

HOUSE BILL No. 1322

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3; IC 7.1-5; IC 35-52-7.

Synopsis: Designated outdoor refreshment areas. Allows a municipality to designate a location as an outdoor refreshment area (area) with the approval of the alcohol and tobacco commission (commission). Prohibits an area from being located near a school or church unless the church or school does not object. Provides that if an area is approved, the commission designates retailer permittees (permittees) within the area. Makes it a Class C misdemeanor for: (1) a consumer not wearing a wristband identification to exit the premises of a permittee and enter the area with an open alcoholic beverage and for a permittee to allow the consumer to exit the premises; (2) a permittee to sell a consumer more than one alcoholic beverage at a time or an alcoholic beverage that exceeds the volume limitations; (3) a consumer to purchase an alcoholic beverage inside the area and consume it outside the area; and (4) a consumer to bring an alcoholic beverage into the area that was not purchased inside the area. Allows a minor to be within the area.

Effective: July 1, 2022.

GiaQuinta

January 11, 2022, read first time and referred to Committee on Public Policy.



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. 1322

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 7.1-3-21-11, AS AMENDED BY P.L.194-2021,
2 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 11. (a) As used in this section "craft
4 manufacturer" means:
5 (1) a small brewery under IC 7.1-3-2-7(5);
6 (2) a farm winery under IC 7.1-3-12, including any additional
7 locations of the farm winery operated under IC 7.1-3-12-5(b); or
8 (3) an artisan distillery under IC 7.1-3-27.
9 (b) As used in this section, "wall" means a wall of a building. The
10 term does not include a boundary wall.
11 (c) Except as provided in subsections (d), (h), and (i), the
12 commission may not issue a permit for a premises if:
13 (1) a wall of the premises is situated within two hundred (200)
14 feet from a wall of a school or church; and
15 (2) a permit has not been issued for the premises under the
16 provisions of Acts 1933, Chapter 80.
17 (d) This section does not apply to the premises of a:



1 (1) grocery store, drug store, restaurant, hotel, catering hall,
 2 **designated refreshment area**, craft manufacturer, or location for
 3 which the use of a supplemental catering permit has been
 4 approved if:

5 (A) a wall of the premises is situated within two hundred (200)
 6 feet from a wall of a church or school;

7 (B) the commission receives a written statement from the
 8 authorized representative of the church or school stating
 9 expressly that the church or school does not object to the
 10 issuance of the permit for the premises; and

11 (C) the commission determines that the church or school does
 12 not object to the issuance of the permit for the premises; or

13 (2) church or school that applies for a temporary beer or wine
 14 permit.

15 (e) The commission shall base its determination under subsection
 16 (d)(1)(C) solely on the written statement of the authorized
 17 representative of the church or school.

18 (f) If the commission does not receive the written statement of the
 19 authorized representative of the church or school, the premises of the
 20 grocery store, drug store, restaurant, hotel, catering hall, **designated**
 21 **refreshment area**, craft manufacturer, or location for which the use of
 22 a supplemental catering permit has been approved may not obtain the
 23 waiver allowed under this section.

24 (g) If the commission determines that the church or school does not
 25 object, this section and IC 7.1-3-21-10 do not apply to the permit
 26 premises of the grocery store, drug store, restaurant, hotel, craft
 27 manufacturer, ~~or~~ catering hall, **or designated refreshment area**, on a
 28 subsequent renewal or transfer of ownership.

29 (h) If the commission:

30 (1) receives a written statement from the authorized
 31 representative of a church or school as described in subsection
 32 (d)(1)(B); and

33 (2) determines the church or school does not object as described
 34 in subsection (d)(1)(C);

35 the commission may not consider subsequent objections from the
 36 church or school to the issuance of the same permit type at the same
 37 premises location.

38 (i) The commission may issue a permit for a premises if the wall of
 39 the premises and the wall of a church are separated by at least
 40 eighty-five (85) feet, including a two (2) lane road of at least thirty (30)
 41 feet in width.

42 SECTION 2. IC 7.1-3-30 IS ADDED TO THE INDIANA CODE



1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]:

3 **Chapter 30. Designated Refreshment Areas**

4 **Sec. 1. As used in this chapter, "designated permittee" means a**
5 **retailer permittee that:**

- 6 (1) has licensed premises within a refreshment area; and
7 (2) is designated by the commission under section 6 of this
8 chapter.

