

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6495

BILL NUMBER: HB 1090

NOTE PREPARED: Apr 8, 2021

BILL AMENDED: Apr 8, 2021

SUBJECT: Alcohol Matters.

FIRST AUTHOR: Rep. Harris

FIRST SPONSOR: Sen. Charbonneau

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Municipal Lakefront Development Projects:* This bill removes the requirements that: (1) an oil refinery be located within a municipal lakefront development project; and (2) a municipal lakefront development project must be funded in part with local, state, and federal money.

Food Hall Permits: The bill provides that certain provisions of the food hall master permit section do not apply to a food hall that: (1) is located in a certified technology park; and (2) operates in a certain type of building or complex of buildings.

Jumbo Boats: It modifies the definition of "jumbo boat" by removing the requirement that the vessel be approved by the United States Coast Guard. It provides that a holder of a: (1) boat beer permit who operates a jumbo boat may sell beer for carryout; (2) boat liquor permit who operates a jumbo boat may sell liquor for carryout; and (3) boat wine permit who operates a jumbo boat may sell wine for carryout. The bill also allows a jumbo boat to apply for and hold a retailer's endorsement. It allows Type II gaming to be conducted on a jumbo boat. It makes conforming changes.

Municipal Riverfront Development Projects: The bill provides that a municipal riverfront development project may include a project that borders a lake that is at least 750 acres and is completely within the boundaries of a municipality.

Carryout Sales in an Economic Development Area: It allows a person who holds a restaurant permit in an economic development area and an interest in a brewery, farm winery, or artisan distillery (production facility) located on or adjacent to the restaurant to sell alcoholic beverages for carryout that are manufactured at the production facility in a general merchandising area of the restaurant. It provides that carryout may be

sold from a self-service display in the general merchandising area.

The bill also provides that a minor may: (1) be in the general merchandising area; and (2) tour the production facility, if the minor is accompanied by an adult family member and the tour does not include the consumption, tasting, or sampling of alcoholic beverages. (Current law allows a minor to be on the premises of a farm winery or artisan distillery if accompanied by an adult family member, but not a brewery.)

Effective Date: (Amended) Upon passage; July 1, 2021.

Explanation of State Expenditures: (Revised) *Alcohol and Tobacco Commission (ATC)*: The ATC would incur some administrative expenses relating to the revision of forms, instructions, and computer programs to allow a qualified jumbo boat to get endorsement to conduct Type II Gambling Games. The ATC could also incur administrative expenses to process additional permit applications for municipal lakefront development projects, municipal riverfront development projects, and food halls. The provisions in the bill could increase the administrative workload for the ATC. The ATC's current level of resources should be sufficient to implement these changes.

(Revised) *Department of State Revenue (DOR)*: The DOR will incur additional expenses to revise forms, update instructions, and modify the existing tax processing system to account for the impact on the Type II Gambling Game Excise Tax. The DOR's current level of funding and resources should be sufficient to administer this tax deduction.

Explanation of State Revenues: *Municipal Lakefront Development Projects*: Under current law, the ATC may issue up to six three-way, two-way, or one-way permits for restaurants in a municipal lakefront development project in addition to what the quota system allows. Among other requirements, current law specifies that a city park, baseball stadium, and oil refinery be located within a municipal lakefront development project area. Current law also requires a municipal lakefront development project to be funded in part with state, local, and federal money. To the extent that the bill allows the ATC to issue more permits than it would have under current law, revenue from permit fees could increase.

Permits issued within a municipal lakefront development project are initially sold at auction, with a minimum bid of \$10,000. Auction proceeds are deposited in the Enforcement and Administration Fund. Annual renewal fees are \$500 for a one-way permit, \$750 for a two-way permit, and \$1,000 for a three-way permit. Revenue from renewal fees is distributed to the General Fund (37%), the city in which the licensed premises are located (33%), and the Enforcement and Administration Fund (30%).

(Revised) *Jumbo Boats*: The bill will allow a qualified jumbo boat to acquire the endorsement to conduct Type II Gambling Games. Under the bill, the term "jumbo boat" is defined as a vessel having a length of at least 135 feet and a width of at least 35 feet. The term does not include a riverboat. Allowing Type II games at these additional locations will result in additional license fees generated by Type II Gambling Games retailers. The license fee revenue is deposited in the ATC's Enforcement and Administration Fund. Any fiscal impact is indeterminable. Since the bill is effective upon passage, any impact on licensee fee revenue could begin in FY 2021.

Gambling operations at a jumbo boat Type II Gambling Game establishment would also increase revenue from the Type II Gambling Game Excise Tax imposed on purchases of gambling supplies and equipment. The excise tax is deposited in the state General Fund. Any fiscal impact on excise tax revenue could begin in FY 2021.

