

# HOUSE BILL No. 1026

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1; IC 6-9-29.

**Synopsis:** Innkeeper's and food and beverage tax data. Requires the department of state revenue (DOR) to provide a food and beverage tax summary monthly to county auditors, county treasurers, political subdivision fiscal officers, and commissions and boards administering a food and beverage tax. Requires the DOR to include a list identifying the name and retail address of each business that has remitted innkeeper's or food and beverage taxes to county auditors, treasurers, political subdivision fiscal officers, and commissions and boards administering an innkeeper's or food and beverage tax. Provides an exception to the confidentiality of tax information for the disclosure of the names and retail addresses of these businesses.

**Effective:** July 1, 2019.

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## Saunders

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January 3, 2019, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1026

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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 6-8.1-3-7.1, AS AMENDED BY P.L.242-2015,  
2 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth  
4 in IC 36-1-2-7.

5 (b) The department shall enter into an agreement with the fiscal  
6 officer of an entity that has adopted an innkeeper's tax, a food and  
7 beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal  
8 officer annually with:

9 (1) the name **and retail address** of each business collecting the  
10 taxes listed in this subsection; and

11 (2) the amount of money collected from each business.

12 (c) The agreement must provide that the department must provide  
13 the information in an electronic format that the fiscal officer can use,  
14 as well as a paper copy.

15 (d) The agreement must include a provision that, unless in  
16 accordance with a judicial order, the fiscal officer, employees of the  
17 fiscal officer, former employees of the fiscal officer, counsel of the



1 fiscal officer, agents of the fiscal officer, or any other person may not  
 2 divulge the names **or retail addresses** of the businesses, the amount of  
 3 taxes paid by the businesses or any other information disclosed to the  
 4 fiscal officer by the department.

5 (e) The department shall also enter into an agreement with the fiscal  
 6 officer of a capital improvement board of managers:

7 (1) created under IC 36-10-8 or IC 36-10-9; and

8 (2) that is responsible for expenditure of funds from:

9 (A) an innkeeper's tax, a food and beverage tax, or an  
 10 admissions tax under IC 6-9;

11 (B) the supplemental auto rental excise tax under IC 6-6-9.7;  
 12 or

13 (C) the state gross retail taxes allocated to a professional sports  
 14 development area fund, a sports and convention facilities  
 15 operating fund, or other fund under IC 36-7-31 or  
 16 IC 36-7-31.3;

17 to furnish the fiscal officer annually with the name of each business  
 18 collecting the taxes listed in this subsection, and the amount of money  
 19 collected from each business. An agreement with a fiscal officer under  
 20 this subsection must include a nondisclosure provision the same as is  
 21 required for a fiscal officer under subsection (d).

22 SECTION 2. IC 6-8.1-7-1, AS AMENDED BY P.L.86-2018,  
 23 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2019]: Sec. 1. (a) This subsection does not apply to the  
 25 disclosure of information concerning a conviction on a tax evasion  
 26 charge. Unless in accordance with a judicial order or as otherwise  
 27 provided in this chapter, the department, its employees, former  
 28 employees, counsel, agents, or any other person may not divulge the  
 29 amount of tax paid by any taxpayer, terms of a settlement agreement  
 30 executed between a taxpayer and the department, investigation records,  
 31 investigation reports, or any other information disclosed by the reports  
 32 filed under the provisions of the law relating to any of the listed taxes,  
 33 including required information derived from a federal return, except to  
 34 any of the following when it is agreed that the information is to be  
 35 confidential and to be used solely for official purposes:

36 (1) Members and employees of the department.

37 (2) The governor.

38 (3) A member of the general assembly or an employee of the  
 39 house of representatives or the senate when acting on behalf of a  
 40 taxpayer located in the member's legislative district who has  
 41 provided sufficient information to the member or employee for  
 42 the department to determine that the member or employee is



1 acting on behalf of the taxpayer.

2 (4) An employee of the legislative services agency to carry out the  
3 responsibilities of the legislative services agency under  
4 IC 2-5-1.1-7 or another law.

5 (5) The attorney general or any other legal representative of the  
6 state in any action in respect to the amount of tax due under the  
7 provisions of the law relating to any of the listed taxes.

8 (6) Any authorized officers of the United States.

9 (b) The information described in subsection (a) may be revealed  
10 upon the receipt of a certified request of any designated officer of the  
11 state tax department of any other state, district, territory, or possession  
12 of the United States when:

13 (1) the state, district, territory, or possession permits the exchange  
14 of like information with the taxing officials of the state; and

15 (2) it is agreed that the information is to be confidential and to be  
16 used solely for tax collection purposes.

17 (c) The information described in subsection (a) relating to a person  
18 on public welfare or a person who has made application for public  
19 welfare may be revealed to the director of the division of family  
20 resources, and to any director of a county office of the division of  
21 family resources located in Indiana, upon receipt of a written request  
22 from either director for the information. The information shall be  
23 treated as confidential by the directors. In addition, the information  
24 described in subsection (a) relating to a person who has been  
25 designated as an absent parent by the state Title IV-D agency shall be  
26 made available to the state Title IV-D agency upon request. The  
27 information shall be subject to the information safeguarding provisions  
28 of the state and federal Title IV-D programs.

