

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1402

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-9-2.5-1, AS AMENDED BY P.L.119-2012, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. This chapter applies to a **Vanderburgh** County, ~~having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).~~

SECTION 2. IC 6-9-2.5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 1.1. The following definitions apply throughout this chapter:**

(1) **"County"** refers to the county specified in section 1 of this chapter.

(2) **"New business"** means a business entity, organization, or association that:

(A) reasonably establishes an intent to have at least two hundred (200) patrons to rent rooms, lodgings, or accommodations for periods of less than thirty (30) days in any commercial hotel, motel, inn, tourist camp, or tourist cabin that is located in the county; and

(B) has not received a financial incentive from the county during the immediately preceding five (5) calendar years.

(3) **"Operating expenses"** means expenses incurred in the ordinary course of business operations. The term does not include expenditures:

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(A) for constructing, repairing, or maintaining public streets or sidewalks; or

(B) for a person (as defined in IC 6-2.5-1-3) or a governmental entity to provide security for a convention held at a convention center in the county.

SECTION 3. IC 6-9-2.5-7.5, AS AMENDED BY P.L.190-2014, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, ~~2020~~, **2026**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a three and one-half percent (3.5%) rate.

(2) After December 31, ~~2019~~, **2025**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a four and one-half percent (4.5%) rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 4. IC 6-9-2.5-7.7, AS AMENDED BY P.L.190-2014, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.7. **(a) As used in this section, "fund" refers to the convention center operating, capital improvement, and financial incentive fund established under subsection (b).**

~~(a)~~ **(b)** The county treasurer shall establish a convention center operating, **capital improvement, and financial incentive** fund.

~~(b)~~ **(c)** Before January 1, ~~2020~~, **2026**, the county treasurer shall deposit in the ~~convention center operating~~ fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. ~~Money in the fund must be expended for the operating expenses of a convention center.~~

~~(c)~~ **(d)** After December 31, ~~2019~~, **2025**, the county treasurer shall



deposit in the ~~convention center operating~~ fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. ~~Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.~~

(e) Money in the fund may be expended only for the following:

(1) Operating expenses of a convention center located in the county.

(2) Capital improvements to a convention center located in the county.

(3) Financial incentives to attract, promote, or encourage new business conventions, trade shows, or special events held at a convention center located in the county.

(f) A financial incentive described in subsection (e)(3) may not be distributed to a new business for at least thirty (30) days after the conclusion of a convention, trade show, or special event that is held by the new business at a convention center located in the county.

SECTION 5. IC 6-9-3-4, AS AMENDED BY P.L.175-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) In counties to which this chapter applies, there shall be levied each year a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms or lodgings or accommodations in any commercial hotel, motel, inn, tourist camp, or tourist cabin. However, this tax does not apply to the renting or furnishing of rooms, lodgings, or accommodations to a person for a period of thirty (30) days or more.

(b) ~~Such~~ **The tax shall be at the rate of four percent (4%) on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed on such persons by IC 6-2.5. The tax rate may be increased to not more than six percent (6%) by the adoption of substantially similar ordinances by the county fiscal body of each of the counties to which this chapter applies.**

(c) The county fiscal body may adopt an ordinance to require that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.



(d) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section except to the extent such provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. Specifically, and not in limitation of the foregoing sentence, the terms "person" and "gross retail income" shall have the same meaning in this section as they have in IC 6-2.5.

(e) If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may by rule determine.

(f) If the tax is paid to the department of state revenue, the amounts received from such tax shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 6. IC 6-9-9-3, AS AMENDED BY P.L.224-2007, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) **Except as provided in subsection (b)**, the tax imposed by section 2 of this chapter ~~shall be~~ **is imposed** at the rate of seven percent (7%) on the gross income derived from lodging income only.

(b) The county fiscal body may adopt an ordinance to increase the tax rate to eight percent (8%).

~~(b) (c) At least two-sevenths (2/7) of~~ **The capital improvement board of managers shall make grants to the convention and visitor bureau in the county from the tax proceeds paid to the capital improvement board of managers under this chapter. must be used to provide A grant made to the convention and visitor bureau in the county under this subsection is to be used solely for the development and promotion of the tourism and convention industry within the county. The amount of the grants to the convention and visitor bureau in the county to be used solely for the purpose of the development and promotion of the tourism and convention industry within the county under this subsection must equal or exceed:**

(1) two-sevenths (2/7) of the tax proceeds paid to the capital improvement board of managers under this chapter, while an ordinance described in subsection (b) is not in effect in the county; or

(2) three-eighths (3/8) of the tax proceeds paid to the capital



improvement board of managers under this chapter, while an ordinance described in subsection (b) is in effect in the county.

