



PREVAILED

Roll Call No. _____

FAILED

Ayes _____

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Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1368 be amended to read as follows:

- 1 Page 42, between lines 25 and 26, begin a new paragraph and insert:
- 2 "SECTION 74. IC 35-31.5-2-42 IS REPEALED [EFFECTIVE
- 3 JULY 1, 2026]. Sec. 42: "Claim statement", for purposes of IC 35-43-5,
- 4 has the meaning set forth in IC 35-43-5-1(b).
- 5 SECTION 75. IC 35-31.5-2-46, AS ADDED BY P.L.114-2012,
- 6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2026]: Sec. 46. "Coin machine", for purposes of IC 35-43-5
- 8 and IC 35-46-1-11.5, has the meaning set forth in IC 35-43-5-1(c).
- 9 **IC 35-46-1-11.5(b).**
- 10 SECTION 76. IC 35-31.5-2-69 IS REPEALED [EFFECTIVE JULY
- 11 1, 2026]. Sec. 69: "Credit card", for purposes of IC 35-43-5, has the
- 12 meaning set forth in IC 35-43-5-1(d).
- 13 SECTION 77. IC 35-31.5-2-70 IS REPEALED [EFFECTIVE JULY
- 14 1, 2026]. Sec. 70: "Credit card holder", for purposes of IC 35-43-5, has
- 15 the meaning set forth in IC 35-43-5-1(e).
- 16 SECTION 78. IC 35-31.5-2-81, AS ADDED BY P.L.114-2012,
- 17 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2026]: Sec. 81. "Customer", for purposes of IC 35-43-5, has
- 19 the meaning set forth in IC 35-43-5-1(f). **IC 35-43-4-2.4, means a**
- 20 **person that receives or has contracted for utility service.**
- 21 SECTION 79. IC 35-31.5-2-106, AS ADDED BY P.L.114-2012,

SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 106. "Drug or alcohol screening test", for purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(g)~~. **IC 35-43-5-1.**

SECTION 80. IC 35-31.5-2-119 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 119. "Entrusted", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(h).~~

SECTION 81. IC 35-31.5-2-173.8 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 173.8. "Insurance policy", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(j).~~

SECTION 82. IC 35-31.5-2-174, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 174. "Insurer", for purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(k)~~. **IC 35-43-5-1.**

SECTION 83. IC 35-31.5-2-191, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 191. "Make", for purposes of IC 35-43-5, has the meaning set forth in ~~IC 35-43-5-1(m)~~. **IC 35-43-5-1.**

SECTION 84. IC 35-31.5-2-194 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 194. "Manufacturer", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(t).~~

SECTION 85. IC 35-31.5-2-199 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 199. "Metering device", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(n).~~

SECTION 86. IC 35-31.5-2-259 IS REPEALED [EFFECTIVE JULY 1, 2026]. ~~Sec. 259. "Public relief or assistance", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(o).~~

SECTION 87. IC 35-31.5-2-273, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 273. "Recording", for purposes of ~~IC 35-43-5~~, has the meaning set forth in ~~IC 35-43-5-1(p)~~. **IC 35-41-4-2, means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:**

(1) An original:

- (A) phonograph record;
- (B) compact disc;
- (C) wire;
- (D) tape;
- (E) audio cassette;
- (F) video cassette; or
- (G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

SECTION 88. IC 35-31.5-2-306 IS REPEALED [EFFECTIVE

JULY 1, 2026]. Sec. 306. "Slug", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1(q).

SECTION 89. IC 35-31.5-2-344, AS AMENDED BY P.L.174-2021, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 344. "Utility", for purposes of IC 35-43-5, has the meaning set forth in IC 35-43-5-1. **IC 35-43-4-2.4, means a person that owns or operates, for public use, any plant, equipment, property, franchise, or license for the provision of utility service.**

SECTION 90. IC 35-31.5-2-344.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 344.2. "Utility service", for purposes of IC 35-43-4-2.4, means the provision to a customer of:

- (1) water;
- (2) wastewater;
- (3) electricity;
- (4) steam; or
- (5) natural gas;

service at retail by a utility with respect to property located in Indiana.

SECTION 91. IC 35-43-4-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2.4. (a) Subject to the defense provided in section 5(b) of this chapter, a person who:

- (1) knowingly or intentionally makes, draws, or utters a check, draft, or order for payment, including by wire, Automated Clearing House (ACH), or other electronic means, on a credit institution for the payment of fees, deposits, penalties, or other charges assessed by a utility in connection with the provision of utility service; and

- (2) knows that the person:

- (A) has no account with the drawee credit institution; or
- (B) has insufficient funds in the drawee credit institution to cover the full amount of the fees, deposits, penalties, or other charges owed by the person as a customer of the utility, or as the occupant or owner of the property for which utility service has been provided by the utility, regardless of whether the amount owed represents:

- (i) the full amount assessed by the utility; or
- (ii) another amount under a payment plan or another payment arrangement agreed to by the person and the utility;

as of the date of presentment of the check, draft, or order for payment;

commits utility service theft, a Class A misdemeanor.