9 **Sec. 2. As used in this chapter "refreshment area" means an**
10 **outdoor area that is designated a refreshment area by a**
11 **municipality as provided in this chapter.**

12 **Sec. 3. If a municipality designates a refreshment area under**
13 **this chapter, a consumer may:**

- 14 (1) exit the licensed premises of a designated permittee with
15 not more than one (1) open container of an alcoholic beverage
16 at a time; and
17 (2) consume the alcoholic beverage within the refreshment
18 area.

19 **Sec. 4. A municipality may create a refreshment area subject to**
20 **the following:**

- 21 (1) A refreshment area must include at least four (4) licensed
22 premises that are designated permittees.
23 (2) The following limitations:
24 (A) A municipality that has a population of more than fifty
25 thousand (50,000) may create not more than four (4)
26 refreshment areas. Each refreshment area may not exceed
27 three hundred twenty (320) contiguous acres.
28 (B) A municipality that has a population of more than
29 thirty-five thousand (35,000) but not more than fifty
30 thousand (50,000), may create not more than two (2)
31 refreshment areas. Each refreshment area may not exceed
32 three hundred twenty (320) contiguous acres.
33 (C) A municipality that has a population of not more than
34 thirty-five thousand (35,000) may create one (1)
35 refreshment area that is not more than one hundred fifty
36 (150) contiguous acres.
37 (3) A refreshment area is subject to IC 7.1-3-21-11.

38 **Sec. 5. (a) The legislative body of a municipality that wants to**
39 **designate a refreshment area must adopt an ordinance that**
40 **includes at least the following:**

- 41 (1) A map of the refreshment area in sufficient detail to
42 identify the area's boundaries.



- 1 (2) The boundaries of the refreshment area, by street
2 addresses.
- 3 (3) The licensed premises located within the refreshment area.
- 4 (4) A statement that the refreshment area is consistent with
5 the municipality's zoning ordinance.
- 6 (5) The number, spacing, and type of signage designating the
7 refreshment area.
- 8 (6) The hours of operation for the refreshment area, which
9 may not violate IC 7.1-3-1-14.
- 10 (b) The ordinance of the municipality may include any other
11 provisions regarding the operation of the refreshment area,
12 including:
- 13 (1) requiring designated permittees to use only nonbreakable
14 plastic bottles or plastic or paper cups for alcoholic beverages
15 consumed in the refreshment area;
- 16 (2) requiring bottles or cups to be affixed with a logo that
17 identifies the container for use only in the refreshment area;
- 18 (3) providing wristband identifications to designated
19 permittees;
- 20 (4) a public safety plan for the refreshment area; or
- 21 (5) a sanitation plan for the refreshment area.
- 22 Sec. 6. (a) The municipality shall submit the adopted ordinance
23 to the commission with an application for approval of a
24 refreshment area. The commission shall review the ordinance for
25 compliance with this chapter. If approved, the commission shall
26 issue a refreshment area designation to each retailer permittee
27 located within the refreshment area. The commission may approve
28 a refreshment area and issue refreshment area designations to
29 retailer permittees without publication of notice or investigation
30 before a local board. The commission may not charge a fee for
31 designating a retailer permittee.
- 32 (b) A designated permittee shall comply with the applicable
33 public health and safety requirements established by ordinance for
34 the refreshment area.
- 35 Sec. 7. An organizer of an event or festival within the
36 refreshment area that holds a temporary beer or wine permit for
37 an event may apply to the commission for a temporary
38 refreshment area designation for the event.
- 39 Sec. 8. A municipal legislative body may adopt an ordinance
40 dissolving the refreshment area at any time. The municipal
41 legislative body shall notify the chairman of the commission that a
42 refreshment area is dissolved. Upon receipt of the notice, the



1 commission shall revoke all refreshment area designations issued
2 within the dissolved refreshment area.

3 **Sec. 9. A designated permittee within the refreshment area may**
4 **allow a customer to exit the designated permittee's licensed**
5 **premises with not more than one (1) open container of an alcoholic**
6 **beverage at a time. The open container may not exceed the**
7 **following:**

8 (1) An open container of beer or flavored malt beverage may
9 not exceed sixteen (16) fluid ounces.

10 (2) An open container of wine, including cider or hard seltzer,
11 may not exceed twelve (12) fluid ounces.

12 (3) An open container of a mixed drink containing at least one
13 (1) liquor and at least one (1) nonalcoholic mixer other than
14 water or ice may not exceed ten (10) fluid ounces.

15 (4) An open container of only liquor, liquor and water, or
16 liquor and ice may not exceed two (2) ounces.

17 **Sec. 10. (a) A person may consume an alcoholic beverage**
18 **purchased from the designated permittee anywhere within the**
19 **refreshment area boundaries.**

20 (b) A person may not enter any licensed premises with an
21 alcoholic beverage as provided in IC 7.1-5-8-5.

