

# SENATE BILL No. 219

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-24-1-1.

**Synopsis:** School bus stop arm. Permits the civil forfeiture of a vehicle if the vehicle is used to recklessly pass a school bus with an extended stop arm.

**Effective:** July 1, 2020.

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## Alting

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January 6, 2020, read first time and referred to Committee on Judiciary.

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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.

# SENATE BILL No. 219

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 34-24-1-1, AS AMENDED BY P.L.211-2019,  
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: 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) Manufacturing methamphetamine (IC 35-48-4-1.2).  
15 (iv) Dealing in a schedule I, II, or III controlled substance  
16 (IC 35-48-4-2).  
17 (v) Dealing in a schedule IV controlled substance



- 1 (IC 35-48-4-3).  
 2 (vi) Dealing in a schedule V controlled substance  
 3 (IC 35-48-4-4).  
 4 (vii) Dealing in a counterfeit substance (IC 35-48-4-5).  
 5 (viii) Possession of cocaine or a narcotic drug  
 6 (IC 35-48-4-6).  
 7 (ix) Possession of methamphetamine (IC 35-48-4-6.1).  
 8 (x) Dealing in paraphernalia (IC 35-48-4-8.5).  
 9 (xi) Dealing in marijuana, hash oil, hashish, or salvia  
 10 (IC 35-48-4-10).  
 11 (xii) An offense under IC 35-48-4 involving a synthetic drug  
 12 (as defined in IC 35-31.5-2-321), a synthetic drug lookalike  
 13 substance (as defined in IC 35-31.5-2-321.5 (before its  
 14 repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its  
 15 repeal on July 1, 2019), a controlled substance analog (as  
 16 defined in IC 35-48-1-9.3), or a substance represented to be  
 17 a controlled substance (as described in IC 35-48-4-4.6).  
 18 (B) Any stolen (IC 35-43-4-2) or converted property  
 19 (IC 35-43-4-3) if the retail or repurchase value of that property  
 20 is one hundred dollars (\$100) or more.  
 21 (C) Any hazardous waste in violation of IC 13-30-10-1.5.  
 22 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of  
 23 mass destruction (as defined in IC 35-31.5-2-354) used to  
 24 commit, used in an attempt to commit, or used in a conspiracy  
 25 to commit a felony terrorist offense (as defined in  
 26 IC 35-50-2-18) or an offense under IC 35-47 as part of or in  
 27 furtherance of an act of terrorism (as defined by  
 28 IC 35-31.5-2-329).  
 29 (2) All money, negotiable instruments, securities, weapons,  
 30 communications devices, or any property used to commit, used in  
 31 an attempt to commit, or used in a conspiracy to commit a felony  
 32 terrorist offense (as defined in IC 35-50-2-18) or an offense under  
 33 IC 35-47 as part of or in furtherance of an act of terrorism or  
 34 commonly used as consideration for a violation of IC 35-48-4  
 35 (other than items subject to forfeiture under IC 16-42-20-5 or  
 36 IC 16-6-8.5-5.1, before its repeal):  
 37 (A) furnished or intended to be furnished by any person in  
 38 exchange for an act that is in violation of a criminal statute;  
 39 (B) used to facilitate any violation of a criminal statute; or  
 40 (C) traceable as proceeds of the violation of a criminal statute.  
 41 (3) Any portion of real or personal property purchased with  
 42 money that is traceable as a proceed of a violation of a criminal



- 1 statute.
- 2 (4) A vehicle that is used by a person to:
- 3 (A) commit, attempt to commit, or conspire to commit;
- 4 (B) facilitate the commission of; or
- 5 (C) escape from the commission of;
- 6 murder (IC 35-42-1-1), dealing in a controlled substance resulting
- 7 in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal
- 8 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 9 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 10 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 11 (5) Real property owned by a person who uses it to commit any of
- 12 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
- 13 felony:
- 14 (A) Dealing in or manufacturing cocaine or a narcotic drug
- 15 (IC 35-48-4-1).
- 16 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 17 (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 18 (D) Dealing in a schedule I, II, or III controlled substance
- 19 (IC 35-48-4-2).
- 20 (E) Dealing in a schedule IV controlled substance
- 21 (IC 35-48-4-3).
- 22 (F) Dealing in marijuana, hash oil, hashish, or salvia
- 23 (IC 35-48-4-10).
- 24 (G) Dealing in a synthetic drug (as defined in
- 25 IC 35-31.5-2-321) or synthetic drug lookalike substance (as
- 26 defined in IC 35-31.5-2-321.5 (before its repeal on July 1,
- 27 2019)) under IC 35-48-4-10.5 (before its repeal on July 1,
- 28 2019).
- 29 (H) Dealing in a controlled substance resulting in death
- 30 (IC 35-42-1-1.5).
- 31 (6) Equipment and recordings used by a person to commit fraud
- 32 under IC 35-43-5-4(10).
- 33 (7) Recordings sold, rented, transported, or possessed by a person
- 34 in violation of IC 24-4-10.
- 35 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
- 36 defined by IC 35-45-6-1) that is the object of a corrupt business
- 37 influence violation (IC 35-45-6-2).
- 38 (9) Unlawful telecommunications devices (as defined in
- 39 IC 35-45-13-6) and plans, instructions, or publications used to
- 40 commit an offense under IC 35-45-13.
- 41 (10) Any equipment, including computer equipment and cellular
- 42 telephones, used for or intended for use in preparing,



