



Reprinted
April 6, 2017

ENGROSSED SENATE BILL No. 358

DIGEST OF SB 358 (Updated April 5, 2017 6:29 pm - DI 107)

Citations Affected: IC 7.1-3; IC 7.1-5; IC 9-30; noncode.

Synopsis: Alcoholic beverages. Permits a minor to be on the premises of a farm winery if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least 21 years of age. Allows a farm winery and a small brewer to employ a minor who is a family member in a capacity that does not involve the sale or serving of alcoholic beverages. Permits a person who is at least 18 years of age and less than 21 years of age to work as an assistant on a delivery truck if: (1) the person's duties are limited to handling alcoholic beverages in connection with loading and unloading; (2) the person acts under the supervision of a driver holding a salesman's
(Continued next page)

Effective: Upon passage; July 1, 2017.

**Alting, Messmer,
Randolph Lonnie M, Grooms, Buck**
(HOUSE SPONSORS — SMALTZ, CLERE)

January 10, 2017, read first time and referred to Committee on Public Policy.
February 2, 2017, amended, reported favorably — Do Pass.
February 6, 2017, read second time, ordered engrossed. Engrossed.
February 7, 2017, read third time, passed. Yeas 39, nays 11.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Public Policy.
April 3, 2017, amended, reported — Do Pass.
April 5, 2017, read second time, amended, ordered engrossed.

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Digest Continued

permit; and (3) certain other conditions are met. Provides that it is the intent of the General Assembly that certain permit holders should not be permitted to sell cold beer or liquor for carryout, consistent with the character of business test. Provides that until July 1, 2019, the alcohol and tobacco commission may not: (1) issue a new retailer's permit; (2) approve the transfer of a retailer's permit; or (3) approve the renewal of a retailer's permit; for the sale of alcoholic beverages for carryout to an establishment that is a restaurant within a grocery store, convenience store or drug store. Provides that an establishment that was issued a retailer's permit, including a restaurant located within a store, before May 15, 2017, that allows the permittee to sell or provide alcoholic beverages for carryout, may sell or provide carry unless the retailer's permit is revoked or suspended. Allows a retailer permittee to recork wine for a customer that partially consumes a bottle of wine with a meal. Provides that the open container law does not apply to recorked wine. Provides that the legislative council is urged to establish a study committee during the 2017 interim to: (1) evaluate and study Title 7.1; (2) propose statutory changes to improve Title 7.1; (3) evaluate and study alcohol permits; (4) study permit quota system data; and (5) study permit requirements for alcohol retailers.

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Reprinted
April 6, 2017

First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 358

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 7.1-3-1-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 1.5. (a) It is the intent of the General**
4 **Assembly, consistent with the character of the business test**
5 **described in section 19 of this chapter, that a grocery store,**
6 **convenience store, specialty or gourmet food store, or drug store**
7 **should not be given the privilege of selling cold beer for carryout.**

8 **(b) It is the intent of the General Assembly, consistent with the**
9 **character of the business test described in section 19 of this**
10 **chapter, that a restaurant located within a grocery store,**
11 **convenience store, specialty or gourmet food store, or drug store**
12 **should not be given the privilege of selling cold beer or liquor for**
13 **carryout.**

14 SECTION 2. IC 7.1-3-1-19 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. Character of the
16 Business Test. **(a)** Whenever the character of the business in which an

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1 applicant is engaged is material to ~~his~~ **the applicant's** being issued a
 2 permit under this article, or is material to ~~his~~ **the applicant's** being
 3 qualified to continue to hold the permit, it must be made to appear to
 4 the satisfaction of the commission that a substantial portion of the
 5 business carried on, or to be carried on, in the premises in respect to
 6 which a permit is applied for is in the nature of the applicant's main
 7 business function in the premises.

8 **(b) The commission shall apply the intent of the General**
 9 **Assembly, as described in section 1.5 of this chapter, when**
 10 **considering the character of an applicant's business, as described**
 11 **in subsection (a).**

12 SECTION 3. IC 7.1-3-20-9.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) Except as provided in**
 15 **section 9.6 of this chapter, after May 14, 2017, the commission may**
 16 **not:**

- 17 **(1) issue a new retailer's permit;**
- 18 **(2) approve the transfer of a retailer's permit; or**
- 19 **(3) approve the renewal of a retailer's permit;**

20 **for the sale of alcoholic beverages for carryout to an establishment**
 21 **that is a restaurant within a grocery store, convenience store, or**
 22 **drug store.**

