

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1200

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 7.1-1-3-16.5, AS AMENDED BY P.L.194-2021, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16.5. The term "entertainment complex" means a premises that complies with one (1) or more of the following requirements:

(1) The premises:

(A) is a site for the performance of musical, theatrical, or other entertainment; and

(B) includes an area where at least six hundred (600) individuals may be seated at one (1) time in permanent seating.

(2) The premises:

(A) is located entirely within a ~~four (4)~~ **five (5)** mile radius of the center of a consolidated city;

(B) is used by a nonprofit organization primarily as a **museum of fine arts, as a fine arts theater**, or for the professional performance of musical or theatrical entertainment; and

(C) has audience:

(i) seating in one (1) or more performance spaces for at least two hundred (200) individuals; **or**

(ii) **capacity of at least two hundred (200) individuals and**

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has artist housing on the premises.

SECTION 2. IC 7.1-1-3-32.7, AS ADDED BY P.L.270-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 32.7. "Professional and educational expenses", for purposes of IC 7.1-5-5, means one (1) or more of the following:

(1) A primary source of supply or wholesaler may participate in retailer or dealer association activities. A primary source of supply or wholesaler may do the following:

(A) Display its products at a convention or trade show.

(B) Rent display booth space if the rental fee is not excessive and is the same as paid by all exhibitors.

(C) Provide its own hospitality that is independent from association sponsored activities.

(D) Purchase tickets to functions and pay registration fees if the payments or fees are not excessive and are the same as paid by all exhibitors.

(E) Make payments for advertisements in programs or brochures issued by retailer or dealer associations at a convention or trade show if the total payments made are not excessive and are the same as paid by all other advertisers.

(2) A primary source of supply or wholesaler may give or sponsor educational seminars for employees of retailers or dealers either at the primary source of supply's or wholesaler's premises or at the retailer or dealer establishment. Examples of educational seminars include the following:

(A) Seminars dealing with the use of a retailer's or dealer's equipment.

(B) Training seminars for employees of retailers or dealers.

(C) Tours of a primary source of supply's or wholesaler's plant or premises.

(D) Training seminars for employees of retailers or dealers may include tasting or sampling of alcoholic beverages by the employees of retailers or dealers. The tasting or sampling of an alcoholic beverage product is limited to one (1) ounce per employee of each alcoholic beverage product offered. The alcoholic beverage to be tasted or sampled may be provided by the primary source of supply or wholesaler or may be purchased from the retailer or dealer for no more than the listed retail price. The tasting or sampling may be conducted only at a permit premises where the consumption of alcoholic beverages is permitted. Any tasting or sampling provided by a primary source of supply or wholesaler must be offered or



conducted on a nondiscriminatory basis.

(E) Reasonable hospitality, such as food and alcoholic beverages, may be offered as a part of an educational seminar.

(3) Advertising specialties and consumer advertising specialties, even if not otherwise permitted by a rule of the commission, if a wholesaler or primary source of supply does not:

(A) add the name or address of the retailer or dealer to the advertising specialty or consumer advertising specialty; or

(B) pay or credit the retailer or dealer, directly or indirectly, for distribution services.

(4) A primary source of supply, manufacturer, or wholesaler may supply equipment on a temporary and nondiscriminatory basis to the holder of a retailer permit or a temporary permit for the purpose of holding, storing, and dispensing product to consumers for a special event for the duration of the special event. Ownership of the equipment shall remain with the primary source of supply, manufacturer, or wholesaler.

SECTION 3. IC 7.1-1-3-47.5, AS AMENDED BY P.L.60-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 47.5. (a) "Tobacco product", except as provided in subsection (b), has the meaning set forth in IC 7.1-6-1-3.

(b) "Tobacco product", for purposes of IC 7.1-3-18.5, means a product that:

(1) contains tobacco **or nicotine**, including e-liquid (as defined by IC 7.1-7-2-10) that contains nicotine; ~~and~~

(2) is intended for human consumption; **and**

(3) is not approved by the federal Food and Drug Administration for tobacco cessation.

SECTION 4. IC 7.1-3-2-7, AS AMENDED BY P.L.194-2021, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

(1) Manufacture beer.