(c) (d) The capital improvement board of managers may establish budgetary requirements for the convention and visitors bureau. If the convention and visitors bureau fails to conform, the board may elect to suspend funding until the bureau complies.

SECTION 7. IC 6-9-10.5-6, AS AMENDED BY P.L.175-2018, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;
- (2) motel;
- (3) inn;
- (4) tourist cabin; or
- (5) campground space; or
- (6) resort;**

located in the county: in White County in which lodging is regularly furnished for consideration.

(b) The tax may not exceed the rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(c) The county fiscal body may adopt an ordinance to require that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(d) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(e) If the tax is paid to the department of state revenue, the taxes the department of state revenue receives under this section during a month



shall be paid, by the end of the next succeeding month, to the county treasurer upon warrants issued by the auditor of state.

SECTION 8. IC 6-9-16 IS REPEALED [EFFECTIVE JULY 1, 2019]. (Howard County Innkeeper's Tax).

SECTION 9. IC 6-9-18-3, AS AMENDED BY P.L.175-2018, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;
- (2) motel;
- (3) boat motel;
- (4) inn;
- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

- (1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed:

- (1) the rate of five percent (5%) **in a county other than a county subject to subdivision (2); or**
- (2) **after June 30, 2019, the rate of eight percent (8%) in Howard County.**

The tax is imposed on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties,



liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 10. IC 6-9-29-5, AS ADDED BY P.L.175-2018, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) As used in this section, "commission" refers to the following:

- (1) A board of managers established under:
 - (A) IC 6-9-1-2 (St. Joseph County);
 - (B) IC 6-9-3-1 (Floyd/Clark County);
 - (C) IC 6-9-6-2 (LaPorte County);
 - (D) IC 6-9-10-2 (Wayne County); or
 - (E) IC 6-9-15-2 (Jefferson County).
- (2) A capital improvement board of managers established under:
 - (A) IC 36-10-9-3 (Marion County); or
 - (B) IC 36-10-8 (Allen County).
- (3) A commission established under:
 - (A) IC 6-9-10.5-9 (White County);
 - (B) IC 6-9-18-5 (Uniform County Innkeeper's Tax);
 - (C) IC 6-9-19-5 (Elkhart County);
 - (D) IC 6-9-32-5 (Jackson County); or
 - (E) IC 6-9-37-5 (Hendricks County).
- (4) A convention and visitor bureau:
 - (A) established under IC 6-9-2-3 (Lake County); or
 - (B) designated as a grant recipient under ~~IC 6-9-9-3(b)~~ **IC 6-9-9-3(c)** (Allen County).
- (5) A convention and visitor commission established under:
 - (A) IC 6-9-2.5-2 (Vanderburgh County);
 - (B) IC 6-9-4-2 (Monroe County);
 - (C) IC 6-9-7-2 (Tippecanoe County);
 - (D) IC 6-9-11-2 (Vigo County);
 - (E) IC 6-9-14-2 (Brown County); **or**



~~(F)~~ IC 6-9-16-2 (Howard County); or
~~(G)~~ **(F)** IC 6-9-17-5 (Madison County).

(6) Any other similar entity that is authorized to administer funds received from an innkeeper's tax imposed under this article.

(b) Each month, the department of state revenue shall also provide summary data of the amount of the county's innkeeper's tax collections to the commission established for that county.

(c) This subsection applies only to a county that has adopted an ordinance requiring the payment of the innkeeper's tax to the county treasurer instead of the department of state revenue. The county treasurer shall determine and report to the department of state revenue before March 1 of each year the amount of innkeeper's tax collected in the county in the preceding calendar year. Not later than April 1 of each year, the department of state revenue shall provide summary data of the total amount of the county's innkeeper's tax collected in the preceding calendar year to the commission established for that county.

SECTION 11. IC 6-9-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 46. Performing Arts Center Admissions Tax

Sec. 1. This chapter applies only in Brown County.

