

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1496

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

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

SECTION 1. IC 7.1-1-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. "Advertising specialty" means an item having a fair market value of:**

- (1) not more than one thousand dollars (\$1,000); or**
- (2) more than one thousand dollars (\$1,000) with the prior written approval of the commission;**

that is designed to be used within a retailer or dealer establishment to attract consumer attention to the products of a manufacturer. The term includes items such as posters, placards, designs, inside signs (electric, mechanical, or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus. An advertising specialty must bear conspicuous and substantial advertising matter about the product or the manufacturer or wholesaler that is permanently inscribed or securely affixed.

SECTION 2. IC 7.1-1-3-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. "Consumer advertising specialty" means an item having a fair market value of:**

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- (1) not more than three hundred dollars (\$300); or
- (2) more than three hundred dollars (\$300) with the prior written approval of the commission;

that is designed to be carried away from the retailer or dealer establishment by the consumer. The term includes items such as trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors. A consumer advertising specialty must bear conspicuous and substantial advertising matter about the product or the manufacturer or wholesaler that is permanently inscribed or securely affixed.

SECTION 3. IC 7.1-1-3-16.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.4. "Entertainment", for purposes of IC 7.1-5-5, means the following:

- (1) Participation in a sporting event.
- (2) Attendance at a sporting event or an event featuring live performances.

SECTION 4. IC 7.1-1-3-18.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.3. "Gift", for purposes of IC 7.1-5-5, means anything of value, including a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, or lease, rehabilitation, decoration, improvement, or repair of premises.

SECTION 5. IC 7.1-1-3-32.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32.7. "Professional and educational expenses", for purposes of IC 7.1-5-5, means one (1) or more of the following:

- (1) A primary source of supply or wholesaler may participate in retailer or dealer association activities. A primary source of supply or wholesaler may do the following:
 - (A) Display its products at a convention or trade show.
 - (B) Rent display booth space if the rental fee is not excessive and is the same as paid by all exhibitors.
 - (C) Provide its own hospitality that is independent from association sponsored activities.
 - (D) Purchase tickets to functions and pay registration fees if the payments or fees are not excessive and are the same as paid by all exhibitors.



(E) Make payments for advertisements in programs or brochures issued by retailer or dealer associations at a convention or trade show if the total payments made are not excessive and are the same as paid by all other advertisers.

(2) A primary source of supply or wholesaler may give or sponsor educational seminars for employees of retailers or dealers either at the primary source of supply's or wholesaler's premises or at the retailer or dealer establishment. Examples of educational seminars include the following:

(A) Seminars dealing with the use of a retailer's or dealer's equipment.

(B) Training seminars for employees of retailers or dealers.

(C) Tours of a primary source of supply's or wholesaler's plant or premises.

(D) Training seminars for employees of retailers or dealers may include tasting or sampling of alcoholic beverages by the employees of retailers or dealers. The tasting or sampling of an alcoholic beverage product is limited to one (1) ounce per employee of each alcoholic beverage product offered. The alcoholic beverage to be tasted or sampled may be provided by the primary source of supply or wholesaler or may be purchased from the retailer or dealer for no more than the listed retail price. The tasting or sampling may be conducted only at a permit premises where the consumption of alcoholic beverages is permitted. Any tasting or sampling provided by a primary source of supply or wholesaler must be offered or conducted on a nondiscriminatory basis.

(E) Reasonable hospitality, such as food and alcoholic beverages, may be offered as a part of an educational seminar.

(3) Advertising specialties and consumer advertising specialties, even if not otherwise permitted by a rule of the commission, if a wholesaler or primary source of supply does not:

(A) add the name or address of the retailer or dealer to the advertising specialty or consumer advertising specialty; or

(B) pay or credit the retailer or dealer, directly or indirectly, for distribution services.



SECTION 6. IC 7.1-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) It is the intent of the general assembly, consistent with the character of the business test described in section 19 of this chapter, that a grocery store, convenience store, or drug store should not be given the privilege of selling cold beer for carryout.**

(b) It is the intent of the general assembly, consistent with the character of the business test described in section 19 of this chapter, that a restaurant located within a grocery store, convenience store, or drug store should not be given the privilege of selling alcoholic beverages for carryout.

