the expungement petition shall:

(1) order the records to be unsealed; and

(2) allow the prosecuting attorney who submitted the written application to have access to the records.

If a court orders records to be unsealed under this subsection, the court shall order the records to be permanently resealed at the earliest possible time after the reasons for unsealing the records cease to exist. However, if the records are admitted as evidence against the person in a new prosecution that results in the person's conviction, or are used to enhance a sentence imposed on the person in a new prosecution, the court is not required to reseal the records.

(e) If a person whose conviction records, including any records relating to the conviction and any records concerning a collateral action, are expunged under sections 2 through 5 of this chapter is required to register as a sex offender based on the commission of a felony which has been expunged:

(1) the expungement does not affect the operation of the sex offender registry web site, any person's ability to access the person's records, records required to be maintained concerning sex or violent offenders, or any registration requirement imposed on the person; and

(2) the expunged conviction records must be clearly marked as expunged on the sex offender registry web site.

(f) Expungement of a crime of domestic violence under section 2 of this chapter does not restore a person's right to possess a firearm. The right of a person convicted of a crime of domestic violence to possess a firearm may be restored only in accordance with IC 35-47-4-7.

(g) If a court issues an order granting a petition for expungement under sections 2 through 3 of this chapter, the court shall also order any related records described in section 1(h) of this chapter sealed or redacted in the manner described in section 1 of this chapter, unless the records described in section 1(h) of this chapter have been ordered sealed and redacted under this section.

(h) If the court issues an order granting a petition for expungement under sections 2 through 3 of this chapter, the court shall include in its order the information described in section 8(b) of this chapter.

SECTION 8. IC 35-43-4-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.2. (a) As used in this section, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.**

(b) A person who exercises unauthorized control over the property of a retail merchant with the intent to directly or indirectly distribute the property for resale commits organized

retail theft, a Level 6 felony.

(c) The offense committed under subsection (b) is a Level 5 felony if:

(1) the value of the property is at least fifty thousand dollars ($50,000);

(2) the property is a firearm; or

(3) the person has a prior unrelated conviction for:

(A) organized retail theft under this section;

(B) theft under section 2 of this chapter; or

(C) criminal conversion under section 3 of this chapter.

(d) In determining the value of the property under this section, acts of organized retail theft committed in a single episode of criminal conduct (as defined in IC 35-50-1-2(b)) may be charged in a single count.

(e) For purposes of this section, "the value of the property" means:

(1) the fair market value of the property at the time and place the offense was committed; or

(2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.

SECTION 9. IC 35-45-6-1, AS AMENDED BY P.L.25-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August

31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.
(2) A violation of IC 35-45-9.
(3) A violation of IC 35-47.
(4) A violation of IC 35-49-3.
(5) Murder (IC 35-42-1-1).
(6) Battery as a Class C felony before July 1, 2014, or a Level 5 felony after June 30, 2014 (IC 35-42-2-1).
(7) Kidnapping (IC 35-42-3-2).
(8) Human and sexual trafficking crimes (IC 35-42-3.5).
(9) Child exploitation (IC 35-42-4-4).
(10) Robbery (IC 35-42-5-1).
(11) Carjacking (IC 35-42-5-2) (before its repeal).
(12) Arson (IC 35-43-1-1).
(13) Burglary (IC 35-43-2-1).
(14) Theft (IC 35-43-4-2).
(15) Receiving stolen property (IC 35-43-4-2) (before its amendment on July 1, 2018).
(16) Forgery (IC 35-43-5-2).
(17) An offense under IC 35-43-5.
(18) Bribery (IC 35-44.1-1-2).
(19) Official misconduct (IC 35-44.1-1-1).
(20) Conflict of interest (IC 35-44.1-1-4).
(21) Perjury (IC 35-44.1-2-1).
(22) Obstruction of justice (IC 35-44.1-2-2).
(23) Intimidation (IC 35-45-2-1).
(24) Promoting prostitution (IC 35-45-4-4).
(25) Professional gambling (IC 35-45-5-3).
(26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
(27) Promoting professional gambling (IC 35-45-5-4).
(28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
(29) Dealing in methamphetamine (IC 35-48-4-1.1).
(30) Manufacturing methamphetamine (IC 35-48-4-1.2).
(31) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(32) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(34) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
(35) Money laundering (IC 35-45-15-5).
(36) A violation of IC 35-47.5-5.
(37) A violation of any of the following:
(A) IC 23-14-48-9.
(B) IC 30-2-9-7(b).
(C) IC 30-2-10-9(b).
(D) IC 30-2-13-38(f).
(38) Practice of law by a person who is not an attorney (IC 33-43-2-1).
(39) An offense listed in IC 35-48-4 involving the manufacture or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).
(40) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).
(41) Organized retail theft (IC 35-43-4-2.2).

