



February 26, 2016

ENGROSSED SENATE BILL No. 177

DIGEST OF SB 177 (Updated February 24, 2016 11:16 am - DI 107)

Citations Affected: IC 7.1-3; IC 7.1-5.

Synopsis: Alcoholic beverage matters. Prohibits the alcohol and tobacco commission (commission) from issuing a beer dealer's permit to a package liquor store unless the proprietor of the package liquor store satisfies Indiana resident ownership requirements. Amends the ownership residency requirements for the issuance of an alcoholic beverage dealer's permit to a corporation, limited partnership, or limited liability company for the premises of a package liquor store. Allows the commission to renew or transfer ownership of an alcoholic beverage dealer's permit of any type for the holder of a dealer's permit who: (1) held the permit for the premises of a package liquor store before January 1, 2016; and (2) does not qualify for the permit under the amended residency requirements. Allows the refilling of a bottle or container with hard cider in an establishment that manufactures hard cider. Allows the refilling of a bottle or container with a product from a farm winery. Allows the holder of a retailer's permit issued for the premises of a hotel or restaurant to temporarily amend floor plans to
(Continued next page)

Effective: Upon passage; July 1, 2016.

**Messmer, Arnold J, Alting, Merritt,
Randolph Lonnie M**

(HOUSE SPONSORS — LEHMAN, GIAQUINTA)

January 6, 2016, read first time and referred to Committee on Public Policy.
January 28, 2016, amended, reported favorably — Do Pass.
February 1, 2016, read second time, ordered engrossed. Engrossed.
February 2, 2016, read third time, passed. Yeas 42, nays 8.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Public Policy.
February 25, 2016, amended, reported — Do Pass.

ES 177—LS 6768/DI 125



Digest Continued

use a banquet or gathering space to sell or dispense alcoholic beverages from a temporary bar or service bar. Allows, if certain conditions are met, the holder of a retailer's permit that is issued for the premises of a hotel that is owned by an accredited college or university to sell or dispense, for on premise consumption only, alcoholic beverages from a: (1) nonpermanent bar that is located on; or (2) service window located on the licensed premises that opens to; an outside area or terrace that is contiguous to the main building of the licensed premises of the hotel. Provides that a holder of a retailer permit that is issued to a restaurant may sell or dispense alcoholic beverages from a service window that opens to an outside patio or terrace.

ES 177—LS 6768/DI 125



February 26, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 177

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 7.1-3-5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) As used in**
3 **this section, "proprietor of a package liquor store" means the**
4 **person that:**
5 **(1) holds the financial investment in; and**
6 **(2) exercises the financial and operational oversight of;**
7 **a package liquor store.**
8 ~~(a)~~ **(b)** The commission may issue a beer dealer's permit only to an
9 applicant who is the proprietor of a drug store, grocery store, or
10 package liquor store.
11 ~~(b)~~ **(c) Subject to subsection (d)**, the commission may issue a beer
12 dealer's permit to an applicant that is a foreign corporation if:
13 (1) the applicant is duly admitted to do business in Indiana;
14 (2) the sale of beer is within the applicant's corporate powers; and
15 (3) the applicant is otherwise qualified under this title.
16 **(d) Except as provided under IC 7.1-3-21-5.6, the commission**
17 **may issue a beer dealer's permit under subsection (c) for the**

ES 177—LS 6768/DI 125



1 **premises of a package liquor store only if the proprietor of the**
 2 **package liquor store satisfies the Indiana resident ownership**
 3 **requirements described in IC 7.1-3-21-5(b), IC 7.1-3-21-5.2(b), or**
 4 **IC 7.1-3-21-5.4(b).**

5 ~~(e)~~ (e) The commission shall not issue a beer dealer's permit to a
 6 person who is disqualified under the special disqualifications.
 7 However, the special disqualification listed in IC 7.1-3-4-2(a)(13) shall
 8 not apply to an applicant for a beer dealer's permit.

9 ~~(f)~~ (f) Notwithstanding subsection ~~(a)~~, (b), the commission may
 10 renew a beer dealer's permit for an applicant who:

11 (1) held a permit before July 1, 1997; and

12 (2) is the proprietor of a confectionery or a store that:

13 (A) is not a drug store, grocery store, or package liquor store;

14 (B) is in good repute; and

15 (C) in the judgment of the commission, deals in merchandise
 16 that is not incompatible with the sale of beer.

17 SECTION 2. IC 7.1-3-20-17.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2016]: **Sec. 17.5. (a) As used in this section,**
 20 **"banquet or gathering space" means a room or space in which**
 21 **social events are hosted that is located on the licensed premises of**
 22 **a hotel or restaurant.**

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

25 (c) Subject to subsection (d), the holder of a retailer's permit
 26 issued for the premises of a hotel or restaurant that has a banquet
 27 or gathering space without a permanent bar over which alcoholic
 28 beverages may be sold or dispensed may temporarily amend the
 29 floor plans of the licensed premises to use the banquet or gathering
 30 space to sell or dispense alcoholic beverages from a temporary bar
 31 or service bar in the banquet or gathering space.