(c) The commission shall apply the intent of the general assembly, when considering the character of an applicant's business, as described in section 19 of this chapter.

SECTION 7. IC 7.1-3-2-7, AS AMENDED BY P.L.214-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.** The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer manufactures, at all of the brewer's breweries located in Indiana, an aggregate of not more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana, the permit holder may do the following:
 - (A) Sell and deliver a total of not more than thirty thousand (30,000) barrels of beer in a calendar year to a person holding a retailer or a dealer permit under this title. The total number of barrels of beer that the permit holder may sell and deliver under this clause in a calendar year may not exceed thirty thousand (30,000) barrels of beer.
 - (B) Be the proprietor of a restaurant.
 - (C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).
 - (D) Transfer beer directly from the brewery to the restaurant by means of:
 - (i) bulk containers; or



- (ii) a continuous flow system.
- (E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.
- (F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.
- (G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must make food available for consumption on the premises. A brewer may comply with the requirements of this clause by doing any of the following:
 - (i) Allowing a vehicle of transportation that is a food establishment (as defined in IC 16-18-2-137) to serve food near the brewer's licensed premises.
 - (ii) Placing menus in the brewer's premises of restaurants that will deliver food to the brewery.
 - (iii) Providing food prepared at the brewery.
- (H) Sell and deliver beer to a consumer at the permit premises of the brewer or at the residence of the consumer. The delivery to a consumer may be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.
- (I) Sell the brewery's beer as authorized by this section for carryout on Sunday in a quantity at any one (1) time of not more than five hundred seventy-six (576) ounces. A brewer's beer may be sold under this clause at any address for which the brewer holds a brewer's permit issued under this chapter if the address is located within the same city boundaries in which the beer was manufactured.
- (J) With the approval of the commission, participate:
 - (i) individually; or
 - (ii) with other permit holders under this chapter, holders of artisan distiller's permits, holders of farm winery permits, or any combination of holders described in this item;
 in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. **All of the permit holders may occupy the same tent, structure, or building.** The commission may not grant to a holder of a permit under this chapter approval under this clause to participate in a trade show or exposition for more than forty-five (45) days in a calendar year.



(K) Store or condition beer in a secure building that is:

- (i) separate from the brewery; and
- (ii) owned or leased by the permit holder.

A brewer may not sell or transfer beer directly to a permittee or consumer from a building described in this clause.

(6) If the brewer's brewery manufactures more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana, the permit holder may own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than ninety thousand (90,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Provide complimentary samples of beer that are:

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

(8) Own a portion of the corporate stock of a sports corporation that:

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(9) For beer described in IC 7.1-1-2-3(a)(4):

- (A) may allow transportation to and consumption of the beer on the licensed premises; and
- (B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 8. IC 7.1-3-4-4 IS REPEALED [EFFECTIVE UPON PASSAGE]: ~~Sec. 4. Premises Outside Corporate Limits: Persons Eligible. The commission may issue a beer retailer's permit as authorized by IC 1971, 7.1-3-4-3, only to an applicant who is the proprietor of a drug store, grocery store, confectionery, or of a store in good repute which, in the judgment of the commission, deals in other merchandise that is not incompatible with the sale of beer.~~

SECTION 9. IC 7.1-3-12-5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;



(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises or an outside area that is contiguous to the licensed premises, as approved by the commission if each employee who serves wine on the licensed premises:

(A) holds an ~~employee~~ **employee's** permit under IC 7.1-3-18-9; and

(B) completes a server training program approved by the commission;

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

(4) is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;

(5) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at wholesale;

(6) is exempt from the provisions of IC 7.1-3-14;

(7) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;

(8) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises;

(9) is entitled to purchase and sell bulk wine as set forth in this chapter;

(10) is entitled to sell wine as authorized by this section for carryout on Sunday; and

(11) is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at not more than three (3) additional locations that are separate from the winery. At the additional locations, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may:

(1) individually; or

(2) with other permit holders under this chapter, holders of artisan distiller's permits, holders of a brewer's permits issued under IC 7.1-3-2-2(b), or any combination of holders described in this subdivision;



participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. **All of the permit holders may occupy the same tent, structure, or building.** The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than forty-five (45) days in a calendar year.

