

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 ENROLLED ACT No. 113

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 7.1-3-21-3, AS AMENDED BY P.L.165-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. The commission shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type

or

(2) a liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of Indiana for five (5) years immediately preceding the date of the application for a permit.

SECTION 2. IC 7.1-3-21-4, AS AMENDED BY P.L.165-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The commission shall not issue

(1) a liquor wholesaler's permit; or

(2) an alcoholic beverage retailer's or dealer's permit

of any type to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

SECTION 3. IC 7.1-3-21-5, AS AMENDED BY P.L.165-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) The commission shall not issue

SEA 113 — Concur



(1) an alcoholic beverage retailer's or dealer's permit of any type
or

(2) a liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) (b) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 4. IC 7.1-3-21-5.2, AS AMENDED BY P.L.165-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.2. (a) The commission shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type
or

(2) a liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) (b) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 5. IC 7.1-3-21-5.4, AS AMENDED BY P.L.165-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.4. (a) The commission shall not issue

(1) an alcoholic beverage retailer's or dealer's permit of any type
or

(2) a liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited liability company unless for at least one (1) year immediately



before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated:

(c) (b) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 6. IC 7.1-3-26-6, AS AMENDED BY P.L.159-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) A seller may sell and ship wine directly only to a consumer who meets all of the following requirements:

- (1) The consumer is at least twenty-one (21) years of age.
- (2) The consumer has an Indiana address.
- (3) The consumer intends to use wine purchased under this chapter for personal use only and not for resale or other commercial purposes.
- (4) Except as provided in subdivision (5), the consumer has provided to the seller in one (1) initial face-to-face transaction at the seller's place of business appearing on the seller's application for a direct wine seller's permit or any locations authorized by IC 7.1-3-12-5 all the following:
 - (A) Name; telephone number; Indiana address; or consumer's Indiana business address.
 - (B) Proof of age by a state issued driver's license or state issued identification card showing the consumer to be at least twenty-one (21) years of age.
 - (C) A verified statement, made under penalties for perjury, that the consumer satisfies the requirements of subdivisions (1) through (3).

(5) If:

- (A) before April 1, 2006; the consumer has engaged in a transaction with a seller in which the seller sold wine to the consumer and; after April 1, 2006; but before December 31, 2006; the consumer provides the seller with a verified statement, made under penalties for perjury, that the consumer is at least twenty-one (21) years of age; and
 - (B) the seller provides the name and Indiana address of the consumer to the commission before January 15, 2007;
- the seller may sell directly to the consumer in accordance with this chapter:

(b) A seller who violates this section commits a Class A infraction. However, the offense is:

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



- (A) knowingly or intentionally violates ~~subsection (a)(1) through (a)(4); this section;~~ and
- (B) has one (1) prior unrelated conviction or judgment for an infraction under this chapter for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction; and
- (2) a Level 6 felony if the seller:
 - (A) knowingly or intentionally violates ~~subsection (a)(1) through (a)(4); this section;~~ and
 - (B) has at least two (2) prior unrelated convictions or judgments for infractions under this chapter for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction.

~~(c) It is a defense to an action or prosecution under this section that the seller obtained from the consumer the verified statement required under subsection (a)(4) or (a)(5).~~

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

- (1) The applicant is domiciled and has its principal place of business in the United States.
- (2) The applicant is engaged in the manufacture of wine.
- (3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine that is required:
 - (A) in Indiana or the state where the applicant is domiciled; and
 - (B) by the Tax and Trade Bureau of the United States Department of the Treasury.
- (4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.
- (5) The applicant files a surety bond with the commission in accordance with IC 7.1-3-1; or deposits cash in an escrow account with the commission; in the amount required of an applicant for a vintner's permit under IC 7.1-3-1-7.
- ~~(6)~~ (5) The applicant:
 - (A) has not distributed wine through a wine wholesaler in



Indiana within the one hundred twenty (120) days immediately preceding the applicant's application for a direct wine seller's permit and does not distribute wine through a wine wholesaler in Indiana during the term of the direct wine seller's permit; or
 (B) has operated as a farm winery under IC 7.1-3-12.

