

HOUSE BILL No. 1193

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-51.

Synopsis: Tippecanoe County food and beverage tax. Authorizes Tippecanoe County to adopt an ordinance to impose a food and beverage tax. Provides that the county food and beverage tax may not exceed 2%. Specifies that food and beverage tax revenue must be used by the Wabash River Enhancement Corporation for the following purposes: (1) The acquisition of land. (2) The removal of underground storage tanks. (3) The restoration of the land from which underground storage tanks are removed.

Effective: July 1, 2019.

Klinker

January 10, 2019, read first time and referred to Committee on Ways and Means.



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. 1193



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 6-9-51 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:

4 **Chapter 51. Tippecanoe County Food and Beverage Tax**

5 **Sec. 1. This chapter applies to Tippecanoe County.**

6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**

8 **Sec. 3. (a) The fiscal body of the county may adopt an ordinance**
9 **to impose an excise tax, known as the county food and beverage**
10 **tax, on transactions described in section 4 of this chapter. The**
11 **fiscal body of the county may adopt an ordinance under this**
12 **subsection only after the fiscal body has previously held at least**
13 **one (1) separate public hearing in which a discussion of the**
14 **proposed ordinance to impose the county food and beverage tax is**
15 **the only substantive issue on the agenda for the public hearing.**

16 **(b) If the county fiscal body adopts an ordinance under**
17 **subsection (a), the county fiscal body shall immediately send a**



1 certified copy of the ordinance to the department of state revenue.

2 (c) If the county fiscal body adopts an ordinance under
3 subsection (a), the county food and beverage tax applies to
4 transactions that occur after the later of the following:

5 (1) The day specified in the ordinance.

6 (2) The last day of the month that succeeds the month in
7 which the ordinance is adopted.

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

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

13 (2) in the county; and

14 (3) by a retail merchant for consideration.

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

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

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

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

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

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

36 Sec. 5. The county food and beverage tax rate:

37 (1) must be imposed in an increment of twenty-five
38 hundredths percent (0.25%); and

39 (2) may not exceed two percent (2%);

40 of the gross retail income received by the merchant from the food
41 or beverage transaction described in section 4 of this chapter. For
42 purposes of this chapter, the gross retail income received by the



1 retail merchant from a transaction does not include the amount of
2 tax imposed on the transaction under IC 6-2.5.

3 **Sec. 6.** A tax imposed under this chapter is imposed, paid, and
4 collected in the same manner that the state gross retail tax is
5 imposed, paid, and collected under IC 6-2.5. However, the return
6 to be filed with the payment of the tax imposed under this chapter
7 may be made on a separate return or may be combined with the
8 return filed for the payment of the state gross retail tax, as
9 prescribed by the department of state revenue.

10 **Sec. 7.** The amounts received from the tax imposed under this
11 chapter shall be paid monthly by the treasurer of state to the
12 county auditor upon warrants issued by the auditor of state.

13 **Sec. 8. (a)** If a tax is imposed under section 3 of this chapter by
14 the county, the county auditor shall establish a food and beverage
15 tax receipts fund for the use of the Wabash River Enhancement
16 Corporation under section 9 of this chapter.

17 **(b)** The county auditor shall deposit in the fund all amounts
18 received under this chapter.

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

21 **Sec. 9.** The Wabash River Enhancement Corporation shall use
22 money in the food and beverage tax receipts fund for the following
23 purposes:

24 **(1)** The acquisition of land.

25 **(2)** The removal of underground storage tanks.

26 **(3)** The restoration of the land from which underground
27 storage tanks are removed.