SECTION 10. IC 7.1-3-20-8.6, AS AMENDED BY P.L.214-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.6. The holder of a club permit may do the following:

- (1) Designate one (1) or more days each calendar month as guest days, not to exceed a total of ~~four (4)~~ **seven (7)** guest days in any calendar month.
- (2) Keep a record of all designated guest days.
- (3) Invite guests who are not members of the club to attend the club on a guest day.
- (4) Sell or give alcoholic beverages to guests for consumption on the permit premises on a guest day.
- (5) Keep a guest book listing members and their nonmember guests, except on a designated guest day.

SECTION 11. IC 7.1-3-20-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) This section applies only to a retailer's permit for a restaurant.**

(b) This section does not apply to a retailer's permit that is issued or transferred to the following:

- (1) A city market under IC 7.1-3-20-25.**
- (2) A marina under IC 7.1-3-1-25.**
- (3) A state park under IC 7.1-3-17.8.**
- (4) A golf course.**
- (5) A hotel or resort hotel.**
- (6) A social or fraternal club.**
- (7) A restaurant, the proprietor of which is the holder of a brewer's permit under IC 7.1-3-2-7(5).**

(c) Except as provided in subsections (d) and (e), after May 14, 2017, a retailer permittee may not sell alcoholic beverages for carryout unless at least sixty percent (60%) of the retailer permittee's gross retail income from the sale of alcoholic beverages is derived from the sale of alcoholic beverages for consumption on the licensed premises.

(d) This subsection applies only to a retailer's permit with carryout privileges that was initially:



(1) issued; or

(2) transferred as to ownership or to the premises location; before November 1, 2016. Notwithstanding IC 7.1-3-1-1.5, a retailer permittee may continue to sell carryout after May 14, 2017, and is not required to comply with the gross retail requirements. However, if the permit is transferred to a new location after May 14, 2017, and the location is not exempt under subsection (b), the gross retail income requirements of this section apply to the transferred permit.

(e) This subsection applies to a retailer's permit with carryout privileges that was initially:

(1) issued; or

(2) transferred to the premises location;

after October 31, 2016, and before May 15, 2017. Notwithstanding IC 7.1-3-1-1.5, a retailer permittee may continue to sell carryout after May 14, 2017, and is not required to comply with the gross retail income requirements until the retailer's permit is renewed. A retailer permittee may be issued a letter of extension, and subsequent renewals of the extension under IC 7.1-3-1-3.1, but the permit term may not be extended past April 1, 2018. A retailer permittee may continue to sell carryout while the extension is in effect. If the permit is transferred as to ownership or to a location that is not exempt under subsection (b), the gross retail income requirements of this section apply upon transfer of the permit.

(f) Except for a retailer permittee described in subsection (d), a retailer permittee that has carryout privileges must apply for renewal of the carryout privileges when applying for renewal of the retailer's permit. The retailer permittee must provide the commission with a financial statement with information that shows the dollar amounts and percentages of the retailer permittee's gross retail income that is derived from sales of alcoholic beverages:

(1) for consumption on the licensed premises; and

(2) for carryout;

during the one hundred eighty (180) days preceding the date of the application for renewal.

(g) For subsequent applications for renewal, the commission may allow a retailer permittee to submit to the commission an affidavit of compliance that is signed by the permittee, or by a responsible officer or partner, under the penalties of perjury, that states that the requirements of subsection (c) continue to be met. If the commission has reasonable grounds to doubt the truthfulness



of an affidavit of compliance, the commission may require the retailer permittee to provide audited financial statements.

(h) If an applicant for renewal of carryout privileges does not meet the requirements of subsection (c) and the commission denies the application, the applicant may apply for a reinstatement of carryout privileges with the permittee's next application for renewal of the retailer's permit that is made in accordance with subsection (i).

