



Reprinted  
February 7, 2023

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## SENATE BILL No. 388

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DIGEST OF SB 388 (Updated February 6, 2023 3:00 pm - DI 129)

**Citations Affected:** IC 6-1.1; IC 6-9.

**Synopsis:** Food and beverage taxes. Requires each local unit that imposes a food and beverage tax to annually report information concerning distributions and expenditures of amounts received from the food and beverage tax. Authorizes the city of Columbia City to impose a food and beverage tax.

**Effective:** Upon passage; July 1, 2023.

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**Holdman, Baldwin,  
Randolph Lonnie M**

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January 19, 2023, read first time and referred to Committee on Tax and Fiscal Policy.  
January 31, 2023, amended, reported favorably — Do Pass.  
February 6, 2023, read second time, amended, ordered engrossed.

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SB 388—LS 7017/DI 129





Reprinted  
February 7, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 388

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 6-1.1-30-18 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
3 **UPON PASSAGE]: Sec. 18. (a) Before March 1, 2024, and before**  
4 **March 1 of every year thereafter, each local unit that imposes a**  
5 **food and beverage tax under IC 6-9 shall provide a report to the**  
6 **department of local government finance that includes:**  
7 (1) **every expenditure of funds by the local unit;**  
8 (2) **each local governmental entity, or instrumentality of a**  
9 **local governmental entity, that received a distribution; and**  
10 (3) **every expenditure of funds by each local governmental**  
11 **entity described in subdivision (2);**  
12 **from amounts received from the food and beverage tax imposed by**  
13 **the local unit during the previous calendar year.**  
14 (b) **The report required under subsection (a) must include for**  
15 **each expenditure, distribution, or payment:**  
16 (1) **the date and amount of the check, expenditure,**  
17 **distribution, or payment;**

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- 1           (2) the payee or recipient;
- 2           (3) the specific purpose, including whether the check,
- 3           expenditure, distribution, or payment was for an employee
- 4           salary or a capital project; and
- 5           (4) if applicable, a description of the project for which the
- 6           check, expenditure, distribution, or payment was made.
- 7           (c) The report required under subsection (a) must be in a format
- 8           and on a form prescribed by the department of local government
- 9           finance.
- 10          (d) The department of local government finance shall post a
- 11          report received under subsection (a) on the department's computer
- 12          gateway.
- 13          (e) The requirements under subsection (a) do not apply to taxes
- 14          collected under:
  - 15           (1) IC 6-9-12 that are distributed to the capital improvement
  - 16           board of managers created by IC 36-10-9-3;
  - 17           (2) IC 6-9-35 that are distributed to the capital improvement
  - 18           board of managers created by IC 36-10-9-3; and
  - 19           (3) IC 6-9-33 that are distributed to the capital improvement
  - 20           board of managers created by IC 36-10-8.
- 21          SECTION 2. IC 6-9-54 IS ADDED TO THE INDIANA CODE AS
- 22          A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 23          1, 2023]:
- 24          **Chapter 54. Columbia City Food and Beverage Tax**
- 25          **Sec. 1. This chapter applies to the city of Columbia City.**
- 26          **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
- 27          **chapter.**
- 28          **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
- 29          **impose an excise tax, known as the city food and beverage tax, on**
- 30          **transactions described in section 4 of this chapter. The fiscal body**
- 31          **of the city may adopt an ordinance under this subsection only after**
- 32          **the city fiscal body has previously:**
  - 33           (1) adopted a resolution in support of the proposed city food
  - 34           and beverage tax; and
  - 35           (2) held at least one (1) separate public hearing in which a
  - 36           discussion of the proposed ordinance to impose the city food
  - 37           and beverage tax is the only substantive issue on the agenda
  - 38           for the public hearing.
- 39          **(b) If the city fiscal body adopts an ordinance under subsection**
- 40          **(a), the city fiscal body shall immediately send a certified copy of**
- 41          **the ordinance to the department of state revenue.**
- 42          **(c) If the city fiscal body adopts an ordinance under subsection**



1 (a), the city food and beverage tax applies to transactions that  
2 occur after the later of the following:

3 (1) The date specified in the ordinance.

4 (2) The last day of the month following sixty (60) days after  
5 the date on which the ordinance is adopted.

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

9 (1) for consumption at a location or on equipment provided by  
10 a retail merchant;

11 (2) in the city; and

12 (3) by a retail merchant for consideration.

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

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

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

17 (3) made of two (2) or more food ingredients, mixed or  
18 combined by a retail merchant for sale as a single item (other  
19 than food that is only cut, repackaged, or pasteurized by the  
20 seller, and eggs, fish, meat, poultry, and foods containing these  
21 raw animal foods requiring cooking by the consumer as  
22 recommended by the federal Food and Drug Administration  
23 in chapter 3, subpart 3-401.11 of its Food Code so as to  
24 prevent food borne illnesses); or

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

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

34 Sec. 5. The city food and beverage tax rate may not exceed one  
35 percent (1%) of the gross retail income received by the merchant  
36 from the food or beverage transaction described in section 4 of this  
37 chapter. For purposes of this chapter, the gross retail income  
38 received by the retail merchant from a transaction does not include  
39 the amount of tax imposed on the transaction under IC 6-2.5.

40 Sec. 6. A tax imposed under this chapter shall be imposed, paid,  
41 and collected in the same manner that the state gross retail tax is  
42 imposed, paid, and collected under IC 6-2.5. However, the return



1 to be filed with the payment of the tax imposed under this chapter  
 2 may be made on a separate return or may be combined with the  
 3 return filed for the payment of the state gross retail tax, as  
 4 prescribed by the department of state revenue.

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

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

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

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

15 **Sec. 9.** Money in the food and beverage tax receipts fund must  
 16 be used by the city only for the following purposes:

17 **(1)** Park and recreation purposes, including the purchase of  
 18 land for park and recreation purposes.

19 **(2)** The pledge of money under IC 5-1-14-4 for bonds, leases,  
 20 or other obligations incurred for a purpose described in  
 21 subdivision (1).

22 Revenue derived from the imposition of a tax under this chapter  
 23 may be treated by the city as additional revenue for the purpose of  
 24 fixing its budget for the budget year during which the revenues are  
 25 to be distributed to the city.

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

32 **Sec. 11. (a)** If the city imposes the tax authorized by this chapter,  
 33 the tax terminates on July 1, 2045.

34 **(b)** This chapter expires July 1, 2045.

35 SECTION 3. 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. 388, 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 3, delete "July 1," and insert "**March 1**,".

Page 1, line 3, delete "July" and insert "**March**".

Page 2, between lines 12 and 13, begin a new paragraph and insert:

**"(e) The requirements under subsection (a) do not apply to taxes collected under:**

**(1) IC 6-9-12 that are distributed to the capital improvement board of managers created by IC 36-10-9-3;**

**(2) IC 6-9-35 that are distributed to the capital improvement board of managers created by IC 36-10-9-3; and**

**(3) IC 6-9-33 that are distributed to the capital improvement board of managers created by IC 36-10-8."**

and when so amended that said bill do pass.

(Reference is to SB 388 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

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 SENATE MOTION

Madam President: I move that Senate Bill 388 be amended to read as follows:

Page 4, line 33, delete "2043." and insert "**2045**".

Page 4, line 34, delete "2043." and insert "**2045**".

(Reference is to SB 388 as printed February 1, 2023.)

GASKILL