SECTION 10. IC 35-47-2-7, AS AMENDED BY P.L.183-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) As used in this section, "machine gun" ~~means any weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one (1) shot, without manual reloading, by a single function of the trigger. The term includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or a combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.~~ **has the meaning set forth in IC 35-31.5-2-190.**

(b) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10 (governing children and firearms) and federal law, a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or machine gun to any person under eighteen (18) years of age.

(c) A person who knowingly or intentionally sells, gives, or in any other manner transfers ownership or possession of a machine gun to a person under eighteen (18) years of age commits a Level 5 felony. However, the offense is a Level 4 felony if the person who sells, gives, or transfers ownership of the machine gun has a prior conviction under this section, and a Level 3 felony if a person under eighteen (18) years of age uses the machine gun to commit murder (IC 35-42-1-1).

(d) A person who knowingly or intentionally sells, gives, or in any other manner transfers the ownership or possession of a handgun to another person who the person knows:

(1) is ineligible for any reason other than the person's age to purchase or otherwise receive from a dealer a handgun; or

(2) intends to use the handgun to commit a crime;

commits criminal transfer of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(e) A person who purchases a handgun with the intent to:

(1) resell or otherwise provide the handgun to another person who the person knows is ineligible for any reason to purchase or otherwise receive from a dealer a handgun;

(2) resell or otherwise provide the handgun to another person who the person knows intends to use the handgun to commit a crime; or

(3) transport the handgun outside Indiana to be resold or otherwise provided to another person who the transferor knows:

(A) is ineligible to purchase or otherwise receive a handgun; or

(B) intends to use the handgun to commit a crime;

commits the straw purchase of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(f) As used in this subsection, "NICS" has the meaning set forth in IC 35-47-2.5-2.5. It is a defense to a prosecution under subsection (d)(1) that:

(1) the accused person contacted NICS (or had a dealer contact NICS on the person's behalf) to request a background check on the other person before the accused person sold, gave, or in any other manner transferred the ownership or possession of the handgun to the other person; and

(2) the accused person (or dealer acting on the person's behalf) received authorization from NICS to sell, give, or in any other

manner transfer ownership or possession of the handgun to the other person.

SECTION 11. IC 35-47-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. The provisions of section 8 or 9 of this chapter shall not be construed to apply to any of the following:

(1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.

(2) Machine guns kept for display as relics and which are rendered harmless and not usable.

(3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.

(4) Persons lawfully engaged in the display, testing, or use of fireworks.

(5) Agencies of state government.

(6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.

(7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.

(8) Persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

(9) Persons possessing machine guns or other items not required to be registered in the National Firearms Registration and Transfer Record maintained by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 343, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-30-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) A law enforcement officer who has probable cause to believe that a person has committed an offense under this chapter, ~~IC 9-30-5,~~ **IC 9-30-5-2,** or IC 9-30-9, or a violation under IC 9-30-15 shall offer the person the opportunity to submit to a chemical test.

(b) A law enforcement officer:

(1) is not required to offer a chemical test to an unconscious person; and

(2) may offer a person more than one (1) chemical test under this chapter.

(c) A test administered under this chapter must be administered within three (3) hours after the law enforcement officer had probable cause to believe the person committed an offense under ~~IC 9-30-5~~ **IC 9-30-5-2** or a violation under IC 9-30-15.

(d) A person must submit to each chemical test offered by a law enforcement officer in order to comply with the implied consent provisions of this chapter.".

Page 6, delete lines 40 through 42, begin a new paragraph, and insert:

"Sec. 10. An online marketplace shall disclose to consumers in a clear and conspicuous manner:

(1) on the product listing; or

(2) as part of the enrollment flow prior to purchase;

of any high volume third party seller a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.".

Page 7, delete lines 1 through 2.

Page 13, delete lines 27 through 41, begin a new paragraph and insert:

"SECTION 5. IC 35-31.5-2-190, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 190. **(a)** "Machine gun" means a weapon that:

(1) shoots; ~~or~~

(2) is designed to shoot; or

~~(2)~~ **(3)** can be readily restored to shoot;

automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

(b) The term includes:

(1) the frame or receiver of a weapon described in subsection (a);

(2) a:

(A) part designed and intended solely and exclusively; or

(B) combination of parts designed and intended;

for use in converting a weapon into a machine gun; and

(3) any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.".

Page 14, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 8. IC 35-37-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The following are good causes for challenge to any person called as a juror in any criminal trial:

(1) That the person was a member of the grand jury that found the indictment.