(2) Place beer in containers or bottles.

(3) Transport beer.

(4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.

(5) If the brewer manufactures, at all of the brewer's breweries, ~~located in Indiana~~, an aggregate of not more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana, the permit holder may do the following:



- (A) Sell and deliver a total of not more than thirty thousand (30,000) barrels of beer in a calendar year to a person holding a retailer or a dealer permit under this title. The total number of barrels of beer that the permit holder may sell and deliver under this clause in a calendar year may not exceed thirty thousand (30,000) barrels of beer.
- (B) Be the proprietor of a restaurant that is not subject to the minimum gross food sales or the minimum projected food sales set forth in 905 IAC 1-41-2.
- (C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).
- (D) Transfer beer directly from the brewery to the restaurant by means of:
- (i) bulk containers; or
 - (ii) a continuous flow system.
- (E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.
- (F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.
- (G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must make food available for consumption on the premises. A brewer may comply with the requirements of this clause by doing any of the following:
- (i) Allowing a vehicle of transportation that is a food establishment (as defined in IC 16-18-2-137) to serve food near the brewer's licensed premises.
 - (ii) Placing menus in the brewer's premises of restaurants that will deliver food to the brewery.
 - (iii) Providing food prepared at the brewery.
- (H) Sell and deliver beer to a consumer at the licensed premises of the brewer or at the residence of the consumer. Notwithstanding IC 7.1-1-3-20, the licensed premises may include the brewery parking lot or an area adjacent to the brewery that may only be used for the purpose of conveying alcoholic beverages and other nonalcoholic items to a customer subject to section 10 of this chapter, and may not be used for point of sale purposes or any other purpose. The delivery to a consumer may be made only in a quantity at any



one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(I) Sell the brewery's beer as authorized by this section for carryout on Sunday in a quantity at any one (1) time of not more than five hundred seventy-six (576) ounces. A brewer's beer may be sold under this clause at any address for which the brewer holds a brewer's permit issued under this chapter if the address is located within the same city boundaries in which the beer was manufactured.

(J) With the approval of the commission, participate:

(i) individually; or

(ii) with other permit holders under this chapter, holders of artisan distiller's permits, holders of farm winery permits, or any combination of holders described in this item;

in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. All of the permit holders may occupy the same tent, structure, or building. The commission may not grant to a holder of a permit under this chapter approval under this clause to participate in a trade show or exposition for more than forty-five (45) days in a calendar year.

(K) Store or condition beer in a secure building that is:

(i) separate from the brewery; and

(ii) owned or leased by the permit holder.

(L) Transfer beer from a building described in clause (K) back to the brewery.

(M) Sell or transfer beer directly to a beer wholesaler from a building described in clause (K), but may not sell or transfer beer from the building to any other permittee or a consumer. The brewer shall maintain an adequate written record of the beer transferred:

(i) between the brewery and the separate building; and

(ii) from the separate building to the wholesaler.

(N) Sell the brewery's beer to the holder of a supplemental caterer's permit issued under IC 7.1-3-9.5 for on-premises consumption only at an event that is held outdoors on property that is contiguous to the brewery as approved by the commission.

(O) Receive liquor from the holder of a distiller's permit issued under IC 7.1-3-7 or the holder of an artisan distiller's permit under IC 7.1-3-27 that is located in the same county as the



brewery for the purpose of carbonating and canning the liquor. Upon the completion of canning of the liquor, the product must be returned to the original production facility within forty-eight (48) hours. The activity under this clause is not an interest under IC 7.1-5-9.

(P) Receive beer from another permit holder under this subdivision for the purpose of bottling and packaging the beer. Upon completion of bottling and packaging the beer, the product must be returned to the original permit holder who manufactured the beer. The number of barrels of beer that a permit holder receives, bottles, and packages under this clause may not exceed the number of barrels of beer that the permit holder produced from raw materials at the licensed premises of the permit holder in the same calendar year. The activity under this clause is not an interest under IC 7.1-5-9.