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

37 (e) A holder of a retailer's permit who intends to sell or dispense
 38 alcoholic beverages from a temporary bar or service bar as
 39 described in this section remains subject to laws and rules
 40 requiring that the area in which minors are allowed be separate
 41 from the room or area in which the bar is located.

42 SECTION 3. IC 7.1-3-20-18.5 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. (a) This section applies to**
 3 **the premises of a hotel that is owned by an accredited college or**
 4 **university (as described in IC 24-4-11-2).**

5 (b) Subject to subsection (c), the holder of a retailer permit that
 6 is issued for the premises of a hotel may sell or dispense, for on
 7 premise consumption only, alcoholic beverages, for which the
 8 permittee holds the appropriate permit, from a:

- 9 (1) nonpermanent bar located on an outside patio or terrace;
 10 or
 11 (2) service window located on the licensed premises that opens
 12 to an outside patio or terrace;

13 that is contiguous to the main building of the licensed premises of
 14 the hotel.

15 (c) The holder of a retailer permit that is issued for the premises
 16 of a hotel may sell or dispense alcoholic beverages as provided
 17 under subsection (b) only if all the following conditions are met:

- 18 (1) The patio or terrace area described in subsection (b) is:
 19 (A) part of the licensed premises; and
 20 (B) clearly delineated and completely enclosed on all sides
 21 by a fence, rail, wall, or hedge that is at least four (4) feet
 22 in height.
 23 (2) Access to the nonpermanent bar or service window is
 24 limited by a barrier that reasonably deters free access by
 25 minors to the bar or window.
 26 (3) A conspicuous sign is posted by the barrier described in
 27 subdivision (2) that states that minors are not allowed to cross
 28 the barrier to enter the area near the nonpermanent bar or
 29 service window.

30 SECTION 4. IC 7.1-3-20-27 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2016]: **Sec. 27. (a) This section applies to the premises of a**
 33 **restaurant.**

34 (b) Subject to subsection (c), the holder of a retailer permit that
 35 is issued for the premises of a restaurant may sell or dispense, for
 36 on premise consumption only, alcoholic beverages, for which the
 37 permittee holds the appropriate permit, from a service window
 38 located on the licensed premises that opens to an outside patio or
 39 terrace that is contiguous to the main building of the licensed
 40 premises of the restaurant.

41 (c) The holder of a retailer permit that is issued for the premises
 42 of a restaurant may sell or dispense alcoholic beverages as



1 provided under subsection (b) only if all the following conditions
2 are met:

- 3 **(1) The patio or terrace area described in subsection (b) is:**
4 **(A) part of the licensed premises; and**
5 **(B) clearly delineated and completely enclosed on all sides**
6 **by a barrier that is at least eighteen (18) inches in height.**
7 **(2) Access to the service window is limited by a barrier that**
8 **reasonably deters free access by minors to the window.**
9 **(3) A conspicuous sign is posted by the barrier described in**
10 **subdivision (2) that states that minors are not allowed to cross**
11 **the barrier to enter the area near the service window.**

12 SECTION 5. IC 7.1-3-21-5, AS AMENDED BY P.L.107-2015,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 5. (a) The commission shall not issue an
15 alcoholic beverage retailer's ~~or dealer's~~ permit of any type to a
16 corporation unless sixty percent (60%) of the outstanding common
17 stock is owned by persons who have been continuous and bona fide
18 residents of Indiana for five (5) years.

19 **(b) The commission shall not issue an alcoholic beverage**
20 **dealer's permit of any type for the premises of a package liquor**
21 **store to a corporation unless:**

- 22 **(1) sixty percent (60%) of the outstanding stock in the**
23 **corporation is owned by persons who have been continuous**
24 **and bona fide residents of Indiana for five (5) years; and**
25 **(2) the stock described in subdivision (1) constitutes a**
26 **controlling interest in the corporation.**

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

30 SECTION 6. IC 7.1-3-21-5.2, AS AMENDED BY P.L.107-2015,
31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]: Sec. 5.2. (a) The commission shall not issue an
33 alcoholic beverage retailer's ~~or dealer's~~ permit of any type to a limited
34 partnership unless at least sixty percent (60%) of the partnership
35 interest is owned by persons who have been continuous and bona fide
36 residents of Indiana for five (5) years.

