

HOUSE BILL No. 1197

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-2-4-10; IC 7.1-3; IC 7.1-5-11-1.5.

Synopsis: Alcohol and tobacco commission. Allows the alcohol and tobacco commission (commission) to provide notices electronically. Allows the commission to issue 10 new three-way permits to the city of Noblesville, allowing the issuance of: (1) three new three-way permits in 2024; (2) three new three-way permits in 2025; and (3) four new three-way permits in 2026; with any permits not issued in a year allowed to be issued in a subsequent year. Repeals provisions related to beer gardens and patio alcohol service for certain premises. Replaces references to the federal bureau of alcohol, tobacco, and explosives with the federal Alcohol and Tobacco Tax and Trade Bureau or its successor agency.

Effective: July 1, 2024.

Manning

January 9, 2024, read first time and referred to Committee on Public Policy.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1197

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-2-4-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. The county
3 executive and fiscal body and the city or town executive, as the case
4 may be, shall make their appointments to the local board within fifteen
5 (15) days after being notified by the commission by registered mail or
6 **electronic communication** to do so. The commission may extend this
7 time limit by an additional fifteen (15) days.

8 SECTION 2. IC 7.1-3-1-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. The commission
10 shall issue a permit authorized by this title only upon proper
11 application. The application shall be in ~~writing, and verified, upon~~
12 ~~forms~~ **the form and manner** prescribed ~~and furnished~~ by the
13 commission. The application shall contain the terms and information
14 required by this title or by the rules and regulations of the commission.
15 The appropriate surety bond, if one is required, also shall be submitted
16 with the application.

17 SECTION 3. IC 7.1-3-1-5.3 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5.3. (a) This section
 2 applies to an application for a new permit, renewal of a permit, or
 3 transfer of a permit authorized by this article for a location in a:

4 (1) second or third class city; or

5 (2) county other than a county containing a consolidated city.

6 (b) As used in this section, "plan commission" has the meaning set
 7 forth in IC 36-7-1-14.

8 (c) A director of a plan commission may request the commission to
 9 notify the plan commission that the commission has received an
 10 application for a permit for a location within the territory where the
 11 plan commission has jurisdiction.

12 (d) If the commission receives a request under subsection (c), the
 13 commission shall provide to the appropriate plan commission a copy
 14 of the notice that the commission submits for publication to meet the
 15 requirements of section 5 of this chapter. The commission shall **send**
 16 **by mail or electronically** the copy to the plan commission no later than
 17 the day that the commission submits the notice for publication.

18 SECTION 4. IC 7.1-3-3-7 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. Action of
 20 Commission on Renewals. The commission shall notify the applicant
 21 in writing of its determination to grant or deny the renewal of a beer
 22 wholesaler's permit not more than ten (10) days after the filing of the
 23 application. The notice may be given by personal service upon the
 24 applicant or by registered mail, addressed to applicant at the address
 25 shown in the application for renewal, **or by electronic**
 26 **communication**. The registration and deposit of the notice, properly
 27 addressed, in the post office within the ten (10) day period shall be
 28 sufficient when the notice is given by registered mail.

29 SECTION 5. IC 7.1-3-3-11 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. Findings and
 31 Conclusions: Action of Commission. The person who conducted the
 32 hearing shall make a report of the recommended findings of fact and
 33 conclusions to the commission following the hearing. The commission,
 34 upon receipt of the report, by a majority vote of its membership, shall
 35 make findings of fact and state its conclusions affirming or reversing
 36 the proposed denial of renewal. The commission shall enter its order
 37 accordingly and that order shall be final and conclusive except as
 38 otherwise provided in this title. The commission shall serve the
 39 applicant, personally, **or** by registered mail, **or electronically** with a
 40 copy of the findings of fact, conclusions, and order.

41 SECTION 6. IC 7.1-3-9.5-2, AS AMENDED BY P.L.196-2015,
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]: Sec. 2. (a) The holder of a supplemental caterer's
 2 permit shall notify the commission in writing not later than forty-eight
 3 (48) hours in advance of each function that the permittee intends to
 4 cater with alcoholic beverages. The commission may waive the
 5 forty-eight (48) hour notice period required under this subsection, if
 6 authorized by the chairman or the chairman's designee, but may not
 7 waive the requirement for filing notice.

8 (b) The notice shall include the following:

9 (1) The date, time, and location of the function to be catered.

