

HOUSE BILL No. 1118

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3.

Synopsis: Alcoholic beverage permits and redevelopment. Allows the alcohol and tobacco commission to issue a total of 10 new one-way, two-way, or three-way permits for on-premises consumption to the owner or proprietor of a restaurant in a municipality in Hamilton County.

Effective: Upon passage.

Huston, Torr, Schaibley, Cook

January 7, 2016, read first time and referred to Committee on Public Policy.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1118

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

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

1 SECTION 1. IC 7.1-3-19-17, AS ADDED BY P.L.121-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) This section applies to a permit issued
4 under IC 7.1-3-20-16(d), IC 7.1-3-20-16(g), IC 7.1-3-20-16(k), ~~or~~
5 IC 7.1-3-20-16(l), **or IC 7.1-3-20-16(m)** if a ~~local unit~~ **municipality**
6 has adopted an ordinance requiring a formal written commitment as a
7 condition of eligibility for a permit, as described in subsection (b).
8 (b) As a condition of eligibility for a permit, the applicant must
9 enter into a formal written commitment with the municipal legislative
10 body regarding the character or type of business that will be conducted
11 on the permit premises. The municipal legislative body must adopt an
12 ordinance approving the formal written commitment. A formal written
13 commitment is binding on the permit holder and on any lessee or
14 proprietor of the permit premises. When an application for renewal of
15 a permit is filed, the applicant shall forward a copy of the application
16 to the municipal legislative body. The municipal legislative body shall
17 receive notice of any filings, hearings, or other proceedings on the



- 1 application for renewal from the applicant.
- 2 (c) A formal written commitment may be modified by the municipal
3 legislative body with the agreement of the permit holder.
- 4 (d) Except as provided in subsection (f), the amount of time that a
5 formal written commitment is valid may not be limited or restricted.
- 6 (e) A formal written commitment is terminated at the time a permit
7 is lost, revoked, or not renewed.
- 8 (f) If the character or type of business violates the formal written
9 commitments, the municipality may adopt a recommendation to the
10 local board and the commission to:
- 11 (1) deny the permit holder's application to renew the permit; or
12 (2) revoke the permit holder's permit.
- 13 (g) The commission shall consider evidence at the hearing on the
14 issue of whether the business violated the formal written commitments.
15 If the commission determines there is sufficient evidence that the
16 commitments have been violated by the permittee, the commission
17 may:
- 18 (1) deny the application to renew the permit; or
19 (2) revoke the permit;
20 as applicable.
- 21 SECTION 2. IC 7.1-3-20-16, AS AMENDED BY P.L.121-2015,
22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 16. (a) A permit that is authorized by this
24 section may be issued without regard to the quota provisions of
25 IC 7.1-3-22.
- 26 (b) The commission may issue a three-way permit to sell alcoholic
27 beverages for on-premises consumption only to an applicant who is the
28 proprietor, as owner or lessee, or both, of a restaurant facility in the
29 passenger terminal complex of a publicly owned airport. A permit
30 issued under this subsection shall not be transferred to a location off
31 the airport premises.
- 32 (c) The commission may issue a three-way, two-way, or one-way
33 permit to sell alcoholic beverages for on-premises consumption only to
34 an applicant who is the proprietor, as owner or lessee, or both, of a
35 restaurant within a redevelopment project consisting of a building or
36 group of buildings that:
- 37 (1) was formerly used as part of a union railway station;
38 (2) has been listed in or is within a district that has been listed in
39 the federal National Register of Historic Places maintained
40 pursuant to the National Historic Preservation Act of 1966, as
41 amended; and
42 (3) has been redeveloped or renovated, with the redevelopment or



1 renovation being funded in part with grants from the federal,
2 state, or local government.

3 A permit issued under this subsection shall not be transferred to a
4 location outside of the redevelopment project.

5 (d) Subject to section 16.1 of this chapter, the commission may
6 issue a three-way, two-way, or one-way permit to sell alcoholic
7 beverages for on-premises consumption only to an applicant who is the
8 proprietor, as owner or lessee, or both, of a restaurant:

- 9 (1) on land; or
10 (2) in a historic river vessel;

11 within a municipal riverfront development project funded in part with
12 state and city money. The ownership of a permit issued under this
13 subsection and the location for which the permit was issued may not be
14 transferred. The legislative body of the municipality in which the
15 municipal riverfront development project is located shall recommend
16 to the commission sites that are eligible to be permit premises. The
17 commission shall consider, but is not required to follow, the municipal
18 legislative body's recommendation in issuing a permit under this
19 subsection. A permit holder and any lessee or proprietor of the permit
20 premises are subject to the formal written commitment required under
21 IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations
22 cease at the permit premises for more than six (6) months, the permit
23 shall revert to the commission. The permit holder is not entitled to any
24 refund or other compensation.

25 (e) The commission may issue a three-way, two-way, or one-way
26 permit to sell alcoholic beverages for on-premises consumption only to
27 an applicant who is the proprietor, as owner or lessee, or both, of a
28 restaurant within a renovation project consisting of a building that:

- 29 (1) was formerly used as part of a passenger and freight railway
30 station; and
31 (2) was built before 1900.