37 **(b) The commission shall not issue an alcoholic beverage**
38 **dealer's permit of any type for the premises of a package liquor**
39 **store to a limited partnership unless:**

- 40 **(1) at least sixty percent (60%) of the partnership interest is**
41 **owned by persons who have been continuous and bona fide**
42 **residents of Indiana for five (5) years; and**



- 1 **(2) the partnership interest described in subdivision (1)**
 2 **constitutes a controlling interest in the limited partnership.**
 3 ~~(b)~~ **(c)** Each general partner and limited partner of a limited
 4 partnership must possess all other qualifications required of a
 5 individual applicant for that particular type of permit.
 6 SECTION 7. IC 7.1-3-21-5.4, AS AMENDED BY P.L.107-2015,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 5.4. (a) The commission shall not issue an
 9 alcoholic beverage retailer's ~~or dealer's~~ permit of any type to a limited
 10 liability company unless at least sixty percent (60%) of the membership
 11 interest is owned by persons who have been continuous and bona fide
 12 residents of Indiana for five (5) years.
 13 **(b) The commission shall not issue an alcoholic beverage**
 14 **dealer's permit of any type for the premises of a package liquor**
 15 **store to a limited liability company unless:**
 16 **(1) at least sixty percent (60%) of the outstanding**
 17 **membership interest in the limited liability company is owned**
 18 **by persons who have been continuous and bona fide residents**
 19 **of Indiana for five (5) years; and**
 20 **(2) the membership interest described in subdivision (1)**
 21 **constitutes a controlling interest in the limited partnership.**
 22 ~~(b)~~ **(c)** Each manager and member of a limited liability company
 23 must possess all other qualifications required of an individual applicant
 24 for that particular type of permit.
 25 SECTION 8. IC 7.1-3-21-5.6 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: **Sec. 5.6. (a) Notwithstanding**
 28 **section 5, 5.2, or 5.4 of this chapter, the commission may renew or**
 29 **transfer ownership of a dealer's permit of any type for the holder**
 30 **of a dealer's permit who:**
 31 **(1) held the permit for the premises of a package liquor store**
 32 **before January 1, 2016; and**
 33 **(2) does not qualify for the permit under section 5(b), 5.2(b),**
 34 **or 5.4(b) of this chapter.**
 35 **(b) The commission may transfer ownership of a dealer's permit**
 36 **under this section only to an applicant who satisfies the Indiana**
 37 **resident ownership requirements under this chapter.**
 38 SECTION 9. IC 7.1-5-3-4, AS AMENDED BY P.L.79-2015,
 39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2016]: Sec. 4. (a) This section does not apply to the following:
 41 (1) The necessary refilling of a container by a person holding a
 42 permit that authorizes the person to manufacture, rectify, or bottle



- 1 liquor.
- 2 (2) An establishment where alcoholic beverages are sold that is
- 3 owned, in whole or part, by an entity that holds a brewer's permit
- 4 ~~issued under IC 7.1-3-2-2(b).~~ **for a brewery described in**
- 5 **IC 7.1-3-2-7(5).**
- 6 (3) An establishment where alcoholic beverages are sold that is
- 7 owned, in whole or part, by a statewide trade organization
- 8 consisting of members, each of whom holds a brewer's permit
- 9 issued under IC 7.1-3-2-2(b).
- 10 (4) The refilling of a bottle or container or possession of a refilled
- 11 bottle or container if the refilling or possession is not for resale or
- 12 another commercial purpose.
- 13 **(5) The refilling of a bottle or container with hard cider in an**
- 14 **establishment where alcoholic beverages are sold that is**
- 15 **owned, in whole or in part, by an entity that manufactures**
- 16 **hard cider under the appropriate permit issued under this**
- 17 **title.**
- 18 **(6) The refilling of a bottle or container with a product from**
- 19 **a farm winery in an establishment in which alcoholic**
- 20 **beverages are sold that is owned, in whole or in part, by a**
- 21 **farm winery with the appropriate permit issued under this**
- 22 **title.**
- 23 (b) Except as provided in section 6 of this chapter, it is unlawful for
- 24 a person to:
- 25 (1) refill a bottle or container, in whole or in part, with an
- 26 alcoholic beverage; or
- 27 (2) knowingly possess a bottle or container that has been refilled,
- 28 in whole or in part, with an alcoholic beverage;
- 29 after the container of liquor has been emptied in whole or in part.
- 30 (c) A person who knowingly or intentionally violates subsection (a)
- 31 or (b) commits a Class B misdemeanor.
- 32 **SECTION 10. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 177, 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, line 5, delete "primary".

Page 1, line 6, delete "primary".

Page 1, line 17, delete "The" and insert "**Except as provided under IC 7.1-3-21-5.6, the**".

