

HOUSE BILL No. 1416

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-3-3; IC 36-1.

Synopsis: Preemption of local regulation. Provides that unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision in specified titles of the Indiana Code. Establishes a cause of action for a person who has sustained an injury in fact, actual or threatened, from a municipal or county ordinance, order, or rule adopted or enforced by a municipality or county.

Effective: July 1, 2026.

Miller D

January 8, 2026, read first time and referred to Committee on Judiciary.



Second Regular Session of the 124th General Assembly (2026)

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 2025 Regular Session of the General Assembly.

HOUSE BILL No. 1416

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-13-3-3, AS AMENDED BY P.L.186-2025,
2 SECTION 182, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) **Except as provided in**
4 **IC 36-1-3.3-4**, a governmental entity or an employee acting within the
5 scope of the employee's employment is not liable if a loss results from
6 the following:

- 7 (1) The natural condition of unimproved property.
- 8 (2) The condition of a reservoir, dam, canal, conduit, drain, or
9 similar structure when used by a person for a purpose that is not
10 foreseeable.
- 11 (3) The temporary condition of a public thoroughfare or extreme
12 sport area that results from weather.
- 13 (4) The condition of an unpaved road, trail, or footpath, the
14 purpose of which is to provide access to a recreation or scenic
15 area.
- 16 (5) The design, construction, control, operation, or normal
17 condition of an extreme sport area, if all entrances to the extreme



1 sport area are marked with:

2 (A) a set of rules governing the use of the extreme sport area;

3 (B) a warning concerning the hazards and dangers associated
4 with the use of the extreme sport area; and

5 (C) a statement that the extreme sport area may be used only
6 by persons operating extreme sport equipment.

7 This subdivision shall not be construed to relieve a governmental
8 entity from liability for the continuing duty to maintain extreme
9 sports areas in a reasonably safe condition.

10 (6) The initiation of a judicial or an administrative proceeding.

11 (7) The performance of a discretionary function; however, the
12 provision of medical or optical care as provided in IC 34-6-2.1-54
13 shall be considered as a ministerial act.

14 (8) The adoption and enforcement of or failure to adopt or
15 enforce:

16 (A) a law (including rules and regulations); or

17 (B) in the case of a public school or charter school, a policy;
18 unless the act of enforcement constitutes false arrest or false
19 imprisonment.

20 (9) An act or omission performed in good faith and without
21 malice under the apparent authority of a statute which is invalid
22 if the employee would not have been liable had the statute been
23 valid.

24 (10) The act or omission of anyone other than the governmental
25 entity or the governmental entity's employee.

26 (11) The issuance, denial, suspension, or revocation of, or failure
27 or refusal to issue, deny, suspend, or revoke any permit, license,
28 certificate, approval, order, or similar authorization, where the
29 authority is discretionary under the law.

30 (12) Failure to make an inspection, or making an inadequate or
31 negligent inspection, of any property, other than the property of
32 a governmental entity, to determine whether the property
33 complied with or violates any law or contains a hazard to health
34 or safety.

35 (13) Entry upon any property where the entry is expressly or
36 impliedly authorized by law.

37 (14) Misrepresentation if unintentional.

38 (15) Theft by another person of money in the employee's official
39 custody, unless the loss was sustained because of the employee's
40 own negligent or wrongful act or omission.

41 (16) Injury to the property of a person under the jurisdiction and
42 control of the department of correction if the person has not



exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation;

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12; or

(C) subject to a court order requiring the person to be escorted by a county police officer while on or in a government building (as defined in IC 36-9-13-3) owned by a county building authority under IC 36-9-13, unless the injury is the result of an act or omission amounting to:

(i) gross negligence;

(ii) willful or wanton misconduct; or

(iii) intentional misconduct.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a:

(A) discipline policy adopted under IC 20-33-8-12; or

(B) restraint and seclusion plan adopted under IC 20-20-40-14.

(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 or IC 35-46-1-15.3 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a



brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

(A) gross negligence;

(B) willful or wanton misconduct; or

(C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.

(b) This subsection applies to a cause of action that accrues during a period of a state disaster emergency declared under IC 10-14-3-12 to respond to COVID-19, if the state of disaster emergency was declared after February 29, 2020, and before April 1, 2022. A governmental entity or an employee acting within the scope of the employee's employment is not liable for an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation. If a claim described in this subsection is:

(1) a claim for injury or death resulting from medical malpractice; and

(2) not barred by the immunity provided under this subsection; the claimant is required to comply with all of the provisions of IC 34-18 (medical malpractice act).

SECTION 2. IC 36-1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) The rule of law that any doubt as to the existence of a power of a unit shall be resolved against its existence is abrogated **except as otherwise provided in IC 36-1-3.3.**

(b) **Except as provided in IC 36-1-3.3,** any doubt as to the existence of a power of a unit shall be resolved in favor of its existence.



1 This rule applies even though a statute granting the power has been
2 repealed.

3 SECTION 3. IC 36-1-3-4 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) **Except as otherwise**
5 **provided in IC 36-1-3.3**, the rule of law that a unit has only:

- 6 (1) powers expressly granted by statute;
- 7 (2) powers necessarily or fairly implied in or incident to powers
8 expressly granted; and
- 9 (3) powers indispensable to the declared purposes of the unit;

10 is abrogated.