29 (d) The name, address, Social Security number, and place of  
30 employment relating to any individual who is delinquent in paying  
31 educational loans owed to a postsecondary educational institution may  
32 be revealed to that institution if it provides proof to the department that  
33 the individual is delinquent in paying for educational loans. This  
34 information shall be provided free of charge to approved postsecondary  
35 educational institutions (as defined by IC 21-7-13-6(a)). The  
36 department shall establish fees that all other institutions must pay to the  
37 department to obtain information under this subsection. However, these  
38 fees may not exceed the department's administrative costs in providing  
39 the information to the institution.

40 (e) The information described in subsection (a) relating to reports  
41 submitted under IC 6-6-1.1-502 concerning the number of gallons of  
42 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of



1 gallons of special fuel sold by a supplier and the number of gallons of  
2 special fuel exported by a licensed exporter or imported by a licensed  
3 transporter may be released by the commissioner upon receipt of a  
4 written request for the information.

5 (f) The information described in subsection (a) may be revealed  
6 upon the receipt of a written request from the administrative head of a  
7 state agency of Indiana when:

8 (1) the state agency shows an official need for the information;  
9 and

10 (2) the administrative head of the state agency agrees that any  
11 information released will be kept confidential and will be used  
12 solely for official purposes.

13 (g) The information described in subsection (a) may be revealed  
14 upon the receipt of a written request from the chief law enforcement  
15 officer of a state or local law enforcement agency in Indiana when it is  
16 agreed that the information is to be confidential and to be used solely  
17 for official purposes.

18 (h) The name and address of retail merchants, including township,  
19 as specified in IC 6-2.5-8-1(k) may be released solely for tax collection  
20 purposes to township assessors and county assessors.

21 (i) The department shall notify the appropriate innkeeper's tax  
22 board, bureau, or commission that a taxpayer is delinquent in remitting  
23 innkeepers' taxes under IC 6-9.

24 (j) All information relating to the delinquency or evasion of the  
25 vehicle excise tax may be disclosed to the bureau of motor vehicles in  
26 Indiana and may be disclosed to another state, if the information is  
27 disclosed for the purpose of the enforcement and collection of the taxes  
28 imposed by IC 6-6-5.

29 (k) All information relating to the delinquency or evasion of  
30 commercial vehicle excise taxes payable to the bureau of motor  
31 vehicles in Indiana may be disclosed to the bureau and may be  
32 disclosed to another state, if the information is disclosed for the  
33 purpose of the enforcement and collection of the taxes imposed by  
34 IC 6-6-5.5.

35 (l) All information relating to the delinquency or evasion of  
36 commercial vehicle excise taxes payable under the International  
37 Registration Plan may be disclosed to another state, if the information  
38 is disclosed for the purpose of the enforcement and collection of the  
39 taxes imposed by IC 6-6-5.5.

40 (m) All information relating to the delinquency or evasion of the  
41 excise taxes imposed on recreational vehicles and truck campers that  
42 are payable to the bureau of motor vehicles in Indiana may be disclosed



1 to the bureau and may be disclosed to another state if the information  
 2 is disclosed for the purpose of the enforcement and collection of the  
 3 taxes imposed by IC 6-6-5.1.

4 (n) This section does not apply to:

- 5 (1) the beer excise tax, including brand and packaged type
- 6 (IC 7.1-4-2);
- 7 (2) the liquor excise tax (IC 7.1-4-3);
- 8 (3) the wine excise tax (IC 7.1-4-4);
- 9 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 10 (5) the malt excise tax (IC 7.1-4-5);
- 11 (6) the vehicle excise tax (IC 6-6-5);
- 12 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 13 (8) the fees under IC 13-23.

14 (o) The name and business address of retail merchants within each  
 15 county that sell tobacco products may be released to the division of  
 16 mental health and addiction and the alcohol and tobacco commission  
 17 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

18 (p) The name and business address of a person licensed by the  
 19 department under IC 6-6 or IC 6-7 may be released for the purpose of  
 20 reporting the status of the person's license.

21 (q) The department may release information concerning total  
 22 incremental tax amounts under:

- 23 (1) IC 5-28-26;
- 24 (2) IC 36-7-13;
- 25 (3) IC 36-7-26;
- 26 (4) IC 36-7-27;
- 27 (5) IC 36-7-31;
- 28 (6) IC 36-7-31.3; or
- 29 (7) any other statute providing for the calculation of incremental
- 30 state taxes that will be distributed to or retained by a political
- 31 subdivision or other entity;

32 to the fiscal officer of the political subdivision or other entity that  
 33 established the district or area from which the incremental taxes were  
 34 received if that fiscal officer enters into an agreement with the  
 35 department specifying that the political subdivision or other entity will  
 36 use the information solely for official purposes.

