

# HOUSE BILL No. 1219

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-1-3; IC 7.1-3; IC 7.1-5.

**Synopsis:** Beer wholesalers and mixed beverages. Provides that a beer wholesaler may possess, transport, sell, and deliver mixed beverages only to a person who holds certain alcohol permits. Allows a beer wholesaler to sell, donate, transport, and deliver mixed beverages to certain qualified organizations. Requires the alcohol and tobacco commission to adopt certain rules regarding mixed beverages. Provides that a beer wholesaler's bona fide regular employees may purchase mixed beverages from the wholesaler in an amount not to exceed 18 liters at any one time. Provides that a beer wholesaler permittee may not extend credit for the sale of mixed beverages. Provides that a beer wholesaler that wholesales mixed beverages may not be required to apply for or maintain a liquor wholesaler's permit or to pay a fee to wholesale mixed beverages. Provides that a beer wholesaler that wholesales mixed beverages may keep or store mixed beverages at certain premises. Modifies the definition of "liquor" and adds a definition of "mixed beverage".

**Effective:** July 1, 2022.

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## Jeter, Steuerwald, Moed

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January 6, 2022, read first time and referred to Committee on Public Policy.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1219

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 7.1-1-3-21 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 21. ~~Liquor~~. The term  
3 "liquor" means an alcoholic beverage containing alcohol obtained by  
4 distillation **and includes a mixed beverage**. The term also means a  
5 wine that contains twenty-one ~~per cent~~ **percent** (21%), or more, of  
6 alcohol reckoned by volume. However, the term does not include  
7 industrial alcohol.

8 SECTION 2. IC 7.1-1-3-26.2 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2022]: **Sec. 26.2. "Mixed beverage" means a**  
11 **prepared cordial, cocktail, or highball that is in a can or container**  
12 **and is a mixture of:**

13 (1) whiskey, neutral spirits, brandy, gin, or another distilled  
14 spirit; and

15 (2) carbonated or plain water, pure juice from a flower or  
16 plant, or other flavoring materials;

17 **that is suitable for immediate consumption and contains not less**



1 **than one-half of one percent (0.5%) of alcohol by volume and not**  
 2 **more than twenty-one percent (21%) of alcohol by volume.**

3 SECTION 3. IC 7.1-3-2-9 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. An out-of-state  
 5 brewer holding either a primary source of supply permit or an  
 6 out-of-state brewer's permit may:

7 (1) appoint a beer wholesaler to perform the services described in  
 8 ~~IC 7.1-3-3-5(f)(1)~~ **IC 7.1-3-3-5(j)(1)** through ~~IC 7.1-3-3-5(f)(2);~~  
 9 **IC 7.1-3-3-5(j)(2);** and

10 (2) provide a fee to a beer wholesaler who performs the services  
 11 described in ~~IC 7.1-3-3-5(f)(1)~~ **IC 7.1-3-3-5(j)(1)** through  
 12 ~~IC 7.1-3-3-5(f)(2);~~ **IC 7.1-3-3-5(j)(2).**

13 SECTION 4. IC 7.1-3-3-5, AS AMENDED BY P.L.153-2015,  
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2022]: Sec. 5. (a) The holder of a beer wholesaler's permit  
 16 may purchase and import from the primary source of supply, possess,  
 17 and sell at wholesale, beer, **mixed beverages**, and flavored malt  
 18 beverages manufactured within or without this state.

19 (b) A beer wholesaler permittee may possess, transport, sell, and  
 20 deliver beer to:

21 (1) another beer wholesaler authorized by the brewer to sell the  
 22 brand purchased;

23 (2) an employee;

24 (3) a holder of a beer retailer's permit, beer dealer's permit,  
 25 temporary beer permit, dining car permit, boat permit, airplane  
 26 permit, or supplemental caterer's permit; and

27 (4) a qualified organization for:

28 (A) an allowable event to which IC 7.1-3-6.1 applies; or

29 (B) a charity auction to which IC 7.1-3-6.2 applies;

30 located within this state. The sale, donation to a qualified organization,  
 31 transportation, and delivery of beer shall be made only from inventory  
 32 that has been located on the wholesaler's premises before the time of  
 33 invoicing and delivery.