11 (b) A unit has:

- 12 (1) all powers granted it by statute; and
- 13 (2) **except as provided in IC 36-1-3.3**, all other powers necessary
14 or desirable in the conduct of its affairs, even though not granted
15 by statute.

16 (c) The powers that units have under subsection (b)(1) are listed in
17 various statutes. However, these statutes do not list the powers that
18 units have under subsection (b)(2); therefore, the omission of a power
19 from such a list does not imply that units lack that power.

20 SECTION 4. IC 36-1-3-5 IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) Except as provided in
22 **IC 36-1-3.3 and** subsection (b), a unit may exercise any power it has
23 to the extent that the power:

- 24 (1) is not expressly denied by the Indiana Constitution or by
25 statute; and
- 26 (2) is not expressly granted to another entity.

27 (b) A township may not exercise power the township has if another
28 unit in which all or part of the township is located exercises that same
29 power.

30 SECTION 5. IC 36-1-3-8, AS AMENDED BY P.L.4-2023,
31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2026]: Sec. 8. (a) Subject to subsection (b), a unit does not
33 have the following:

- 34 (1) The power to condition or limit its civil liability, except as
35 expressly granted by statute.
- 36 (2) The power to prescribe the law governing civil actions
37 between private persons.
- 38 (3) The power to impose duties on another political subdivision,
39 except as expressly granted by statute.
- 40 (4) The power to impose a tax, except as expressly granted by
41 statute.
- 42 (5) The power to impose a license fee greater than that reasonably



related to the administrative cost of exercising a regulatory power.

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

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

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to adopt an ordinance, a resolution, or an order concerning an election described by IC 3-5-1-2, or otherwise conduct an election, except as expressly granted by statute. An ordinance, a resolution, or an order concerning an election described by IC 3-5-1-2 that was adopted before January 1, 2023, is void unless a statute expressly granted the unit the power to adopt the ordinance, resolution, or order.

(13) The power to adopt or enforce an ordinance described in section 8.5 of this chapter.

(14) The power to take any action prohibited by section 8.6 of this chapter.

(15) The power to dissolve a political subdivision, except:

(A) as expressly granted by statute; or

(B) if IC 36-1-8-17.7 applies to the political subdivision, in accordance with the procedure set forth in IC 36-1-8-17.7.

(16) After June 30, 2019, the power to enact an ordinance requiring a solid waste hauler or a person who operates a vehicle in which recyclable material is transported for recycling to collect fees authorized by IC 13-21 and remit the fees to:



(A) a unit; or

(B) the board of a solid waste management district established under IC 13-21.

(17) Powers preempted under IC 36-1-3.3.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

SECTION 6. IC 36-1-3.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 3.3. Regulatory Consistency Preemption of Local Ordinances, Orders, and Rules

Sec. 1. This chapter applies to a:

(1) county; and

(2) municipality.

Sec. 2. Unless expressly authorized by another statute, a municipality or county may not adopt, enforce, or maintain an ordinance, order, or rule regulating conduct in a field of regulation that is occupied by a provision in the following titles:

(1) IC 14 (Natural and Cultural Resources);

(2) IC 15 (Agriculture and Animals);

(3) IC 22 (Labor and Safety);

(4) IC 23 (Business and Other Associations);

(5) IC 24 (Trade Regulation);

(6) IC 25 (Professions and Occupations);

(7) IC 27 (Insurance);

(8) IC 28 (Financial Institutions); or

(9) IC 32 (Property).

An ordinance, order, or rule adopted by a county or municipality that violates this section is void, unenforceable, and inconsistent with this chapter.

Sec. 3. This chapter:

(1) may not be construed to prohibit a municipality or county from building or maintaining a road, imposing a tax, or carrying out any authority expressly authorized by statute;

(2) does not affect the authority of a municipality or county to adopt, enforce, or maintain an ordinance or rule that relates to the control, care, management, welfare, or health and



1 safety of animals;

2 (3) does not affect the authority of a municipality or county to
3 conduct a public awareness campaign;

4 (4) does not affect the authority of a municipality or county
5 to:

6 (A) enter into or negotiate terms of a collective bargaining
7 agreement with its employees; or

8 (B) adopt a policy related to its employees; and

9 (5) does not affect the authority of a municipality or county to
10 repeal or amend an existing ordinance, order, or rule that
11 violates the provisions of this chapter for the limited purpose
12 of bringing that ordinance, order, or rule in compliance with
13 this chapter.

14 Sec. 4. (a) A person (as defined in IC 4-30-2-6) who has
15 sustained an injury in fact, actual or threatened, from a municipal
16 or county ordinance, order, or rule adopted or enforced by a
17 municipality or county in violation of this chapter, or a trade
18 association representing the person, has standing to bring and may
19 bring an action against the municipality or county.

20 (b) A person is entitled to recover in an action brought under
21 this chapter:

22 (1) declaratory and injunctive relief; and

23 (2) costs and reasonable attorney's fees.

24 (c) A municipality or county is entitled to recover in an action
25 brought under this chapter costs and reasonable attorney's fees if
26 the court finds the action to be frivolous.

27 (d) A governmental entity may not claim immunity under
28 IC 34-13-3-3.

29 (e) A municipality or county is entitled to receive notice of an
30 action under this chapter in accordance with IC 34-13-3-8.

