



January 30, 2019

---

---

## SENATE BILL No. 109

---

DIGEST OF SB 109 (Updated January 29, 2019 11:10 am - DI 125)

**Citations Affected:** IC 6-9.

**Synopsis:** Food and beverage tax and innkeeper tax. Permits the fiscal body of White County to levy the county innkeeper's tax on resorts and any other buildings or structures in the county in which lodging is regularly furnished for consideration. Authorizes the city of Greenwood, town of Danville, and town of Whitestown to adopt a food and beverage tax. Provides that the tax rate may not exceed 1%. Provides that money received from the tax shall be distributed by the treasurer of state to the city of Greenwood, town of Danville, or town of Whitestown. Specifies the uses to which receipts from the food and beverage tax may be applied.

**Effective:** Upon passage; July 1, 2019.

---

---

### Sandlin

---

---

January 3, 2019, read first time and referred to Committee on Tax and Fiscal Policy.  
January 29, 2019, amended, reported favorably — Do Pass.

---

---

SB 109—LS 6074/DI 120





January 30, 2019

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.

## SENATE BILL No. 109

---

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

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

1           SECTION 1. IC 6-9-10.5-6, AS AMENDED BY P.L.175-2018,  
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 6. (a) The fiscal body of a county may levy a tax  
4 on every person engaged in the business of renting or furnishing, for  
5 periods of less than thirty (30) days, any room or rooms, lodgings, or  
6 accommodations in any:  
7           (1) hotel;  
8           (2) motel;  
9           (3) inn;  
10          (4) tourist cabin; ~~or~~  
11          (5) campground space; ~~or~~  
12          **(6) resort;**  
13 ~~located in the county in White County in which lodging is regularly~~  
14 **furnished for consideration.**  
15          (b) The tax may not exceed the rate of five percent (5%) on the  
16 gross retail income derived from lodging income only and is in addition  
17 to the state gross retail tax imposed under IC 6-2.5.

SB 109—LS 6074/DI 120



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

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

18 (e) If the tax is paid to the department of state revenue, the taxes the  
 19 department of state revenue receives under this section during a month  
 20 shall be paid, by the end of the next succeeding month, to the county  
 21 treasurer upon warrants issued by the auditor of state.

22 SECTION 2. IC 6-9-35-5, AS ADDED BY P.L.214-2005,  
 23 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (d),  
 25 the fiscal body of a county may adopt an ordinance not later than June  
 26 30, 2005, to impose an excise tax, known as the food and beverage tax,  
 27 on those transactions described in sections 8 and 9 of this chapter that  
 28 occur anywhere within the county.

29 (b) Except as provided in subsection (d), if the county in which the  
 30 municipality is located has adopted an ordinance imposing an excise  
 31 tax under subsection (a), the fiscal body of a municipality may adopt  
 32 an ordinance not later than September 30, 2005, to impose an excise  
 33 tax, known as the food and beverage tax, on those transactions  
 34 described in sections 8 and 9 of this chapter that occur anywhere within  
 35 the municipality.

36 (c) The rate of the tax imposed under this chapter equals one percent  
 37 (1%) of the gross retail income on the transaction. With respect to an  
 38 excise tax in the municipalities set forth in IC 6-9-27-1(1)  
 39 (Mooresville), IC 6-9-27-1(3) (Plainfield), IC 6-9-27-1(4)  
 40 (Brownsburg), IC 6-9-27-1(5) (Avon), ~~and~~ IC 6-9-27-1(6)  
 41 (Martinsville), **IC 6-9-49 (Greenwood), IC 6-9-50 (Danville), and**  
 42 **IC 6-9-51 (Whitestown)** the excise tax imposed by the county is in



1 addition to the food and beverage tax imposed by those municipalities.  
 2 With respect to an excise tax imposed by a county under subsection (a),  
 3 the excise tax imposed by a municipality under subsection (b) is in  
 4 addition to the food and beverage tax imposed by the county in which  
 5 the municipality is located. For purposes of this chapter, the gross retail  
 6 income received by the retail merchant from such a transaction does  
 7 not include the amount of tax imposed on the transaction under  
 8 IC 6-2.5, IC 6-9-27, or this chapter.