- (b) The offense under subsection (a) is a Level 6 felony if:

- (1) committed by a person who:

(A) owns the property, or an interest in the property, for which utility service has been provided by the utility; and
 (B) sells, transfers, or otherwise relinquishes the person's interest in the property during the period:

(i) beginning ninety (90) days before; and

(ii) ending ninety (90) days after;

the date of presentment by the person of the check, draft, or order for payment;

(2) committed by a person who has a prior unrelated conviction for:

(A) utility service theft under this section;

(B) theft under section 2 of this chapter;

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

(D) robbery under IC 35-42-5-1; or

(E) burglary under IC 35-43-2-1; or

(3) the amount returned or dishonored by the credit institution for insufficient funds is at least seven hundred fifty dollars (\$750).

SECTION 92. IC 35-43-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) The price tag or price marking on property displayed or offered for sale constitutes prima facie evidence of the value and ownership of the property.

(b) Evidence that a person:

(1) altered, substituted, or transferred a universal product code (UPC) or another product identification code, label, price tag, or price marking on property displayed or offered for sale or hire; or

(2) transferred property displayed or offered for sale or hire from the package, bag, or container in or on which the property was displayed or offered to another package, bag, or container;

constitutes prima facie evidence of intent to deprive the owner of the property of a part of its value and that the person exerted unauthorized control over the property.

(c) Evidence that a person:

(1) concealed property displayed or offered for sale or hire; and

(2) removed the property from any place within the business premises at which it was displayed or offered to a point beyond that at which payment should be made;

constitutes prima facie evidence of intent to deprive the owner of the property of a part of its value and that the person exerted unauthorized control over the property.

(d) Except as provided in subsection (e), ~~of this section~~, evidence of failure to perform as promised, by itself, does not constitute evidence that the promisor knew that the promise would not be performed.

(e) Except as provided in section 5(b) of this chapter, a person who has insufficient funds in or no account with a drawee credit institution and who makes, draws, or utters a check, draft, or order for payment,

1 **including by wire, Automated Clearing House (ACH), or other**
 2 **electronic means**, on the credit institution may be inferred:

3 (1) to have known that the credit institution would refuse payment
 4 upon presentment in the usual course of business; and

5 (2) to have intended to deprive the:

6 (A) owner of any property acquired; or

7 (B) **provider of any services provided, including utility**
 8 **service;**

9 by making, drawing, or uttering the check, draft, or order for
 10 payment **(including by wire, Automated Clearing House**
 11 **(ACH), or other electronic means)** of a part of **or all** the value
 12 of ~~that~~ **the property acquired or services provided.**

13 (f) Evidence that a person, after renting or leasing any property
 14 under a written agreement providing for the return of the property to a
 15 particular place at a particular time, failed to return the property to the
 16 place within seventy-two (72) hours after the agreed time constitutes
 17 prima facie evidence that ~~he~~ **the person** exerted unauthorized control
 18 over the property.

19 (g) A judge may find that a photograph of property over which a
 20 person is alleged to have exerted unauthorized control or to have
 21 otherwise obtained unlawfully is competent evidence, if the
 22 photograph:

23 (1) will serve the purpose of demonstrating the nature of the
 24 property; and

25 (2) is otherwise admissible into evidence under all other rules of
 26 law governing the admissibility of photographs into evidence.

27 The fact that it is impractical to introduce into evidence the actual
 28 property for any reason, including its size, weight, or unavailability,
 29 need not be established for a judge to find a photograph of that property
 30 to be competent evidence. If a photograph is found to be competent
 31 evidence under this subsection, it is admissible into evidence in place
 32 of the property and to the same extent as the property itself.

33 (h) A law enforcement agency that is holding as evidence property
 34 over which a person is alleged to have exerted unauthorized control or
 35 to have otherwise obtained unlawfully, may return that property to its
 36 owner if:

37 (1) the property has been photographed in a manner that will
 38 serve the purpose of demonstrating the nature of the property, and
 39 if these photographs are filed with or retained by the law
 40 enforcement agency in place of the property;

41 (2) receipt for the property is obtained from the owner upon
 42 delivery by the law enforcement agency;

43 (3) the prosecuting attorney who is prosecuting a case that
 44 involves the property has not requested the law enforcement
 45 agency to decline requests for return of the property to its owner;
 46 and

(4) the property may be lawfully possessed by the owner.