10 (2) If the function is open to the public, located in a county having
 11 a population of less than one hundred fifty thousand (150,000),
 12 and located in a different county from the county where the
 13 permittee holds the three-way permit required under section 1 of
 14 this chapter, the signature of the following official on a document
 15 stating the official's approval of the catering of alcoholic
 16 beverages at the proposed date, time, and location:

17 (A) The president of the town council, if the location is in a
 18 town.

19 (B) The mayor, if the location is in a city.

20 (C) The president of the board of county commissioners, if the
 21 location is in unincorporated territory.

22 (c) If a permittee complies with all notice requirements of
 23 subsection (b), the commission in its absolute discretion has the
 24 authority, any other provision of this title to the contrary
 25 notwithstanding, to approve the proposed date and location of the
 26 function to be catered.

27 (d) The commission need not notify the permittee if the commission
 28 approved the proposed date and location, and the permittee may
 29 proceed as stated in the permittee's notice to the commission. The
 30 commission shall notify the permittee by certified United States mail
 31 **or electronic mail**, in advance of the function, if the commission does
 32 not approve the proposed date or location.

33 (e) A permittee whose proposed date or location has been
 34 disapproved by the commission still may cater the function on that date
 35 and at that location, but the permittee may not cater alcoholic
 36 beverages at that function on that date and at that location.

37 SECTION 7. IC 7.1-3-18-9.5, AS ADDED BY P.L.196-2015,
 38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2024]: Sec. 9.5. (a) This section applies only to an employee
 40 who:

41 (1) holds an employee's permit issued under section 9 of this
 42 chapter;



- 1 (2) is convicted of operating while intoxicated;
 2 (3) does not have a prior conviction for operating while
 3 intoxicated; and
 4 (4) was at least twenty-one (21) years of age at the time the
 5 employee committed the offense of operating while intoxicated
 6 for which the employee was convicted.

7 (b) The commission shall send to the most recent mailing address
 8 that the commission has on file, **or by electronic communication**, a
 9 ~~written~~ notice to an employee that the employee's permit will be
 10 revoked six (6) months after the date of sentencing for the conviction
 11 of operating while intoxicated unless the employee submits to the
 12 commission, on a form prescribed by the commission, information
 13 verifying that the employee has completed an appropriate substance
 14 abuse treatment or education program that was provided by a provider
 15 certified by the division of mental health and addiction.

16 (c) If an employee fails to submit the information as required under
 17 subsection (b) within six (6) months from the date of the sentencing,
 18 the commission shall revoke the employee's permit.

19 SECTION 8. IC 7.1-3-20-16.8, AS AMENDED BY P.L.220-2023,
 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2024]: Sec. 16.8. (a) A permit that is authorized by this
 22 section may be issued without regard to the quota provisions of
 23 IC 7.1-3-22.

24 (b) Except as provided in section 16.3 of this chapter, the
 25 commission may issue not more than four (4) new three-way permits
 26 to sell alcoholic beverages for on-premises consumption to applicants
 27 in each of the following municipalities:

- 28 (1) Whitestown.
 29 (2) Lebanon.
 30 (3) Zionsville.
 31 (4) Westfield.
 32 (5) Carmel.
 33 (6) Fishers.
 34 (7) **Noblesville.**

35 (c) The following apply to permits issued under subsection (b):

- 36 (1) An applicant for a permit under subsection (b) must be a
 37 proprietor, as owner or lessee, or both, of a restaurant located
 38 within an economic development area, an area needing
 39 redevelopment, or a redevelopment district as established under
 40 IC 36-7-14 in a municipality's:
 41 (A) downtown redevelopment district; or
 42 (B) downtown economic revitalization area.



