

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 ENROLLED ACT No. 1298

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 7.1-3-20-29, AS AMENDED BY P.L.150-2021, SECTION 4 AND P.L.194-2021, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 29. (a) As used in this section, "food hall" means the premises:

- (1) located within a retail shopping and food service district; and
- (2) to which a master permit is issued under this section.

(b) As used in this section, "master permit" means a food hall master permit issued under this section.

(c) Except as provided in subsection (d), the commission may issue a master permit, which is a three-way retailer's permit for on premises consumption, to a food hall located in a retail shopping and food service district that meets the following requirements:

- (1) The district consists of an area that:
 - (A) has been redeveloped, renovated, or environmentally remediated in part with grants from the federal, state, or local government under IC 36-7-11; and
 - (B) is entirely located within an incorporated city or town.
- (2) The district consists of land and a building or group of buildings that are part of a common development.
- (3) The district is located within a locally designated historic district under IC 36-7-11 established by a city or town ordinance.

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- (4) The district contains at least one (1) building that:
- (A) is on the list of the National Register for Historic Places or qualifies as a historic building worthy of preservation under IC 36-7-11; and
 - (B) has been approved for present commercial use by the local historic preservation commission of the city or town.
- (d) Subsection (c)(3) and (c)(4) does not apply to a food hall that:
- (1) is located within a certified technology park established under IC 36-7-32; and
 - (2) operates within a previously vacant building that was, or within a complex of buildings that were:
 - (A) placed in service at least twenty-five (25) years prior to the redevelopment of the building or buildings; and
 - (B) owned by a unit of local government or a public charitable trust prior to redevelopment.
- (e) The commission may issue a master permit to the owner or developer of a food hall. The food hall constitutes a single permit premises that:
- (1) contains not less than seven (7) distinct, nonaffiliated retail food and beverage vendors, each of which may apply for a food hall vendor permit under section 30 of this chapter; and
 - (2) has a seating capacity of the type traditionally designed for food and drink for at least one hundred (100) people.
- (f) An applicant for a master permit shall post notice and appear in front of the local board in which the permit premises is situated. The local board shall determine the eligibility of the applicant under this section and hear evidence in support of or against the master permit location. A master permit may not be transferred to a location outside the food hall permit premises. A permit that is inactive for more than six (6) months shall revert back to the commission or may be deposited with the commission under IC 7.1-3-1.1 with the commission's permission.
- (g) A master permit authorized by this section may be issued without regard to the proximity provisions of IC 7.1-3-21-11 or the quota provisions of IC 7.1-3-22.

(h) The commission may not require physical separation between a bar area and a dining area in a food hall.

SECTION 2. IC 7.1-3-27-5, AS AMENDED BY P.L.270-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) Except as provided in section 7 of this chapter, an applicant for an artisan distiller's permit must meet all the following requirements to be eligible for an artisan distiller's permit:

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(1) The permit applicant must hold one (1) of the following permits for the ~~eighteen (18)~~ **six (6)** months immediately preceding the date of the application:

- (A) A farm winery permit under IC 7.1-3-12.
- (B) A brewer's permit issued under IC 7.1-3-2-2(b).
- (C) A distiller's permit under IC 7.1-3-7.

(2) The permit applicant may not have more than one (1) violation of this title during the eighteen (18) months immediately preceding the date of the application.

(3) The permit applicant may not have any violation of this title during the twelve (12) month period immediately preceding the date of the permit application.

(b) As used in this subsection, "qualifying permit" means a farm winery, brewer's, or distiller's permit under subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) that is required in order to hold an artisan distiller's permit. The same persons must directly or indirectly own and control more than fifty percent (50%) of the entity that holds the qualifying permit and the artisan distiller's permit.