SECTION 93. IC 35-43-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) An owner in possession of encumbered property does not commit a crime under this chapter, as against a person having only a security interest in the property, by removing or otherwise dealing with the property contrary to the terms of the security agreement, even if title is in the credit institution under a mortgage, conditional sales contract, or bailment lease.

(b) It is a defense under this chapter if a maker or drawer:

(1) who has an account in a credit institution but does not have sufficient funds in that account; and

(2) who makes, draws, or utters a check, draft, or order for payment, **including by wire, Automated Clearing House (ACH), or other electronic means**, on the credit institution; pays the credit institution the amount due, together with protest fees, within ten (10) days after receiving notice that the check, draft, or order has not been paid by the credit institution. Notice sent to either ~~(i) to~~ **to** the address printed or ~~written stated~~ on the check, draft, or order or ~~(ii) to~~ **to** the address ~~given~~ **provided** in writing **or electronically** to the recipient at the time the check, draft, or order was issued or delivered constitutes notice that the check, draft, or order has not been paid by the credit institution.

(c) A person who transfers or reproduces recorded sounds in connection with a broadcast or telecast, or for archival purposes, does not commit a crime under this chapter, even if ~~he the person~~ does not have the consent of the owner of the master recording.

(d) A person who receives, retains, or disposes of personal property that has been the subject of theft with the purpose of restoring it to the owner, does not commit a crime under this chapter.

SECTION 94. IC 35-43-5-1, AS AMENDED BY P.L.174-2021, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy; a document; or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy; or other evidence of expense, injury, or loss. The term includes statements made orally; in writing; or electronically; including the following:

(1) An account.

(2) A bill for services.

(3) A bill of lading.

(4) A claim.

(5) A diagnosis.

(6) An estimate of property damages.

(7) A hospital record.

- 1 (8) An invoice.
- 2 (9) A notice.
- 3 (10) A proof of loss.
- 4 (11) A receipt for payment.
- 5 (12) A physician's records.
- 6 (13) A prescription.
- 7 (14) A statement.
- 8 (15) A test result.
- 9 (16) X-rays.
- 10 (c) "Coin machine" means a coin box, vending machine, or other
- 11 mechanical or electronic device or receptacle designed:
- 12 (1) to receive a coin, bill, or token made for that purpose; and
- 13 (2) in return for the insertion or deposit of a coin, bill, or token
- 14 automatically:
- 15 (A) to offer, provide, or assist in providing; or
- 16 (B) to permit the acquisition of;
- 17 some property.
- 18 (d) "Credit card" means an instrument or device (whether known as
- 19 a credit card or charge plate, or by any other name) issued by an issuer
- 20 for use by or on behalf of the credit card holder in obtaining property.
- 21 (e) "Credit card holder" means the person to whom or for whose
- 22 benefit the credit card is issued by an issuer.
- 23 (f) "Customer" means a person who receives or has contracted for
- 24 a utility service.
- 25 (g) (b) "Drug or alcohol screening test" means a test that:
- 26 (1) is used to determine the presence or use of alcohol, a
- 27 controlled substance, or a drug in a person's bodily substance; and
- 28 (2) is:
- 29 (A) administered in the course of monitoring a person who is:
- 30 (i) incarcerated in a prison or jail;
- 31 (ii) placed in a community corrections program;
- 32 (iii) on probation or parole;
- 33 (iv) participating in a court ordered alcohol or drug
- 34 treatment program; or
- 35 (v) on court ordered pretrial release; or
- 36 (B) ordered by a court as part of a civil action.
- 37 (h) "Entrusted" means held in a fiduciary capacity or placed in
- 38 charge of a person engaged in the business of transporting, storing,
- 39 lending on, or otherwise holding property of others.
- 40 (i) (c) "Identifying information" means information, genuine or
- 41 fabricated, that identifies or purports to identify a person, including:
- 42 (1) a name, address, date of birth, place of employment, employer
- 43 identification number, mother's maiden name, Social Security
- 44 number, or any identification number issued by a governmental
- 45 entity;
- 46 (2) unique biometric data, including a fingerprint, voice print, or

retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value;

or

(B) initiate a transfer of funds.

(j) ~~"Insurance policy" includes the following:~~

~~(1) An insurance policy.~~

~~(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-1-27):~~

~~(3) A written agreement entered into under IC 27-1-25.~~

~~(k)~~ (d) "Insurer" has the meaning set forth in IC 27-1-2-3(x). The term also includes the following:

(1) A reinsurer.

(2) A purported insurer or reinsurer.

(3) A broker.

(4) An agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker.

(5) A health maintenance organization.

(6) A limited service health maintenance organization.