23 **(b) This section expires July 1, 2019.**

24 SECTION 4. IC 7.1-3-20-9.6 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. (a) As used in this section,**
 27 **"store" means a grocery store, convenience store, or drug store.**

28 **(b) Any establishment that was issued a retailer's permit before**
 29 **May 15, 2017, that allows the permittee to sell or provide alcoholic**
 30 **beverages for carryout may continue to sell or provide carryout**
 31 **after May 14, 2017, unless the retailer's permit is revoked or is**
 32 **suspended. This section applies to any establishment issued a**
 33 **retailer's permit, including a restaurant that is located within a**
 34 **store.**

35 SECTION 5. IC 7.1-3-20-9.7 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE UPON PASSAGE]: **Sec. 9.7. (a) This section applies to**
 38 **a restaurant that has a wine retailer permit.**

39 **(b) A restaurant that has a wine retailer permit may allow a**
 40 **patron to remove one (1) unsealed bottle of wine for consumption**
 41 **off the licensed premises if the following requirements are**
 42 **satisfied:**



- 1 **(1) The patron consumed a portion of the bottle of wine on the**
 2 **restaurant premises with a purchased meal.**
 3 **(2) The permittee:**
 4 **(A) recorks the partially consumed bottle of wine with the**
 5 **original or similar type cork that is reinserted in the bottle**
 6 **and can only be removed by a corkscrew or similar device;**
 7 **and**
 8 **(B) places the resealed bottle of wine in a bag or other**
 9 **container that is secured in such a manner that it is visibly**
 10 **apparent if the container has been subsequently opened or**
 11 **tampered with.**
 12 **(3) The permittee provides to the patron a dated receipt for**
 13 **the resealed bottle of wine and meal.**
 14 **(c) If transported in a motor vehicle, the container with the**
 15 **resealed bottle of wine must be placed in a locked trunk or the area**
 16 **behind the last upright seat of a motor vehicle that is not equipped**
 17 **with a trunk.**
 18 SECTION 6. IC 7.1-5-7-11, AS AMENDED BY P.L.196-2015,
 19 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2017]: Sec. 11. (a) The provisions of sections 9 and 10 of this
 21 chapter shall not apply if the public place involved is one (1) of the
 22 following:
 23 (1) Civic center.
 24 (2) Convention center.
 25 (3) Sports arena.
 26 (4) Bowling center.
 27 (5) Bona fide club.
 28 (6) Drug store.
 29 (7) Grocery store.
 30 (8) Boat.
 31 (9) Dining car.
 32 (10) Pullman car.
 33 (11) Club car.
 34 (12) Passenger airplane.
 35 (13) Horse racetrack facility holding a recognized meeting permit
 36 under IC 4-31-5.
 37 (14) Satellite facility (as defined in IC 4-31-2-20.5).
 38 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
 39 public.
 40 (16) That part of a restaurant which is separate from a room in
 41 which is located a bar over which alcoholic beverages are sold or
 42 dispensed by the drink.



- 1 (17) Entertainment complex.
 2 (18) Indoor golf facility.
 3 (19) A recreational facility such as a golf course, bowling center,
 4 or similar facility that has the recreational activity and not the sale
 5 of food and beverages as the principal purpose or function of the
 6 person's business.
 7 (20) A licensed premises owned or operated by a postsecondary
 8 educational institution described in IC 21-17-6-1.
 9 (21) An automobile racetrack.
 10 (22) An indoor theater under IC 7.1-3-20-26.
 11 (23) A senior residence facility campus (as defined in
 12 IC 7.1-3-1-29(c)) at which alcoholic beverages are given or
 13 furnished as provided under IC 7.1-3-1-29.
 14 (24) A hotel other than a part of a hotel that is a room in a
 15 restaurant in which a bar is located over which alcoholic
 16 beverages are sold or dispensed by the drink.
 17 (25) The location of an allowable event to which IC 7.1-3-6.1
 18 applies.
 19 (26) The location of a charity auction to which IC 7.1-3-6.2
 20 applies.
 21 **(27) A farm winery and any additional locations of the farm**
 22 **winery under IC 7.1-3-12-5(b), if the minor is in the company**
 23 **of a parent, legal guardian or custodian, or family member**
 24 **who is at least twenty-one (21) years of age.**
 25 (b) For the purpose of this subsection, "food" means meals prepared
 26 on the licensed premises. It is lawful for a minor to be on licensed
 27 premises in a room in which is located a bar over which alcoholic
 28 beverages are sold or dispensed by the drink if all the following
 29 conditions are met:
 30 (1) The minor is eighteen (18) years of age or older.
 31 (2) The minor is in the company of a parent, guardian, or family
 32 member who is twenty-one (21) years of age or older.
 33 (3) The purpose for being on the licensed premises is the
 34 consumption of food and not the consumption of alcoholic
 35 beverages.
 36 SECTION 7. IC 7.1-5-7-13, AS AMENDED BY P.L.94-2008,
 37 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2017]: Sec. 13. (a) Section 12 of this chapter does not prohibit
 39 the following:
 40 (1) The employment of a person at least eighteen (18) years of age
 41 but less than twenty-one (21) years of age on or about licensed
 42 premises where alcoholic beverages are sold, furnished, or given