32 The permit authorized by this subsection may be issued without regard
33 to the proximity provisions of IC 7.1-3-21-11.

34 (f) The commission may issue a three-way permit for the sale of
35 alcoholic beverages for on-premises consumption at a cultural center
36 for the visual and performing arts to the following:

- 37 (1) A town that:
38 (A) is located in a county having a population of more than
39 four hundred thousand (400,000) but less than seven hundred
40 thousand (700,000); and
41 (B) has a population of more than twenty thousand (20,000)
42 but less than twenty-three thousand seven hundred (23,700).



1 (2) A city that has an indoor theater as described in section 26 of
2 this chapter.

3 (g) The commission may issue not more than ten (10) new
4 three-way, two-way, or one-way permits to sell alcoholic beverages for
5 on-premises consumption to applicants, each of whom must be the
6 proprietor, as owner or lessee, or both, of a restaurant located within a
7 district, or not more than seven hundred (700) feet from a district, that
8 meets the following requirements:

9 (1) The district has been listed in the National Register of Historic
10 Places maintained under the National Historic Preservation Act
11 of 1966, as amended.

12 (2) A county courthouse is located within the district.

13 (3) A historic opera house listed on the National Register of
14 Historic Places is located within the district.

15 (4) A historic jail and sheriff's house listed on the National
16 Register of Historic Places is located within the district.

17 The legislative body of the municipality in which the district is located
18 shall recommend to the commission sites that are eligible to be permit
19 premises. The commission shall consider, but is not required to follow,
20 the municipal legislative body's recommendation in issuing a permit
21 under this subsection. An applicant is not eligible for a permit if, less
22 than two (2) years before the date of the application, the applicant sold
23 a retailer's permit that was subject to IC 7.1-3-22 and that was for
24 premises located within the district described in this section or within
25 seven hundred (700) feet of the district. The ownership of a permit
26 issued under this subsection and the location for which the permit was
27 issued shall not be transferred. A permit holder and any lessee or
28 proprietor of the permit premises is subject to the formal written
29 commitment required under IC 7.1-3-19-17. Notwithstanding
30 IC 7.1-3-1-3.5, if business operations cease at the permit premises for
31 more than six (6) months, the permit shall revert to the commission.
32 The permit holder is not entitled to any refund or other compensation.
33 The total number of active permits issued under this subsection may
34 not exceed ten (10) at any time. The cost of an initial permit issued
35 under this subsection is six thousand dollars (\$6,000).

36 (h) The commission may issue a three-way permit for the sale of
37 alcoholic beverages for on-premises consumption to an applicant who
38 will locate as the proprietor, as owner or lessee, or both, of a restaurant
39 within an economic development area under IC 36-7-14 in:

40 (1) a town with a population of more than twenty thousand
41 (20,000); or

42 (2) a city with a population of more than forty-four thousand five



1 hundred (44,500) but less than forty-five thousand (45,000);
2 located in a county having a population of more than one hundred ten
3 thousand (110,000) but less than one hundred eleven thousand
4 (111,000). The commission may issue not more than five (5) licenses
5 under this section to premises within a municipality described in
6 subdivision (1) and not more than five (5) licenses to premises within
7 a municipality described in subdivision (2). The commission shall
8 conduct an auction of the permits under IC 7.1-3-22-9, except that the
9 auction may be conducted at any time as determined by the
10 commission. Notwithstanding any other law, the minimum bid for an
11 initial license under this subsection is thirty-five thousand dollars
12 (\$35,000), and the renewal fee for a license under this subsection is one
13 thousand three hundred fifty dollars (\$1,350). Before the district
14 expires, a permit issued under this subsection may not be transferred.
15 After the district expires, a permit issued under this subsection may be
16 renewed, and the ownership of the permit may be transferred, but the
17 permit may not be transferred from the permit premises.

18 (i) After June 30, 2006, the commission may issue not more than
19 five (5) new three-way, two-way, or one-way permits to sell alcoholic
20 beverages for on-premises consumption to applicants, each of whom
21 must be the proprietor, as owner or lessee, or both, of a restaurant
22 located within a district, or not more than five hundred (500) feet from
23 a district, that meets all of the following requirements:

24 (1) The district is within an economic development area, an area
25 needing redevelopment, or a redevelopment district as established
26 under IC 36-7-14.

27 (2) A unit of the National Park Service is partially located within
28 the district.

29 (3) An international deep water seaport is located within the
30 district.

31 An applicant is not eligible for a permit under this subsection if, less
32 than two (2) years before the date of the application, the applicant sold
33 a retailers' permit that was subject to IC 7.1-3-22 and that was for
34 premises located within the district described in this subsection or
35 within five hundred (500) feet of the district. A permit issued under this
36 subsection may not be transferred. If the commission issues five (5)
37 new permits under this subsection, and a permit issued under this
38 subsection is later revoked or is not renewed, the commission may
39 issue another new permit, as long as the total number of active permits
40 issued under this subsection does not exceed five (5) at any time. The
41 commission shall conduct an auction of the permits under
42 IC 7.1-3-22-9, except that the auction may be conducted at any time as



1 determined by the commission.

