

# HOUSE BILL No. 1257

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-9-53.7.

**Synopsis:** Merrillville food and beverage tax. Authorizes the town of Merrillville to impose a food and beverage tax.

**Effective:** July 1, 2021.

---

---

**Smith V, Olthoff**

---

---

January 14, 2021, read first time and referred to Committee on Ways and Means.

---

---



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## HOUSE BILL No. 1257

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-9-53.7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]:

4 **Chapter 53.7. Merrillville Food and Beverage Tax**

5 **Sec. 1. This chapter applies to the town of Merrillville.**

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

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

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



the ordinance to the department of state revenue.

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

(1) The day specified in the ordinance.

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

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

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

(2) in the town; and

(3) by a retail merchant for consideration.

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

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

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

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

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

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

Sec. 5. The town food and beverage tax rate:

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

(2) may not exceed one percent (1%);

of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of



1 tax imposed on the transaction under IC 6-2.5.

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

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

12 Sec. 8. (a) If a tax is imposed under section 3 of this chapter by  
13 the town, the town fiscal officer shall establish a food and beverage  
14 tax receipts fund.

15 (b) The town fiscal officer shall deposit in the fund all amounts  
16 received under this chapter.

17 (c) Money earned from the investment of money in the fund  
18 becomes a part of the fund.

19 Sec. 9. Money in the food and beverage tax receipts fund must  
20 be used by the town only for the following purposes:

21 (1) To reduce the town's property tax levy for a particular  
22 year at the discretion of the town, but this use does not reduce  
23 the maximum permissible ad valorem property tax levy under  
24 IC 6-1.1-18.5 for the town.

25 (2) For economic development purposes, including the pledge  
26 of money under IC 5-1-14-4 for bonds, leases, or other  
27 obligations for economic development purposes.

28 (3) For the following purposes:

29 (A) Storm water, sidewalk, street, park, parking  
30 improvements, and any infrastructure necessary to  
31 support tourism in the town.

32 (B) Finance, construct, improve, equip, operate, maintain,  
33 and promote a convention center and then other economic  
34 development projects.

35 (C) Finance, construct, improve, equip, operate, maintain,  
36 and promote a community center, and then other economic  
37 development projects.

38 (D) The pledge of money under IC 5-1-14-4 for bonds,  
39 leases, or other obligations incurred for a purpose  
40 described in clauses (A) through (C).

41 Revenue derived from the imposition of a tax under this chapter  
42 may be treated by the town as additional revenue for the purpose



1 of fixing its budget for the budget year during which the revenues  
2 are to be distributed to the town.

3       **Sec. 10.** With respect to obligations for which a pledge has been  
4 made under section 9 of this chapter, the general assembly  
5 covenants with the holders of the obligations that this chapter will  
6 not be repealed or amended in a manner that will adversely affect  
7 the imposition or collection of the tax imposed under this chapter  
8 if the payment of any of the obligations is outstanding.

