



March 17, 2017

ENGROSSED SENATE BILL No. 77

DIGEST OF SB 77 (Updated March 15, 2017 1:53 pm - DI 84)

Citations Affected: IC 16-18; IC 16-42.

Synopsis: Regulation of food dispensing micro markets. Provides that a retail food establishment that is a micro market is not required to have a person in charge present at the micro market if certain requirements are met.

Effective: July 1, 2017.

Ford, Merritt, Lanane

(HOUSE SPONSORS — OBER, CARBAUGH, HEATON, MACER)

January 3, 2017, read first time and referred to Committee on Commerce and Technology.
February 2, 2017, reported favorably — Do Pass.
February 6, 2017, read second time, ordered engrossed. Engrossed.
February 7, 2017, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Commerce, Small Business and Economic Development.
March 16, 2017, reported — Do Pass.

ES 77—LS 6381/DI 101



March 17, 2017

First Regular Session 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.

ENGROSSED SENATE BILL No. 77

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-18-2-226.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: **Sec. 226.4. "Micro market", for**
4 **purposes of IC 16-42-5-32, has the meaning set forth in**
5 **IC 16-42-5-32(a).**

6 SECTION 2. IC 16-18-2-226.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: **Sec. 226.5. "Micro market display",**
9 **for purposes of IC 16-42-5-32, has the meaning set forth in**
10 **IC 16-42-5-32(b).**

11 SECTION 3. IC 16-18-2-363.3 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2017]: **Sec. 363.3. "Vending machine", for**
14 **purposes of IC 16-42-5-32, has the meaning set forth in**
15 **IC 16-42-5-32(c).**

16 SECTION 4. IC 16-42-5-32 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2017]: Sec. 32. (a) As used in this section, "micro market" means an unstaffed, self-checkout retail food establishment that:

- 3 (1) consists of one (1) or more micro market displays that do
- 4 not exceed seventy-five (75) linear feet in total length across
- 5 the front of all displays in any one (1) location;
- 6 (2) contains an automated payment kiosk;
- 7 (3) is located indoors and within a business;
- 8 (4) is accessible only to an:
 - 9 (A) owner or employee of the business; or
 - 10 (B) escorted guest; and
 - 11 (5) is not accessible to the general public.

12 (b) As used in this section, "micro market display" means any

13 of the following in which food is displayed:

- 14 (1) An open rack.
- 15 (2) A refrigerator or a refrigerated cooler.
- 16 (3) A freezer.
- 17 (4) A vending machine.
- 18 (5) A beverage dispenser.

19 (c) As used in this section, "vending machine" means a

20 self-service device that, upon activation, such as through the

21 insertion of:

- 22 (1) a coin;
- 23 (2) paper currency;
- 24 (3) a token;
- 25 (4) a card; or
- 26 (5) a key;

27 or by optional manual operation, dispenses unit servings of food in

28 bulk or in packages without the necessity of replenishing the device

29 between each vending operation.

30 (d) Notwithstanding any other state law or administrative rule,

31 the owner or operator of a micro market is not required to have a

32 person in charge present at the micro market, as otherwise

33 required under 410 IAC 7-24 or under any successor rule adopted

34 by the state department, if the following requirements are met:

- 35 (1) The following security measures are used for the micro
- 36 market:
 - 37 (A) The micro market location includes video surveillance
 - 38 that operates on a twenty-four (24) hour per day, seven (7)
 - 39 day per week basis and:
 - 40 (i) records consumers viewing, selecting, handling, and
 - 41 purchasing products from the micro market; and
 - 42 (ii) provides sufficient resolution to identify consumers



- 1 described in item (i).
- 2 (B) The video surveillance recordings described in clause
- 3 (A) are:
- 4 (i) maintained; and
- 5 (ii) available for inspection upon request by the state
- 6 department or another applicable regulatory agency;
- 7 for fourteen (14) days after the date of the surveillance.
- 8 (C) A video surveillance recording requested for inspection
- 9 under clause (B) is made available to the state department
- 10 or other requesting regulatory agency not later than
- 11 twenty-four (24) hours after the time the request is
- 12 received by the owner or operator of the micro market.
- 13 (D) The automated self-checkout equipment used in the
- 14 micro market has the capability to match a purchase with
- 15 the consumer who made the purchase.
- 16 (2) The only food sold at the micro market is commercially
- 17 prepackaged food or ready to eat fruit.
- 18 (3) Prepackaged food sold at the micro market is contained in
- 19 tamper evident packaging.
- 20 (4) Prepackaged food sold at the micro market contains the
- 21 following information on its packaging:
- 22 (A) Except as exempted under the federal Food, Drug, and
- 23 Cosmetic Act (21 U.S.C. 301 et seq.), nutrition labeling for
- 24 the food as specified in 21 CFR 101 and 9 CFR 317,
- 25 Subpart B.
- 26 (B) A freshness or expiration date.
- 27 (C) The labeling requirements set forth in 410
- 28 IAC 7-24-146 or in any successor rule adopted by the state
- 29 department.
- 30 (5) Refrigerated or frozen food sold in the micro market is
- 31 stored in a refrigerated cooler or freezer that:
- 32 (A) maintains an internal temperature:
- 33 (i) of forty-one (41) degrees Fahrenheit or less; or
- 34 (ii) as otherwise necessary for food safety, as established
- 35 by the state department;
- 36 (B) has self-closing doors;
- 37 (C) allows the food to be viewed without opening the door
- 38 to the refrigerated cooler or freezer; and
- 39 (D) has an automatic self-locking feature that prevents a
- 40 consumer from accessing the food upon the occurrence of
- 41 any condition (including a power failure or mechanical
- 42 failure) that results in the failure of the refrigerated cooler



- 1 or freezer to maintain the internal temperature set forth in
2 clause (A).
3 **(6) There is a sign that:**
4 **(A) is posted at the location of the micro market;**
5 **(B) is readily visible from the automated payment kiosk;**
6 **and**
7 **(C) contains the following information that is printed**
8 **entirely in English and that may also, at the discretion of**
9 **the owner or operator of the micro market, be printed in**
10 **any other prevalent language of the customers of the micro**
11 **market:**
12 **(i) The name of the owner or operator of the micro**
13 **market to whom complaints and comments concerning**
14 **the micro market may be addressed.**
15 **(ii) The business address of the owner or operator of the**
16 **micro market.**
17 **(iii) The telephone number of the owner or operator of**
18 **the micro market.**
19 **(iv) The electronic mail address and Internet web site**
20 **information for the owner or operator of the micro**
21 **market, as applicable.**



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred Senate Bill No. 77, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 77 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 6, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 77, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 77 as printed February 3, 2017.)

MORRIS

Committee Vote: Yeas 13, Nays 0

