

HOUSE BILL No. 1399

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3-40.5; IC 7.1-2-3-16.5; IC 7.1-3; IC 7.1-5.

Synopsis: Sale of alcoholic beverages. Provides that a holder of an alcoholic beverage permit who is authorized by law to sell alcoholic beverages for carryout may sell alcoholic beverages for carryout on Sunday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Requires a sales clerk who: (1) rings up; or (2) assists customers in accessing; alcoholic beverages in a grocery store or drug store to hold an employee's permit and have alcohol server training. Provides that the provision that allows individuals who are at least 19 but less than 21 years of age to ring a sale of alcoholic beverages in the course of the individual's employment does not apply to dealer establishments. Establishes alcoholic beverage display requirements for liquor dealers of grocery stores and drug stores. Requires video surveillance in stores, other than package liquor stores, where customers have access to alcoholic beverages without assistance. Makes it unlawful for: (1) the holder of a liquor dealer's permit, other than a package liquor store, to sell or distribute mini bottles through a self-service display; and (2) a person who is the proprietor of a package liquor store, drug store, or grocery store to allow a purchaser, or any other person who is not a sales clerk, to ring up or otherwise record an alcoholic beverage sale.

Effective: July 1, 2016.

Dermody, Eberhart, Austin

January 13, 2016, read first time and referred to Committee on Public Policy.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1399

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 7.1-1-3-40.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: **Sec. 40.5. "Sales clerk" means a**
4 **person who:**

- 5 (1) **rings up or otherwise records an alcoholic beverage for**
- 6 **sale; or**
- 7 (2) **assists customers in accessing alcoholic beverages;**
- 8 **in the course of the person's employment in a dealer establishment.**

9 SECTION 2. IC 7.1-2-3-16.5, AS AMENDED BY P.L.109-2013,
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2016]: Sec. 16.5. (a) As used in this section, "facility"
12 includes the following:

- 13 (1) A facility to which IC 7.1-3-1-25(a) applies.
- 14 (2) A tract that contains a premises that is described in
15 ~~IC 7.1-3-1-14(e)(2)~~; **IC 7.1-3-1-14(d)(2)**.
- 16 (3) A horse track or satellite facility to which IC 7.1-3-17.7
17 applies.



1 (4) A riverboat or racetrack to which IC 7.1-3-17.5 applies.

2 (5) A tract that contains an entertainment complex.

3 (b) As used in this section, "tract" has the meaning set forth in
4 IC 6-1.1-1-22.5.

5 (c) A facility may advertise alcoholic beverages:

6 (1) in the facility's interior; or

7 (2) on the facility's exterior.

8 (d) The commission may not exercise the prohibition power
9 contained in section 16(a) of this chapter on advertising by a brewer,
10 distiller, rectifier, or vintner in or on a facility.

11 (e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may
12 provide advertising to a permittee that is a brewer, an artisan distiller,
13 a distiller, a rectifier, or a vintner in exchange for compensation from
14 that permittee.

15 SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.10-2010,
16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2016]: Sec. 14. (a) It is lawful for an appropriate permittee,
18 unless otherwise specifically provided in this title, to sell alcoholic
19 beverages each day Monday through Saturday from 7 a.m., prevailing
20 local time, until 3 a.m., prevailing local time, the following day. ~~Sales~~
21 ~~shall cease wholly on Sunday at 3 a.m., prevailing local time, and not~~
22 ~~be resumed until the following Monday at 7 a.m., prevailing local time.~~

23 (b) It is lawful for the holder of a retailer's permit to sell the
24 appropriate alcoholic beverages for consumption on the licensed
25 premises only on Sunday from 7 a.m., prevailing local time, until 3
26 a.m., prevailing local time, the following day.