(Revised) *Municipal Riverfront Development Projects*: The bill would allow the ATC to issue additional retailer permits for restaurants in municipal riverfront development project areas that border a lake described in the bill. However, the number of additional permits would likely be small. The annual permit fee is \$500 if the permittee serves only beer or only wine; \$750 if the permittee serves both beer and wine, but no liquor; or \$1,000 if the permittee serves beer, wine, and liquor. Revenue is distributed to the General Fund (37%); the city, town, or county in which the licensed premises are located (33%); and the Enforcement and Administration Fund (30%).

(Revised) *Minors on Certain Premises*: The provision allowing minors to be on certain premises under certain conditions could potentially reduce revenue to the state General Fund and the Enforcement and Administration Fund from fines if there are fewer violations of IC 7.1-5-7-9 and IC 7.1-5-7-10. However, any decrease in revenue would likely be small.

It is a Class C infraction for a minor to knowingly or intentionally be in a public place where alcoholic beverages are sold. It is also a Class C infraction for a parent or guardian to take a minor into a place where alcohol is sold and for a permittee to allow a minor in these places. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If the ATC imposes a fine, that revenue is deposited in the Enforcement and Administration Fund.

(Revised) *Food Hall Permits*: If additional food hall master permits are issued, additional permits for food hall vendors would likely also be issued, and permit fee revenue would increase. The initial fee for a food hall master permit is \$50,000, and the annual renewal fee is \$5,000. The initial fee for a food hall vendor's permit is \$2,500 if the space is less than 1,000 square feet or \$5,000 if the space is less than 2,000 square feet, with annual renewal fees of \$1,000. If the vending space is more than 2,000 square feet, the vendor must purchase a permit subject to availability under the quota system. All revenue from these fees is deposited in the Enforcement and Administration Fund.

Additional Information -

(Revised) *Type II Gambling Game License Fee*: The fee is paid by a person who is licensed to sell alcoholic beverages and has an endorsement to conduct Type II Gambling Games. The first year fee is \$250. The renewal fee is based on a schedule based on adjusted gross revenue from Type II Gambling Games operations in the preceding year. Under current law, "Type II Gambling Game" means a pull tab, punchboard, or tip board game. As reported by the ATC, there are about 1,600 approved alcoholic beverage license holders with an endorsement to conduct Type II Gambling Games. This generated \$0.25 M in license fees in FY 2020. The revenue is deposited in ATC's Enforcement and Administration Fund.

(Revised) *Type II Gambling Game Excise Tax*: The Type II Gambling Game Excise Tax is paid by licensed distributors or manufacturers of pull tabs, punchboards, and tip boards. The tax is equal to 10% of the price paid by all approved alcoholic beverage license holders with an endorsement allowing on-premises sale of pull tabs, punchboards, and tip boards. There are 23 licensed distributors and about 10 licensed manufacturers of Type II Gambling Games. The tax generated about \$0.5 M in FY 2020. The revenue is deposited in the state General Fund.

(Revised) *Alcoholic Beverage Sales on Jumbo Boats*: Current law allows boat permit holders that operate a jumbo boat to serve alcoholic beverages during the times when retailers are normally permitted to serve alcohol, if approved by the local board of each county where the jumbo boat docks. All other boat permit holders may only serve alcohol in the course of a run and one hour before the boat embarks on the run. The

bill could increase the number of permittees that qualify as a jumbo boat. The bill also allows a jumbo boat to sell alcohol for carryout. These provisions could increase the availability of alcohol to patrons of these establishments. To the extent that total alcohol consumption increases as a result of this change, revenue from Alcoholic Beverage Taxes and Sales Tax could potentially increase. However, any increase would likely be minimal.

Alcoholic Beverage Tax revenue is distributed in varying amounts to the following funds: General Fund, State Construction Fund, Enforcement and Administration Fund, Pension Relief Fund, Addiction Services Fund, and Wine Grape Market Development Fund. Fifty percent of the General Fund distribution is allocated to cities and towns according to a formula based on population.

Sales Tax revenue is deposited in the General Fund (99.838%), Commuter Rail Service Fund (0.131%), and Industrial Rail Service Fund (0.031%).

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Municipal Lakefront Development Projects; Municipal Riverfront Development Projects:* To the extent the ATC issues more one-way, two-way, or three-way permits than it would have under current law, permit fee revenue distributed to the city in which the licensed premises are located would increase. However, any increase would likely be small.

(Revised) *Alcoholic Beverage Sales on Jumbo Boats:* To the extent that Alcoholic Beverage Taxes increase, revenue distributed to cities and towns could increase. However, any impact on local revenues would be small. (See *Explanation of State Revenues.*)

(Revised) *Minors on Certain Premises:* If there are fewer court actions filed and judgments entered, local governments could receive less revenue from court fees. However, any impact on local revenue would likely be small.

State Agencies Affected: Alcohol and Tobacco Commission; Department of State Revenue.

Local Agencies Affected: Cities and towns, trial courts, local law enforcement agencies..

Information Sources: Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, FY 2020. <https://iga.in.gov/legislative/2021/publications/handbooks/>

Fiscal Analyst: Lauren Tanselle, 317-232-9586; Randhir Jha, 317-232-9556.