2 (j) Subject to section 16.2 of this chapter, the commission may issue
3 not more than six (6) new three-way, two-way, or one-way permits to
4 sell alcoholic beverages for on-premises consumption only to an
5 applicant who is the proprietor, as owner or lessee, or both, of a
6 restaurant on land within a municipal lakefront development project
7 funded in part with state, local, and federal money. A permit issued
8 under this subsection may not be transferred. If the commission issues
9 six (6) new permits under this subsection, and a permit issued under
10 this subsection is later revoked or is not renewed, the commission may
11 issue another new permit, as long as the total number of active permits
12 issued under this subsection does not exceed six (6) at any time. The
13 commission shall conduct an auction of the permits under
14 IC 7.1-3-22-9, except that the auction may be conducted at any time as
15 determined by the commission. Notwithstanding any other law, the
16 minimum bid for an initial permit under this subsection is ten thousand
17 dollars (\$10,000).

18 (k) The commission may issue not more than eight (8) new
19 three-way permits to sell alcoholic beverages for on-premises
20 consumption to applicants, each of whom must be a proprietor, as
21 owner or lessee, or both, of a restaurant located:

- 22 (1) within a motorsports investment district (as defined in
23 IC 5-1-17.5-11); or
24 (2) not more than one thousand five hundred (1,500) feet from a
25 motorsports investment district.

26 The ownership of a permit issued under this subsection and the location
27 for which the permit was issued shall not be transferred. If the
28 commission issues eight (8) new permits under this subsection, and a
29 permit issued under this subsection is later revoked or is not renewed,
30 the commission may issue another new permit, as long as the total
31 number of active permits issued under this subsection does not exceed
32 eight (8) at any time. A permit holder and any lessee or proprietor of
33 the permit premises are subject to the formal written commitment
34 required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if
35 business operations cease at the permit premises for more than six (6)
36 months, the permit shall revert to the commission. The permit holder
37 is not entitled to any refund or other compensation.

38 (l) The commission may issue not more than two (2) new three-way
39 permits to sell alcoholic beverages for on-premises consumption for
40 premises located within a qualified motorsports facility (as defined in
41 IC 5-1-17.5-14). The ownership of a permit issued under this
42 subsection and the location for which the permit was issued shall not



1 be transferred. If the commission issues two (2) new permits under this
2 subsection, and a permit issued under this subsection is later revoked
3 or is not renewed, the commission may issue another new permit, as
4 long as the total number of active permits issued under this subsection
5 does not exceed two (2) at any time. A permit holder and any lessee or
6 proprietor of the permit premises are subject to the formal written
7 commitment required under IC 7.1-3-19-17. Notwithstanding
8 IC 7.1-3-1-3.5, if business operations cease at the permit premises for
9 more than six (6) months, the permit shall revert to the commission.
10 The permit holder is not entitled to any refund or other compensation.

11 **(m) The commission may issue not more than ten (10) new**
12 **three-way, two-way, or one-way permits to sell alcoholic beverages**
13 **for on-premises consumption to applicants, each of whom must be**
14 **the proprietor, as owner or lessee, or both, of a restaurant located**
15 **within an economic development area, an area needing**
16 **redevelopment, or a redevelopment district as established under**
17 **IC 36-7-14 in a municipality located in a county having a**
18 **population of more than two hundred seventy thousand (270,000)**
19 **but less than three hundred thousand (300,000). The following**
20 **apply to permits issued under this subsection:**

21 (1) The cost of an initial permit is six thousand dollars
22 (\$6,000).

23 (2) The total number of active permits issued under this
24 subsection may not exceed ten (10) permits at any time. If any
25 of the permits issued under this subsection are revoked or not
26 renewed, the commission may issue only enough new permits
27 to bring the total number of permits to ten (10) active permits.

28 (3) The municipality may adopt an ordinance under
29 IC 7.1-3-19-17 requiring a permit holder to enter into a
30 formal written commitment as a condition of eligibility for a
31 permit. As set forth in IC 7.1-3-19-17(b), a formal written
32 commitment is binding on the permit holder and on any lessee
33 or proprietor of the permit premises.

34 (4) Notwithstanding IC 7.1-3-1-3.5, if business operations
35 cease at the permit premises for more than six (6) months, the
36 permit shall revert to the commission and the permit holder
37 is not entitled to any refund or other compensation.

38 (5) Except as provided in subdivision (7), the ownership of a
39 permit may not be transferred.

40 (6) A permit may not be transferred from the premises for
41 which the permit was issued.



1 **(7) If the area in which the permit premises is located is no**
2 **longer designated an economic development area, an area**
3 **needing redevelopment, or a redevelopment district, a permit**
4 **issued under this subsection may be renewed, and the**
5 **ownership of the permit may be transferred, but the permit**
6 **may not be transferred from the permit premises.**
7 **SECTION 3. An emergency is declared for this act.**