Sec. 2. As used in this chapter, "indoor performing arts center" means an indoor facility providing space for entertainment events that:

- (1) has a minimum capacity of at least two thousand (2,000) patrons; and**
- (2) is located in a geographic area that has not been annexed by a city before the adoption of the ordinance under section 3 of this chapter.**

Sec. 3. (a) After January 1 but before June 1 of a year, the county fiscal body may adopt an ordinance to impose an excise tax, known as the performing arts center admissions tax, for the privilege of attending any event:

- (1) held in an indoor performing arts center; and**
- (2) to which tickets are offered for sale to the public by:**
 - (A) the box office of the indoor performing arts center; or**
 - (B) an authorized agent of the indoor performing arts center.**

(b) The excise tax imposed under subsection (a) does not apply to the following:

- (1) An event sponsored by an educational institution or an association representing an educational institution.**



(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If the fiscal body adopts an ordinance under subsection (a), the excise tax applies to an event ticket purchased after:

(1) June 30 of the calendar year in which the ordinance is adopted; or

(2) a later date that is set forth in the ordinance.

(d) If a county fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 4. The performing arts center admissions tax equals one dollar (\$1) for each admission described in section 3 of this chapter.

Sec. 5. (a) Each person who pays a price for admission described in section 3 of this chapter is liable for the performing arts center admissions tax imposed under this chapter.

(b) The person who collects the price for admission shall collect the performing arts center admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the county that owns the indoor performing arts center.

Sec. 6. (a) A person who collects a performing arts center admissions tax under section 5 of this chapter shall remit the revenue collected monthly to the department of state revenue in the manner prescribed by the department. The tax collected from persons paying for admission to a particular event shall be remitted not more than fifteen (15) days after the end of the month during which the event occurred.

(b) At the time the tax revenues are remitted, the person shall report the amount of performing arts center admissions tax collected on forms prescribed by the department of state revenue.

Sec. 7. The amounts received from the performing arts center admissions tax shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 8. (a) If a performing arts center admissions tax is imposed under this chapter, the county legislative body shall establish a county performing arts center admissions tax fund.

(b) The county treasurer shall deposit money received under section 7 of this chapter in the county performing arts center



admissions tax fund.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in the fund may be used by the county only with regard to the indoor performing arts center and only for the following:

- (1) Retiring debt related to the indoor performing arts center.
- (2) Paying lease rentals related to the indoor performing arts center.
- (3) Paying for costs to improve or construct infrastructure serving the indoor performing arts center.
- (4) Paying for costs related to capital repairs and maintenance of the indoor performing arts center.

Sec. 9. The county may enter into an operating lease with the convention and visitors commission created by IC 6-9-14-2 and a contract with a nonprofit organization to operate the indoor performing arts center.

Sec. 10. With respect to:

- (1) bonds, leases, or other obligations to which the county has pledged revenues under this chapter; and
- (2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the county and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the county performing arts center admissions tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 12. IC 6-9-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 49. Attica Food and Beverage Tax

Sec. 1. This chapter applies to the city of Attica.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public



hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the later of the following:

- (1) The date specified in the ordinance.
- (2) The last day of the month following sixty (60) days after the date on which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the city; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax rate:

- (1) must be imposed in an increment of twenty-five



hundredths percent (0.25%); and
 (2) may not exceed one percent (1%);
 of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a city, the city fiscal officer shall establish a food and beverage tax receipts fund.

(b) The city fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund must be used by the city only for the following purposes:

- (1)** Revitalization projects in the city, including the repurposing of buildings and the city's main street program.
- (2)** The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivision (1).

Revenue derived from the imposition of a tax under this chapter may be treated by the city as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 13. IC 6-9-50 IS ADDED TO THE INDIANA CODE AS



A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 50. Danville Food and Beverage Tax

Sec. 1. This chapter applies to the town of Danville.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the town may adopt an ordinance to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the town may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the town food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the later of the following:

- (1) The day specified in the ordinance.**
- (2) The last day of the month following sixty (60) days after the date on which the ordinance is adopted.**

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;**
- (2) in the town; and**
- (3) by a retail merchant for consideration.**

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;**
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or**



(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The town food and beverage tax rate:

(1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and

(2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or IC 6-9-35.

Sec. 6. A tax imposed under this chapter is imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the town, the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund must be used by the town only for the following purposes:

(1) Parks, trails, and sidewalk, street, and parking improvements to support tourism in the town.

(2) For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.



Revenue derived from the imposition of a tax under this chapter may be treated by the town as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the town.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 14. IC 6-9-51 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 51. Greenwood Food and Beverage Tax

Sec. 1. This chapter applies to the city of Greenwood.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the city may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the city food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the city fiscal body adopts an ordinance under subsection (a), the city fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the city fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the later of the following:

- (1)** The day specified in the ordinance.
- (2)** The last day of the month following sixty (60) days after the date on which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which a food or beverage is furnished, prepared, or served:

- (1)** for consumption at a location or on equipment provided by a retail merchant;
- (2)** in the city; and
- (3)** by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include



transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The city food and beverage tax rate:

- (1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and
- (2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the city, the city fiscal officer shall establish a food and beverage tax receipts fund.