- 1           photographing, recording, videotaping, digitizing, printing,  
2           copying, or disseminating matter in violation of IC 35-42-4.
- 3           (11) Destructive devices used, possessed, transported, or sold in  
4           violation of IC 35-47.5.
- 5           (12) Tobacco products that are sold in violation of IC 24-3-5,  
6           tobacco products that a person attempts to sell in violation of  
7           IC 24-3-5, and other personal property owned and used by a  
8           person to facilitate a violation of IC 24-3-5.
- 9           (13) Property used by a person to commit counterfeiting or  
10          forgery in violation of IC 35-43-5-2.
- 11          (14) After December 31, 2005, if a person is convicted of an  
12          offense specified in IC 25-26-14-26(b) or IC 35-43-10, the  
13          following real or personal property:
- 14                (A) Property used or intended to be used to commit, facilitate,  
15                or promote the commission of the offense.
- 16                (B) Property constituting, derived from, or traceable to the  
17                gross proceeds that the person obtained directly or indirectly  
18                as a result of the offense.
- 19          (15) Except as provided in subsection (e), a vehicle used by a  
20          person who operates the vehicle:
- 21                (A) while intoxicated, in violation of IC 9-30-5-1 through  
22                IC 9-30-5-5, if in the previous five (5) years the person has two  
23                (2) or more prior unrelated convictions:
- 24                      (i) for operating a motor vehicle while intoxicated in  
25                      violation of IC 9-30-5-1 through IC 9-30-5-5; or  
26                      (ii) for an offense that is substantially similar to IC 9-30-5-1  
27                      through IC 9-30-5-5 in another jurisdiction; or
- 28                (B) on a highway while the person's driving privileges are  
29                suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,  
30                if in the previous five (5) years the person has two (2) or more  
31                prior unrelated convictions:
- 32                      (i) for operating a vehicle while intoxicated in violation of  
33                      IC 9-30-5-1 through IC 9-30-5-5; or  
34                      (ii) for an offense that is substantially similar to IC 9-30-5-1  
35                      through IC 9-30-5-5 in another jurisdiction.
- 36          If a court orders the seizure of a vehicle under this subdivision,  
37          the court shall transmit an order to the bureau of motor vehicles  
38          recommending that the bureau not permit a vehicle to be  
39          registered in the name of the person whose vehicle was seized  
40          until the person possesses a current driving license (as defined in  
41          IC 9-13-2-41).
- 42          (16) The following real or personal property:



- 1 (A) Property used or intended to be used to commit, facilitate,  
 2 or promote the commission of an offense specified in  
 3 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or  
 4 IC 30-2-13-38(f).
- 5 (B) Property constituting, derived from, or traceable to the  
 6 gross proceeds that a person obtains directly or indirectly as a  
 7 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),  
 8 IC 30-2-10-9(b), or IC 30-2-13-38(f).
- 9 (17) An automated sales suppression device (as defined in  
 10 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in  
 11 IC 35-43-5-4.6(a)(3)).
- 12 (18) Real or personal property, including a vehicle, that is used by  
 13 a person to:
- 14 (A) commit, attempt to commit, or conspire to commit;  
 15 (B) facilitate the commission of; or  
 16 (C) escape from the commission of;  
 17 a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human  
 18 trafficking) or IC 35-45-4-4 (promoting prostitution).
- 19 **(19) A vehicle that is used to violate IC 9-21-8-52(b)**  
 20 **(recklessly passing a school bus with its stop arm extended).**
- 21 (b) A vehicle used by any person as a common or contract carrier in  
 22 the transaction of business as a common or contract carrier is not  
 23 subject to seizure under this section, unless it can be proven by a  
 24 preponderance of the evidence that the owner of the vehicle knowingly  
 25 permitted the vehicle to be used to engage in conduct that subjects it to  
 26 seizure under subsection (a).
- 27 (c) Equipment under subsection (a)(10) may not be seized unless it  
 28 can be proven by a preponderance of the evidence that the owner of the  
 29 equipment knowingly permitted the equipment to be used to engage in  
 30 conduct that subjects it to seizure under subsection (a)(10).
- 31 (d) Money, negotiable instruments, securities, weapons,  
 32 communications devices, or any property commonly used as  
 33 consideration for a violation of IC 35-48-4 found near or on a person  
 34 who is committing, attempting to commit, or conspiring to commit any  
 35 of the following offenses shall be admitted into evidence in an action  
 36 under this chapter as prima facie evidence that the money, negotiable  
 37 instrument, security, or other thing of value is property that has been  
 38 used or was to have been used to facilitate the violation of a criminal  
 39 statute or is the proceeds of the violation of a criminal statute:
- 40 (1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in  
 41 death).
- 42 (2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a



- 1 narcotic drug).
- 2 (3) IC 35-48-4-1.1 (dealing in methamphetamine).
- 3 (4) IC 35-48-4-1.2 (manufacturing methamphetamine).
- 4 (5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
- 5 substance).
- 6 (6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- 7 (7) IC 35-48-4-4 (dealing in a schedule V controlled substance)
- 8 as a Level 4 felony.
- 9 (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
- 10 Level 3, Level 4, or Level 5 felony.
- 11 (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
- 12 3, Level 4, or Level 5 felony.
- 13 (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
- 14 salvia) as a Level 5 felony.
- 15 (11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing
- 16 in a synthetic drug or synthetic drug lookalike substance) as a
- 17 Level 5 felony or Level 6 felony (or as a Class C felony or Class
- 18 D felony under IC 35-48-4-10 before its amendment in 2013).
- 19 (e) A vehicle operated by a person who is not:
- 20 (1) an owner of the vehicle; or
- 21 (2) the spouse of the person who owns the vehicle;
- 22 is not subject to seizure under subsection (a)(15) unless it can be
- 23 proven by a preponderance of the evidence that the owner of the
- 24 vehicle knowingly permitted the vehicle to be used to engage in
- 25 conduct that subjects it to seizure under subsection (a)(15).