27 **(c) A holder of an alcoholic beverage permit who is authorized**
28 **under this title to sell alcoholic beverages for carryout may sell the**
29 **appropriate alcoholic beverages on Sunday for carryout from 7**
30 **a.m., prevailing local time, until 3 a.m., prevailing local time, the**
31 **following day.**

32 ~~(e)~~ **(d)** It is lawful for the holder of a permit under this article to sell
33 alcoholic beverages at athletic or sports events held on Sunday upon
34 premises that:

35 (1) are described in section 25(a) of this chapter;

36 (2) are a facility used in connection with the operation of a paved
37 track more than two (2) miles in length that is used primarily in
38 the sport of auto racing; or

39 (3) are being used for a professional or an amateur tournament;
40 beginning one (1) hour before the scheduled starting time of the event
41 or, if the scheduled starting time of the event is 1 p.m. or later,
42 beginning at noon.



1 ~~(d)~~ (e) It is lawful for the holder of a valid beer, wine, or liquor
2 wholesaler's permit to sell to the holder of a valid retailer's or dealer's
3 permit at any time.

4 SECTION 4. IC 7.1-3-1.5-2, AS ADDED BY P.L.161-2005,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2016]: Sec. 2. As used in this chapter, "dealer permittee"
7 means a person who holds a liquor dealer permit. ~~under IC 7.1-3-10 for~~
8 ~~a package liquor store.~~

9 SECTION 5. IC 7.1-3-9-12 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) This section
11 applies to:

12 (1) the holder of a three-way permit that is issued to a civic
13 center, a sports arena, a stadium, an exhibition hall, an
14 auditorium, a theater, a tract that contains a premises that is
15 described in ~~IC 7.1-3-1-14(c)(2)~~, **IC 7.1-3-1-14(d)(2)**, or a
16 convention center; or

17 (2) the holder of a catering permit while catering alcoholic
18 beverages at a civic center, a sports arena, a stadium, an
19 exhibition hall, an auditorium, a theater, a tract that contains a
20 premises that is described in ~~IC 7.1-3-1-14(c)(2)~~;
21 **IC 7.1-3-1-14(d)(2)**, or a convention center.

22 (b) As used in this section, "suite" means an area in a building or
23 facility referred to in subsection (a) that:

24 (1) is not accessible to the general public;

25 (2) has accommodations for not more than seventy-five (75)
26 persons per suite; and

27 (3) is accessible only to persons who possess a ticket:

28 (A) to an event in a building or facility referred to in
29 subsection (a); and

30 (B) that entitles the person to occupy the area while viewing
31 the event described in clause (A).

32 The term does not include a restaurant, lounge, or concession area,
33 even if access to the restaurant, lounge, or concession area is limited to
34 certain ticket holders.

35 (c) A permittee may allow the self-service of individual servings of
36 alcoholic beverages in a suite.

37 (d) A person who:

38 (1) possesses a ticket described in subsection (b)(3); and

39 (2) is at least twenty-one (21) years of age;

40 may obtain an alcoholic beverage in a suite by self-service.

41 (e) A permittee may do any of the following:

42 (1) Demand that a person occupying a suite provide:



- 1 (A) a written statement under IC 7.1-5-7-4; and
 2 (B) identification indicating that the person is at least
 3 twenty-one (21) years of age.
- 4 (2) Supervise the self-service of alcoholic beverages.
 5 (3) Have an employee in the suite who holds an employee permit
 6 under IC 7.1-3-18-9 to serve some or all of the alcoholic
 7 beverages.
- 8 SECTION 6. IC 7.1-3-18-9, AS AMENDED BY P.L.196-2015,
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2016]: Sec. 9. (a) The commission may issue an employee's
 11 permit to a person who desires to act as:
- 12 (1) a **sales clerk in a package liquor store; dealer establishment;**
 13 (2) an employee who serves wine at a farm winery; or
 14 (3) a bartender, waiter, waitress, or manager in a retail
 15 establishment, excepting dining car and boat employees.
- 16 (b) A permit authorized by this section is conditioned upon the
 17 compliance by the holder with reasonable rules relating to the permit
 18 which the commission may prescribe from time to time.
- 19 (c) A permit issued under this section entitles its holder to work for
 20 any lawful employer. However, a person may work without an
 21 employee's permit for thirty (30) days from the date shown on a receipt
 22 for a cashier's check or money order payable to the commission for that
 23 person's employee's permit application.
- 24 (d) A person who, for a package liquor store or retail establishment,
 25 is:
- 26 (1) the sole proprietor;
 27 (2) a partner, a general partner, or a limited partner in a
 28 partnership or limited partnership that owns the business
 29 establishment;
 30 (3) a member of a limited liability company that owns the
 31 business establishment; or
 32 (4) a stockholder in a corporation that owns the business
 33 establishment;
- 34 is not required to obtain an employee's permit in order to perform any
 35 of the acts listed in subsection (a).
- 36 (e) An applicant may declare on the application form that the
 37 applicant will use the employee's permit only to perform volunteer
 38 service that benefits a nonprofit organization. It is unlawful for an
 39 applicant who makes a declaration under this subsection to use an
 40 employee's permit for any purpose other than to perform volunteer
 41 service that benefits a nonprofit organization.
- 42 (f) The commission may not issue an employee's permit to an



1 applicant while the applicant is serving a sentence for a conviction for
 2 operating while intoxicated, including any term of probation or parole.

3 (g) The commission may not issue an employee's permit to an
 4 applicant who has two (2) unrelated convictions for operating while
 5 intoxicated if:

6 (1) the first conviction occurred less than ten (10) years before the
 7 date of the applicant's application for the permit; and

8 (2) the applicant completed the sentence for the second
 9 conviction, including any term of probation or parole, less than
 10 two (2) years before the date of the applicant's application for the
 11 permit.

12 (h) If an applicant for an employee's permit has at least three (3)
 13 unrelated convictions for operating while intoxicated in the ten (10)
 14 years immediately preceding the date of the applicant's application for
 15 the permit, the commission may not grant the issuance of the permit.
 16 If, in the ten (10) years immediately preceding the date of the
 17 applicant's application the applicant has:

18 (1) one (1) conviction for operating while intoxicated, and the
 19 applicant is not subject to subsection (f); or

20 (2) two (2) unrelated convictions for operating while intoxicated,
 21 and the applicant is not subject to subsection (f) or (g);

22 the commission may grant or deny the issuance of a permit.

23 (i) Except as provided under section 9.5 of this chapter, the
 24 commission shall revoke a permit issued to an employee under this
 25 section if:

26 (1) the employee is convicted of a Class B misdemeanor for
 27 violating IC 7.1-5-10-15(a); or

28 (2) the employee is convicted of operating while intoxicated after
 29 the issuance of the permit.

30 The commission may revoke a permit issued to an employee under this
 31 section for any violation of this title or the rules adopted by the
 32 commission.

33 SECTION 7. IC 7.1-5-6-3, AS AMENDED BY P.L.159-2014,
 34 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2016]: Sec. 3. (a) It is unlawful for a person to act as a ~~clerk~~
 36 ~~in a package liquor store, or as a bartender, waiter, waitress, or~~
 37 ~~manager for a retailer permittee in a position that is listed in~~
 38 **IC 7.1-3-18-9(a)** unless that person has applied for and been issued ~~the~~
 39 **appropriate an employee's** permit. This section does not apply to
 40 dining car or boat employees or to a person described in
 41 IC 7.1-3-18-9(d). A person who knowingly or intentionally violates this
 42 subsection commits a Class B misdemeanor.



1 (b) It is a defense to a charge under this section if, not later than
 2 thirty (30) days after being cited by the commission, the person who
 3 was cited produces evidence that the appropriate permit was issued by
 4 the commission on the date of the citation.