(Q) Sell or transfer beer directly to a food manufacturer located in Indiana that is registered with the federal Food and Drug Administration for the purpose of adding or integrating the beer into a product or recipe.

(6) If the brewer's brewery manufactures more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana, the permit holder may own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than ninety thousand (90,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Provide complimentary samples of beer that are:

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

(8) Own a portion of the corporate stock of a sports corporation that:

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(9) For beer described in IC 7.1-1-2-3(a)(4):

- (A) may allow transportation to and consumption of the beer on the licensed premises; and



(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 5. IC 7.1-3-2-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 11. (a) A finished product of a food manufacturer that contains beer transferred to the food manufacturer under section 7(5)(Q) of this chapter may not contain more than one-half of one percent (0.5%) of alcohol by volume when the product leaves the food manufacturer's facility.**

(b) Beer that is sold or transferred by a brewer to a food manufacturer under section 7(5)(Q) of this chapter shall be included within the brewer's ninety thousand (90,000) barrel of beer limit for the calendar year that is set forth in section 7(5) of this chapter.

SECTION 6. IC 7.1-3-18-9, AS AMENDED BY P.L.196-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:**

- (1) a clerk in a package liquor store;
- (2) an employee who serves wine at a farm winery; **or**
- (3) a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees; **or**
- (4) an employee of a dealer licensed under IC 7.1-3-5-3 or IC 7.1-3-10-7 to deliver beer or liquor.**

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;



is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) The commission may not issue an employee's permit to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

(g) The commission may not issue an employee's permit to an applicant who has two (2) unrelated convictions for operating while intoxicated if:

- (1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and
- (2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:

- (1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or
- (2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);

the commission may grant or deny the issuance of a permit.

(i) Except as provided under section 9.5 of this chapter, the commission shall revoke a permit issued to an employee under this section if:

- (1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or
- (2) the employee is convicted of operating while intoxicated after the issuance of the permit.

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

SECTION 7. IC 7.1-3-19-17, AS AMENDED BY P.L.214-2016,



SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: 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) ~~IC 7.1-3-20-16(t)~~, **through IC 7.1-3-20-16(q)**, or IC 7.1-3-20-16.8 if a municipal legislative body 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 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 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 8. IC 7.1-3-20-16, AS AMENDED BY P.L.104-2022, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: 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) Except as provided in sections 16.3 and 16.4 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 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 and except as provided in section 16.3 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 and IC 7.1-3-1.1, 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) Except as provided in sections 16.3 and 16.4 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 within a renovation project consisting of:

- (1) a building that:
 - (A) was formerly used as part of a passenger and freight railway station; and
 - (B) was built before 1900; or
- (2) a complex of buildings that:
 - (A) is part of an economic development area established under IC 36-7-14; and
 - (B) includes, as part of the renovation project, the use and repurposing of two (2) or more buildings and structures that are:
 - (i) at least seventy-five (75) years old; and
 - (ii) located at a site at which manufacturing previously occurred over a period of at least seventy-five (75) years.

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

(f) Except as provided in section 16.3 of this chapter, 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 having a population of more than twenty-three thousand (23,000) and less than twenty-three thousand nine hundred (23,900) located in a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).
- (2) A city that has an indoor theater as described in section 26 of this chapter.

(g) Except as provided in section 16.3 of this chapter, the commission may issue not more than ~~ten (10)~~ **fifteen (15)** 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)~~ **one thousand five hundred (1,500)** 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)~~ **one thousand five hundred (1,500)** 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 and IC 7.1-3-1.1, 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)~~ **fifteen (15)** at any time. The cost of an initial permit issued under this subsection is ~~six thousand dollars (\$6,000)~~; **twenty-five thousand dollars (\$25,000)**.

(h) Except as provided in section 16.3 of this chapter, 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 having a population of more than twenty thousand (20,000); or
- (2) a city having a population of more than forty-nine thousand four hundred (49,400) and less than fifty thousand (50,000);

located in a county having a population of more than one hundred twenty thousand (120,000) and less than one hundred thirty thousand (130,000). 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, and except as provided in section 16.3 of this chapter, 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 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 and except as provided in section 16.3 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. 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) Except as provided in section 16.3 of this chapter, the commission may issue not more than nine (9) 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 nine (9) 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 nine (9) 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 and IC 7.1-3-1.1, 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) Except as provided in section 16.3 of this chapter, 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 and IC 7.1-3-1.1, 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.