9 (d) If the Marion County city-county council does not adopt all the  
 10 ordinances required to be adopted by it under IC 5-1-17-25 on or before  
 11 June 30, 2005, the counties and municipalities described in section 1  
 12 of this chapter are no longer subject to the provisions of this chapter.  
 13 In that event, the fiscal body of the county or municipality may not  
 14 adopt an ordinance to impose the excise tax authorized by this chapter,  
 15 and any ordinance adopted by the fiscal body under subsection (a) or  
 16 (b) is no longer effective.

17 SECTION 3. IC 6-9-49 IS ADDED TO THE INDIANA CODE AS  
 18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 19 PASSAGE]:

20 **Chapter 49. Greenwood Food and Beverage Tax**

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

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

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

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

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

38 **(1) The day specified in the ordinance.**

39 **(2) The first day of the month following sixty (60) days after**  
 40 **the date on which the ordinance is adopted.**

41 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**  
 42 **under section 3 of this chapter applies to a transaction in which a**



1 food or beverage is furnished, prepared, or served:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

22           **(4) Parks and recreation.**

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

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

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

36           **SECTION 4. IC 6-9-50 IS ADDED TO THE INDIANA CODE AS**  
 37 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON**  
 38 **PASSAGE]:**

39           **Chapter 50. Danville Food and Beverage Tax**

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

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



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

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

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

15           **(1) The day specified in the ordinance.**

16           **(2) The first day of the month following sixty (60) days after**  
 17 **the date on which the ordinance is adopted.**

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

21           **(1) for consumption at a location or on equipment provided by**  
 22 **a retail merchant;**

23           **(2) in the town; and**

24           **(3) by a retail merchant for consideration.**

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

27           **(1) served by a retail merchant off the merchant's premises;**

28           **(2) food sold in a heated state or heated by a retail merchant;**

29           **(3) made of two (2) or more food ingredients, mixed or**  
 30 **combined by a retail merchant for sale as a single item (other**  
 31 **than food that is only cut, repackaged, or pasteurized by the**  
 32 **seller, and eggs, fish, meat, poultry, and foods containing these**  
 33 **raw animal foods requiring cooking by the consumer as**  
 34 **recommended by the federal Food and Drug Administration**  
 35 **in chapter 3, subpart 3-401.11 of its Food Code so as to**  
 36 **prevent food borne illnesses); or**

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

42           **(c) The town food and beverage tax does not apply to the**





1 furnishing, preparing, or serving of a food or beverage in a  
 2 transaction that is exempt, or to the extent the transaction is  
 3 exempt, from the state gross retail tax imposed by IC 6-2.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **Sec. 10. With respect to obligations for which a pledge has been**  
 42 **made under section 9 of this chapter, the general assembly**



1 covenants with the holders of the obligations that this chapter will  
 2 not be repealed or amended in a manner that will adversely affect  
 3 the imposition or collection of the tax imposed under this chapter  
 4 if the payment of any of the obligations is outstanding.

5 SECTION 5. IC 6-9-51 IS ADDED TO THE INDIANA CODE AS  
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 7 PASSAGE]:

8 **Chapter 51. Whitestown Food and Beverage Tax**

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

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

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

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

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

26 **(1) The day specified in the ordinance.**

27 **(2) The first day of the month following sixty (60) days after**  
 28 **the date on which the ordinance is adopted.**

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

32 **(1) for consumption at a location or on equipment provided by**  
 33 **a retail merchant;**

34 **(2) in the town; and**

35 **(3) by a retail merchant for consideration.**

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

38 **(1) served by a retail merchant off the merchant's premises;**

39 **(2) food sold in a heated state or heated by a retail merchant;**

40 **(3) made of two (2) or more food ingredients, mixed or**  
 41 **combined by a retail merchant for sale as a single item (other**  
 42 **than food that is only cut, repackaged, or pasteurized by the**



1 seller, and eggs, fish, meat, poultry, and foods containing these  
 2 raw animal foods requiring cooking by the consumer as  
 3 recommended by the federal Food and Drug Administration  
 4 in chapter 3, subpart 3-401.11 of its Food Code so as to  
 5 prevent food borne illnesses); or

