

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. 515

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 7.1-3-19-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 17. (a) This section applies to a permit issued under IC 7.1-3-20-16(d), IC 7.1-3-20-16(g), IC 7.1-3-20-16(k), or IC 7.1-3-20-16(l) if a local unit has adopted an ordinance requiring a formal written commitment as a condition of eligibility for a permit, as described in subsection (b).**

(b) As a condition of eligibility for a permit, the applicant must enter into a formal written commitment with the municipal legislative body regarding the character or type of business that will be conducted on the permit premises. The municipal legislative body must adopt an ordinance approving the formal written commitment. A formal written commitment is binding on the permit holder and on any lessee or proprietor of the permit premises. When an application for renewal of a permit is filed, the applicant shall forward a copy of the application to the municipal legislative body. The municipal legislative body shall receive notice of any filings, hearings, or other proceedings on the application for renewal from the applicant.

(c) A formal written commitment may be modified by the

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municipal legislative body with the agreement of the permit holder.

(d) Except as provided in subsection (f), the amount of time that a formal written commitment is valid may not be limited or restricted.

(e) A formal written commitment is terminated at the time a permit is lost, revoked, or not renewed.

(f) If the character or type of business violates the formal written commitments, the municipality may adopt a recommendation to the local board and the commission to:

- (1) deny the permit holder's application to renew the permit;**
- or**
- (2) revoke the permit holder's permit.**

(g) The commission shall consider evidence at the hearing on the issue of whether the business violated the formal written commitments. If the commission determines there is sufficient evidence that the commitments have been violated by the permittee, the commission may:

- (1) deny the application to renew the permit; or**
- (2) revoke the permit;**

as applicable.

SECTION 2. IC 7.1-3-20-16, AS AMENDED BY P.L.176-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal,



state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) **Subject to section 16.1 of this chapter**, the commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. **The ownership of a permit issued under this subsection and the location for which the permit was issued may not be transferred. The legislative body of the municipality in which the municipal riverfront development project is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.**

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to the following:

- (1) A town that:
 - (A) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
 - (B) has a population of more than twenty thousand (20,000) but less than twenty-three thousand seven hundred (23,700).



(2) A city that has an indoor theater as described in section 26 of this chapter.

(g) The commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than seven hundred (700) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.
- (2) A county courthouse is located within the district.
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within seven hundred (700) feet of the district. **The ownership of a permit issued under this subsection and the location for which the permit was issued shall not be transferred. A permit holder and any lessee or proprietor of the permit premises is subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.** The total number of active permits issued under this subsection may not exceed ten (10) at any time. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

- (1) a town with a population of more than twenty thousand (20,000); or

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(2) a city with a population of more than forty-four thousand five hundred (44,500) but less than forty-five thousand (45,000); located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

- (1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.
- (2) A unit of the National Park Service is partially located within the district.
- (3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under

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IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

(j) Subject to section 16.2 of this chapter, the commission may issue not more than six (6) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant on land within a municipal lakefront development project funded in part with state, local, and federal money. A permit issued under this subsection may not be transferred. If the commission issues six (6) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed six (6) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial permit under this subsection is ten thousand dollars (\$10,000).

(k) The commission may issue not more than eight (8) new three-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be a proprietor, as owner or lessee, or both, of a restaurant located:

- (1) within a motorsports investment district (as defined in IC 5-1-17.5-11); or**
- (2) not more than one thousand five hundred (1,500) feet from a motorsports investment district.**

The ownership of a permit issued under this subsection and the location for which the permit was issued shall not be transferred. If the commission issues eight (8) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed eight (8) at any time. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.

(l) The commission may issue not more than two (2) new three-way permits to sell alcoholic beverages for on-premises consumption for premises located within a qualified motorsports



facility (as defined in IC 5-1-17.5-14). The ownership of a permit issued under this subsection and the location for which the permit was issued shall not be transferred. If the commission issues two (2) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed two (2) at any time. A permit holder and any lessee or proprietor of the permit premises are subject to the formal written commitment required under IC 7.1-3-19-17. Notwithstanding IC 7.1-3-1-3.5, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission. The permit holder is not entitled to any refund or other compensation.

SECTION 3. IC 14-18-2-3, AS AMENDED BY P.L.70-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) As used in this section, "inn" means a public facility that has the following:

- (1) At least twenty (20) rooms for the accommodation of overnight guests.
- (2) A dining room that offers table service for at least forty (40) individuals at one (1) time during normal dining hours.

(b) A lease and contract authorized by this chapter must include in its terms the following provisions and conditions:

- (1) The legal description of the leasehold. A survey for the description is not required.
- (2) The term of the lease. The term may not exceed forty (40) years with two (2) additional options to renew of thirty (30) years each.
- (3) Provision for the submission of complete plans and specifications to the department for review and written approval before beginning any construction.
- (4) The manner of payment of rental.
- (5) The facilities provided will be available to the public without discrimination and at charges designed to make the facilities available to a maximum number of the citizens of Indiana.
- (6) That the rates and fees charged for goods and services on the leased area will be in accord with those charged at similar developments in the area.
- (7) The disposition of the leasehold and improvements at the termination of the lease.
- (8) Except as provided in subsections (c) and (e), if the lease and contract concerns state owned land under the management and



control of the department, including state parks, a prohibition on the sale or public display of alcoholic beverages on the premises.

(c) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of an inn if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(d) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a public golf course if:

- (1) the lease and contract concerns federally owned land that is:
 - (A) under the control and management of the department; and
 - (B) located on Brookville Reservoir; and
- (2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(e) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a pavilion located within Indiana Dunes State Park, **and within one hundred (100) feet of the pavilion and the pavilion parking lot**, if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(f) The retail sale of alcoholic beverages on licensed premises described in subsections (c), (d), and (e) is subject to any other applicable alcoholic beverage provisions under the Indiana Code and any rule adopted to implement any other applicable alcoholic beverage provisions under the Indiana Code.

(g) A lease and contract may prescribe other terms and conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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