34 **(c) A beer wholesaler permittee may possess, transport, sell, and**  
 35 **deliver mixed beverages only to a person who holds one (1) of the**  
 36 **following:**

37 **(1) A liquor retailer's permit under IC 7.1-3-9.**

38 **(2) A supplemental caterer's permit under IC 7.1-3-9.5.**

39 **(3) A liquor dealer's permit under IC 7.1-3-10.**

40 **(4) A beer wholesaler's permit under IC 7.1-3-3.**

41 **(5) A liquor wholesaler's permit under IC 7.1-3-8.**

42 **(d) A beer wholesaler permittee may sell, donate, transport, and**



1 deliver mixed beverages to a qualified organization for:

2 (1) an allowable event to which IC 7.1-3-6.1 applies; or

3 (2) a charity auction to which IC 7.1-3-6.2 applies;

4 located within this state. The sale or donation under this subsection  
5 may only be made from inventory that was located on the  
6 wholesaler's premises before the time of invoicing and delivery.

7 (e) The commission shall adopt rules under IC 4-22-2 to:

8 (1) regulate the types of containers that mixed beverages may  
9 be distributed or sold in; and

10 (2) limit the quantity of mixed beverages that may be sold or  
11 donated under subsection (d).

12 ~~(e)~~ (f) The beer wholesaler's bona fide regular employees may  
13 purchase beer from the wholesaler in:

14 (1) bottles, cans, or any other type of permissible containers in an  
15 amount not to exceed forty-eight (48) pints; or

16 (2) one (1) keg;

17 at any one (1) time.

18 (g) The beer wholesaler's bona fide regular employees may  
19 purchase mixed beverages from the wholesaler in an amount not  
20 to exceed eighteen (18) liters at any one (1) time.

21 ~~(d)~~ (h) The importation, transportation, possession, sale, and  
22 delivery of beer shall be subject to the rules of the commission and  
23 subject to the same restrictions provided in this title for a person  
24 holding a brewer's permit.

25 ~~(e)~~ (i) The holder of a beer wholesaler's permit may purchase,  
26 import, possess, transport, sell, and deliver any commodity listed in  
27 IC 7.1-3-10-5, unless prohibited by this title. However, a beer  
28 wholesaler may deliver flavored malt beverages only to the holder of  
29 one (1) of the following permits:

30 (1) A beer wholesaler or wine wholesaler permit, if the wholesaler  
31 is authorized by the primary source of supply to sell the brand of  
32 flavored malt beverage purchased.

33 (2) A wine retailer's permit, wine dealer's permit, temporary wine  
34 permit, dining car wine permit, boat permit, airplane permit, or  
35 supplemental caterer's permit.

36 ~~(f)~~ (j) A beer wholesaler may:

37 (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9  
38 and deliver the stored beer to another beer wholesaler that the  
39 out-of-state brewer authorizes to sell the beer;

40 (2) perform all necessary accounting and auditing functions  
41 associated with the services described in subdivision (1); and