1 away for consumption either on or off the licensed premises, for
2 a purpose other than:

- 3 (A) selling;
4 (B) furnishing, other than serving;
5 (C) consuming; or
6 (D) otherwise dealing in;

7 alcoholic beverages.

8 (2) A person at least nineteen (19) years of age but less than
9 twenty-one (21) years of age from ringing up a sale of alcoholic
10 beverages in the course of the person's employment.

11 (3) A person who is at least nineteen (19) years of age but less
12 than twenty-one (21) years of age and who has successfully
13 completed an alcohol server training program certified under
14 IC 7.1-3-1.5 from serving alcoholic beverages in a dining area or
15 family room of a restaurant or hotel:

- 16 (A) in the course of a person's employment as a waiter,
17 waitress, or server; and
18 (B) under the supervision of a person who:
19 (i) is at least twenty-one (21) years of age;
20 (ii) is present at the restaurant or hotel; and
21 (iii) has successfully completed an alcohol server training
22 program certified under IC 7.1-3-1.5 by the commission.

23 This subdivision does not allow a person at least nineteen (19)
24 years of age but less than twenty-one (21) years of age to be a
25 bartender.

26 **(4) The employment of a person at least eighteen (18) years of**
27 **age but less than twenty-one (21) years of age on or about**
28 **licensed premises where alcoholic beverages are sold,**
29 **furnished, or given away for consumption either on or off the**
30 **licensed premises if all of the following apply:**

- 31 **(A) The person is employed as an assistant on a delivery**
32 **truck.**
33 **(B) The person's duties with respect to alcoholic beverages**
34 **are limited to handling alcoholic beverages in connection**
35 **with the loading, unloading, stowing, or storing alcoholic**
36 **beverages that are being delivered or picked up.**
37 **(C) The person does not sell, furnish, or deal in alcoholic**
38 **beverages in any manner except as expressly permitted**
39 **under clause (B).**
40 **(D) The person acts under the supervision of a driver**
41 **holding a salesman's permit.**
42 **(E) The person does not collect money for the delivery or**



1 **pick up.**
 2 **(b) This chapter does not prohibit a person less than twenty-one**
 3 **(21) years of age from being on the premises of a brewery under**
 4 **IC 7.1-3-2-7(5), or a farm winery, including any additional**
 5 **locations of the farm winery under IC 7.1-3-12-5(b), if the person**
 6 **is:**

- 7 **(1) the child, stepchild, grandchild, nephew, or niece of an**
 8 **owner of the brewery or farm winery; and**
 9 **(2) employed on the premises for a purpose other than:**
 10 **(A) selling;**
 11 **(B) furnishing, other than serving;**
 12 **(C) consuming; or**
 13 **(D) otherwise dealing in;**
 14 **alcoholic beverages.**

15 **A minor described in this subsection is not required to be**
 16 **accompanied by a parent, legal guardian or custodian, or family**
 17 **member while on the premises of the brewery or farm winery.**

18 SECTION 8. IC 9-30-15-3, AS AMENDED BY P.L.198-2016,
 19 SECTION 605, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) This section does not apply
 21 to the following:

- 22 (1) A container possessed by a person, other than the operator of
 23 the motor vehicle, who is in the:
 24 (A) passenger compartment of a motor vehicle designed,
 25 maintained, or used primarily for the transportation of persons
 26 for compensation; or
 27 (B) living quarters of a house coach or house trailer.
 28 (2) A container located in a fixed center console or other similar
 29 fixed compartment that is locked.
 30 (3) A container located:
 31 (A) behind the last upright seat; or
 32 (B) in an area not normally occupied by a person;
 33 in a motor vehicle that is not equipped with a trunk.
 34 **(4) A bottle of wine that has been recorked and resealed as**
 35 **described in IC 7.1-3-20-9.7.**