(2) That the person has formed or expressed an opinion as to the guilt or innocence of the defendant. However, such an opinion is subject to subsection (b).

(3) If the state is seeking a death sentence, that the person entertains such conscientious opinions as would preclude the person from recommending that the death penalty be imposed.

(4) That the person is related within the fifth degree to the person alleged to be the victim of the offense charged, to the person on whose complaint the prosecution was instituted, or to the defendant.

(5) That the person has served on a trial jury which was sworn in the same case against the same defendant, and which jury was discharged after hearing the evidence, or rendered a verdict which was set aside.

(6) That the person served as a juror in a civil case brought against the defendant for the same act.

(7) That the person has been subpoenaed in good faith as a witness in the case.

(8) That the person is a mentally incompetent person.

(9) That the person is an alien.

(10) That the person has been called to sit on the jury at the person's own solicitation or that of another.

(11) That the person ~~is biased or prejudiced~~ **has a fixed opinion** for or against the defendant.

(12) That the person does not have the qualifications for a juror prescribed by law.

(13) That, from defective sight or hearing, ignorance of the English language, or other cause, the person is unable to comprehend the evidence and the instructions of the court.

(14) That the person has a personal interest in the result of the trial.

(15) If the person is not a member of the regular panel, that the person has served on a jury within twelve (12) months immediately preceding the trial.

(b) If a person called as a juror states that the person has formed or expressed an opinion as to the guilt or innocence of the defendant, the court or the parties shall proceed to examine the juror on oath as to the grounds of the juror's opinion. If the juror's opinion appears to have been founded upon reading newspaper statements, communications, comments, reports, rumors, or hearsay, and if:

(1) the juror's opinion appears not to have been founded upon:

(A) conversation with a witness of the transaction;

(B) reading reports of a witness' testimony; or

(C) hearing a witness testify;

(2) the juror states on oath that the juror feels able, notwithstanding the juror's opinion, to render an impartial verdict upon the law and evidence; and

(3) the court is satisfied that the juror will render an impartial verdict;

the court may admit the juror as competent to serve in the case.".

Page 19, delete lines 11 through 19, begin a new line double block indented, and insert:

"**(H) a school (as defined in IC 22-4-2-37), for the purpose of determining whether to:**

(i) employ a person seeking employment, including volunteer employment, with the school;

(ii) continue a person's employment, including volunteer employment at the school; or

(iii) grant access or admission to the school to an applicant contractor or a contractor,

if the person, contractor, or applicant contractor is likely to have contact with a student enrolled in the school,

regardless of the age of the student.".

Page 22, delete lines 14 through 42, begin a new paragraph, and insert:

"SECTION 11. IC 35-44.1-3-10, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) The following definitions apply throughout this section:

(1) "Lawful supervision" means supervision by:

(A) the department of correction;

(B) a court;

(C) a probation department;

(D) a community corrections program, a community transition program, or another similar program; or

(E) parole.

(2) "Service provider" means:

(A) with respect to a person subject to lawful detention:

(i) a public servant;

(ii) a person employed by a governmental entity; or

(iii) a person who provides goods or services to a person who is subject to lawful detention; and

(B) with respect to a person subject to lawful supervision:

(i) a public servant whose official duties include the supervision of the person subject to lawful supervision;

(ii) a person employed by a governmental entity to provide supervision for the person subject to lawful supervision; or

(iii) a person who is employed by or contracts with a governmental entity to provide treatment or other services to the person subject to lawful supervision as a condition of the person's lawful supervision.

(b) A service provider who knowingly or intentionally engages in **any fondling or touching with a person who is subject to lawful detention or lawful supervision with the intent to arouse or satisfy the sexual desires of the service provider or the person commits sexual misconduct, a Level 6 felony. However, the offense is a Level 5 felony if the service provider engages in** sexual intercourse, or other sexual conduct (as defined in IC 35-31.5-2-221.5) with ~~a~~ **the** person who is subject to lawful detention or lawful supervision. ~~commits sexual misconduct, a Level 5 felony.~~

(c) A service provider at least eighteen (18) years of age who knowingly or intentionally engages in ~~sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)~~ **any fondling or**

touching with the intent to arouse or satisfy the sexual desires of the service provider or the other person, with a person who is:

(1) less than eighteen (18) years of age; and

(2) subject to lawful detention or lawful supervision;

commits sexual misconduct, a ~~Level 4 felony.~~ **Level 5 felony. However, the offense is a Level 4 felony if the service provider engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person.**

(d) In addition to any other penalty imposed for a violation of this section, the court shall order the person to pay restitution under IC 35-50-5-3 for expenses related to pregnancy and childbirth if the pregnancy is a result of the offense.

