

HOUSE BILL No. 1168

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-45-1-5.

Synopsis: Maintaining a common nuisance. Makes maintaining a common nuisance a Class A misdemeanor, and increases the penalty to a Level 6 felony if the person has a prior conviction for maintaining a common nuisance.

Effective: July 1, 2020.

Porter

January 8, 2020, read first time and referred to Committee on Courts and Criminal Code.



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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1168

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:

1 SECTION 1. IC 35-45-1-5, AS AMENDED BY P.L.144-2018,
2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 5.(a) As used in this section, "common nuisance"
4 means a building, structure, vehicle, or other place that is used for (1)
5 or more of the following purposes:
6 (1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.
7 (2) To unlawfully use, keep, or sell a legend drug.
8 (3) To unlawfully:
9 (A) use;
10 (B) manufacture;
11 (C) keep;
12 (D) offer for sale;
13 (E) sell;
14 (F) deliver; or
15 (G) finance the delivery of;
16 a controlled substance or an item of drug paraphernalia (as
17 described in IC 35-48-4-8.5).



- 1 (4) To provide a location for a person to pay, offer to pay, or agree
 2 to pay money or other property to another person for a human
 3 trafficking victim or an act performed by a human trafficking
 4 victim.
 5 (5) To provide a location for a person to commit a violation of
 6 IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking).
 7 (b) A person who knowingly or intentionally visits a common
 8 nuisance described in subsections (a)(1) through (a)(4) commits
 9 visiting a common nuisance. The offense is a:
 10 (1) Class B misdemeanor if the common nuisance is used for the
 11 unlawful:
 12 (A) sale of an alcoholic beverage as set forth in subsection
 13 (a)(1);
 14 (B) use, keeping, or sale of a legend drug as set forth in
 15 subsection (a)(2); or
 16 (C) use, manufacture, keeping, offer for sale, sale, delivery, or
 17 financing the delivery of a controlled substance or item of drug
 18 paraphernalia (as described in IC 35-48-4-8.5), as set forth in
 19 subsection (a)(3);
 20 (2) Class A misdemeanor if:
 21 (A) the common nuisance is used as a location for a person to
 22 pay, offer to pay, or agree to pay for a human trafficking victim
 23 or an act performed by a human trafficking victim as set forth
 24 in subsection (a)(4); or
 25 (B) the person knowingly, intentionally, or recklessly takes a
 26 person less than eighteen (18) years of age or an endangered
 27 adult (as defined in IC 12-10-3-2) into a common nuisance
 28 used to unlawfully:
 29 (i) use;
 30 (ii) manufacture;
 31 (iii) keep;
 32 (iv) offer for sale;
 33 (v) sell;
 34 (vi) deliver; or
 35 (vii) finance the delivery of;
 36 a controlled substance or an item of drug paraphernalia, as set
 37 forth in subsection (a)(3); and
 38 (3) Level 6 felony if the person:
 39 (A) knowingly, intentionally, or recklessly takes a person less
 40 than eighteen (18) years of age or an endangered adult (as
 41 defined in IC 12-10-3-2) into a common nuisance used to
 42 unlawfully:



- 1 (i) use;
 2 (ii) manufacture;
 3 (iii) keep;
 4 (iv) offer for sale;
 5 (v) sell;
 6 (vi) deliver; or
 7 (vii) finance the delivery of;
 8 a controlled substance or an item of drug paraphernalia, as set
 9 forth in subsection (a)(3); and
 10 (B) has a prior unrelated conviction for a violation of this
 11 section involving a controlled substance or drug paraphernalia.
 12 (c) A person who knowingly or intentionally maintains a common
 13 nuisance commits maintaining a common nuisance, a ~~Level 6 felony~~.
 14 **Class A misdemeanor. However, the offense is a Level 6 felony if**
 15 **the person has a prior unrelated conviction under this subsection.**
 16 (d) It is a defense to a prosecution under subsection (c) that:
 17 (1) the offense involves only the unlawful use or keeping of:
 18 (A) less than:
 19 (i) thirty (30) grams of marijuana; or
 20 (ii) five (5) grams of hash oil, hashish, or salvia; or
 21 (B) an item of drug paraphernalia (as described in
 22 IC 35-48-4-8.5) that is designed for use with, or intended to be
 23 used for, marijuana, hash oil, hashish, or salvia; and
 24 (2) the person does not have a prior unrelated conviction for a
 25 violation of subsection (c).

