

HOUSE BILL No. 1181

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-20-9.6; IC 7.1-4; IC 7.1-5-8.

Synopsis: Bringing wine into a restaurant and excise taxes. Allows a patron to carry wine into a restaurant if: (1) the restaurant has a wine retailer's permit and consents; and (2) the wine is only for consumption by the patron or persons seated at the patron's table while eating food prepared at the restaurant and served at the table. Allows the permit holder to charge a corkage fee for serving wine brought in by a patron. Amends the law allowing a patron to remove an unsealed bottle of wine that was purchased at a restaurant with a meal to specify that the meal was prepared at the restaurant. Allows a patron who brings wine into a restaurant to remove more than one unsealed bottle of the wine and exempts the restaurant from having to seal the bottles in a secure bag or container. Increases excise taxes for beer, wine, liquor, and hard cider, and deposits the increase in the enforcement and administration fund and the problem solving court fund.

Effective: July 1, 2018.

Austin, Eberhart, Cook

January 8, 2018, read first time and referred to Committee on Public Policy.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1181

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 7.1-3-20-9.6, AS ADDED BY P.L.270-2017,
- 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2018]: Sec. 9.6. (a) This section applies only to a restaurant
- 4 that has a wine retailer's permit, regardless of whether the permittee
- 5 sells alcoholic beverages for carryout.
- 6 (b) **Except as provided in subsection (c)**, a restaurant that has a
- 7 wine retailer's permit may allow a patron to remove one (1) unsealed
- 8 bottle of wine for consumption off the licensed premises if the
- 9 following requirements are satisfied:
- 10 (1) The patron consumed part of the bottle of wine on the
- 11 restaurant premises with a ~~purchased~~ meal **prepared by the**
- 12 **restaurant and purchased by the patron.**
- 13 (2) The permittee:
- 14 (A) reseals the bottle; and
- 15 (B) places the resealed bottle of wine in a bag or other
- 16 container that is secured in such a manner that it is visibly
- 17 apparent if the bag or other container is subsequently opened



1 or tampered with.

2 (3) The permittee provides to the patron a dated receipt for the
3 resealed bottle of wine and the meal.

4 **(c) A permittee does not have to comply with this section if the**
5 **patron is removing one (1) or more unsealed bottles of wine that**
6 **the patron brought into the licensed premises under IC 7.1-5-8-4.5.**

7 ~~(c)~~ **(d)** A person transporting a resealed wine bottle is transporting
8 an open container that is subject to IC 9-30-15-3.

9 SECTION 2. IC 7.1-4-2-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. An excise tax,
11 referred to as the beer excise tax, at the rate of ~~eleven fourteen~~ and
12 one-half cents ~~(\$1.15)~~ **(\$0.145)** a gallon is imposed upon the sale of
13 beer or flavored malt beverage within Indiana.

14 SECTION 3. IC 7.1-4-3-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. ~~Rate of Tax:~~ An
16 excise tax at the rate of ~~two three~~ dollars and ~~sixty-eight~~ **thirty-five**
17 cents ~~(\$2.68)~~ **(\$3.35)** a gallon is imposed upon the sale, gift, or the
18 withdrawal for sale or gift, of liquor and wine that contains twenty-one
19 percent (21%), or more, of absolute alcohol reckoned by volume.

20 SECTION 4. IC 7.1-4-4-1 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. An excise tax at the
22 rate of ~~forty-seven~~ **fifty-nine** cents ~~(\$0.47)~~ **(\$0.59)** a gallon is imposed
23 upon the manufacture and sale or gift, or withdrawal for sale or gift, of
24 wine, except hard cider, within this state.

25 SECTION 5. IC 7.1-4-4.5-1 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. An excise tax at the
27 rate of ~~eleven fourteen~~ and one-half cents ~~(\$0.115)~~ **(\$0.145)** a gallon
28 is imposed upon the manufacture and sale or gift, or withdrawal for
29 sale or gift, of hard cider within Indiana.

