

HOUSE BILL No. 1247

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3; IC 27-10-3.

Synopsis: Business residency requirements. Repeals and amends various provisions under current law that restrict or prohibit certain business activities based on Indiana residency.

Effective: July 1, 2020.

Morris, Judy

January 13, 2020, read first time and referred to Committee on Public Policy.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1247

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 7.1-3-5-2, AS AMENDED BY P.L.285-2019,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) As used in this section, "proprietor of a
4 package liquor store" means the person that:
5 (1) holds the financial investment in; and
6 (2) exercises the financial and operational oversight of;
7 a package liquor store.
8 (b) The commission may issue a beer dealer's permit only to an
9 applicant who is the proprietor of a drug store, grocery store, or
10 package liquor store.
11 (c) Subject to subsection (d), the commission may issue a beer
12 dealer's permit to an applicant that is a foreign corporation if:
13 (1) the applicant is duly admitted to do business in Indiana;
14 (2) the sale of beer is within the applicant's corporate powers; and
15 (3) the applicant is otherwise qualified under this title.
16 (d) ~~Except as provided under IC 7.1-3-21-5.6, the commission may~~
17 ~~issue a beer dealer's permit under subsection (c) for the premises of a~~



1 package liquor store only if the proprietor of the package liquor store
 2 satisfies the Indiana resident ownership requirements described in
 3 IC 7.1-3-21-5(b), IC 7.1-3-21-5.2(b), or IC 7.1-3-21-5.4(b).

4 (c) (d) The commission shall not issue a beer dealer's permit to a
 5 person who is disqualified under the special disqualifications.
 6 However, the special disqualification listed in IC 7.1-3-4-2(a)(14) shall
 7 not apply to an applicant for a beer dealer's permit.

8 (f) (e) Notwithstanding subsection (b), the commission may renew
 9 a beer dealer's permit for an applicant who:

10 (1) held a permit before July 1, 1997; and

11 (2) is the proprietor of a confectionery or a store that:

12 (A) is not a drug store, grocery store, or package liquor store;

13 (B) is in good repute; and

14 (C) in the judgment of the commission, deals in merchandise
 15 that is not incompatible with the sale of beer.

16 SECTION 2. IC 7.1-3-6-2, AS AMENDED BY P.L.285-2019,
 17 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 2. The commission may issue a temporary beer
 19 permit to a person who is qualified to hold a beer retailer's permit and
 20 who has such other qualifications as the commission may prescribe by
 21 a provisional order until it adopts a rule or regulation on the matter.
 22 However, the special disqualifications listed in IC 7.1-3-4-2(a)(4),
 23 IC 7.1-3-4-2(a)(9), and IC 7.1-3-4-2(a)(14), and the residency
 24 requirements provided in IC 7.1-3-21-3; shall not apply to an applicant
 25 for a temporary beer permit.

26 SECTION 3. IC 7.1-3-12-3, AS AMENDED BY P.L.165-2006,
 27 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 3. The commission may issue a farm winery
 29 permit to a person who:

30 (1) is the proprietor of a farm winery;

31 (2) desires to commercially manufacture wine; and

32 (3) is either:

33 (A) an individual; or

34 (B) a partnership, limited liability company, or corporation
 35 domiciled in or admitted to do business in Indiana.

36 A farm winery permit shall be valid from July 1, of the then current
 37 year to June 30, of the following year. IC 7.1-3-21-5 does not apply to
 38 a farm winery permit issued under this chapter.

39 SECTION 4. IC 7.1-3-16-6, AS AMENDED BY P.L.285-2019,
 40 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2020]: Sec. 6. The commission may issue a temporary wine
 42 permit to a person who is qualified to hold a beer retailer's permit and



1 who has such other qualifications as the commission may prescribe by
 2 a provisional order until it adopts a rule or regulation on the matter.
 3 However, the special disqualifications listed in IC 7.1-3-4-2(a)(4),
 4 IC 7.1-3-4-2(a)(9), and IC 7.1-3-4-2(a)(14), ~~and the residency~~
 5 ~~requirements provided in IC 7.1-3-21-3~~; shall not apply to an applicant
 6 for a temporary wine permit.

7 SECTION 5. IC 7.1-3-21-0.1, AS ADDED BY P.L.220-2011,
 8 SECTION 174, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2020]: Sec. 0.1. Notwithstanding the
 10 amendments made to sections 3, 5, 5.2, and 5.4 of this chapter (**before**
 11 **their repeal**) by P.L.72-2004, the residency requirement of five (5)
 12 years for beer wholesalers under sections 3, 5, 5.2, and 5.4 of this
 13 chapter (as those provisions existed on June 30, 2004) shall remain in
 14 effect for all contracts entered into before July 1, 2004, under which a
 15 permit is to be transferred from an Indiana resident to a person who
 16 was not an Indiana resident at the time of execution of the contract.