- 1 (2) The cost of an initial permit is forty thousand dollars
 2 (\$40,000).
 3 (3) The total number of active permits issued under subsection (b)
 4 may not exceed twenty-four (24) permits at any time. If any of the
 5 permits issued under subsection (b) are revoked or not renewed,
 6 the commission may issue only enough new permits to bring the
 7 total number of permits to twenty-four (24) active permits, with
 8 not more than four (4) in each municipality listed in subsection
 9 (b)(1) through (b)(6).
 10 (4) The municipality may adopt an ordinance under
 11 IC 7.1-3-19-17 requiring a permit holder to enter into a formal
 12 written commitment as a condition of eligibility for a permit. As
 13 set forth in IC 7.1-3-19-17(b), a formal written commitment is
 14 binding on the permit holder and on any lessee or proprietor of
 15 the permit premises.
 16 (5) Notwithstanding IC 7.1-3-1-3.5 and IC 7.1-3-1.1, if business
 17 operations cease at the permit premises for more than six (6)
 18 months, the permit shall revert to the commission and the permit
 19 holder is not entitled to any refund or other compensation.
 20 (6) Except as provided in subdivision (8), the ownership of a
 21 permit may not be transferred.
 22 (7) A permit may not be transferred from the premises for which
 23 the permit was issued.
 24 (8) If the area in which the permit premises is located is no longer
 25 designated an economic development area, an area needing
 26 redevelopment, or a redevelopment district, a permit issued under
 27 this section may be renewed, and the ownership of the permit may
 28 be transferred, but the permit may not be transferred from the
 29 permit premises.
 30 (d) Except as provided in section 16.3 of this chapter, in addition to
 31 the permits issued to the town of Whitestown under subsection (c), the
 32 commission may issue to the town of Whitestown not more than:
 33 (1) three (3) new three-way permits; and
 34 (2) three (3) new two-way permits;
 35 under this subsection.
 36 (e) The following apply to permits issued under subsection (d):
 37 (1) An applicant for a permit under subsection (d)(1) or (d)(2)
 38 must be a proprietor, an owner or lessee, or both, of a restaurant
 39 located within an economic development area, an area needing
 40 redevelopment, or a redevelopment district as established under
 41 IC 36-7-14 in a municipality's:
 42 (A) downtown redevelopment district; or



- 1 (B) downtown economic revitalization area.
- 2 (2) The cost of an initial permit is forty thousand dollars
- 3 (\$40,000).
- 4 (3) The total number of active permits issued under subsection (d)
- 5 may not exceed the six (6) permits allocated by permit type, as set
- 6 forth in that subsection.
- 7 (4) The municipality may adopt an ordinance under
- 8 IC 7.1-3-19-17 requiring a permit holder to enter into a formal
- 9 written commitment as a condition of eligibility for a permit. As
- 10 set forth in IC 7.1-3-19-17(b), a formal written commitment is
- 11 binding on the permit holder and on any lessee or proprietor of the
- 12 permit premises.
- 13 (5) Notwithstanding IC 7.1-3-1.1, if business operations cease at
- 14 the permit premises for more than six (6) months, the permit shall
- 15 revert to the commission and the permit holder is not entitled to
- 16 any refund or other compensation.
- 17 (6) Except as provided in subdivision (8), the ownership of a
- 18 permit may not be transferred.
- 19 (7) A permit may not be transferred from the premises for which
- 20 the permit was issued.
- 21 (8) If the area in which the permit issued to a premises under
- 22 subsection (d)(1) or (d)(2) is located is no longer designated an
- 23 economic development area, an area needing redevelopment, or
- 24 a redevelopment district, a permit issued under this section may
- 25 be renewed, and the ownership of the permit may be transferred,
- 26 but the permit may not be transferred from the permit premises.
- 27 **(f) Except as provided in section 16.3 of this chapter, in addition**
- 28 **to the permits issued to the city of Noblesville under subsection (c),**
- 29 **the commission may issue to the city of Noblesville not more than**
- 30 **ten (10) new three-way permits under this subsection. The new**
- 31 **three-way permits may be issued as follows:**
- 32 (1) Three (3) new three-way permits in 2024.
- 33 (2) Three (3) new three-way permits in 2025.
- 34 (3) Four (4) new three-way permits in 2026.
- 35 **If the commission does not issue the amount of three-way permits**
- 36 **allowed in subdivisions (1) through (3) in that year, any unissued**
- 37 **permits will roll over and may be issued in a subsequent year.**
- 38 **(g) The following apply to permits issued under subsection (f):**
- 39 (1) **An applicant for a permit under subsection (f) must be a**
- 40 **proprietor, an owner or lessee, or both, of a restaurant**
- 41 **located within an economic development area, an area**
- 42 **needing redevelopment, or a redevelopment district as**



1 established under IC 36-7-14 in a municipality's:

2 (A) downtown redevelopment district; or

3 (B) downtown economic revitalization area.

4 (2) The cost of an initial permit is forty thousand dollars
5 (\$40,000).

6 (3) The total number of active permits issued under
7 subsection (f) may not exceed the ten (10) new three-way
8 permits, as set forth in that subsection.

