

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.



Introduced

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



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

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

5 (A) on probation;

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

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

16 (i) gross negligence;

17 (ii) willful or wanton misconduct; or

18 (iii) intentional misconduct.

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

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

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

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

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

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

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



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

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

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

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

12 (A) gross negligence;

13 (B) willful or wanton misconduct; or

14 (C) intentional misconduct.

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

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

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

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

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

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

41 (b) **Except as provided in IC 36-1-3.3,** any doubt as to the
42 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



1 related to the administrative cost of exercising a regulatory power.

2 (6) The power to impose a service charge or user fee greater than

3 that reasonably related to reasonable and just rates and charges

4 for services.

5 (7) The power to regulate conduct that is regulated by a state

6 agency, except as expressly granted by statute.

7 (8) The power to prescribe a penalty for conduct constituting a

8 crime or infraction under statute.

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

10 ordinance violation.

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

12 (A) More than ten thousand dollars (\$10,000) for the violation

13 of an ordinance or a regulation concerning air emissions

14 adopted by a county that has received approval to establish an

15 air permit program under IC 13-17-12-6.

16 (B) For a violation of any other ordinance:

17 (i) more than two thousand five hundred dollars (\$2,500) for

18 a first violation of the ordinance; and

19 (ii) except as provided in subsection (c), more than seven

20 thousand five hundred dollars (\$7,500) for a second or

21 subsequent violation of the ordinance.

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

23 statute.

24 (12) The power to adopt an ordinance, a resolution, or an order

25 concerning an election described by IC 3-5-1-2, or otherwise

26 conduct an election, except as expressly granted by statute. An

27 ordinance, a resolution, or an order concerning an election

28 described by IC 3-5-1-2 that was adopted before January 1, 2023,

29 is void unless a statute expressly granted the unit the power to

30 adopt the ordinance, resolution, or order.

31 (13) The power to adopt or enforce an ordinance described in

32 section 8.5 of this chapter.

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

34 chapter.

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

36 (A) as expressly granted by statute; or

37 (B) if IC 36-1-8-17.7 applies to the political subdivision, in

38 accordance with the procedure set forth in IC 36-1-8-17.7.

39 (16) After June 30, 2019, the power to enact an ordinance

40 requiring a solid waste hauler or a person who operates a vehicle

41 in which recyclable material is transported for recycling to collect

42 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



safety of animals;

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

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

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

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

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

Sec. 4. (a) A person (as defined in IC 4-30-2-6) 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 in violation of this chapter, or a trade association representing the person, has standing to bring and may bring an action against the municipality or county.

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

(1) declaratory and injunctive relief; and

(2) costs and reasonable attorney's fees.

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

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

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