36 (b) A person in a motor vehicle who, while the motor vehicle is in
 37 operation or while the motor vehicle is located on the right-of-way of
 38 a public highway, possesses a container:

- 39 (1) that has been opened;
 40 (2) that has a broken seal; or
 41 (3) from which some of the contents have been removed;
 42 in the passenger compartment of the motor vehicle commits a Class C



- 1 infraction.
- 2 (c) A violation of this section is not considered a moving traffic
- 3 violation:
- 4 (1) for purposes of IC 9-14-12-3; and
- 5 (2) for which points are assessed by the bureau under the point
- 6 system.
- 7 SECTION 9. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
- 8 **SECTION, "legislative council" refers to the legislative council**
- 9 **created by IC 2-5-1.1-1.**
- 10 (b) **The legislative council is urged to establish a study**
- 11 **committee, during the 2017 legislative interim, to:**
- 12 **(1) evaluate and study Title 7.1 and consider the**
- 13 **inconsistencies, conflicts, and redundancies within the title;**
- 14 **(2) propose statutory changes to improve Title 7.1;**
- 15 **(3) evaluate and study alcohol permits issued by the alcohol**
- 16 **and tobacco commission, including:**
- 17 **(A) the different types of permits issued;**
- 18 **(B) permit requirements; and**
- 19 **(C) commission practices;**
- 20 **(4) study permit quota system data including the number of**
- 21 **permit types; and**
- 22 **(5) study permitting requirements for alcohol retailers,**
- 23 **including the requirements for different types of permits.**
- 24 (c) **If a study committee is established and assigned the topics**
- 25 **described in subsection (b), the study committee shall, not later**
- 26 **than November 1, 2017, issue a final report to the legislative**
- 27 **council containing the study committee's findings and**
- 28 **recommendations, including any recommended legislation**
- 29 **concerning the topics, in an electronic format under IC 5-14-6.**
- 30 (e) **This SECTION expires December 31, 2017.**
- 31 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. 358, 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 2, line 30, delete "except for a tastings room or" and insert **"if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age."**

Page 2, delete line 31.

Page 2, after line 42, begin a new paragraph, and insert:

"SECTION 3. IC 7.1-5-7-13, AS AMENDED BY P.L.94-2008, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

- (A) selling;
- (B) furnishing, other than serving;
- (C) consuming; or
- (D) otherwise dealing in;

alcoholic beverages.

(2) A person at least nineteen (19) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person who is at least nineteen (19) years of age but less than twenty-one (21) years of age and who has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 from serving alcoholic beverages in a dining area or family room of a restaurant or hotel:

- (A) in the course of a person's employment as a waiter, waitress, or server; and
- (B) under the supervision of a person who:
 - (i) is at least twenty-one (21) years of age;
 - (ii) is present at the restaurant or hotel; and
 - (iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19)



years of age but less than twenty-one (21) years of age to be a bartender.

(4) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises if all of the following apply:

(A) The person is employed as an assistant on a delivery truck.

(B) The person's duties with respect to alcoholic beverages are limited to handling alcoholic beverages in connection with the loading, unloading, stowing, or storing alcoholic beverages that are being delivered or picked up.

(C) The person does not sell, furnish, or deal in alcoholic beverages in any manner except as expressly permitted under clause (B).

(D) The person acts under the supervision of a driver holding a salesman's permit.

(E) The person does not collect money for the delivery or pick up.

(b) This chapter does not prohibit a person less than twenty-one (21) years of age from being on the premises of a brewery under IC 7.1-3-2-7(5), or a farm winery, including any additional locations of the farm winery under IC 7.1-3-12-5(b), if the person is:

(1) the child, stepchild, grandchild, nephew, or niece of an owner of the brewery or farm winery; and

(2) employed on the premises for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

A minor described in this subsection is not required to be accompanied by a parent, legal guardian or custodian, or family



member while on the premises of the brewery or farm winery."

Delete page 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 358 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 358, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) It is the intent of the General Assembly that a grocery store, convenience store, specialty or gourmet food store, or drug store should not be given the privilege of selling cold beer for carryout.**

(b) It is the intent of the General Assembly that a restaurant located within a grocery store, convenience store, specialty or gourmet food store, or drug store should not be given the privilege of selling cold beer or liquor for carryout.

SECTION 2. IC 7.1-3-20-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) This section applies only to the following:**

(1) The sale of cold carryout by a retailer permittee under a retailer's permit that was issued or transferred to the retailer permittee after May 14, 2017.