9 (4) The municipality may adopt an ordinance under
10 IC 7.1-3-19-17 requiring a permit holder to enter into a
11 formal written commitment as a condition of eligibility for a
12 permit. As set forth in IC 7.1-3-19-17(b), a formal written
13 commitment is binding on the permit holder and on any lessee
14 or proprietor of the permit premises.

15 (5) Notwithstanding IC 7.1-3-1.1, if business operations cease
16 at the permit premises for more than six (6) months, the
17 permit shall revert to the commission and the permit holder
18 is not entitled to any refund or other compensation.

19 (6) Except as provided in subdivision (8), the ownership of a
20 permit may not be transferred.

21 (7) A permit may not be transferred from the premises for
22 which the permit was issued.

23 (8) If the area in which the permit issued to a premises under
24 subsection (f) is located is no longer designated an economic
25 development area, an area needing redevelopment, or a
26 redevelopment district, a permit issued under this section may
27 be renewed, and the ownership of the permit may be
28 transferred, but the permit may not be transferred from the
29 permit premises.

30 SECTION 9. IC 7.1-3-20-28 IS REPEALED [EFFECTIVE JULY
31 1, 2024]. Sec. 28: A retailer permittee may sell or dispense alcoholic
32 beverages for on-premises consumption only in an outdoor beer garden
33 that:

34 (1) has a bar;

35 (2) is accessible only through the permit premises; and

36 (3) is a defined area that is enclosed by:

37 (A) the outside walls of the permit premises; or

38 (B) a nontransparent wall that is at least seventy-two (72)
39 inches in height.

40 SECTION 10. IC 7.1-3-20-28.5 IS REPEALED [EFFECTIVE JULY
41 1, 2024]. Sec. 28.5: (a) This section applies to the premises of a:
42 (1) civic center permit; or



1 (2) retailer's permit that operates as a recreational facility offering
 2 bowling, arcade games, and outside volleyball courts or other
 3 outside recreational games on the licensed premises:

4 (b) In accordance with subsection (c), the holder of a:

5 (1) civic center permit; or

6 (2) retailer's permit described in subsection (a)(2) which has a
 7 gross business of at least one million dollars (\$1,000,000) in the
 8 retail sale of food;

9 may, subject to the approval of the commission, sell or dispense
 10 alcoholic beverages for which the permittee holds the appropriate
 11 permit, for on-premises consumption only, from a bar that is located on
 12 an outside patio, porch, veranda, terrace, or rooftop of a building that
 13 is contiguous to the main building of the licensed premises:

14 (c) The holder of the civic center or retailer's permit described in
 15 subsection (a)(2) may sell or dispense alcoholic beverages as provided
 16 under subsection (b) only if all the following conditions are met:

17 (1) The outside area described in subsection (b) is:

18 (A) part of the licensed premises; and

19 (B) clearly delineated in some manner by a fence, hedge, rail,
 20 wall, or similar barrier:

21 (2) Except as provided in IC 7.1-5-7-11, if minors are allowed on
 22 the premises:

23 (A) the bar area must be separated from the outside dining
 24 area where minors may be served by a structure or barrier that
 25 reasonably deters free access and egress, without requirement
 26 for doors or gates; and

27 (B) a conspicuous sign must be posted by the barrier described
 28 in clause (A) stating that minors may not cross the barrier to
 29 enter the bar area.

30 SECTION 11. IC 7.1-3-21-0.1 IS REPEALED [EFFECTIVE JULY
 31 1, 2024]. Sec. 0.1. Notwithstanding the amendments made to sections
 32 3, 5, 5.2, and 5.4 of this chapter by P.L.72-2004, the residency
 33 requirement of five (5) years for beer wholesalers under sections 3, 5,
 34 5.2, and 5.4 of this chapter (as those provisions existed on June 30,
 35 2004) shall remain in effect for all contracts entered into before July 1,
 36 2004, under which a permit is to be transferred from an Indiana
 37 resident to a person who was not an Indiana resident at the time of
 38 execution of the contract.