37 (r) The department may release the information as required in  
 38 IC 6-8.1-3-7.1 concerning:

- 39 (1) an innkeeper's tax, a food and beverage tax, or an admissions
- 40 tax under IC 6-9;
- 41 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and
- 42 (3) the covered taxes allocated to a professional sports



1 development area fund, sports and convention facilities operating  
2 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

3 (s) Information concerning state gross retail tax exemption  
4 certificates that relate to a person who is exempt from the state gross  
5 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as  
6 defined in IC 6-2.5-4-5) or a person selling the services or commodities  
7 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the  
8 state gross retail and use taxes under IC 6-2.5.

9 **(t) The department may release the information as required by**  
10 **IC 6-9-29-4 and IC 6-9-29-5 concerning an innkeeper's tax or a**  
11 **food and beverage tax under IC 6-9.**

12 SECTION 3. IC 6-9-29-4 IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2019]: Sec. 4. ~~Upon a request by a county~~  
14 ~~auditor or treasurer;~~ **Each month** the department of state revenue shall  
15 provide summary data regarding:

16 **(1) innkeeper's tax collections for the county and food and**  
17 **beverage tax collections for the county to each county auditor**  
18 **and county treasurer; and**

19 **(2) food and beverage tax collections for a political**  
20 **subdivision to the fiscal officer of the political subdivision in**  
21 **the case of a food and beverage tax imposed by a political**  
22 **subdivision that is not a county.**

23 **The department shall include in the summary a list identifying the**  
24 **name and retail address of each business that has remitted**  
25 **innkeeper's or food and beverage tax for the time period covered**  
26 **by the summary.** This data may not include any confidential  
27 information. ~~The department shall provide the summary data within ten~~  
28 ~~(10) business days after the request is made.~~

29 SECTION 4. IC 6-9-29-5, AS ADDED BY P.L.175-2018,  
30 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2019]: Sec. 5. (a) As used in this section, "commission" refers  
32 to the following:

33 ~~(1)~~ a board of managers, established under:

34 ~~(A)~~ IC 6-9-1-2 (St. Joseph County);

35 ~~(B)~~ IC 6-9-3-1 (Floyd/Clark County);

36 ~~(C)~~ IC 6-9-6-2 (LaPorte County);

37 ~~(D)~~ IC 6-9-10-2 (Wayne County); or

38 ~~(E)~~ IC 6-9-15-2 (Jefferson County);

39 ~~(2)~~ a capital improvement board of managers, established under:

40 ~~(A)~~ IC 36-10-9-3 (Marion County); or

41 ~~(B)~~ IC 36-10-8 (Allen County);

42 ~~(3)~~ a commission, established under:



- 1 (A) IC 6-9-10.5-9 (White County);  
 2 (B) IC 6-9-18-5 (Uniform County Innkeeper's Tax);  
 3 (C) IC 6-9-19-5 (Elkhart County);  
 4 (D) IC 6-9-32-5 (Jackson County); or  
 5 (E) IC 6-9-37-5 (Hendricks County).  
 6 (4) a convention and visitor bureau,  
 7 (A) established under IC 6-9-2-3 (Lake County); or  
 8 (B) designated as a grant recipient under IC 6-9-9-3(b) (Allen  
 9 County).  
 10 (5) a convention and visitor commission, established under:  
 11 (A) IC 6-9-2.5-2 (Vanderburgh County);  
 12 (B) IC 6-9-4-2 (Monroe County);  
 13 (C) IC 6-9-7-2 (Tippecanoe County);  
 14 (D) IC 6-9-11-2 (Vigo County);  
 15 (E) IC 6-9-14-2 (Brown County);  
 16 (F) IC 6-9-16-2 (Howard County); or  
 17 (G) IC 6-9-17-5 (Madison County).  
 18 (6) or any other similar entity that is authorized to administer  
 19 funds received from an innkeeper's tax **or a food and beverage**  
 20 **tax** imposed under this article.  
 21 (b) Each month, the department of state revenue shall ~~also~~ provide  
 22 summary data of the amount of:  
 23 (1) the county's innkeeper's **and food and beverage** tax  
 24 collections to the commission **established authorized** for that  
 25 county; **and**  
 26 (2) **the political subdivision's food and beverage tax collections**  
 27 **to the commission authorized for the political subdivision in**  
 28 **the case of a food and beverage tax imposed by a political**  
 29 **subdivision that is not a county.**  
 30 **The department shall include in the summary a list identifying the**  
 31 **name and retail address of each business that has remitted**  
 32 **innkeeper's or food and beverage tax for the time period covered**  
 33 **by the summary.**  
 34 (c) This subsection applies only to a county that has adopted an  
 35 ordinance requiring the payment of the innkeeper's tax to the county  
 36 treasurer instead of the department of state revenue. The county  
 37 treasurer shall determine and report to the department of state revenue  
 38 before March 1 of each year the amount of innkeeper's tax collected in  
 39 the county in the preceding calendar year. Not later than April 1 of  
 40 each year, the department of state revenue shall provide summary data  
 41 of the total amount of the county's innkeeper's tax collected in the  
 42 preceding calendar year to the commission established for that county.