(2) The sale of cold carryout by a retailer permittee under a retailer's permit that is renewed after May 14, 2017.

(b) This section does not apply to the sale of alcoholic beverages for cold carryout under a retailer's permit issued to:

(1) A city market under IC 7.1-3-20-25.

(2) A marina under IC 7.1-3-1-25.

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(3) A state park under IC 7.1-3-17.8.

(4) A golf course.

(5) A hotel or resort hotel.

(6) A social or fraternal club.

(7) A brewery, winery, or artisan distillery.

(c) A retailer permittee may not sell alcoholic beverages for cold carryout unless at least thirty percent (30%) of the retailer permittee's gross retail sales are derived from the sale of alcoholic beverages for on-premises consumption.

(d) An applicant for a retailer's permit for a business:

(1) that has not opened; and

(2) that wants to sell alcoholic beverages for cold carryout; must provide the commission with a verified certification stating that the projected gross retail income from alcoholic beverage sales on the premises during the first two (2) years of operation will meet the requirements of subsection (c). Not more than one hundred eighty (180) days after the date the premises opens for business, the applicant shall provide a financial statement with sufficient information to show that the requirements of subsection (c) were met during the first one hundred twenty (120) days after the business opens.

(e) When a retailer permittee applies for renewal of a retailer's permit, the retailer permittee shall submit to the commission an affidavit of compliance that is signed by the permittee, or by a responsible officer or partner, under the penalties of perjury, that states that the requirements of subsection (c) continue to be met. If the commission has reasonable grounds to doubt the truthfulness of an affidavit of compliance, the commission may require the retailer permittee to provide audited financial statements.

(f) A retailer permittee that wants to sell alcoholic beverages for cold carryout must provide the commission with a financial statement with information that shows:

(1) dollar amounts of gross retail income from all food and beverages that are subject to the state gross retail tax under IC 6-2.5; and

(2) dollar amounts and percentages of the sales that are sales of alcoholic beverages;

during the one hundred eighty (180) days preceding the date of the application.

(g) The commission may:

(1) require that a financial statement submitted by an applicant under this chapter be audited by a certified public



accountant; and

(2) with the cooperation of the department of state revenue, verify the information provided by the applicant.

(h) The information provided to the commission under this chapter regarding annual gross retail income is confidential information and may not be disclosed to the public under IC 5-14-3. However, the commission may disclose the information:

(1) to the department of state revenue to verify the accuracy of the amount of annual gross retail income from sales of food and beverages; and

(2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross retail income from sales of food and beverages discovered by the department of state revenue.

(i) Notwithstanding IC 6-8.1-7-1 or any other law, in fulfilling its obligations under this section, the department of state revenue may provide to the commission confidential information. The commission shall maintain the confidentiality of information provided by the department of state revenue under this chapter. However, the commission may disclose the information in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of any information provided by the department of state revenue.

(j) Notwithstanding this section, a retailer's permit that was issued before May 15, 2017, that authorizes the retailer permittee to sell alcoholic beverages for carryout may continue to sell carryout after May 14, 2017, until the remaining term of the permit expires. The permittee must comply with subsection (f) when the permittee applies for renewal of the permit, if the permittee wants to sell alcoholic beverages for cold carryout.

SECTION 3. IC 7.1-3-20-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.6. (a) This section applies to a restaurant that has a wine retailer permit. This section applies regardless of whether the permittee satisfies the requirements to sell alcoholic beverages for cold carryout under section 9.5 of this chapter.

(b) A restaurant that has a wine retailer permit may allow a patron to remove one (1) unsealed bottle of wine for consumption off the licensed premises if the following requirements are satisfied:

(1) The patron consumed a portion of the bottle of wine on the



restaurant premises with a purchased meal.

(2) The permittee:

(A) recorks the partially consumed bottle of wine with the original or similar type cork that is reinserted in the bottle and can only be removed by a corkscrew or similar device; and

(B) places the resealed bottle of wine in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with.

(3) The permittee provides to the patron a dated receipt for the resealed bottle of wine and meal.

(c) If transported in a motor vehicle, the container with the resealed bottle of wine must be placed in a locked trunk or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk."

Page 4, after line 25, begin a new paragraph and insert:

"SECTION 5. IC 9-30-15-3, AS AMENDED BY P.L.198-2016, SECTION 605, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) This section does not apply to the following:

(1) A container possessed by a person, other than the operator of the motor vehicle, who is in the:

(A) passenger compartment of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) living quarters of a house coach or house trailer.

