

SENATE BILL No. 113

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-26.

Synopsis: Direct wine sales. Removes certain requirements for the issuance of a direct wine seller's permit concerning: (1) filing of surety bonds or depositing cash in escrow; and (2) wine distribution through wholesalers. Removes requirements that before a direct wine seller may sell wine to a consumer: (1) the consumer must provide information in one face-to-face transaction at the seller's place of business; or (2) under certain circumstances, the consumer must provide a verified statement that the consumer is at least 21 years of age, and the seller must provide the name and address of the consumer to the alcohol and tobacco commission. Allows a direct wine seller to sell and ship wine directly to a consumer if the consumer provides: (1) the consumer's name; (2) a valid delivery address and telephone number; (3) proof of age by a state government issued or federal government issued identification card showing the consumer to be at least 21 years of age; and (4) a verified statement that the consumer satisfies certain requirements.

Effective: July 1, 2015.

Boots

January 6, 2015, read first time and referred to Committee on Public Policy.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 113

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

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

1 SECTION 1. IC 7.1-3-26-6, AS AMENDED BY P.L.159-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 6. (a) A seller may sell and ship wine directly only
4 to a consumer who meets all of the following requirements:
5 (1) The consumer is at least twenty-one (21) years of age.
6 (2) The consumer has an Indiana address.
7 (3) The consumer intends to use wine purchased under this
8 chapter for personal use only and not for resale or other
9 commercial purposes.
10 (4) Except as provided in subdivision (5), the consumer has
11 provided to the seller in one (1) initial face-to-face transaction at
12 the seller's place of business appearing on the seller's application
13 for a direct wine seller's permit or any locations authorized by
14 IC 7.1-3-12-5 all the following:
15 (A) Name, telephone number, Indiana address, or consumer's
16 Indiana business address.



1 (B) Proof of age by a state issued driver's license or state
 2 issued identification card showing the consumer to be at least
 3 twenty-one (21) years of age.

4 (C) A verified statement, made under penalties for perjury,
 5 that the consumer satisfies the requirements of subdivisions
 6 (1) through (3):

7 (5) If:

8 (A) before April 1, 2006, the consumer has engaged in a
 9 transaction with a seller in which the seller sold wine to the
 10 consumer and, after April 1, 2006, but before December 31,
 11 2006, the consumer provides the seller with a verified
 12 statement, made under penalties for perjury, that the consumer
 13 is at least twenty-one (21) years of age; and

14 (B) the seller provides the name and Indiana address of the
 15 consumer to the commission before January 15, 2007;

16 the seller may sell directly to the consumer in accordance with
 17 this chapter.

18 (b) A seller who violates this section commits a Class A infraction.

19 However, the offense is:

20 (1) a Class A misdemeanor if the seller:

21 (A) knowingly or intentionally violates ~~subsection (a)(1)~~
 22 ~~through (a)(4); this section;~~ and

23 (B) has one (1) prior unrelated conviction or judgment for an
 24 infraction under this chapter for an act or omission that
 25 occurred not more than ten (10) years before the act or
 26 omission that is the basis for the most recent conviction or
 27 judgment for an infraction; and

28 (2) a Level 6 felony if the seller:

29 (A) knowingly or intentionally violates ~~subsection (a)(1)~~
 30 ~~through (a)(4); this section;~~ and

31 (B) has at least two (2) prior unrelated convictions or
 32 judgments for infractions under this chapter for acts or
 33 omissions that occurred not more than ten (10) years before
 34 the act or omission that is the basis for the most recent
 35 conviction or judgment for an infraction.

36 (c) It is a defense to an action or prosecution under this section that
 37 the seller obtained from the consumer the verified statement required
 38 under ~~subsection (a)(4) or (a)(5):~~ **section 9(1)(D) of this chapter.**

39 SECTION 2. IC 7.1-3-26-7, AS AMENDED BY P.L.186-2011,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2015]: Sec. 7. (a) The commission may issue a direct wine
 42 seller's permit to an applicant who meets all of the following