(m) Except as provided in section 16.3 of this chapter, the commission may issue not more than three (3) new three-way permits to sell alcoholic beverages for on-premises consumption in the city of Auburn. 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 three (3) 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 three (3) 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 7.1-3-1.1, 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.

(n) Except as provided in section 16.3 of this chapter, the commission may issue not more than three (3) new three-way permits to sell alcoholic beverages for on-premises consumption in the city of Kendallville. 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 three (3) 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 three (3) 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 7.1-3-1.1, 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.

(o) Except as provided in section 16.3 of this chapter, the commission may issue not more than two (2) new three-way permits to sell alcoholic beverages for on-premises consumption in the city of Warsaw. 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 7.1-3-1.1, 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.

(p) Except as provided in section 16.3 of this chapter, the commission may issue not more than one (1) new three-way permit to sell alcoholic beverages for on-premises consumption in the town of Winona Lake. 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 one (1) new permit 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 one (1) 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 7.1-3-1.1, 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.

(q) Except as provided in section 16.3 of this chapter, the commission may issue not more than one (1) new three-way permit to sell alcoholic beverages for on-premises consumption in the town of Syracuse. 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 one (1) new permit 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 one (1) 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 7.1-3-1.1, 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 9. IC 7.1-3-20-16.3, AS ADDED BY P.L.214-2016, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16.3. If the holder of a permit holds a:

- (1) permit issued under section 16(c) through ~~16(t)~~ **16(q)** of this chapter or section 16.8 of this chapter to sell beer for on-premises consumption; and
- (2) permit for a brewery described in IC 7.1-3-2-7(5) that is located on or adjacent to the premises for which the permit holder holds a permit described in subdivision (1);

the permit holder may sell for carryout, at the premises for which the permit holder holds a permit described in subdivision (1), beer manufactured at the brewery.

SECTION 10. IC 7.1-3-20-16.8, AS AMENDED BY P.L.285-2019, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16.8. (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) Except as provided in section 16.3 of this chapter, the commission may issue not more than four (4) new three-way permits to sell alcoholic beverages for on-premises consumption to applicants in each of the following municipalities:

- (1) Whitestown.
- (2) Lebanon.
- (3) Zionsville.
- (4) Westfield.
- (5) Carmel.
- (6) Fishers.

(c) The following apply to permits issued under ~~this section~~:
subsection (b):

- (1) An applicant for a permit under ~~this section~~ **subsection (b)** must be a proprietor, as owner or lessee, or both, of a restaurant located within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14 in a municipality's:
 - (A) downtown redevelopment district; or
 - (B) downtown economic revitalization area.
- (2) The cost of an initial permit is forty thousand dollars (\$40,000).
- (3) The total number of active permits issued under ~~this section~~ **subsection (b)** may not exceed twenty-four (24) permits at any time. If any of the permits issued under ~~this section~~ **subsection**



(b) are revoked or not renewed, the commission may issue only enough new permits to bring the total number of permits to twenty-four (24) active permits, with not more than four (4) in each municipality listed in subsection (b)(1) through (b)(6).

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

(5) Notwithstanding IC 7.1-3-1-3.5 and IC 7.1-3-1.1, if business operations cease at the permit premises for more than six (6) months, the permit shall revert to the commission and the permit holder is not entitled to any refund or other compensation.

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

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

(8) If the area in which the permit premises is located is no longer designated an economic development area, an area needing redevelopment, or a redevelopment district, a permit issued under this section may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(d) Except as provided in section 16.3 of this chapter, in addition to the permits issued to the town of Whitestown under subsection (c), the commission may issue to the town of Whitestown not more than:

(1) three (3) new three-way permits; and

(2) three (3) new two-way permits;

under this subsection.

(e) The following apply to permits issued under subsection (d):

(1) An applicant for a permit under subsection (d)(1) or (d)(2) must be a proprietor, an owner or lessee, or both, of a restaurant located within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14 in a municipality's:

(A) downtown redevelopment district; or

(B) downtown economic revitalization area.