(2) A container located in a fixed center console or other similar fixed compartment that is locked.

(3) A container located:

(A) behind the last upright seat; or

(B) in an area not normally occupied by a person; in a motor vehicle that is not equipped with a trunk.

(4) A bottle of wine that has been recorked and resealed as described in IC 7.1-3-20-9.6.

(b) A person in a motor vehicle who, while the motor vehicle is in operation or while the motor vehicle is located on the right-of-way of a public highway, possesses a container:

(1) that has been opened;

(2) that has a broken seal; or

(3) from which some of the contents have been removed;

in the passenger compartment of the motor vehicle commits a Class C



infraction.

(c) A violation of this section is not considered a moving traffic violation:

- (1) for purposes of IC 9-14-12-3; and
- (2) for which points are assessed by the bureau under the point system.

SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 358 as printed February 3, 2017.)

SMALTZ

Committee Vote: yeas 9, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 358 be amended to read as follows:

Page 1, line 4, after "Assembly" insert "**, consistent with the character of the business test described in section 19 of this chapter,**".

Page 1, line 7, after "Assembly" insert "**, consistent with the character of the business test described in section 19 of this chapter,**".

Page 1, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 2. IC 7.1-3-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. Character of the Business Test. **(a)** Whenever the character of the business in which an applicant is engaged is material to ~~his~~ **the applicant's** being issued a permit under this article, or is material to ~~his~~ **the applicant's** being qualified to continue to hold the permit, it must be made to appear to the satisfaction of the commission that a substantial portion of the business carried on, or to be carried on, in the premises in respect to which a permit is applied for is in the nature of the applicant's main business function in the premises.



(b) The commission shall apply the intent of the General Assembly, as described in section 1.5 of this chapter, when considering the character of an applicant's business, as described in subsection (a)."

Re-number all SECTIONS consecutively.

(Reference is to ESB 358 as printed April 3, 2017.)

SMALTZ

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 358 be amended to read as follows:

Page 1, delete lines 11 through 17, begin a new paragraph and insert:

"SECTION 2. IC 7.1-3-20-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) Except as provided in section 9.6 of this chapter, after May 14, 2017, the commission may not:**

- (1) issue a new retailer's permit;**
- (2) approve the transfer of a retailer's permit; or**
- (3) approve the renewal of a retailer's permit;**

for the sale of alcoholic beverages for carryout to an establishment that is a restaurant within a grocery store, convenience store, or drug store.

(b) This section expires July 1, 2019.

SECTION 3. IC 7.1-3-20-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.6. (a) As used in this section, "store" means a grocery store, convenience store, or drug store.**

(b) Any establishment that was issued a retailer's permit before May 15, 2017, that allows the permittee to sell or provide alcoholic beverages for carryout may continue to sell or provide carryout after May 14, 2017, unless the retailer's permit is revoked or is suspended. This section applies to any establishment issued a retailer's permit, including a restaurant that is located within a store."

Delete page 2.

Page 3, delete lines 1 through 36.

Page 3, line 37, delete "IC 7.1-3-20-9.6" and insert

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"IC 7.1-3-20-9.7".

Page 3, line 39, delete "9.6." and insert "9.7".

Page 3, line 40, delete "This section applies".

Page 3, delete lines 41 through 42.

Page 4, delete line 1.

Page 7, line 40, delete "IC 7.1-3-20-9.6." and insert "**IC 7.1-3-20-9.7.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 358 as printed April 3, 2017.)

COOK

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 358 be amended to read as follows:

Page 8, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(b) The legislative council is urged to establish a study committee, during the 2017 legislative interim, to:

- (1) evaluate and study Title 7.1 and consider the inconsistencies, conflicts, and redundancies within the title;**
- (2) propose statutory changes to improve Title 7.1;**
- (3) evaluate and study alcohol permits issued by the alcohol and tobacco commission, including:**
 - (A) the different types of permits issued;**
 - (B) permit requirements; and**
 - (C) commission practices;**
- (4) study permit quota system data including the number of permit types; and**
- (5) study permitting requirements for alcohol retailers, including the requirements for different types of permits.**

(c) If a study committee is established and assigned the topics described in subsection (b), the study committee shall, not later than November 1, 2017, issue a final report to the legislative



council containing the study committee's findings and recommendations, including any recommended legislation concerning the topics, in an electronic format under IC 5-14-6.

(e) This SECTION expires December 31, 2017."

Renumber all SECTIONS consecutively.

(Reference is to ESB 358 as printed April 3, 2017.)

AUSTIN