- 1 requirements:
- 2 (1) The applicant is domiciled and has its principal place of
- 3 business in the United States.
- 4 (2) The applicant is engaged in the manufacture of wine.
- 5 (3) The applicant holds and acts within the scope of authority of
- 6 an alcoholic beverage license or permit to manufacture wine that
- 7 is required:
- 8 (A) in Indiana or the state where the applicant is domiciled;
- 9 and
- 10 (B) by the Tax and Trade Bureau of the United States
- 11 Department of the Treasury.
- 12 (4) The applicant qualifies with the secretary of state to do
- 13 business in Indiana and consents to the personal jurisdiction of
- 14 the commission and the courts of Indiana.
- 15 (5) ~~The applicant files a surety bond with the commission in~~
- 16 ~~accordance with IC 7.1-3-1, or deposits cash in an escrow account~~
- 17 ~~with the commission, in the amount required of an applicant for~~
- 18 ~~a vintner's permit under IC 7.1-3-1-7.~~
- 19 (6) The applicant:
- 20 (A) ~~has not distributed wine through a wine wholesaler in~~
- 21 ~~Indiana within the one hundred twenty (120) days immediately~~
- 22 ~~preceding the applicant's application for a direct wine seller's~~
- 23 ~~permit and does not distribute wine through a wine wholesaler~~
- 24 ~~in Indiana during the term of the direct wine seller's permit; or~~
- 25 ~~(B) has operated as a farm winery under IC 7.1-3-12.~~
- 26 (7) (5) The applicant completes documentation regarding the
- 27 applicant's application required by the commission.
- 28 (b) The commission may issue a direct wine seller's permit to an
- 29 applicant who:
- 30 (1) meets the requirements under subsection (a); and
- 31 (2) holds a permit issued under this title that allows the sale of an
- 32 alcoholic beverage at retail.
- 33 SECTION 3. IC 7.1-3-26-9, AS AMENDED BY P.L.186-2011,
- 34 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2015]: Sec. 9. A direct wine seller's permit entitles a seller to
- 36 sell and ship wine to a consumer by receiving and filling orders that the
- 37 consumer transmits by electronic or other means if all of the following
- 38 conditions are satisfied before the sale or by the times set forth as
- 39 follows:
- 40 (1) The consumer provides the direct wine seller with the
- 41 following:
- 42 (A) ~~The verification required by section 6(4) of this chapter in~~



1 an initial face-to-face transaction.

2 (B) Notwithstanding clause (A), if the consumer provided the
3 information specified in section 6(5)(A) of this chapter after
4 April 1, 2006, but before December 31, 2006, and the seller
5 provides the name and Indiana address of the consumer under
6 section 6(5)(B) of this chapter to the commission before
7 January 15, 2007, the consumer is not required to comply with
8 section 6(4) of this chapter.

9 (A) The consumer's name.

10 (B) A valid delivery address and telephone number.

11 (C) Proof of age by a state government issued or federal
12 government issued identification card showing the
13 consumer to be at least twenty-one (21) years of age. The
14 proof under this clause may be evidenced:

15 (i) in person;

16 (ii) by a photocopy or facsimile copy that is mailed or
17 electronically transmitted;

18 (iii) by a computer scanned, electronically transmitted
19 copy; or

20 (iv) through an age verification service used by the direct
21 wine seller.

22 (D) A verified statement, made under penalties for perjury,
23 that the consumer satisfies the requirements of section
24 6(a)(1) through 6(a)(3) of this chapter.

25 (2) The direct wine seller meets the following requirements:

26 (A) Maintains for two (2) years all records of wine sales made
27 under this chapter. If the records are requested by the
28 commission, a direct wine seller shall:

29 (i) make the records available to the commission during the
30 direct wine seller's regular business hours; or

31 (ii) at the direction of the commission, deliver copies to the
32 commission.

33 (B) Stamps, prints, or labels on the outside of the shipping
34 container the following: "CONTAINS WINE. SIGNATURE
35 OF PERSON AGE 21 OR OLDER REQUIRED FOR
36 DELIVERY."

37 (C) Causes the wine to be delivered by the holder of a valid
38 carrier's alcoholic beverage permit under IC 7.1-3-18.

39 (D) Directs the carrier to verify that the individual personally
40 receiving the wine shipment is at least twenty-one (21) years
41 of age.

42 (E) Does not ship to any consumer more than two hundred



1 sixteen (216) liters of wine in any calendar year.
2 (F) Remits to the department of state revenue monthly all
3 Indiana excise, sales, and use taxes on the shipments made
4 into Indiana by the direct wine seller during the previous
5 month.
6 (G) Ships to a consumer in Indiana only wine manufactured,
7 produced, or bottled by the applicant.
8 SECTION 4. IC 7.1-3-26-11 IS REPEALED [EFFECTIVE JULY
9 1, 2015]. ~~Sec. 11. A consumer shall provide a direct wine seller with~~
10 ~~information the direct wine seller reasonably requires, including the~~
11 ~~consumer's name, Indiana address, telephone number, and other~~
12 ~~information required by the commission.~~

