



January 29, 2016

HOUSE BILL No. 1118

DIGEST OF HB 1118 (Updated January 27, 2016 3:39 pm - DI 107)

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 three-way permits for on-premises consumption to the owner or proprietor of a restaurant in a municipality in Hamilton County. 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 Boone County.

Effective: Upon passage.

Huston, Schaibley, Cook, Austin

January 7, 2016, read first time and referred to Committee on Public Policy.
January 28, 2016, amended, reported — Do Pass.

HB 1118—LS 6685/DI 87



January 29, 2016

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), **IC 7.1-3-20-16(m), or IC 7.1-3-20-16(n)** if a ~~local~~
6 ~~unit~~ **municipality** has adopted an ordinance requiring a formal written
7 commitment as a condition of eligibility for a permit, as described in
8 subsection (b).
9 (b) As a condition of eligibility for a permit, the applicant must
10 enter into a formal written commitment with the municipal legislative
11 body regarding the character or type of business that will be conducted
12 on the permit premises. The municipal legislative body must adopt an
13 ordinance approving the formal written commitment. A formal written
14 commitment is binding on the permit holder and on any lessee or
15 proprietor of the permit premises. When an application for renewal of
16 a permit is filed, the applicant shall forward a copy of the application
17 to the municipal legislative body. The municipal legislative body shall

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1 receive notice of any filings, hearings, or other proceedings on the
2 application for renewal from the applicant.

3 (c) A formal written commitment may be modified by the municipal
4 legislative body with the agreement of the permit holder.

5 (d) Except as provided in subsection (f), the amount of time that a
6 formal written commitment is valid may not be limited or restricted.

7 (e) A formal written commitment is terminated at the time a permit
8 is lost, revoked, or not renewed.

9 (f) If the character or type of business violates the formal written
10 commitments, the municipality may adopt a recommendation to the
11 local board and the commission to:

12 (1) deny the permit holder's application to renew the permit; or

13 (2) revoke the permit holder's permit.

14 (g) The commission shall consider evidence at the hearing on the
15 issue of whether the business violated the formal written commitments.
16 If the commission determines there is sufficient evidence that the
17 commitments have been violated by the permittee, the commission
18 may:

19 (1) deny the application to renew the permit; or

20 (2) revoke the permit;

21 as applicable.

22 SECTION 2. IC 7.1-3-20-16, AS AMENDED BY P.L.121-2015,
23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 UPON PASSAGE]: Sec. 16. (a) A permit that is authorized by this
25 section may be issued without regard to the quota provisions of
26 IC 7.1-3-22.

27 (b) The commission may issue a three-way permit to sell alcoholic
28 beverages for on-premises consumption only to an applicant who is the
29 proprietor, as owner or lessee, or both, of a restaurant facility in the
30 passenger terminal complex of a publicly owned airport. A permit
31 issued under this subsection shall not be transferred to a location off
32 the airport premises.

33 (c) The commission may issue a three-way, two-way, or one-way
34 permit to sell alcoholic beverages for on-premises consumption only to
35 an applicant who is the proprietor, as owner or lessee, or both, of a
36 restaurant within a redevelopment project consisting of a building or
37 group of buildings that:

38 (1) was formerly used as part of a union railway station;

39 (2) has been listed in or is within a district that has been listed in
40 the federal National Register of Historic Places maintained
41 pursuant to the National Historic Preservation Act of 1966, as
42 amended; and



- 1 (3) has been redeveloped or renovated, with the redevelopment or
 2 renovation being funded in part with grants from the federal,
 3 state, or local government.
- 4 A permit issued under this subsection shall not be transferred to a
 5 location outside of the redevelopment project.
- 6 (d) Subject to section 16.1 of this chapter, the commission may
 7 issue a three-way, two-way, or one-way permit to sell alcoholic
 8 beverages for on-premises consumption only to an applicant who is the
 9 proprietor, as owner or lessee, or both, of a restaurant:
- 10 (1) on land; or
 11 (2) in a historic river vessel;
 12 within a municipal riverfront development project funded in part with
 13 state and city money. The ownership of a permit issued under this
 14 subsection and the location for which the permit was issued may not be
 15 transferred. The legislative body of the municipality in which the
 16 municipal riverfront development project is located shall recommend
 17 to the commission sites that are eligible to be permit premises. The
 18 commission shall consider, but is not required to follow, the municipal
 19 legislative body's recommendation in issuing a permit under this
 20 subsection. A permit holder and any lessee or proprietor of the permit
 21 premises are subject to the formal written commitment required under
 22 IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations
 23 cease at the permit premises for more than six (6) months, the permit
 24 shall revert to the commission. The permit holder is not entitled to any
 25 refund or other compensation.
- 26 (e) The commission may issue a three-way, two-way, or one-way
 27 permit to sell alcoholic beverages for on-premises consumption only to
 28 an applicant who is the proprietor, as owner or lessee, or both, of a
 29 restaurant within a renovation project consisting of a building that:
- 30 (1) was formerly used as part of a passenger and freight railway
 31 station; and
 32 (2) was built before 1900.
- 33 The permit authorized by this subsection may be issued without regard
 34 to the proximity provisions of IC 7.1-3-21-11.
- 35 (f) The commission may issue a three-way permit for the sale of
 36 alcoholic beverages for on-premises consumption at a cultural center
 37 for the visual and performing arts to the following:
- 38 (1) A town that:
 39 (A) is located in a county having a population of more than
 40 four hundred thousand (400,000) but less than seven hundred
 41 thousand (700,000); and
 42 (B) has a population of more than twenty thousand (20,000)