(h) ~~"Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.~~

~~(m)~~ (e) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) ~~"Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.~~

(o) ~~"Public relief or assistance" means any payment made; service rendered; hospitalization provided; or other benefit extended to a person by a governmental entity from public funds and includes township assistance; food stamps; direct relief; unemployment compensation; and any other form of support or aid.~~

(p) ~~"Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:~~

~~(1) An original:~~

~~(A) phonograph record;~~

~~(B) compact disc;~~

- 1 (C) wire;
- 2 (D) tape;
- 3 (E) audio cassette;
- 4 (F) video cassette; or
- 5 (G) film.
- 6 (2) Any other medium on which sounds or visual images are or
- 7 can be recorded or otherwise stored.
- 8 (3) A copy or reproduction of an item in subdivision (1) or (2)
- 9 that duplicates an original recording in whole or in part.
- 10 (q) "Slug" means an article or object that is capable of being
- 11 deposited in a coin machine as an improper substitute for a genuine
- 12 coin, bill, or token.
- 13 (r) "Utility" means a person who owns or operates, for public use,
- 14 any plant, equipment, property, franchise, or license for the production,
- 15 storage, transmission, sale, or delivery of electricity, water, steam,
- 16 telecommunications, information, or gas.
- 17 (s) (f) "Written instrument" means a paper, a document, or other
- 18 instrument containing written matter and includes money, coins,
- 19 tokens, stamps, seals, credit cards, badges, trademarks, medals, retail
- 20 sales receipts, labels or markings (including a universal product code
- 21 (UPC) or another product identification code), or other objects or
- 22 symbols of value, right, privilege, or identification.
- 23 SECTION 95. IC 35-46-1-11.5, AS AMENDED BY P.L.163-2025,
- 24 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2026]: Sec. 11.5. (a) Except for a coin machine that is placed
- 26 in or directly adjacent to an entranceway or an exit, or placed in a
- 27 hallway, a restroom, or another common area that is accessible to
- 28 persons who are less than twenty-one (21) years of age, this section
- 29 does not apply to a coin machine that is located in the following:
- 30 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
- 31 where entry is limited to persons who are at least twenty-one (21)
- 32 years of age.
- 33 (2) Private industrial or office locations that are customarily
- 34 accessible only to persons who are at least twenty-one (21) years
- 35 of age.
- 36 (3) Private clubs if the membership is limited to persons who are
- 37 at least twenty-one (21) years of age.
- 38 (4) Riverboats where entry is limited to persons who are at least
- 39 twenty-one (21) years of age and on which lawful gambling is
- 40 authorized.
- 41 (b) As used in this section, "coin machine" ~~has the meaning set forth~~
- 42 ~~in IC 35-43-5-1.~~ **means a coin box, vending machine, or other**
- 43 **mechanical or electronic device or receptacle designed:**
- 44 **(1) to receive a coin, bill, or token made for that purpose; and**
- 45 **(2) in return for the insertion or deposit of a coin, bill, or**
- 46 **token automatically:**

- 1 **(A) to offer, provide, or assist in providing; or**
 2 **(B) to permit the acquisition of;**
 3 **some property.**
 4 (c) Except as provided in subsection (a), an owner of a retail
 5 establishment may not:
 6 (1) distribute or sell tobacco products by use of a coin machine;
 7 or
 8 (2) install or maintain a coin machine that is intended to be used
 9 for the sale or distribution of tobacco products.
 10 (d) An owner of a retail establishment who violates this section
 11 commits a Class C infraction. A citation or summons issued under this
 12 section must provide notice that the coin machine must be moved
 13 within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil
 14 judgment for an infraction committed under this section must be
 15 imposed as follows:
 16 (1) If the owner of the retail establishment has not been issued a
 17 citation or summons for a violation of this section in the previous
 18 ninety (90) days, a civil penalty of fifty dollars (\$50).
 19 (2) If the owner of the retail establishment has had one (1) citation
 20 or summons issued for a violation of this section in the previous
 21 ninety (90) days, a civil penalty of two hundred fifty dollars
 22 (\$250).
 23 (3) If the owner of the retail establishment has had two (2)
 24 citations or summonses issued for a violation of this section in the
 25 previous ninety (90) days for the same machine, the coin machine
 26 shall be removed or impounded by a law enforcement officer
 27 having jurisdiction where the violation occurs.
 28 An owner of a retail establishment may not be issued a citation or
 29 summons for a violation of this section more than once every two (2)
 30 business days for each business location.
 31 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 32 this section must be deposited in the Richard D. Doyle tobacco
 33 education and enforcement fund established under IC 7.1-6-2-6."
 34 Renumber all SECTIONS consecutively.
 (Reference is to HB 1368 as printed January 20, 2026).

Representative Pressel