(i) An applicant:

(1) for a retailer's permit and carryout privileges that has not opened for business; or

(2) for carryout privileges that:

(A) is the holder of a retailer's permit for an operating business; and

(B) has had the previous application for carryout privileges or renewal of carryout privileges denied by the commission;

must provide the commission with a verified certification stating that the projected gross retail income from alcoholic beverage sales during the business's first two (2) years of operations with carryout privileges will meet the requirements of subsection (c). Not more than one hundred eighty (180) days after the date the applicant begins or resumes alcoholic beverage sales with carryout privileges, the applicant shall provide a financial statement with sufficient information to show that during the first one hundred twenty (120) days of business operations with carryout privileges, sixty percent (60%) of the gross retail income from all alcoholic beverage sales was derived from sales of alcoholic beverages for consumption on the premises.

(j) The commission may:

(1) require that a financial statement submitted by an applicant under this chapter be audited by a certified public accountant; and

(2) with the cooperation of the department of state revenue, verify the information provided by the applicant.

(k) The information provided to the commission under this chapter regarding gross retail income is confidential information and may not be disclosed to the public under IC 5-14-3. However, the commission may disclose the information:

(1) to the department of state revenue to verify the accuracy of the amount of gross retail income from sales of alcoholic beverages; and



(2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of gross retail income from sales of alcoholic beverages discovered by the department of state revenue.

(l) Notwithstanding IC 6-8.1-7-1 or any other law, in fulfilling its obligations under this section, the department of state revenue may provide confidential information to the commission. The commission shall maintain the confidentiality of information provided by the department of state revenue under this chapter. However, the commission may disclose the information in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of any information provided by the department of state revenue.

(m) If the commission does not grant or renew a retailer permittee's carryout privileges, the denial shall not affect the other rights, privileges, and restrictions of the retailer's permit, including the retailer permittee's ability to sell alcoholic beverages for on-premises consumption.

SECTION 12. IC 7.1-3-20-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. (a) This section applies only to a restaurant that has a wine retailer's permit, regardless of whether the permittee sells alcoholic beverages for carryout.**

(b) A restaurant that has a wine retailer's permit may allow a patron to remove one (1) unsealed bottle of wine for consumption off the licensed premises if the following requirements are satisfied:

(1) The patron consumed part of the bottle of wine on the restaurant premises with a purchased meal.

(2) The permittee:

(A) reseals the bottle; and

(B) places the resealed bottle of wine in a bag or other container that is secured in such a manner that it is visibly apparent if the bag or other container is subsequently opened or tampered with.

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

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

SECTION 13. IC 7.1-3-20-17.5, AS ADDED BY P.L.214-2016, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. (a) As used in this section, "banquet or**



gathering space" means a room or space in which social events are hosted that is located on the licensed premises of a hotel or restaurant, **including a contiguous area of the licensed premises.**

(b) As used in this section, "social event" means a party, banquet, wedding or other reception, or any other social event.

(c) Subject to ~~subsection~~ **subsections (d) and (f)**, the holder of a retailer's permit issued for the premises of a hotel or restaurant that has a banquet or gathering space without a permanent bar over which alcoholic beverages may be sold or dispensed may temporarily amend the floor plans of the licensed premises to use the banquet or gathering space to sell, ~~or dispense, or securely store~~ alcoholic beverages ~~from a temporary bar or service bar~~ in the banquet or gathering space.

(d) The holder of a retailer's permit shall notify and submit the amended floor plans described in subsection (c) to the commission not later than twenty-four (24) hours before the date the holder intends to sell, ~~or dispense, or securely store~~ alcoholic beverages. ~~from a temporary bar or service bar.~~

(e) A holder of a retailer's permit who intends to:

(1) sell or dispense alcoholic beverages; ~~from a temporary bar or service bar; or~~

(2) **securely store alcoholic beverages;**

as described in this section remains subject to laws and rules requiring that the area in which minors are allowed be separate from the room or area in which the bar is located.

(f) If the holder of a retailer's permit stores alcoholic beverages in a contiguous area of the licensed premises, the alcoholic beverages may be stored in any manner to keep or attain the holder's preferred temperature for the alcoholic beverages, including refrigerating the alcoholic beverages.

(g) The commission must approve amended floor plans that are consistent with the requirements of this section.