(b) The city fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund must be used by the city for one (1) or more of the following purposes:

(1) To reduce the city's property tax levy for a particular year at the discretion of the city, but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the city.

(2) For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

(3) Construction, renovation, improvement, equipping, or maintenance of city capital improvements.

(4) Parks and recreation.

(5) The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivisions (3) through (4).

Revenue derived from the imposition of a tax under this chapter may be treated by the city as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 15. IC 6-9-52 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 52. Whitestown Food and Beverage Tax

Sec. 1. This chapter applies to the town of Whitestown.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of the town may adopt an ordinance to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the town may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed



ordinance to impose the town food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the town fiscal body adopts an ordinance under subsection (a), the town fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the town fiscal body adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the later of the following:

- (1) The day specified in the ordinance.
- (2) The last day of the month following sixty (60) days after the date on which the ordinance is adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which a food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the town; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The town food and beverage tax rate:

- (1) must be imposed in an increment of twenty-five hundredths percent (0.25%); and



(2) may not exceed one percent (1%);
of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by the town, the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the food and beverage tax receipts fund must be used by the town for one (1) or more of the following purposes:

(1) To reduce the town's property tax levy for a particular year at the discretion of the town, but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the town.

(2) For economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

(3) Construction, renovation, improvement, equipping, or maintenance of town capital improvements.

(4) Parks and recreation.

(5) The pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations incurred for a purpose described in subdivisions (3) through (4).

Revenue derived from the imposition of a tax under this chapter may be treated by the town as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the town.



Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 16. IC 6-9-53 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 53. Knox County Innkeeper's Tax

Sec. 1. (a) This chapter applies to a county having a population of more than thirty-eight thousand two hundred (38,200) but less than thirty-eight thousand five hundred (38,500) that had adopted an innkeeper's tax under IC 6-9-18 before July 1, 2019.

(b) The:

- (1) convention, visitor, and tourism promotion fund;
- (2) convention and visitor commission;
- (3) innkeeper's tax rate; and
- (4) tax collection procedures;

established under IC 6-9-18 before July 1, 2019, remain in effect and govern the county's innkeeper's tax until amended under this chapter.

(c) A member of the convention and visitor commission established under IC 6-9-18 before July 1, 2019, shall serve a full term of office. If a vacancy occurs, the appointing authority shall appoint a qualified replacement as provided under this chapter. The appointing authority shall make other subsequent appointments to the commission as provided under this chapter.

Sec. 2. The following terms are defined for this chapter:

- (1) "Executive" and "fiscal body" have the same meanings that are prescribed by IC 36-1-2.
- (2) "Gross retail income" and "person" have the same meanings that are prescribed by IC 6-2.5-1.
- (3) "Grouseland Foundation, Inc." refers to the tax exempt organization located in Vincennes, Indiana, whose mission is to promote history in the local area by touring the historical site of the home of the ninth President of the United States, William Henry Harrison.

Sec. 3. (a) The fiscal body of the county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:



- (1) hotel;
- (2) motel;
- (3) boat motel;
- (4) inn;
- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

- (1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) Subject to subsection (d), the tax may not exceed the rate of six percent (6%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) Notwithstanding subsection (c), the tax rate imposed by the fiscal body of Knox County under this chapter may not exceed five percent (5%) if either of the following apply:

- (1) The Grouseland Foundation, Inc., is dissolved.
- (2) Tours of the territorial mansion and presidential site of William Henry Harrison are no longer provided.

(e) The tax shall be imposed, paid, and collected in the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

Sec. 4. All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. The return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

Sec. 5. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state upon warrants issued by the auditor of state as follows:



(1) If the tax rate imposed under section 3 of this chapter is five percent (5%) or less, all amounts received from the tax shall be paid to the county treasurer.

(2) If the tax rate imposed under section 3 of this chapter is more than five percent (5%), amounts received from the tax shall be allocated and paid as follows:

(A) The amount received from the tax as a result of a five percent (5%) rate shall be allocated and paid to the county treasurer.

(B) The amount received from the tax that exceeds the amount under clause (A) shall be allocated and paid to the Grouseland Foundation, Inc.

Sec. 6. (a) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The county treasurer shall deposit in this fund all amounts received by the county treasurer under section 5 of this chapter.

(b) The county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the convention and visitor commission's treasurer if the commission submits a written request for the transfer.