22 **Sec. 11. (a) A person may not:**

23 (1) exit a designated permittee's premises; or

24 (2) enter the refreshment area;

25 with an open container of an alcoholic beverage, unless the person
26 is wearing a nontransferable wristband identification imprinted
27 with the name or logo of the refreshment area.

28 (b) A designated permittee may not allow a consumer to exit the
29 permittee's premises with an open container of an alcoholic
30 beverage for consumption in the refreshment area, unless the
31 consumer is wearing a nontransferable wristband identification
32 imprinted with the name or logo of the refreshment area.

33 **Sec. 12. A person may not consume an alcoholic beverage within**
34 **the refreshment area that was purchased outside of the**
35 **refreshment area.**

36 **Sec. 13. If a designated permittee in the refreshment area**
37 **includes outdoor dining:**

38 (1) the designated permittee may serve alcoholic beverages in
39 open containers during the hours of operation and in the
40 areas authorized by the retailer permit;

41 (2) glass containers may be allowed in the outdoor dining
42 areas but may not be removed from those areas; and



- 1 **(3) no fencing or other enclosure of the outdoor dining area is**
 2 **required other than the fencing or enclosure required for the**
 3 **retailer permit.**
- 4 SECTION 3. IC 7.1-5-7-11, AS AMENDED BY P.L.150-2021,
 5 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2022]: Sec. 11. (a) The provisions of sections 9 and 10 of this
 7 chapter shall not apply if the public place involved is one (1) of the
 8 following:
- 9 (1) Civic center.
 - 10 (2) Convention center.
 - 11 (3) Sports arena.
 - 12 (4) Bowling center.
 - 13 (5) Bona fide club.
 - 14 (6) Drug store.
 - 15 (7) Grocery store.
 - 16 (8) Boat.
 - 17 (9) Dining car.
 - 18 (10) Pullman car.
 - 19 (11) Club car.
 - 20 (12) Passenger airplane.
 - 21 (13) Horse racetrack facility holding a recognized meeting permit
 22 under IC 4-31-5.
 - 23 (14) Satellite facility (as defined in IC 4-31-2-20.5).
 - 24 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
 25 public.
 - 26 (16) That part of a restaurant which is separate from a room in
 27 which is located a bar over which alcoholic beverages are sold or
 28 dispensed by the drink.
 - 29 (17) Entertainment complex.
 - 30 (18) Indoor golf facility.
 - 31 (19) A recreational facility such as a golf course, bowling center,
 32 or similar facility that has the recreational activity and not the sale
 33 of food and beverages as the principal purpose or function of the
 34 person's business.
 - 35 (20) A licensed premises owned or operated by a postsecondary
 36 educational institution described in IC 21-17-6-1.
 - 37 (21) An automobile racetrack.
 - 38 (22) An indoor theater under IC 7.1-3-20-26.
 - 39 (23) A senior residence facility campus (as defined in
 40 IC 7.1-3-1-29(c)) at which alcoholic beverages are given or
 41 furnished as provided under IC 7.1-3-1-29.
 - 42 (24) A hotel other than a part of a hotel that is a room in a



- 1 restaurant in which a bar is located over which alcoholic
 2 beverages are sold or dispensed by the drink.
- 3 (25) The location of an allowable event to which IC 7.1-3-6.1
 4 applies.
- 5 (26) The location of a charity auction to which IC 7.1-3-6.2
 6 applies.
- 7 (27) A tour of a brewery as provided in IC 7.1-3-20-16.4, if the
 8 minor is in the company of a parent, legal guardian or custodian,
 9 or family member who is at least twenty-one (21) years of age.
- 10 (28) A farm winery and any additional locations of the farm
 11 winery under IC 7.1-3-12, if the minor is in the company of a
 12 parent, legal guardian or custodian, or family member who is at
 13 least twenty-one (21) years of age and the minor is accompanied
 14 by the adult in any area that the adult may be present whether or
 15 not the area:
- 16 (A) is separated in any manner from where the wine is
 17 manufactured, sold, or consumed within the farm winery
 18 premises; or
- 19 (B) operates under a retailer's permit.
- 20 (29) An artisan distillery under IC 7.1-3-27, if:
- 21 (A) the person who holds the artisan distiller's permit also
 22 holds a farm winery permit under IC 7.1-3-12, or
 23 IC 7.1-3-20-16.4(a) applies to the person; and
- 24 (B) the minor is in the company of a parent, legal guardian or
 25 custodian, or family member who is at least twenty-one (21)
 26 years of age.
- 27 (30) An art instruction studio under IC 7.1-5-8-4.6.
- 28 (31) The licensed premises of a food hall under IC 7.1-3-20-29
 29 and the food and beverage vending space of a food hall vendor
 30 permittee under IC 7.1-3-20-30. However, sections 9 and 10 of
 31 this chapter apply to a bar within the food and beverage vending
 32 space of a food hall vendor permittee under IC 7.1-3-20-30 that
 33 serves alcoholic beverages intended to be consumed while sitting
 34 or standing at the bar.
- 35 **(32) A designated refreshment area under IC 7.1-3-30.**
- 36 (b) For the purpose of this subsection, "food" means meals prepared
 37 on the licensed premises. It is lawful for a minor to be on licensed
 38 premises in a room in which is located a bar over which alcoholic
 39 beverages are sold or dispensed by the drink if all the following
 40 conditions are met:
- 41 (1) The minor is eighteen (18) years of age or older.
- 42 (2) The minor is in the company of a parent, guardian, or family