39 SECTION 12. IC 7.1-3-23-34 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 34. Final Action of
 41 Commission. The commission shall take final action within ten (10)
 42 days after the hearing and enter an appropriate order in the matter and



1 shall notify the applicant, or permittee, of its action by registered mail
2 **or electronic communication.**

3 SECTION 13. IC 7.1-3-23-45, AS AMENDED BY P.L.207-2013,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 45. (a) Upon receiving a court order issued under
6 IC 31-16-12-13 (or IC 31-14-12-10 before its repeal), the commission
7 shall:

- 8 (1) suspend the employee's permit of; or
9 (2) deny an employee's permit or the renewal of an employee's
10 permit to;

11 the person who is the subject of the order.

12 (b) Upon receiving a court order issued under IC 31-16-12-13 (or
13 IC 31-14-12-10 before its repeal), the commission shall promptly mail
14 **a or send electronic** notice to the last known **mailing or electronic**
15 **mailing** address of the person who is the subject of the order that states
16 the following:

- 17 (1) That the:
18 (A) person's employee's permit has been suspended, beginning
19 five (5) business days after the date the notice is ~~mailed;~~ **sent;**
20 and
21 (B) suspension will end ten (10) business days after the
22 commission receives an order from the court that ordered the
23 suspension authorizing reinstatement of the person's
24 employee's permit.

- 25 (2) That the person has the right to petition for reinstatement of
26 the employee's permit to the court that ordered the suspension.

27 (c) The commission may not reinstate an employee's permit
28 suspended under this section until the commission receives an order
29 from the court that ordered the suspension authorizing reinstatement of
30 the person's employee's permit.

31 SECTION 14. IC 7.1-3-31-2, AS ADDED BY P.L.167-2023,
32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2024]: Sec. 2. As used in this chapter, "designated permittee"
34 means a ~~retailer~~ permittee that:

- 35 (1) ~~has licensed premises~~ **holds a retailer or craft manufacturer**
36 **permit located** within a refreshment area;
37 (2) has submitted a completed application to the municipality to
38 participate in the refreshment area as a designated permittee; and
39 (3) is designated by the commission under section 9 of this
40 chapter.

41 SECTION 15. IC 7.1-5-11-1.5, AS AMENDED BY P.L.159-2014,
42 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]: Sec. 1.5. (a) Except as provided in IC 7.1-3-26, it is
 2 unlawful for a person in the business of selling alcoholic beverages in
 3 Indiana or outside Indiana to ship or cause to be shipped an alcoholic
 4 beverage directly to a person in Indiana who does not hold a valid
 5 wholesaler permit under this title. This includes the ordering and
 6 selling of alcoholic beverages over a computer network (as defined by
 7 IC 35-43-2-3(a)).

8 (b) An in-state or an out-of-state vintner, distiller, brewer, rectifier,
 9 or importer that:

10 (1) holds a basic permit from the federal ~~Bureau of Alcohol,~~
 11 ~~Tobacco, Firearms and Explosives;~~ **Alcohol and Tobacco Tax**
 12 **and Trade Bureau, or its successor agency;** and

13 (2) knowingly violates subsection (a);
 14 commits a Class A misdemeanor.

15 (c) A person who is not an in-state or an out-of-state vintner,
 16 distiller, brewer, rectifier, or importer that holds a basic permit from the
 17 federal ~~Bureau of Alcohol, Tobacco, Firearms and Explosives~~ **Alcohol**
 18 **and Tobacco Tax and Trade Bureau, or its successor agency,** who
 19 knowingly violates subsection (a) commits a Level 6 felony.

20 (d) Upon a determination by the commission that a person has
 21 violated subsection (a), a wholesaler may not accept a shipment of
 22 alcoholic beverages from the person for a period of up to one (1) year
 23 as determined by the commission.

24 (e) If the chairman of the alcohol and tobacco commission or the
 25 attorney general determines that a vintner, distiller, brewer, rectifier, or
 26 importer that holds a basic permit from the federal ~~Bureau of Alcohol,~~
 27 ~~Tobacco, Firearms and Explosives~~ **Alcohol and Tobacco Tax and**
 28 **Trade Bureau, or its successor agency,** has made an illegal shipment
 29 of an alcoholic beverage to consumers in Indiana, the chairman shall:

30 (1) notify the federal ~~Bureau of Alcohol, Tobacco, Firearms and~~
 31 ~~Explosives~~ **Alcohol and Tobacco Tax and Trade Bureau, or its**
 32 **successor agency, in writing and by certified mail** of the official
 33 determination that state law has been violated; and

34 (2) request the federal bureau to take appropriate action.

35 (f) The commission shall adopt rules under IC 4-22-2 to implement
 36 this section.