30 SECTION 6. IC 7.1-4-9-3, AS AMENDED BY P.L.224-2005,
31 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2018]: Sec. 3. (a) Except as provided in subsection (b) **and**
33 **section 3.5 of this chapter**, the chairman shall deposit the monies
34 collected under the authority of this chapter daily with the treasurer of
35 the state, and not later than the fifth day of the following month shall
36 cover them into the "excise fund" to be distributed as provided in this
37 chapter.

38 (b) The chairman shall deposit the money received from the
39 collection of the fees for a three-way permit under IC 7.1-3-20-16(f)
40 daily with the treasurer of state, and not later than the fifth day of the
41 following month shall transfer the money into the enforcement and
42 administration fund of the commission under IC 7.1-4-11.



1 SECTION 7. IC 7.1-4-9-3.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2018]: **Sec. 3.5. (a) The chairman shall deposit daily with the**
 4 **treasurer of state, and not later than the fifth day of the following**
 5 **month:**

6 (1) one and one-half cents (\$0.015) of the beer excise tax
 7 collected on each gallon of beer;

8 (2) thirty-three and one-half cents (\$0.335) of the liquor excise
 9 tax collected on each gallon of liquor;

10 (3) six cents (\$0.06) of the wine excise tax collected on each
 11 gallon of wine; and

12 (4) one and one-half cents (\$0.015) of the hard cider excise tax
 13 collected on each gallon of hard cider;

14 into the enforcement and administration fund of the commission
 15 under IC 7.1-4-11.

16 (b) The money deposited into the enforcement and
 17 administration fund under subsection (a) shall be used to fund
 18 enforcement of this title, including:

19 (1) hiring additional excise enforcement officers;

20 (2) funding technology; and

21 (3) equipment upgrades.

22 (c) The chairman shall deposit daily with the treasurer of state,
 23 and not later than the fifth day of the following month:

24 (1) one and one-half cents (\$0.015) of the beer excise tax
 25 collected on each gallon of beer;

26 (2) thirty-three and one-half cents (\$0.335) of the liquor excise
 27 tax collected on each gallon of liquor;

28 (3) six cents (\$0.06) of the wine excise tax collected on each
 29 gallon of wine; and

30 (4) one and one-half cents (\$0.015) of the hard cider excise tax
 31 collected on each gallon of hard cider;

32 into the problem solving court fund under IC 33-23-16-25.

33 (d) The money deposited into the problem solving court fund
 34 under subsection (c) shall be used to:

35 (1) create, develop, and maintain:

36 (A) programs;

37 (B) evidence based treatment;

38 (C) deterrent technology; and

39 (D) other resources;

40 for problem solving courts; and

41 (2) reduce expenses and user fees on a sliding scale for
 42 indigent participants required to use:



- 1 (A) deterrent technology;
 2 (B) ignition interlock devices; and
 3 (C) secure continuous remote alcohol monitoring systems
 4 (SCRAM);
 5 by a problem solving court.

6 (e) The excise taxes collected and deposited under this section
 7 are in addition to and not in place of other fees, taxes, or
 8 distributions to the enforcement and administration fund and the
 9 problem solving court fund under this title.

10 SECTION 8. IC 7.1-4-10-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. ~~Use of Funds.~~ The
 12 monies in the enforcement and administration fund shall be used and
 13 disbursed solely for the enforcement and administration of this title,
 14 **including the purposes set forth in IC 7.1-4-9-3.5**, and for no other
 15 purpose. Any unexpended balance remaining in the fund at the end of
 16 a fiscal year shall not lapse but shall remain exclusively appropriated
 17 and available only for the purpose of the enforcement and
 18 administration of this title.