Page 2, line 3, delete "IC 7.1-3-21-5(b)." and insert "**IC 7.1-3-21-5(b), IC 7.1-3-21-5.2(b), or IC 7.1-3-21-5.4(b).**".

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 3. IC 7.1-3-20-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 18.5. (a) This section applies to the premises of a hotel that is owned by an accredited college or university (as described in IC 24-4-11-2).**

(b) Subject to subsection (c), the holder of a retailer permit that is issued for the premises of a hotel may sell or dispense, for on premise consumption only, alcoholic beverages, for which the permittee holds the appropriate permit, from a:

(1) nonpermanent bar located on an outside patio or terrace;
or

(2) service window located on the licensed premises that opens to an outside patio or terrace;

that is contiguous to the main building of the licensed premises of the hotel.

(c) The holder of a retailer permit that is issued for the premises of a hotel may sell or dispense alcoholic beverages as provided under subsection (b) only if all the following conditions are met:

(1) The patio or terrace area described in subsection (b) is:

(A) part of the licensed premises; and

(B) clearly delineated and completely enclosed on all sides by a fence, rail, wall, or hedge that is at least four (4) feet in height.

(2) Access to the nonpermanent bar or service window is limited by a barrier that reasonably deters free access by minors to the bar or window.

(3) A conspicuous sign is posted by the barrier described in subdivision (2) that states that minors are not allowed to cross the barrier to enter the area near the nonpermanent bar or



service window.

SECTION 4. IC 7.1-3-21-5, AS AMENDED BY P.L.107-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall not issue an alcoholic beverage retailer's ~~or dealer's~~ permit of any type 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 an alcoholic beverage dealer's permit of any type for the premises of a package liquor store to a corporation unless:

- (1) sixty percent (60%) of the outstanding stock in the corporation is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years; and**
- (2) the stock described in subdivision (1) constitutes a controlling interest in the corporation.**

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

SECTION 5. IC 7.1-3-21-5.2, AS AMENDED BY P.L.107-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.2. (a) The commission shall not issue an alcoholic beverage retailer's ~~or dealer's~~ permit of any type 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 an alcoholic beverage dealer's permit of any type for the premises of a package liquor store to a limited partnership unless:

- (1) 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; and**
- (2) the partnership interest described in subdivision (1) constitutes a controlling interest in the limited partnership.**

~~(b)~~ **(c)** 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 6. IC 7.1-3-21-5.4, AS AMENDED BY P.L.107-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.4. (a) The commission shall not issue an alcoholic beverage retailer's ~~or dealer's~~ permit of any type 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 an alcoholic beverage dealer's permit of any type for the premises of a package liquor store to a limited liability company unless:

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

(2) the membership interest described in subdivision (1) constitutes a controlling interest in the limited partnership.

~~(b)~~ **(c) 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 7. IC 7.1-3-21-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.6. (a) Notwithstanding section 5, 5.2, or 5.4 of this chapter, the commission may renew or transfer ownership of a dealer's permit of any type for the holder of a dealer's permit who:**

(1) held the permit for the premises of a package liquor store before January 1, 2016; and

(2) does not qualify for the permit under section 5(b), 5.2(b), or 5.4(b) of this chapter.

(b) The commission may transfer ownership of a dealer's permit under this section only to an applicant who satisfies the Indiana resident ownership requirements under this chapter."

Delete page 3.

Page 4, delete lines 1 through 20.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 177 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 8, Nays 1.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 177, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 4. IC 7.1-3-20-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 27. (a) This section applies to the premises of a restaurant.**

(b) Subject to subsection (c), the holder of a retailer permit that is issued for the premises of a restaurant may sell or dispense, for on premise consumption only, alcoholic beverages, for which the permittee holds the appropriate permit, from a service window located on the licensed premises that opens to an outside patio or terrace that is contiguous to the main building of the licensed premises of the restaurant.

(c) The holder of a retailer permit that is issued for the premises of a restaurant may sell or dispense alcoholic beverages as provided under subsection (b) only if all the following conditions are met:

- (1) The patio or terrace area described in subsection (b) is:
 - (A) part of the licensed premises; and**
 - (B) clearly delineated and completely enclosed on all sides by a barrier that is at least eighteen (18) inches in height.****
- (2) Access to the service window is limited by a barrier that reasonably deters free access by minors to the window.**
- (3) A conspicuous sign is posted by the barrier described in subdivision (2) that states that minors are not allowed to cross the barrier to enter the area near the service window."**

Page 5, between lines 35 and 36, begin a new line block indented and insert:



"(6) The refilling of a bottle or container with a product from a farm winery in an establishment in which alcoholic beverages are sold that is owned, in whole or in part, by a farm winery with the appropriate permit issued under this title."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 177 as printed January 29, 2016.)

DERMODY

Committee Vote: yeas 13, nays 0.