~~(7)~~ **(6)** The applicant completes documentation regarding the applicant's application required by the commission.

(b) The commission may issue a direct wine seller's permit to an applicant who:

- (1) meets the requirements under subsection (a); and
- (2) holds a permit issued under this title that allows the sale of an alcoholic beverage at retail.

SECTION 8. IC 7.1-3-26-8, AS ADDED BY P.L.165-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The term of a direct wine seller's permit begins:

- (1) **on** the date approved by the commission for an initial application; and
- (2) on July 1 to renew a permit;

and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is **as follows:**

(1) One hundred dollars (\$100) for a direct wine seller's permit applicant who:

- (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than nine thousand (9,000) liters of wine in a permit year; or**
- (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than nine thousand (9,000) liters of wine in the previous permit year.**

(2) Two hundred dollars (\$200) for a direct wine seller's permit applicant who:

- (A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than eighteen thousand (18,000) liters of wine in a permit year; or**
- (B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than eighteen thousand (18,000) liters of wine in the previous permit year.**



(3) Three hundred dollars (\$300) for a direct wine seller's permit applicant who:

(A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than twenty-seven thousand (27,000) liters of wine in a permit year; or

(B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than twenty-seven thousand (27,000) liters of wine in the previous permit year.

(4) Four hundred dollars (\$400) for a direct wine seller's permit applicant who:

(A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than thirty-six thousand (36,000) liters of wine in a permit year; or

(B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than thirty-six thousand (36,000) liters of wine in the previous permit year.

(5) Five hundred dollars (\$500) for a direct wine seller's permit applicant who:

(A) has never previously held a direct wine seller's permit and anticipates direct shipping in Indiana not more than forty-five thousand (45,000) liters of wine in a permit year; or

(B) previously held a direct wine seller's permit and certifies to the commission that the permit applicant direct shipped in Indiana not more than forty-five thousand (45,000) liters of wine in the previous permit year.

SECTION 9. IC 7.1-3-26-9, AS AMENDED BY P.L.186-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. A direct wine seller's permit entitles a seller to sell and ship wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:

(A) The verification required by section 6(4) of this chapter in an initial face-to-face transaction.

(B) Notwithstanding clause (A), if the consumer provided the



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

(A) The consumer's name.

(B) A valid delivery address and telephone number.

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

(i) in person;

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

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

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

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

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

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

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

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

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

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

(E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.



(G) Ships to a consumer in Indiana only wine manufactured, produced, or bottled by the applicant.

SECTION 10. IC 7.1-3-26-11 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 11. A consumer shall provide a direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, Indiana address, telephone number, and other information required by the commission.~~

SECTION 11. IC 7.1-3-26-12, AS ADDED BY P.L.165-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. During a permit year, a direct wine seller may not direct ship in **or into** Indiana more than ~~twenty-seven~~ **forty-five** thousand ~~(27,000)~~ **(45,000)** liters of wine.

SECTION 12. IC 7.1-4-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. ~~Persons Liable for Tax.~~ The wine excise tax shall be paid by the holder of a vintner's permit, a farm winery permit, a wine wholesaler's permit, **a direct wine seller's permit**, a dining car wine permit, or a boat wine permit on the alcoholic beverage to which the tax is applicable and which has been manufactured or imported by ~~him~~ **the permit holder** into this state. However, the same article shall be taxed only once for wine excise tax purposes.

SECTION 13. IC 7.1-4-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. The hard cider excise tax shall be paid by the holder of a vintner's permit, a farm winery permit, a wine wholesaler's permit, **a direct wine seller's permit**, a beer wholesaler's permit, a dining car wine permit, or a boat wine permit on the hard cider to which the tax is applicable and that is manufactured or imported by the person into this state. However, an item may only be taxed once for hard cider excise tax purposes.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 113 — Concur