SECTION 14. IC 7.1-3-21-15, AS AMENDED BY P.L.196-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to an employee's permit under IC 7.1-3-18-9.(b) The commission shall not ~~issue~~, renew or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

(1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 and the innkeeper's tax under IC 6-9 that are due currently;

(2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 for



the assessment periods during which the transferor held the permit;

(3) is seeking a renewal or transfer and is at least thirty (30) days delinquent in remitting state gross retail taxes under IC 6-2.5 or withholding taxes required to be remitted under IC 6-3-4; ~~or~~

(4) is on the most recent tax warrant list supplied to the commission by the department of state revenue; ~~or~~

(5) does not provide the commission with property tax clearance Form 1 with an embossed seal from the county treasurer.

(c) The commission shall ~~issue~~, renew or transfer a permit that the commission denied under subsection (b) when the appropriate one (1) of the following occurs:

(1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 that were delinquent have been paid.

(2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 have been paid for the assessment periods during which the transferor held the permit.

(3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's tax warrant has been satisfied, including any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the person seeks the permit.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(5) The commission receives a notice from the commissioner of the department of state revenue stating that the state gross retail and withholding taxes described in subsection (b)(3) have been remitted to the department.

(d) The commission shall not issue a new wholesaler, retailer, dealer, or other permit of any type if the applicant:

(1) has not paid all the applicant's property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 that are due;



(2) is at least thirty (30) days delinquent in remitting state gross retail taxes under IC 6-2.5 or withholding taxes required to be remitted under IC 6-3-4;

(3) is on the most recent tax warrant list supplied to the commission by the department of state revenue; or

(4) does not provide the commission with property tax clearance Form 1 with an embossed seal from the county treasurer.

(e) The commission shall issue a new permit that the commission denied under subsection (d) when one (1) of the following occurs:

(1) The applicant provides to the commission a statement from the commissioner of the department of state revenue indicating that the applicant's tax warrant has been satisfied, including any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the applicant seeks the permit.

(2) The commission receives a notice of release from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(3) The commission receives a notice from the commissioner of the department of state revenue stating that the state gross retail and withholding taxes described in subsection (a)(2) have been remitted to the department.

(d) (f) An applicant for issuance of a new permit, renewal, or transfer may not be considered delinquent in the payment of a listed taxes tax (as defined by IC 6-8.1-1-1) if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after the later of the following:

(1) The expiration of the period in which the applicant may appeal the listed tax to the tax court, in the case of an applicant who does not file a timely appeal of the listed tax.

(2) When a decision of the tax court concerning the applicant's appeal of the listed tax becomes final, in the case of an applicant who files a timely appeal of the listed tax.

(e) (g) The commission may require that an applicant for the issuance of a new permit, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1), tax warrant, or taxes imposed by IC 6-1.1 or receipt of property tax clearance Form 1 with an embossed seal from the county treasurer.



SECTION 15. IC 7.1-3-27-5, AS AMENDED BY P.L.144-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in section 7 of this chapter, an applicant for an artisan distiller's permit must meet all the following requirements to be eligible for an artisan distiller's permit:

(1) The permit applicant must hold one (1) of the following permits for the ~~three (3)~~ **eighteen (18) months year period** immediately preceding the date of the application:

(A) A farm winery permit under IC 7.1-3-12.

(B) A brewer's permit issued under IC 7.1-3-2-2(b).

(C) A distiller's permit under IC 7.1-3-7.

(2) The permit applicant may not have more than one (1) violation of this title during the ~~three (3)~~ **period eighteen (18) months** immediately preceding the date of the application.

(3) The permit applicant may not have any violation of this title during the twelve (12) month period immediately preceding the date of the permit application.

(b) As used in this subsection, "qualifying permit" means a farm winery, brewer's, or distiller's permit under subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) that is required in order to hold an artisan distiller's permit. The same persons must directly or indirectly own and control more than fifty percent (50%) of the entity that holds the qualifying permit and the artisan distiller's permit.

SECTION 16. IC 7.1-3-27-8, AS AMENDED BY P.L.214-2016, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The holder of an artisan distiller's permit may do only the following:

(1) Manufacture liquor, including blending liquor purchased from another manufacturer with liquor the artisan distiller manufactures under section 11 of this chapter.

(2) Bottle liquor manufactured by the artisan distiller.