42 (3) receive a fee from an out-of-state brewer for the services



- 1 described in subdivisions (1) through (2).  
 2 SECTION 5. IC 7.1-3-3-5.5 IS ADDED TO THE INDIANA CODE  
 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 4 1, 2022]: **Sec. 5.5. (a) A beer wholesaler that wholesales mixed  
 5 beverages under section 5 of this chapter may not:**  
 6 **(1) be required by the commission to:**  
 7 **(A) apply for or maintain a liquor wholesaler's permit; or**  
 8 **(B) pay a fee;**  
 9 **to wholesale mixed beverages under this chapter; or**  
 10 **(2) keep or store mixed beverages at a place other than the**  
 11 **premises described in the application and permit for the beer**  
 12 **wholesaler's permit.**  
 13 **(b) A beer wholesaler that wholesales mixed beverages under**  
 14 **section 5 of this chapter is subject to IC 7.1-3-8-3 and any other law**  
 15 **or rule of the commission applicable to the holder of a liquor**  
 16 **wholesaler's permit as to the beer wholesaler's sale of mixed**  
 17 **beverages to the extent the law or rule does not conflict with this**  
 18 **section.**  
 19 SECTION 6. IC 7.1-5-5-11, AS AMENDED BY P.L.270-2017,  
 20 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2022]: **Sec. 11. (a) Except as provided in subsections (c), (d),**  
 22 **and (e), it is unlawful for a manufacturer of alcoholic beverages or a**  
 23 **permittee authorized to sell and deliver alcoholic beverages to:**  
 24 **(1) give to another permittee who purchases alcoholic beverages**  
 25 **from the manufacturer or permittee a gift; or**  
 26 **(2) except as provided in IC 7.1-3-2-9 and ~~IC 7.1-3-3-5(f)~~,**  
 27 **IC 7.1-3-3-5(j), have a business dealing with the other permittee.**  
 28 **(b) This section does not apply to the sale and delivery and**  
 29 **collection of the sale price of an alcoholic beverage in the ordinary**  
 30 **course of business.**  
 31 **(c) If the promotional program is approved under the rules adopted**  
 32 **by the commission and is conducted in all wholesaler establishments**  
 33 **through which the manufacturer distributes alcoholic beverages in**  
 34 **Indiana, a manufacturer of alcoholic beverages may award bona fide**  
 35 **promotional prizes and awards to any of the following:**  
 36 **(1) A person with a wholesaler's permit issued under IC 7.1-3.**  
 37 **(2) An employee of a person with a wholesaler's permit issued**  
 38 **under IC 7.1-3.**  
 39 **(d) A manufacturer may offer on a nondiscriminatory basis bona**  
 40 **fide incentives to wholesalers when the incentives are determined**  
 41 **based on sales to retailers or dealers occurring during specified times**  
 42 **for specified products. The incentive may be conditioned on the**



1 wholesaler selling a:

- 2 (1) specified product at a specified price or less than a specified  
3 price; or  
4 (2) minimum quantity of a specified product to a single customer  
5 in a single transaction.

6 The incentive may not be conditioned on a wholesaler having total  
7 sales of a minimum quantity of a specified product during the  
8 applicable period.

9 (e) A manufacturer or a permittee authorized to sell and deliver  
10 alcoholic beverages may provide entertainment and professional and  
11 educational expenses to another permittee, unless the entertainment or  
12 professional and educational expenses are provided in exchange for an  
13 agreement to directly or indirectly purchase alcoholic beverages from  
14 a:

- 15 (1) manufacturer; or  
16 (2) permittee authorized to sell and deliver alcoholic beverages;  
17 to the exclusion, in whole or in part, of alcoholic beverages sold or  
18 delivered by another manufacturer or a permittee authorized to sell and  
19 deliver alcoholic beverages.

20 (f) A person who knowingly or intentionally violates this section  
21 commits a Class A misdemeanor.

22 SECTION 7. IC 7.1-5-9-3, AS AMENDED BY P.L.79-2015,  
23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2022]: Sec. 3. (a) This section applies to a brewer that  
25 manufactures, in aggregate, more than ninety thousand (90,000) barrels  
26 of beer in a calendar year for sale or distribution within Indiana.

27 (b) It is unlawful for the holder of a brewer's or beer wholesaler's  
28 permit to have an interest in a liquor permit of any type under this title.  
29 **However, this section does not prohibit the holder of a beer**  
30 **wholesaler's permit from wholesaling mixed beverages under**  
31 **IC 7.1-3-3-5.5.**

32 (c) A person who knowingly or intentionally violates this section  
33 commits a Class B misdemeanor.