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

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

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

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

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

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

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

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

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

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

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

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



- 1           **(1) To reduce the town's property tax levy for a particular**
- 2           **year at the discretion of the town, but this use does not reduce**
- 3           **the maximum permissible ad valorem property tax levy under**
- 4           **IC 6-1.1-18.5 for the town.**
- 5           **(2) For economic development purposes, including the pledge**
- 6           **of money under IC 5-1-14-4 for bonds, leases, or other**
- 7           **obligations for economic development purposes.**
- 8           **(3) Construction, renovation, improvement, equipping, or**
- 9           **maintenance of town capital improvements.**
- 10          **(4) Parks and recreation.**
- 11          **(5) The pledge of money under IC 5-1-14-4 for bonds, leases,**
- 12          **or other obligations incurred for a purpose described in**
- 13          **subdivisions (3) through (4).**

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

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

24          **SECTION 6. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 109, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. 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.

SB 109—LS 6074/DI 120



(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 2. IC 6-9-35-5, AS ADDED BY P.L.214-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (d), the fiscal body of a county may adopt an ordinance not later than June 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the county.

(b) Except as provided in subsection (d), if the county in which the municipality is located has adopted an ordinance imposing an excise tax under subsection (a), the fiscal body of a municipality may adopt an ordinance not later than September 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the municipality.

(c) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction. With respect to an excise tax in the municipalities set forth in IC 6-9-27-1(1) (Mooresville), IC 6-9-27-1(3) (Plainfield), IC 6-9-27-1(4) (Brownsburg), IC 6-9-27-1(5) (Avon), ~~and~~ IC 6-9-27-1(6) (Martinsville), **IC 6-9-49 (Greenwood), IC 6-9-50 (Danville), and IC 6-9-51 (Whitestown)** the excise tax imposed by the county is in addition to the food and beverage tax imposed by those municipalities. With respect to an excise tax imposed by a county under subsection (a), the excise tax imposed by a municipality under subsection (b) is in addition to the food and beverage tax imposed by the county in which the municipality is located. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5, IC 6-9-27, or this chapter.

(d) If the Marion County city-county council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, the counties and municipalities described in section 1 of this chapter are no longer subject to the provisions of this chapter. In that event, the fiscal body of the county or municipality may not adopt an ordinance to impose the excise tax authorized by this chapter, and any ordinance adopted by the fiscal body under subsection (a) or (b) is no longer effective."

Page 1, line 4, delete "Clarksville" and insert "**Greenwood**".



Page 1, line 5, delete "town of Clarksville." and insert "**city of Greenwood.**".

Page 1, line 8, delete "town" and insert "**city**".

Page 1, line 9, delete "town" and insert "**city**".

Page 1, line 11, delete "town" and insert "**city**".

Page 1, line 14, delete "town" and insert "**city**".

Page 1, line 16, delete "town" and insert "**city**".

Page 1, line 17, delete "town" and insert "**city**".

Page 2, line 2, delete "town" and insert "**city**".

Page 2, line 3, delete "town" and insert "**city**".

Page 2, line 6, delete "last day of the month that succeeds the month in" and insert "**first day of the month following sixty (60) days after the date on which the ordinance is adopted.**".

Page 2, delete line 7.

Page 2, line 13, delete "town;" and insert "**city;**".

Page 2, line 32, delete "town" and insert "**city**".

Page 2, line 36, delete "town" and insert "**city**".

Page 3, line 11, delete "town" and insert "**city**".

Page 3, line 14, delete "town, the town" and insert "**city, the city**".

Page 3, line 16, delete "town" and insert "**city**".

Page 3, line 21, delete "town" and insert "**city**".

Page 3, line 22, delete "town's" and insert "**city's**".

Page 3, line 23, delete "town," and insert "**city,**".

Page 3, line 25, delete "town." and insert "**city.**".

Page 3, line 30, delete "town" and insert "**city**".

Page 3, delete line 31.

Page 3, line 32, delete "(5)" and insert "**(4)**".

Page 3, line 33, delete "(6)" and insert "**(5)**".

Page 3, line 35, delete "(5)." and insert "**(4).**".

Page 3, line 37, delete "town" and insert "**city**".

Page 3, line 39, delete "town." and insert "**city.**".

Page 4, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 4. IC 6-9-50 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**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 first 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 a 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 5. IC 6-9-51 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 51. 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 first 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."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 109 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 1.