17 SECTION 6. IC 7.1-3-21-3 IS REPEALED [EFFECTIVE JULY 1,
 18 2020]. Sec. 3: The commission shall not issue an alcoholic beverage
 19 retailer's or dealer's permit of any type to a person who has not been a
 20 continuous and bona fide resident of Indiana for five (5) years
 21 immediately preceding the date of the application for a permit.

22 SECTION 7. IC 7.1-3-21-5 IS REPEALED [EFFECTIVE JULY 1,
 23 2020]. Sec. 5: (a) The commission shall not issue an alcoholic beverage
 24 retailer's permit of any type to a corporation unless sixty percent (60%)
 25 of the outstanding common stock is owned by persons who have been
 26 continuous and bona fide residents of Indiana for five (5) years:

27 (b) The commission shall not issue an alcoholic beverage dealer's
 28 permit of any type for the premises of a package liquor store to a
 29 corporation unless:

30 (1) sixty percent (60%) of the outstanding stock in the corporation
 31 is owned by persons who have been continuous and bona fide
 32 residents of Indiana for five (5) years; and

33 (2) the stock described in subdivision (1) constitutes a controlling
 34 interest in the corporation:

35 (c) Each officer and stockholder of a corporation shall possess all
 36 other qualifications required of an individual applicant for that
 37 particular type of permit:

38 SECTION 8. IC 7.1-3-21-5.2 IS REPEALED [EFFECTIVE JULY
 39 1, 2020]. Sec. 5:2: (a) The commission shall not issue an alcoholic
 40 beverage retailer's permit of any type to a limited partnership unless at
 41 least sixty percent (60%) of the partnership interest is owned by
 42 persons who have been continuous and bona fide residents of Indiana



- 1 for five (5) years.
- 2 (b) The commission shall not issue an alcoholic beverage dealer's
- 3 permit of any type for the premises of a package liquor store to a
- 4 limited partnership unless:
- 5 (1) at least sixty percent (60%) of the partnership interest is
- 6 owned by persons who have been continuous and bona fide
- 7 residents of Indiana for five (5) years; and
- 8 (2) the partnership interest described in subdivision (1)
- 9 constitutes a controlling interest in the limited partnership.
- 10 (c) Each general partner and limited partner of a limited partnership
- 11 must possess all other qualifications required of an individual applicant
- 12 for that particular type of permit.
- 13 SECTION 9. IC 7.1-3-21-5.4 IS REPEALED [EFFECTIVE JULY
- 14 1, 2020]. Sec. 5.4: (a) The commission shall not issue an alcoholic
- 15 beverage retailer's permit of any type to a limited liability company
- 16 unless at least sixty percent (60%) of the membership interest is owned
- 17 by persons who have been continuous and bona fide residents of
- 18 Indiana for five (5) years.
- 19 (b) The commission shall not issue an alcoholic beverage dealer's
- 20 permit of any type for the premises of a package liquor store to a
- 21 limited liability company unless:
- 22 (1) at least sixty percent (60%) of the outstanding membership
- 23 interest in the limited liability company is owned by persons who
- 24 have been continuous and bona fide residents of Indiana for five
- 25 (5) years; and
- 26 (2) the membership interest described in subdivision (1)
- 27 constitutes a controlling interest in the limited liability company.
- 28 (c) Each manager and member of a limited liability company must
- 29 possess all other qualifications required of an individual applicant for
- 30 that particular type of permit.
- 31 SECTION 10. IC 7.1-3-21-5.6, AS ADDED BY P.L.214-2016,
- 32 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2020]: Sec. 5.6. (a) ~~Notwithstanding section 5; 5.2; or 5.4 of~~
- 34 ~~this chapter~~, The commission may renew or transfer ownership of a
- 35 dealer's permit of any type for the holder of a dealer's permit who
- 36 (1) held the permit for the premises of a package liquor store
- 37 before January 1, 2016. ~~and~~
- 38 (2) ~~does not qualify for the permit under section 5(b); 5.2(b); or~~
- 39 ~~5.4(b) of this chapter.~~
- 40 (b) The commission may transfer ownership of a dealer's permit
- 41 under this section. ~~only to an applicant who satisfies the Indiana~~
- 42 ~~resident ownership requirements under this chapter.~~



1 SECTION 11. IC 7.1-3-21-6, AS AMENDED BY P.L.233-2007,
 2 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 6. (a) The provisions of ~~sections~~ **section 4 5, 5-2,**
 4 **and 5-4** of this chapter concerning retail and dealer partnerships
 5 ~~corporations; limited partnerships; and limited liability companies~~ shall
 6 not apply to the issuance of:

- 7 (1) a dining car permit;
- 8 (2) a boat permit;
- 9 (3) a drug store permit;
- 10 (4) a grocery store permit;
- 11 (5) a hotel permit;
- 12 (6) an airplane permit;
- 13 (7) a gaming site permit;
- 14 (8) a horse track permit;
- 15 (9) a satellite facility permit; or
- 16 (10) a retail permit to an establishment:

17 (A) that is sufficiently served by adequate law enforcement at
 18 its permit location; and

19 (B) whose annual gross food sales at the permit location:

- 20 (i) exceed one hundred thousand dollars (\$100,000); or
- 21 (ii) in the case of a new application and as proved by the
 22 applicant to the local board and the commission, will exceed
 23 two hundred thousand dollars (\$200,000) by the end of the
 24 two (2) year period from the date of the issuance of the
 25 permit.

26 (b) The commission shall not issue a permit listed in subsection (a)
 27 to a foreign:

- 28 (1) corporation;
- 29 (2) limited partnership; or
- 30 (3) limited liability company;

31 that is not duly qualified to do business in Indiana.

32 SECTION 12. IC 7.1-3-21-7 IS REPEALED [EFFECTIVE JULY
 33 1, 2020]. ~~Sec. 7. The provisions of section 5 of this chapter shall not
 34 apply to the common stock ownership of a corporation holding a
 35 restaurant permit and having less than sixty percent (60%) resident
 36 ownership prior to March 14, 1963.~~

37 SECTION 13. IC 27-10-3-3, AS AMENDED BY P.L.102-2005,
 38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 3. ~~(a)~~ The application for license, in addition to
 40 the matters set out in section 1 of this chapter, to serve as a bail agent
 41 must affirmatively show that:

- 42 (1) the applicant is at least eighteen (18) years of age and is of



- 1 good moral character;
- 2 (2) the applicant has never been convicted of a disqualifying
- 3 offense, notwithstanding IC 25-1-1.1, or:
- 4 (A) in the case of a felony conviction, at least ten (10) years
- 5 have passed since the date of the applicant's conviction or
- 6 release from imprisonment, parole, or probation, whichever is
- 7 later; or
- 8 (B) in the case of a misdemeanor disqualifying offense, at least
- 9 five (5) years have passed since the date of the applicant's
- 10 conviction or release from imprisonment, parole, or probation,
- 11 whichever is later;
- 12 (3) the applicant has knowledge or experience in the bail bond
- 13 business, or has held a valid all lines fire and casualty insurance
- 14 producer's license for one (1) year within the last five (5) years, or
- 15 has been employed by a company engaged in writing bail bonds
- 16 in which field the applicant has actively engaged for at least one
- 17 (1) year of the last five (5) years; and
- 18 (4) the applicant has completed at least twelve (12) hours of
- 19 instruction in courses approved by the commissioner under
- 20 section 7.1 of this chapter that pertain to the duties and
- 21 responsibilities of a bail agent or recovery agent, including
- 22 instruction in the laws that relate to the conduct of a bail agent or
- 23 recovery agent.
- 24 ~~(b) The application must affirmatively show that the applicant has~~
- 25 ~~been a bona fide resident of Indiana for one (1) year immediately~~
- 26 ~~preceding the date of application. However, the commissioner may~~
- 27 ~~waive this requirement.~~
- 28 SECTION 14. IC 27-10-3-5, AS AMENDED BY P.L.102-2005,
- 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2020]: Sec. 5. In addition to the requirements prescribed in
- 31 section 1 of this chapter, an applicant for a license to serve as a
- 32 recovery agent must affirmatively show that:
- 33 (1) the applicant is at least eighteen (18) years of age;
- 34 (2) the applicant is a citizen of the United States; ~~and has been a~~
- 35 ~~bona fide resident of this state for more than six (6) months~~
- 36 ~~immediately preceding the date of application;~~
- 37 (3) the applicant has never been convicted of a disqualifying
- 38 offense, notwithstanding IC 25-1-1.1, or:
- 39 (A) in the case of a felony conviction, at least ten (10) years
- 40 have passed since the date of the applicant's conviction or
- 41 release from imprisonment, parole, or probation, whichever is
- 42 later; or



1 (B) in the case of a misdemeanor disqualifying offense, at least
2 five (5) years have passed since the date of the applicant's
3 conviction or release from imprisonment, parole, or probation,
4 whichever is later; and
5 (4) the applicant has completed at least twelve (12) hours of
6 instruction in courses approved by the commissioner under
7 section 7.1 of this chapter that pertain to the duties and
8 responsibilities of a bail agent or recovery agent, including
9 instruction in the laws that relate to the conduct of a bail agent or
10 recovery agent.
11 A license fee of three hundred dollars (\$300) and an examination fee
12 of one hundred dollars (\$100) shall be submitted to the commissioner
13 with each application, together with the applicant's fingerprints and
14 photograph.