(3) Store liquor manufactured by the artisan distiller, **including at a facility within ten (10) miles of the artisan distiller's distillery.**

(4) Transport, sell, and deliver liquor manufactured by the artisan distiller to:

(A) places outside Indiana; or

(B) the holder of a liquor wholesaler's permit under IC 7.1-3-8.

(5) Sell liquor manufactured by the artisan distiller to consumers by the drink, bottle, or case from the premises of the distillery where the liquor was manufactured.



(6) Serve complimentary samples of the liquor manufactured by the artisan distiller to consumers on the premises of the distillery where the liquor was manufactured.

(7) Sell liquor as authorized by this section for carryout on Sunday in a quantity at any one (1) time of not more than four and five-tenths (4.5) liters.

(8) With the approval of the commission, participate:

(A) individually; or

(B) with other permit holders under this chapter, holders of farm winery permits, holders of brewer's permits issued under IC 7.1-3-2-2(b), or any combination of holders described in this clause;

in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. **All of the permit holders may occupy the same tent, structure, or building.** The commission may not grant to a holder of a permit under this chapter approval under this subdivision to participate in a trade show or exposition for more than forty-five (45) days in a calendar year.

(b) The holder of an artisan distiller's permit who provides samples or sells liquor by the glass must furnish the minimum food requirements prescribed by the commission.

(c) A storage facility used by an artisan distiller under subsection (a)(3):

(1) must conform with federal laws, rules, and regulations; and

(2) must not be used for any purposes except for the storage of liquor.

(e) (d) An artisan distiller who knowingly or intentionally violates this section commits a Class B misdemeanor.

SECTION 17. IC 7.1-5-5-10, AS AMENDED BY P.L.196-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in subsection (b),** it is unlawful for a person who holds a retailer's or dealer's permit of any type to receive or accept **a gift** from a manufacturer of alcoholic beverages or from a permittee authorized to sell and deliver alcoholic beverages. ~~a rebate; sum of money; accessory; furniture; fixture; loan of money; concession; privilege; use; title; interest; or lease; rehabilitation; decoration; improvement or repair of premises.~~

(b) A person who holds a retailer's or dealer's permit may receive or accept entertainment and professional and educational expenses from a manufacturer of alcoholic beverages or from a



permittee authorized to sell and deliver alcoholic beverages, unless the entertainment or professional and educational expenses are provided in exchange for an agreement by the holder of the retailer's or dealer's permit to directly or indirectly purchase alcoholic beverages from a:

- (1) manufacturer; or**
- (2) permittee authorized to sell and deliver alcoholic beverages;**

to the exclusion, in whole or in part, of alcoholic beverages sold or delivered by another manufacturer or a permittee authorized to sell and deliver alcoholic beverages.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

SECTION 18. IC 7.1-5-5-11, AS AMENDED BY P.L.159-2014, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsections (c), ~~and (d), and (e)~~, it is unlawful for a manufacturer of alcoholic beverages or a permittee authorized to sell and deliver alcoholic beverages to:

- (1) give ~~supply; furnish; or grant~~ to another permittee who purchases alcoholic beverages from the manufacturer or permittee ~~a rebate; sum of money; accessory; furniture; fixture; loan of money; concession; privilege; use; title; interest; lease; or rental of premises; a gift;~~ or
- (2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have a business dealing with the other permittee.

(b) This section ~~shall~~ **does** not apply to the sale and delivery and collection of the sale price of an alcoholic beverage in the ordinary course of business.

(c) If the promotional program is approved under the rules adopted by the commission and is conducted in all wholesaler establishments through which the manufacturer distributes alcoholic beverages in Indiana, a manufacturer of alcoholic beverages may award bona fide promotional prizes and awards to any of the following:

- (1) A person with a wholesaler's permit issued under IC 7.1-3.
- (2) An employee of a person with a wholesaler's permit issued under IC 7.1-3.

(d) A manufacturer may offer on a nondiscriminatory basis bona fide incentives to wholesalers when the incentives are determined based on sales to retailers or dealers occurring during specified times for specified products. The incentive may be conditioned on the wholesaler selling a:



- (1) specified product at a specified price or less than a specified price; or
- (2) minimum quantity of a specified product to a single customer in a single transaction.