1 member who is twenty-one (21) years of age or older.

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

5 SECTION 4. IC 7.1-5-8-12 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2022]: **Sec. 12. (a) As used in this section "designated permittee"**
8 **has the meaning set forth in IC 7.1-3-30-1.**

9 (b) **A designated permittee who allows a person who is not**
10 **wearing a wristband as required under IC 7.1-3-30-11 to exit the**
11 **licensed premises of the designated permittee with an open**
12 **container of an alcoholic beverage purchased on the premises**
13 **commits a Class C misdemeanor.**

14 SECTION 5. IC 7.1-5-8-13 IS ADDED TO THE INDIANA CODE
15 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2022]: **Sec. 13. (a) As used in this section "designated permittee"**
17 **has the meaning set forth in IC 7.1-3-30-1.**

18 (b) **A person who exits the premises of a designated permittee**
19 **with an open container of an alcoholic beverage purchased on the**
20 **premises without wearing a wristband as required under**
21 **IC 7.1-3-30-11 commits a Class C misdemeanor.**

22 SECTION 6. IC 7.1-5-8-14 IS ADDED TO THE INDIANA CODE
23 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2022]: **Sec. 14. (a) As used in this section "designated permittee"**
25 **has the meaning set forth in IC 7.1-3-30-1.**

26 (b) **A person who possesses or consumes an alcoholic beverage**
27 **purchased from a designated permittee outside the boundaries of**
28 **a refreshment area designated under IC 7.1-3-30 commits a Class**
29 **C misdemeanor.**

30 SECTION 7. IC 7.1-5-8-15 IS ADDED TO THE INDIANA CODE
31 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 2022]: **Sec. 15. (a) As used in this section "designated permittee"**
33 **has the meaning set forth in IC 7.1-3-30-1.**

34 (b) **A person who brings an alcoholic beverage into a**
35 **refreshment area designated under IC 7.1-3-30 that was not**
36 **purchased from a designated permittee commits a Class C**
37 **misdemeanor.**

38 SECTION 8. IC 7.1-5-8-16 IS ADDED TO THE INDIANA CODE
39 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2022]: **Sec. 16. (a) As used in this section "designated permittee"**
41 **has the meaning set forth in IC 7.1-3-30-1.**

42 (b) **A designated permittee who sells, furnishes, or gives a**



1 **person for consumption in a refreshment area designated under**
 2 **IC 7.1-3-30:**

3 **(1) an open container of an alcoholic beverage that exceeds**
 4 **the container limitations in IC 7.1-3-30-9; or**

5 **(2) two (2) or more open containers of alcoholic beverages at**
 6 **a time;**

7 **commits a Class C misdemeanor.**

8 SECTION 9. IC 35-52-7-49.1 IS ADDED TO THE INDIANA
 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2022]: **Sec. 49.1. IC 7.1-5-8-12 defines a**
 11 **crime concerning alcohol.**

12 SECTION 10. IC 35-52-7-49.2 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2022]: **Sec. 49.2. IC 7.1-5-8-13 defines a**
 15 **crime concerning alcohol.**

16 SECTION 11. IC 35-52-7-49.3 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2022]: **Sec. 49.3. IC 7.1-5-8-14 defines a**
 19 **crime concerning alcohol.**

20 SECTION 12. IC 35-52-7-49.4 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2022]: **Sec. 49.4. IC 7.1-5-8-15 defines a**
 23 **crime concerning alcohol.**

24 SECTION 13. IC 35-52-7-49.5 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2022]: **Sec. 49.5. IC 7.1-5-8-16 defines a**
 27 **crime concerning alcohol.**