19 SECTION 9. IC 7.1-5-8-4, AS AMENDED BY P.L.153-2015,
 20 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2018]: Sec. 4. (a) It is a Class B misdemeanor for a person
 22 who owns or operates a private or public restaurant or place of public
 23 or private entertainment to knowingly or intentionally permit another
 24 person to come into the establishment with an alcoholic beverage for
 25 sale or gift, or for consumption in the establishment by that person or
 26 another, or to serve a setup to a person who comes into the
 27 establishment. However, the provisions of this section do not apply to
 28 the following:

- 29 (1) A private room hired by a guest of a bona fide club or hotel
 30 that holds a retail permit.
 31 (2) A facility that is used in connection with the operation of a
 32 paved track that is used primarily in the sport of auto racing.
 33 (3) An outdoor place of public entertainment that:
 34 (A) has an area of at least four (4) acres and not more than six
 35 (6) acres;
 36 (B) is located within one (1) mile of the White River;
 37 (C) is owned and operated by a nonprofit corporation exempt
 38 from federal income taxation under Section 501(c)(3) of the
 39 Internal Revenue Code; and
 40 (D) is used primarily in connection with live music concerts.

41 (b) An establishment operated in violation of this section is declared
 42 to be a public nuisance and subject to abatement as other public



1 nuisances are abated under the provisions of this title.

2 (c) This section does not apply to a person who owns or operates a
3 private or public restaurant or place of public or private entertainment
4 where a qualified organization is conducting:

5 (1) an allowable event to which IC 7.1-3-6.1 applies, and the
6 alcoholic beverage brought into the establishment is:

7 (A) in sealed bottles or cases; and

8 (B) donated to or purchased by the qualified organization to be
9 offered as a prize in the allowable event; or

10 (2) a charity auction to which IC 7.1-3-6.2 applies, and the
11 alcoholic beverage brought into the establishment is:

12 (A) in sealed bottles or cases; and

13 (B) donated to or purchased by the qualified organization to be
14 offered for sale in the charity auction.

15 **(d) This section does not apply to a wine retailer permittee
16 under section 4.5 of this chapter.**

17 SECTION 10. IC 7.1-5-8-4.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2018]: **Sec. 4.5. (a) This section applies only
20 to a wine retailer permittee.**

21 **(b) A permittee may allow a patron to bring wine into the
22 licensed premises, if the wine is:**

23 **(1) in sealed bottles and not offered for sale; and**

24 **(2) only for consumption by:**

25 **(A) the patron; and**

26 **(B) persons seated at the patron's table;**

27 **while eating a meal prepared on the licensed premises and
28 served at the table.**

29 **The permit holder may charge a corkage fee for serving wine that
30 is brought into the licensed premises by a patron.**

31 SECTION 11. IC 7.1-5-8-5, AS AMENDED BY P.L.94-2008,
32 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2018]: **Sec. 5. (a) This section does not apply to a person who,
34 on or about a licensed premises, carries, conveys, or consumes beer or
35 wine:**

36 **(1) described in IC 7.1-1-2-3(a)(4); and**

37 **(2) not sold or offered for sale.**

38 **(b) This section does not apply to a person at a facility that is used
39 in connection with the operation of a track that is used primarily in the
40 sport of auto racing.**

41 **(c) This section does not apply to a person at an outdoor place of
42 public entertainment that:**



- 1 (1) has an area of at least four (4) acres and not more than six (6)
2 acres;
3 (2) is located within one (1) mile of the White River;
4 (3) is owned and operated by a nonprofit corporation exempt from
5 federal income taxation under Section 501(c)(3) of the Internal
6 Revenue Code; and
7 (4) is used primarily in connection with live music concerts.
8 **(d) This section does not apply to a person who brings wine into**
9 **the licensed premises or consumes wine that is brought into the**
10 **licensed premises in accordance with section 4.5 of this chapter.**
11 ~~(d)~~ (e) It is a Class C misdemeanor for a person, for the person's
12 own use, to knowingly carry on, convey to, or consume on or about the
13 licensed premises of a permittee an alcoholic beverage that was not
14 then and there purchased from that permittee.