34 SECTION 8. IC 7.1-5-9-4, AS AMENDED BY P.L.159-2014,  
35 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2022]: Sec. 4. (a) Except as provided in IC 7.1-3-3-4 **and**  
37 **subsection (c)**, an applicant for a beer wholesaler's permit shall have  
38 no interest in the following:

- 39 (1) A permit to manufacture or to sell at retail alcoholic beverages  
40 of any kind.  
41 (2) Any other permit to wholesale alcoholic beverages.  
42 (3) Through stock ownership or otherwise, a partnership, limited



1 liability company, or corporation that holds:

2 (A) a permit to manufacture or to sell at retail alcoholic  
3 beverages of any kind; or

4 (B) any other permit to wholesale alcoholic beverages of any  
5 kind.

6 (b) A person who knowingly or intentionally violates this section  
7 commits a Class B misdemeanor.

8 **(c) This section does not prohibit the holder of a beer  
9 wholesaler's permit from wholesaling mixed beverages under  
10 IC 7.1-3-3-5.5.**

11 SECTION 9. IC 7.1-5-9-6, AS AMENDED BY P.L.279-2019,  
12 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2022]: Sec. 6. **(a) This section does not apply to the holder  
14 of a beer wholesaler's permit that wholesales mixed beverages  
15 under IC 7.1-3-3-5.5.**

16 ~~(a)~~ **(b)** It is unlawful for the holder of a liquor wholesaler's permit  
17 to have an interest in a beer permit of any type under this title.

18 ~~(b)~~ **(c)** A person who knowingly or intentionally violates this section  
19 commits a Class B misdemeanor.

20 SECTION 10. IC 7.1-5-10-12, AS AMENDED BY P.L.194-2021,  
21 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2022]: Sec. 12. (a) Except as provided in subsections ~~(b)~~ **(c)**  
23 through ~~(d)~~ **(e)** and subsection ~~(g)~~ **(h)**, it is unlawful for a permittee to  
24 sell, offer to sell, purchase or receive, an alcoholic beverage for  
25 anything other than cash. A permittee who extends credit in violation  
26 of this section shall have no right of action on the claim.

27 **(b) A beer wholesaler permittee may not extend credit for the  
28 sale of mixed beverages.**

29 ~~(b)~~ **(c)** A permittee may credit to a purchaser the actual price  
30 charged for a package or an original container returned by the original  
31 purchaser as a credit on a sale and refund to a purchaser the amount  
32 paid by the purchaser for a container, or as a deposit on a container, if  
33 it is returned to the permittee.

34 ~~(c)~~ **(d)** A manufacturer may extend usual and customary credit for  
35 alcoholic beverages sold to a customer who maintains a place of  
36 business outside this state when the alcoholic beverages are actually  
37 shipped to a point outside this state.

38 ~~(d)~~ **(e)** An artisan distiller, a distiller, a farm winery, or a liquor or  
39 wine wholesaler may extend credit on liquor, flavored malt beverages,  
40 and wine sold to a permittee for a period of fifteen (15) days from the  
41 date of invoice, date of invoice included. However, if the fifteen (15)  
42 day period passes without payment in full, the:



- 1 (1) wholesaler;  
 2 (2) farm winery that sells and delivers under IC 7.1-3-12-5(a)(14);  
 3 or  
 4 (3) artisan distillery that sells and delivers under  
 5 IC 7.1-3-27-8(a)(11);  
 6 shall sell to that permittee on a cash on delivery basis only.  
 7 ~~(e)~~ **(f)** A person who knowingly or intentionally violates this section  
 8 commits a Class B misdemeanor.  
 9 ~~(f)~~ **(g)** Nothing in this section may be construed to prohibit a hotel,  
 10 restaurant, caterer, or a club that is not open to the general public from  
 11 extending credit to a consumer purchasing alcohol for personal use at  
 12 any time.  
 13 ~~(g)~~ **(h)** Nothing in this section may be construed to prohibit a retailer  
 14 or dealer from accepting a:  
 15 (1) credit card;  
 16 (2) debit card;  
 17 (3) charge card; or  
 18 (4) stored value card;  
 19 from a consumer purchasing alcohol for personal use.