(c) Money in a convention, visitor, and tourism promotion fund, or money transferred from such a fund under subsection (b), may be expended only to promote and encourage conventions, visitors, and tourism within the county. Expenditures under this subsection may include, but are not limited to, expenditures for advertising, promotional activities, trade shows, special events, and recreation.

(d) If before July 1, 1997, the county issues a bond with a pledge of revenues from the tax imposed under section 3 of this chapter, the county shall continue to expend money from the fund for that purpose until the bond is paid.

Sec. 7. (a) The county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall enter into an agreement under IC 36-1-7.

(b) The county executive shall determine the number of members, which must be an odd number, to be appointed to the commission. A simple majority of the members must be:

(1) engaged in a convention, visitor, or tourism business; or

(2) involved in or promoting conventions, visitors, or tourism.

If available and willing to serve, at least two (2) of the members



must be engaged in the business of renting or furnishing rooms, lodging, or accommodations (as described in section 3 of this chapter). Not more than one (1) member may be affiliated with the same business entity. Not more than a simple majority of the members may be affiliated with the same political party. Each member must reside in the county. The county executive shall also determine who will make the appointments to the commission, except that the executive of the largest municipality in the county shall appoint a number of the members of the commission, which number shall be in the same ratio to the total size of the commission (rounded off to the nearest whole number) that the population of the largest municipality bears to the total population of the county.

(c) If a municipality other than the largest municipality in the county collects fifty percent (50%) or more of the tax revenue collected under this chapter during the three (3) month period following imposition of the tax, the executive of the municipality shall appoint the same number of members to the commission that the executive of the largest municipality in the county appoints under subsection (b).

(d) Except as provided in subsection (c), all terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, the commission shall appoint a member by majority vote.

(e) A member of the commission may be removed for cause by the member's appointing authority.

(f) Members of the commission may not receive a salary. However, commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(g) Each commission member, before entering the commission member's duties, shall take an oath of office in the usual form, to be endorsed upon the commission member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(h) The commission shall meet after January 1 each year for the purpose of organization. It shall elect one (1) of its members



president, another vice president, another secretary, and another treasurer. The members elected to those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

Sec. 8. (a) The commission may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the commission considers necessary and desirable;**
- (2) sue and be sued;**
- (3) enter into contracts and agreements;**
- (4) make rules necessary for the conduct of its business and the accomplishment of its purposes;**
- (5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);**
- (6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 6(a) of this chapter, or from money transferred from that fund to the commission's treasurer under section 6(b) of this chapter, to any Indiana not-for-profit corporation to promote and encourage conventions, visitors, or tourism in the county; and**
- (7) require financial or other reports from any corporation that receives funds under this chapter.**

(b) All expenses of the commission shall be paid from the fund established under section 6(a) of this chapter or from money transferred from that fund to the commission's treasurer under section 6(b) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6) and submit the budget to the county fiscal body for its review and approval. An expenditure may not be made under this chapter unless it is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

Sec. 9. (a) The treasurer of the Grouseland Foundation, Inc., shall deposit all money received under section 5 of this chapter in a separate account of the Grouseland Foundation, Inc.

(b) The Grouseland Foundation, Inc., shall use the money received under this chapter only for the restoration, maintenance,



and operations of the Indiana territorial mansion and presidential site of William Henry Harrison located at West Scott Street in the city of Vincennes.

Sec. 10. All money coming into possession of the commission or the Grouseland Foundation, Inc., shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the commission or the Grouseland Foundation, Inc., are subject to audit and supervision by the state board of accounts.

Sec. 11. (a) A member of the commission who knowingly:

- (1) approves the transfer of money to any person or corporation not qualified under law for that transfer; or
- (2) approves a transfer for a purpose not permitted under law;

commits a Level 6 felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Level 6 felony.

Sec. 12. (a) An officer, director, or trustee of the Grouseland Foundation, Inc., who knowingly:

- (1) approves the transfer of money received under this chapter to any person or corporation not qualified under law for that transfer; or
- (2) approves a transfer for a purpose not permitted under law;

commits a Level 6 felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Level 6 felony.

SECTION 17. IC 35-52-6-74 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 74. IC 6-9-16-8 defines a crime concerning innkeeper's taxes.~~

SECTION 18. IC 35-52-6-81 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 81. IC 6-9-53-11 defines a crime concerning innkeeper's taxes.**

SECTION 19. IC 35-52-6-82 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 82. IC 6-9-53-12 defines a crime concerning innkeeper's taxes.**

SECTION 20. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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