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

(3) The total number of active permits issued under



subsection (d) may not exceed the six (6) permits allocated by permit type, as set forth in that subsection.

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

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

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

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

(8) If the area in which the permit issued to a premises under subsection (d)(1) or (d)(2) is located is no longer designated an economic development area, an area needing redevelopment, or a redevelopment district, a permit issued under this section may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

SECTION 11. IC 7.1-3-22-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.5. (a) As used in this section, "eligible grocery store" means a grocery store (as defined in IC 7.1-1-3-18.5(a)(1)) that meets the following criteria:

(1) Is operated in a consolidated city.

(2) Was established in whole or in part through a food empowerment pilot project authorized under P.L.165-2021, SECTION 6 and awarded to a nonprofit corporation for the benefit of establishing the grocery store.

(3) Operates with less than eighteen thousand (18,000) square feet of building space.

(4) Provides access to fresh and healthy foods to individuals in a low income area where access to resources for fresh and healthy food, particularly fresh fruits and vegetables and fresh meat, poultry, and fish, is limited.

(b) The commission shall issue a beer dealer's permit and a wine dealer's permit to an eligible grocery store without regard to the quota provisions of this chapter.



(c) A permit issued under this section is subject to the following:

(1) A permit issued under this section may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(2) Notwithstanding IC 7.1-3-1.1, if the premises ceases to qualify as an eligible grocery store for more than six (6) months, the permit shall revert to the commission and the permit holder is not entitled to any refund or other compensation.

SECTION 12. IC 7.1-3-27-3, AS AMENDED BY P.L.159-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) An artisan distiller may produce not more than ~~ten~~ **twenty** thousand ~~(10,000)~~ **(20,000)** gallons of liquor in any calendar year. Liquor produced by an artisan distiller that is sold through a wholesaler licensed under IC 7.1-3-8 may not be counted toward the gallonage limit.

(b) An artisan distiller who knowingly or intentionally violates this section commits a Class B misdemeanor.

SECTION 13. IC 7.1-5-3-1, AS AMENDED BY P.L.79-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) This section does not apply to the following:

(1) An establishment where alcoholic beverages are sold that is owned, in whole or part, by an entity that holds a brewer's permit issued under IC 7.1-3-2-2(b).

(2) An establishment where alcoholic beverages are sold that is owned, in whole or part, by a statewide trade organization consisting of members, each of whom holds a brewer's permit issued under IC 7.1-3-2-2(b).

(3) Beer that is bottled and packaged under IC 7.1-3-2-7(5)(P).

(b) Except as provided in section 6 of this chapter, it is unlawful to sell beer in this state at retail in a bottle, can, or other container, unless the bottle, can, or other container was packaged and sealed by the brewer at the brewer's bottling house contiguous or adjacent to the brewery in which the beer was produced.

(c) A person who knowingly or intentionally violates subsection (b) commits a Class B misdemeanor.

SECTION 14. IC 7.1-5-7-11, AS AMENDED BY P.L.105-2022, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

(1) Civic center.



- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2.1-36).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.
- (19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.
- (20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.
- (21) An automobile racetrack.
- (22) An indoor theater under IC 7.1-3-20-26.
- (23) A senior residence facility campus (as defined in IC 7.1-3-1-29(c)) at which alcoholic beverages are given or furnished as provided under IC 7.1-3-1-29.
- (24) A hotel other than a part of a hotel that is a room in a restaurant in which a bar is located over which alcoholic beverages are sold or dispensed by the drink.
- (25) The location of an allowable event to which IC 7.1-3-6.1 applies.
- (26) The location of a charity auction to which IC 7.1-3-6.2 applies.
- (27) A tour of a brewery as provided in IC 7.1-3-20-16.4, if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.



(28) A farm winery and any additional locations of the farm winery under IC 7.1-3-12, if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age and the minor is accompanied by the adult in any area that the adult may be present whether or not the area:

(A) is separated in any manner from where the wine is manufactured, sold, or consumed within the farm winery premises; or

(B) operates under a retailer's permit.