5 (c) It is a defense to a charge under this section for a new applicant
 6 for a permit if, not later than thirty (30) days after being cited by the
 7 commission, the new applicant who was cited produces a receipt for a
 8 cashier's check or money order showing that an application for the
 9 appropriate permit was applied for on the date of the citation.

10 SECTION 8. IC 7.1-5-7-13, AS AMENDED BY P.L.94-2008,
 11 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2016]: Sec. 13. Section 12 of this chapter does not prohibit the
 13 following:

14 (1) The employment of a person at least eighteen (18) years of age
 15 but less than twenty-one (21) years of age on or about licensed
 16 premises where alcoholic beverages are sold, furnished, or given
 17 away for consumption either on or off the licensed premises, for
 18 a purpose other than:

- 19 (A) selling;
 20 (B) furnishing, other than serving;
 21 (C) consuming; or
 22 (D) otherwise dealing in;

23 alcoholic beverages.

24 (2) A person at least nineteen (19) years of age but less than
 25 twenty-one (21) years of age from ringing up a sale of alcoholic
 26 beverages in the course of the person's employment. **This**
 27 **subdivision does not apply to dealer establishments.**

28 (3) A person who is at least nineteen (19) years of age but less
 29 than twenty-one (21) years of age and who has successfully
 30 completed an alcohol server training program certified under
 31 IC 7.1-3-1.5 from serving alcoholic beverages in a dining area or
 32 family room of a restaurant or hotel:

- 33 (A) in the course of a person's employment as a waiter,
 34 waitress, or server; and
 35 (B) under the supervision of a person who:
 36 (i) is at least twenty-one (21) years of age;
 37 (ii) is present at the restaurant or hotel; and
 38 (iii) has successfully completed an alcohol server training
 39 program certified under IC 7.1-3-1.5 by the commission.

40 This subdivision does not allow a person at least nineteen (19)
 41 years of age but less than twenty-one (21) years of age to be a
 42 bartender.



1 SECTION 9. IC 7.1-5-10-26 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 26. It is unlawful for a person who is the proprietor
4 of a package liquor store, drug store, or grocery store to allow a
5 purchaser of alcoholic beverages, or any other person who is not
6 a sales clerk, to ring up or otherwise record an alcoholic beverage
7 sale.**

8 SECTION 10. IC 7.1-5-10-27 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2016]: **Sec. 27. (a) As used in this section,
11 "mini bottle" means a bottle that holds one hundred (100)
12 milliliters or less of liquor.**

13 **(b) As used in this section, "self-service display" means a display
14 that contains mini bottles in an area where a customer:**

15 **(1) is permitted; and**

16 **(2) has access to the mini bottles without assistance from a
17 sales clerk.**

18 **(c) This section does not apply to a self-service display located
19 on the premises of a package liquor store.**

20 **(d) The holder of a liquor dealer permit may not sell or
21 distribute mini bottles through a self-service display.**

22 SECTION 11. IC 7.1-5-10-28 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2016]: **Sec. 28. (a) This section does not apply
25 to the holder of a liquor dealer's permit for a package liquor store.**

26 **(b) The holder of a liquor dealer's permit must display alcoholic
27 beverages in compliance with one (1) of the following:**

28 **(1) Display alcoholic beverages in one (1) area of the licensed
29 premises that may not be adjacent to areas displaying toys,
30 candy, school supplies, or breakfast cereals. The area includes
31 any display of alcoholic beverages placed at the ends of an
32 aisle or shelving unit located within the area.**

33 **(2) Display alcoholic beverages in a partitioned area or room
34 that is separate from other retail items for sale on the
35 premises.**

36 **(c) Any area of a store where a customer is permitted and has
37 access to alcoholic beverages without assistance from a sales clerk
38 must have video surveillance by an automated camera that stores
39 a recorded photograph or digital image for at least seventy-two
40 (72) hours. The recordings or digital images must be available to
41 law enforcement officers and the commission.**