SECTION 3. IC 7.1-3-30 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 30. Temporary Craft Manufacturer Hospitality Permit

Sec. 1. The following terms apply throughout this chapter:

- (1) "Craft manufacturer" means a person who holds:
 - (A) a small brewery permit under IC 7.1-3-2-7(5);
 - (B) a farm winery permit under IC 7.1-3-12; or
 - (C) an artisan distiller's permit under IC 7.1-3-27.
- (2) "Holder" means a person who holds a temporary craft manufacturer hospitality permit.
- (3) "Hospitality permit" means a temporary craft manufacturer hospitality permit issued under this chapter.
- (4) "Host permittee" means a person who holds:
 - (A) a civic center permit under IC 7.1-3-1-25;
 - (B) a permit under IC 7.1-3-20-18 through IC 7.1-3-20-21 (hotel);
 - (C) a permit under IC 7.1-3-21-14 (state fair grounds);
 - (D) a permit under IC 7.1-3-20-16.8 (economic development area); or
 - (E) a permit under IC 7.1-3-17.8 (state park).
- (5) "Temporary event" means an event listed in section 4 of this chapter for which the commission issues a hospitality permit.



Sec. 2. (a) The commission may issue a temporary craft manufacturer hospitality permit without publication of notice or investigation before a local board to a qualified person as provided in this chapter. In all other respects, a hospitality permit shall be issued, revoked, and governed by the restrictions and limitations made in a provisional order or rule or regulation of the commission.

(b) The commission shall issue a hospitality permit to an applicant if the applicant:

- (1) submits an application for a hospitality permit to the commission not later than five (5) business days before the event for which the permit is requested;**
- (2) meets all requirements for a hospitality permit; and**
- (3) pays the license fee for a hospitality permit, as described in IC 7.1-4-4.1-5.1.**

(c) If authorized by the chairman or the chairman's designee, and at the commission's discretion, a hospitality permit may be issued to an applicant that:

- (1) submits an application for the hospitality permit to the commission later than five (5) business days before the event for which the hospitality permit is requested; and**
- (2) meets all requirements for a hospitality permit.**

(d) An application submitted under this section must contain a floor plan which demonstrates that the host permittee is not operating a bar in the same area as the temporary event. The premises of the temporary event must be well defined.

(e) An application submitted under this section must:

- (1) identify each craft manufacturer that will participate in the temporary event;**
- (2) designate an individual who is responsible for the event; and**
- (3) be signed by the individual described in subdivision (2).**

Sec. 3. The commission may issue a hospitality permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in IC 7.1-3-4-2(a)(4), IC 7.1-3-4-2(a)(9), and IC 7.1-3-4-2(a)(14) do not apply to an applicant for a hospitality permit.

Sec. 4. The commission may issue a hospitality permit only to allow a craft manufacturer to participate in:

- (1) a convention;**



- (2) a trade show;
 - (3) an exposition; or
 - (4) an event similar to one (1) or more of the events described in subdivisions (1) through (3);
- on the licensed premises of a host permittee.

Sec. 5. The commission may issue a hospitality permit for a term not to exceed fifteen (15) consecutive days from its issuance. However, if an emergency exists, in the judgment of the commission, a hospitality permit may be renewed for a period not to exceed fifteen (15) additional consecutive days.

Sec. 6. A hospitality permit issued under this chapter is subject to the following:

- (1) Except as provided in subdivision (4), alcoholic beverages may be sold by a craft manufacturer only for consumption on the licensed premises of the host permittee.
- (2) The sale of alcoholic beverages under a hospitality permit is subject to the same restrictions that apply to the sale of beer by the holder of a beer retailer's permit.
- (3) A holder is not entitled to sell at wholesale or for carry out from the licensed premises of the host permittee.
- (4) Notwithstanding subdivisions (2) and (3), a craft manufacturer may sell alcoholic beverages for carry out in an original container in the manner permitted for a trade show or exposition held under:
 - (A) IC 7.1-3-2-7(5)(J) (brewery);
 - (B) IC 7.1-3-12-5(d) (farm winery); or
 - (C) IC 7.1-3-27-8(a)(9) (artisan distillery).
- (5) A craft manufacturer's participation in a temporary event counts against the maximum days that the craft manufacturer is permitted to participate in a trade show or exposition under IC 7.1-3-2-7(5)(J), IC 7.1-3-12-5(d), or IC 7.1-3-27-8(a)(9).
- (6) Alcoholic beverages served and sold by a craft manufacturer under a hospitality permit must be provided by the craft manufacturer.
- (7) A person who serves alcoholic beverages for a craft manufacturer must hold a valid employee's permit under IC 7.1-3-18-9 or IC 7.1-3-18-11.
- (8) A minor may be present at a temporary event:
 - (A) only to the extent that a minor is permitted to be present on the licensed premises of the host permittee; and
 - (B) 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.