(29) An artisan distillery under IC 7.1-3-27, if:

(A) the person who holds the artisan distiller's permit also holds a farm winery permit under IC 7.1-3-12, or IC 7.1-3-20-16.4(a) applies to the person; and

(B) the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.

(30) An art instruction studio under IC 7.1-5-8-4.6.

(31) The licensed premises of a food hall under IC 7.1-3-20-29 and the food and beverage vending space of a food hall vendor permittee under IC 7.1-3-20-30. However, sections 9 and 10 of this chapter apply to a bar within the food and beverage vending space of a food hall vendor permittee under IC 7.1-3-20-30 that serves alcoholic beverages intended to be consumed while sitting or standing at the bar.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

~~(1) The minor is eighteen (18) years of age or older.~~

~~(2) (1) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.~~

~~(3) (2) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.~~

(3) The minor, accompanied by the parent, guardian, or family member who is twenty-one (21) years of age or older, must be seated at a table or booth in the bar area and shall not be seated at the bar over which alcoholic beverages are sold or dispensed by the drink.

SECTION 15. IC 7.1-6-1-3 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. "Tobacco product" means a product that:

- (1) contains tobacco **or nicotine; and**
- (2) is intended for human consumption; **and**
- (3) **is not approved by the federal Food and Drug Administration for tobacco cessation.**

SECTION 16. IC 7.1-7-5-1.1, AS ADDED BY P.L.206-2017, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.1. (a) A retailer must have a valid sales certificate issued by the commission in accordance with IC 7.1-3-18.5-1 that contains a separate box to check for identifying a retailer that sells e-liquids.

(b) A retailer may purchase e-liquid only from an Indiana e-liquid manufacturing permit holder or an Indiana distributor permit holder.

(c) A retailer shall retain all invoices for e-liquid that the retailer purchases for two (2) years.

(d) A retailer shall not allow the self-service sale for individuals purchasing an e-liquid.

(e) A retailer may not sell an e-liquid that contains more than seventy-five (75) milligrams per milliliter of nicotine.

(f) A manufacturer must have an e-liquid manufacturing permit issued under IC 7.1-7-4.

(g) A distributor that does not have a valid e-liquid manufacturing permit issued under IC 7.1-7-4 must have a valid distributor's license issued under IC 6-7-2-8.

(h) A distributor shall purchase and distribute e-liquid from an:

(1) Indiana e-liquid manufacturer that has a valid e-liquid manufacturing permit under IC 7.1-7-4; or

(2) Indiana e-liquid distributor that has a valid:

(A) e-liquid manufacturing permit issued under IC 7.1-7-4;
or

(B) distributor's license under IC 6-7-2-8.

~~(i)~~ (i) A distributor shall retain all invoices to a retailer or from a manufacturer for at least two (2) years.

~~(j)~~ (j) A manufacturer, distributor, or retailer may not market e-liquid as a modified risk tobacco product, as defined by IC 7.1-7-2-17.5, that has not been designated as a modified risk tobacco product by the federal Food and Drug Administration.

~~(k)~~ (k) Except as provided in subsection ~~(i)~~; **(m)**, a manufacturer, including a manufacturer of a closed system vapor product, shall annually submit a report to the commission setting forth:

- (1) each new product that the manufacturer is producing and is



sold in Indiana with a list of the contents and ingredients by volume; and

(2) whether the manufacturer has stopped producing products previously produced and sold in Indiana.

A report under this subsection is confidential, and the commission may not disclose it to another person.

~~(k)~~ **(l)** A manufacturer shall annually submit a report to the commission setting forth:

(1) the milligrams per milliliter of nicotine in each product the manufacturer produces; and

(2) the milliliters of each product sold that current year.

A report under this subsection is confidential, and the ATC may not disclose it to another person.

~~(j)~~ **(m)** A manufacturer is not required to submit a report described in subsection ~~(j)~~ **(k)** if the manufacturer submits to the commission a certification, by October 1 of each year, that each of the manufacturer's vapor products sold in Indiana has been filed with the federal Food and Drug Administration.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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