- 1 but less than twenty-three thousand seven hundred (23,700).
 2 (2) A city that has an indoor theater as described in section 26 of
 3 this chapter.
 4 (g) The commission may issue not more than ten (10) new
 5 three-way, two-way, or one-way permits to sell alcoholic beverages for
 6 on-premises consumption to applicants, each of whom must be the
 7 proprietor, as owner or lessee, or both, of a restaurant located within a
 8 district, or not more than seven hundred (700) feet from a district, that
 9 meets the following requirements:
 10 (1) The district has been listed in the National Register of Historic
 11 Places maintained under the National Historic Preservation Act
 12 of 1966, as amended.
 13 (2) A county courthouse is located within the district.
 14 (3) A historic opera house listed on the National Register of
 15 Historic Places is located within the district.
 16 (4) A historic jail and sheriff's house listed on the National
 17 Register of Historic Places is located within the district.
 18 The legislative body of the municipality in which the district is located
 19 shall recommend to the commission sites that are eligible to be permit
 20 premises. The commission shall consider, but is not required to follow,
 21 the municipal legislative body's recommendation in issuing a permit
 22 under this subsection. An applicant is not eligible for a permit if, less
 23 than two (2) years before the date of the application, the applicant sold
 24 a retailer's permit that was subject to IC 7.1-3-22 and that was for
 25 premises located within the district described in this section or within
 26 seven hundred (700) feet of the district. The ownership of a permit
 27 issued under this subsection and the location for which the permit was
 28 issued shall not be transferred. A permit holder and any lessee or
 29 proprietor of the permit premises is subject to the formal written
 30 commitment required under IC 7.1-3-19-17. Notwithstanding
 31 IC 7.1-3-1-3.5, if business operations cease at the permit premises for
 32 more than six (6) months, the permit shall revert to the commission.
 33 The permit holder is not entitled to any refund or other compensation.
 34 The total number of active permits issued under this subsection may
 35 not exceed ten (10) at any time. The cost of an initial permit issued
 36 under this subsection is six thousand dollars (\$6,000).
 37 (h) The commission may issue a three-way permit for the sale of
 38 alcoholic beverages for on-premises consumption to an applicant who
 39 will locate as the proprietor, as owner or lessee, or both, of a restaurant
 40 within an economic development area under IC 36-7-14 in:
 41 (1) a town with a population of more than twenty thousand
 42 (20,000); or



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

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

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

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

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

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



1 IC 7.1-3-22-9, except that the auction may be conducted at any time as
2 determined by the commission.

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

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

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

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

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



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

12 **(m) The commission may issue not more than ten (10) new**
 13 **three-way permits to sell alcoholic beverages for on-premises**
 14 **consumption to applicants in a municipality located in a county**
 15 **having a population of more than two hundred seventy thousand**
 16 **(270,000) but less than three hundred thousand (300,000). The**
 17 **following apply to permits issued under this subsection:**

18 **(1) An applicant for a permit under this subsection must be a**
 19 **proprietor, as owner or lessor, or both, of a restaurant located**
 20 **within an economic development area, an area needing**
 21 **redevelopment, or a redevelopment district as established**
 22 **under IC 36-7-14 in a municipality's:**

23 **(A) downtown redevelopment district; or**

24 **(B) downtown economic revitalization area.**

25 **(2) The cost of an initial permit is twenty thousand dollars**
 26 **(\$20,000).**

27 **(3) The total number of active permits issued under this**
 28 **subsection may not exceed ten (10) permits at any time. If any**
 29 **of the permits issued under this subsection are revoked or not**
 30 **renewed, the commission may issue only enough new permits**
 31 **to bring the total number of permits to ten (10) active permits.**

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

38 **(5) Notwithstanding IC 7.1-3-1-3.5, if business operations**
 39 **cease at the permit premises for more than six (6) months, the**
 40 **permit shall revert to the commission and the permit holder**
 41 **is not entitled to any refund or other compensation.**