(9) The temporary event must meet applicable board of health requirements, including all requirements concerning restroom facilities.

(10) A holder may allow the sale of alcoholic beverages only during the times prescribed under IC 7.1-3-1-14.

(11) The hospitality permit must be posted in the most conspicuous place at the location of the temporary event.

(12) An excise officer, or commissioner for good cause, has the authority to revoke a hospitality permit at any time before or during the event.

SECTION 4. IC 7.1-4-4.1-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 5.1. The license fee for a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30 is an amount determined in STEP THREE of the following formula:**

STEP ONE: Determine the number of days each craft manufacturer will participate in the temporary event.

STEP TWO: Determine the sum of all the numbers determined under STEP ONE.

STEP THREE: Multiply the number determined in STEP TWO by fifty dollars (\$50).

SECTION 5. IC 7.1-5-8-4, AS AMENDED BY P.L.285-2019, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 4. (a) It is a Class B misdemeanor for a person who owns or operates a private or public restaurant or place of public or private entertainment to knowingly or intentionally permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section do not apply to the following:**

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track that is used primarily in the sport of auto racing.

(3) An outdoor place of public entertainment that:

(A) has an area of at least four (4) acres and not more than six (6) acres;

(B) is located within one (1) mile of the White River;

(C) is owned and operated by a nonprofit corporation exempt



from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(D) is used primarily in connection with live music concerts.

(4) A craft manufacturer (as defined in IC 7.1-3-30-1) at an event held on the licensed premises of a host permittee (as defined in IC 7.1-3-30-1) under a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

(c) This section does not apply to a person who owns or operates a private or public restaurant or place of public or private entertainment where a qualified organization is conducting:

(1) an allowable event to which IC 7.1-3-6.1 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered as a prize in the allowable event; or

(2) a charity auction to which IC 7.1-3-6.2 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered for sale in the charity auction.

(d) This section does not apply to an art instruction studio under section 4.6 of this chapter.

SECTION 6. IC 7.1-5-8-5, AS AMENDED BY P.L.285-2019, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a track that is used primarily in the sport of auto racing.

(c) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal



Revenue Code; and

(4) is used primarily in connection with live music concerts.

(d) This section does not apply to a person who brings wine into an art instruction studio or consumes wine that is brought into the art instruction studio in accordance with section 4.6 of this chapter.

(e) This section does not apply to a craft manufacturer (as defined in IC 7.1-3-30-1) at an event held on the licensed premises of a host permittee (as defined in IC 7.1-3-30-1) under a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30.

~~(e)~~ (f) It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 7. IC 7.1-5-8-6, AS AMENDED BY P.L.153-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) It is a Class C misdemeanor for a person to knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

(b) This section does not apply to a person at an outdoor place of public entertainment that:

- (1) has an area of at least four (4) acres and not more than six (6) acres;
- (2) is located within one (1) mile of the White River;
- (3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (4) is used primarily in connection with live music concerts.

(c) This section does not apply to a person who carries liquor into a restaurant or place of public entertainment where a qualified organization is conducting:

- (1) an allowable event to which IC 7.1-3-6.1 applies, and the liquor brought into the establishment is:
 - (A) in sealed bottles or cases; and
 - (B) donated to or purchased by the qualified organization to be offered as a prize in the allowable event; or
- (2) a charity auction to which IC 7.1-3-6.2 applies, and the liquor brought into the establishment is:
 - (A) in sealed bottles or cases; and



(B) donated to or purchased by the qualified organization to be offered for sale in the charity auction.

(d) This section does not apply to a craft manufacturer (as defined in IC 7.1-3-30-1) at an event held on the licensed premises of a host permittee (as defined in IC 7.1-3-30-1) under a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30.

SECTION 8. [EFFECTIVE JULY 1, 2022] **(a) The alcohol and tobacco commission shall amend 905 IAC 1-41-2 to conform to IC 7.1-3-20-29, as amended by this act.**

(b) In amending the rules as required by this SECTION, the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1.

(c) Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this SECTION expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

(d) This SECTION expires July 1, 2024.



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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