The incentive may not be conditioned on a wholesaler having total sales of a minimum quantity of a specified product during the applicable period.

(e) A manufacturer or a permittee authorized to sell and deliver alcoholic beverages may provide entertainment and professional and educational expenses to another permittee, unless the entertainment or professional and educational expenses are provided in exchange for an agreement to directly or indirectly purchase alcoholic beverages from a:

- (1) manufacturer; or**
- (2) permittee authorized to sell and deliver alcoholic beverages;**

to the exclusion, in whole or in part, of alcoholic beverages sold or delivered by another manufacturer or a permittee authorized to sell and deliver alcoholic beverages.

(e) (f) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

SECTION 19. IC 7.1-5-7-11, AS AMENDED BY P.L.196-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2-20.5).



(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.

(16) That part of a restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.

(17) Entertainment complex.

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.

(20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.

(21) An automobile racetrack.

(22) An indoor theater under IC 7.1-3-20-26.

(23) A senior residence facility campus (as defined in IC 7.1-3-1-29(c)) at which alcoholic beverages are given or furnished as provided under IC 7.1-3-1-29.

(24) A hotel other than a part of a hotel that is a room in a restaurant in which a bar is located over which alcoholic beverages are sold or dispensed by the drink.

(25) The location of an allowable event to which IC 7.1-3-6.1 applies.

(26) The location of a charity auction to which IC 7.1-3-6.2 applies.

(27) A farm winery and any additional locations of the farm winery under IC 7.1-3-12, if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.

(28) An artisan distillery under IC 7.1-3-27, if:

(A) the person who holds the artisan distiller's permit also holds a farm winery permit under IC 7.1-3-12; and

(B) the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.



(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.

(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 20. IC 7.1-5-7-13, AS AMENDED BY P.L.94-2008, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a)** Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

- (A) selling;
- (B) furnishing, other than serving;
- (C) consuming; or
- (D) otherwise dealing in;

alcoholic beverages.

(2) A person at least nineteen (19) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person who is at least nineteen (19) years of age but less than twenty-one (21) years of age and who has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 from serving alcoholic beverages in a dining area or family room of a restaurant or hotel:

- (A) in the course of a person's employment as a waiter, waitress, or server; and
- (B) under the supervision of a person who:
 - (i) is at least twenty-one (21) years of age;
 - (ii) is present at the restaurant or hotel; and
 - (iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

(4) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises if all the following apply:



(A) The person is employed as an assistant on a delivery truck.

(B) The person's duties with respect to alcoholic beverages are limited to handling alcoholic beverages in connection with the loading, unloading, stowing, or storing of alcoholic beverages that are being delivered or picked up.

(C) The person does not sell, furnish, or deal in alcoholic beverages in any manner except as expressly permitted under clause (B).

(D) The person acts under the supervision of a driver holding a salesman's permit.

(E) The person does not collect money for the delivery or pick up.

(b) This chapter does not prohibit a person less than twenty-one (21) years of age from being on the premises of a brewery under IC 7.1-3-2-7(5), a farm winery, including any additional locations of the farm winery under IC 7.1-3-12-5, or an artisan distillery under IC 7.1-3-27-5, if the person is:

(1) the child, stepchild, grandchild, nephew, or niece of an owner of the:

(A) brewery;

(B) farm winery; or

(C) artisan distiller; and

(2) employed on the premises for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

A minor described in this subsection is not required to be accompanied by a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age while on the premises of the brewery or farm winery.

SECTION 21. IC 35-52-7-32, AS ADDED BY P.L.169-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. IC 7.1-5-5-11 defines a crime concerning rebates: **gifts**.

SECTION 22. [EFFECTIVE UPON PASSAGE] (a) **905 IAC 1-5.2-5 (advertising specialties) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this provision from the Indiana Administrative Code.**

(b) This SECTION expires July 1, 2018.



SECTION 23. [EFFECTIVE UPON PASSAGE] (a) 905 IAC 1-5.2-7 (consumer advertising specialties) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this provision from the Indiana Administrative Code.

(b) This SECTION expires July 1, 2018.

SECTION 24. 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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