42 **(6) Except as provided in subdivision (8), the ownership of a**



- 1 permit may not be transferred.
- 2 (7) A permit may not be transferred from the premises for
- 3 which the permit was issued.
- 4 (8) If the area in which the permit premises is located is no
- 5 longer designated an economic development area, an area
- 6 needing redevelopment, or a redevelopment district, a permit
- 7 issued under this subsection may be renewed, and the
- 8 ownership of the permit may be transferred, but the permit
- 9 may not be transferred from the permit premises.
- 10 (n) The commission may issue not more than ten (10) new
- 11 three-way, two-way, or one-way permits to sell alcoholic beverages
- 12 for on-premises consumption to applicants, each of whom must be
- 13 the proprietor, as owner or lessee, or both, of a restaurant located
- 14 within an economic development area, an area needing
- 15 redevelopment, or a redevelopment district as established under
- 16 IC 36-7-14 in a municipality located in a county having a
- 17 population of more than fifty-five thousand (55,000) but less than
- 18 fifty-seven thousand (57,000). The following apply to permits
- 19 issued under this subsection:
- 20 (1) The cost of an initial permit is twenty thousand dollars
- 21 (\$20,000).
- 22 (2) The total number of active permits issued under this
- 23 subsection may not exceed ten (10) permits at any time. If any
- 24 of the permits issued under this subsection are revoked or not
- 25 renewed, the commission may issue only enough new permits
- 26 to bring the total number of permits to ten (10) active permits.
- 27 (3) The municipality may adopt an ordinance under
- 28 IC 7.1-3-19-17 requiring a permit holder to enter into a
- 29 formal written commitment as a condition of eligibility for a
- 30 permit. As set forth in IC 7.1-3-19-17(b), a formal written
- 31 commitment is binding on the permit holder and on any lessee
- 32 or proprietor of the permit premises.
- 33 (4) Notwithstanding IC 7.1-3-1-3.5, if business operations
- 34 cease at the permit premises for more than six (6) months, the
- 35 permit shall revert to the commission and the permit holder
- 36 is not entitled to any refund or other compensation.
- 37 (5) Except as provided in subdivision (7), the ownership of a
- 38 permit may not be transferred.
- 39 (6) A permit may not be transferred from the premises for
- 40 which the permit was issued.
- 41 (7) If the area in which the permit premises is located is no
- 42 longer designated an economic development area, an area



1 **needing redevelopment, or a redevelopment district, a permit**
2 **issued under this subsection may be renewed, and the**
3 **ownership of the permit may be transferred, but the permit**
4 **may not be transferred from the permit premises.**
5 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1118, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "or".

Page 1, line 5, after "IC 7.1-3-20-16(m)" insert ", or **IC 7.1-3-20-16(n)**".

Page 7, line 12, after "three-way" delete ",".

Page 7, line 12, delete "two-way, or one-way".

Page 7, line 13, delete "applicants, each of whom must be" and insert "**applicants**".

Page 7, delete lines 14 through 16.

Page 7, line 17, delete "IC 36-7-14".

Page 7, line 21, after "(1)" insert "**An applicant for a permit under this subsection must be a proprietor, as owner or lessor, or both, of a restaurant located within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14 in a municipality's:**

(A) downtown redevelopment district; or

(B) downtown economic revitalization area.

(2)".

Page 7, line 21, delete "six" and insert "**twenty**".

Page 7, line 22, delete "\$6,000)." and insert "**(\$20,000)**".

Page 7, line 23, delete "(2)" and insert "**(3)**".

Page 7, line 28, delete "(3)" and insert "**(4)**".

Page 7, line 34, delete "(4)" and insert "**(5)**".

Page 7, line 38, delete "(5)" and insert "**(6)**".

Page 7, line 38, delete "(7)," and insert "**(8)**".

Page 7, line 40, delete "(6)" and insert "**(7)**".

Page 8, line 1, delete "(7)" and insert "**(8)**".

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"(n) The commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14 in a municipality located in a county having a population of more than fifty-five thousand (55,000) but less than



fifty-seven thousand (57,000). The following apply to permits issued under this subsection:

- (1) The cost of an initial permit is twenty thousand dollars (\$20,000).
- (2) The total number of active permits issued under this subsection may not exceed ten (10) permits at any time. If any of the permits issued under this subsection are revoked or not renewed, the commission may issue only enough new permits to bring the total number of permits to ten (10) active permits.
- (3) The municipality may adopt an ordinance under IC 7.1-3-19-17 requiring a permit holder to enter into a formal written commitment as a condition of eligibility for a permit. As set forth in IC 7.1-3-19-17(b), a formal written commitment is binding on the permit holder and on any lessee or proprietor of the permit premises.
- (4) Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission and the permit holder is not entitled to any refund or other compensation.
- (5) Except as provided in subdivision (7), the ownership of a permit may not be transferred.
- (6) A permit may not be transferred from the premises for which the permit was issued.
- (7) If the area in which the permit premises is located is no longer designated an economic development area, an area needing redevelopment, or a redevelopment district, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises."

and when so amended that said bill do pass.

(Reference is to HB 1118 as introduced.)

DERMODY

Committee Vote: yeas 12, nays 1.