(e) It is not a defense that an act described in subsection (b) or (c) was consensual.

(f) This section does not apply to **fondling, touching,** sexual intercourse, or other sexual conduct (as defined in IC 35-31.5-2-221.5) between spouses.".

Page 23, delete lines 1 through 11.

Page 25, delete lines 14 through 42, begin a new paragraph, and insert:

"SECTION 16. IC 35-47-2-7, AS AMENDED BY P.L.183-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) As used in this section, "machine gun" ~~means any weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one (1) shot, without manual reloading, by a single function of the trigger. The term includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or a combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.~~ **has the meaning set forth in IC 35-31.5-2-190.**

(b) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10 (governing children and firearms) and federal law, a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or machine gun to any person under eighteen (18) years of age.

(c) A person who knowingly or intentionally sells, gives, or in any other manner transfers ownership or possession of a machine gun to a person under eighteen (18) years of age commits a Level 5 felony. However, the offense is a Level 4 felony if the person who sells, gives, or transfers ownership of the machine gun has a prior conviction under this section, and a Level 3 felony if a person under eighteen (18) years of age uses the machine gun to commit murder (IC 35-42-1-1).

(d) A person who knowingly or intentionally sells, gives, or in any other manner transfers the ownership or possession of a handgun to another person who the person knows:

(1) is ineligible for any reason other than the person's age to purchase or otherwise receive from a dealer a handgun; or

(2) intends to use the handgun to commit a crime;

commits criminal transfer of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(e) A person who purchases a handgun with the intent to:

(1) resell or otherwise provide the handgun to another person who the person knows is ineligible for any reason to purchase or otherwise receive from a dealer a handgun;

(2) resell or otherwise provide the handgun to another person who the person knows intends to use the handgun to commit a crime; or

(3) transport the handgun outside Indiana to be resold or otherwise provided to another person who the transferor knows:

(A) is ineligible to purchase or otherwise receive a handgun; or

(B) intends to use the handgun to commit a crime;

commits the straw purchase of a handgun, a Level 5 felony. However, the offense is a Level 3 felony if the other person uses the handgun to commit murder (IC 35-42-1-1).

(f) As used in this subsection, "NICS" has the meaning set forth in IC 35-47-2.5-2.5. It is a defense to a prosecution under subsection (d)(1) that:

(1) the accused person contacted NICS (or had a dealer contact NICS on the person's behalf) to request a background check on the other person before the accused person sold, gave, or in any other manner transferred the ownership or possession of the handgun to the other person; and

(2) the accused person (or dealer acting on the person's behalf) received authorization from NICS to sell, give, or in any other manner transfer ownership or possession of the handgun to the other person.

SECTION 17. IC 35-47-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. The provisions of section 8 or 9 of this chapter shall not be construed to apply to any of the following:

(1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.

(2) Machine guns kept for display as relics and which are rendered harmless and not usable.

(3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.

(4) Persons lawfully engaged in the display, testing, or use of fireworks.

(5) Agencies of state government.

(6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.

(7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.

(8) Persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

(9) Persons possessing machine guns or other items not required to be registered in the National Firearms Registration and Transfer Record maintained by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.".

Delete page 26.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 343 as introduced.)

FREEMAN, Chairperson

Committee Vote: Yeas 7, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 343 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 7.

Page 8, delete lines 1 through 28.

Page 14, delete lines 28 through 42.

Page 15, delete lines 1 through 41.

Page 17, line 7, after "applicable)" strike "of" and insert "**for expungement, setting forth**".

Page 23, delete lines 11 through 42, begin a new paragraph, and insert:

"SECTION 7. IC 35-43-4-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.2. (a) As used in this section, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.**

(b) A person who exercises unauthorized control over the property of a retail merchant with the intent to directly or indirectly distribute the property for resale commits organized retail theft, a Level 6 felony.

(c) The offense committed under subsection (b) is a Level 5 felony if:

(1) the value of the property is at least fifty thousand dollars ($50,000);

(2) the property is a firearm; or

(3) the person has a prior unrelated conviction for:

(A) organized retail theft under this section;

(B) theft under section 2 of this chapter; or

(C) criminal conversion under section 3 of this chapter.

(d) In determining the value of the property under this section, acts of organized retail theft committed in a single episode of criminal conduct (as defined in IC 35-50-1-2(b)) may be charged in a single count.

(e) For purposes of this section, "the value of the property" means:

(1) the fair market value of the property at the time and place the offense was committed; or

(2) if the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

A price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value of the property.".

Delete page 24.
Page 25, delete lines 1 through 24.
Renumber all SECTIONS consecutively.

(Reference is to SB 343 as printed February 24, 2023.)

FREEMAN