

HOUSE BILL No. 1566

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1; IC 6-9.

Synopsis: Innkeeper's tax. Provides that the department of state revenue (DOR) or a county treasurer may enter into an agreement with the fiscal officer of an entity responsible for the expenditure of funds from an innkeeper's tax to furnish the fiscal officer each month with the name and retail address of each business collecting an innkeeper's tax and the amount of money collected from each business. Provides that the agreement must include a nondisclosure provision. Provides that the DOR may release information concerning an innkeeper's tax or a food and beverage tax under certain circumstances. Increases the Clark County and Floyd County innkeeper's taxes from 4% to 6%. Provides that each month the DOR shall provide summary data regarding innkeeper's tax collections and food and beverage tax collections to county auditors, county treasurers, and fiscal officers of political subdivisions in the case of a tax imposed by a political subdivision that is not a county.

Effective: July 1, 2019.

Engleman, Clere, Fleming, Davisson

January 17, 2019, read first time and referred to Committee on Ways and Means.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1566

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 6-8.1-3-7.1, AS AMENDED BY P.L.242-2015,
2 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth
4 in IC 36-1-2-7.

5 (b) The department shall enter into an agreement with the fiscal
6 officer of an entity that has adopted an innkeeper's tax, a food and
7 beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal
8 officer **annually each month** with:

9 (1) the name **and retail address** of each business collecting the
10 taxes listed in this subsection; and

11 (2) the amount of money collected from each business.

12 (c) The agreement must provide that the department must provide
13 the information in an electronic format that the fiscal officer can use,
14 as well as a paper copy.

15 (d) The agreement must include a provision that, unless in
16 accordance with a judicial order, the fiscal officer, employees of the
17 fiscal officer, former employees of the fiscal officer, counsel of the



1 fiscal officer, agents of the fiscal officer, or any other person may not
 2 divulge the names **or retail addresses** of the businesses, the amount of
 3 taxes paid by the businesses or any other information disclosed to the
 4 fiscal officer by the department.

5 (e) The department shall also enter into an agreement with the fiscal
 6 officer of a capital improvement board of managers:

7 (1) created under IC 36-10-8 or IC 36-10-9; and

8 (2) that is responsible for expenditure of funds from:

9 (A) an innkeeper's tax, a food and beverage tax, or an
 10 admissions tax under IC 6-9;

11 (B) the supplemental auto rental excise tax under IC 6-6-9.7;
 12 or

13 (C) the state gross retail taxes allocated to a professional sports
 14 development area fund, a sports and convention facilities
 15 operating fund, or other fund under IC 36-7-31 or
 16 IC 36-7-31.3;

17 to furnish the fiscal officer ~~annually~~ **each month** with the name of each
 18 business collecting the taxes listed in this subsection, and the amount
 19 of money collected from each business. An agreement with a fiscal
 20 officer under this subsection must include a nondisclosure provision
 21 the same as is required for a fiscal officer under subsection (d).

22 **(f) The department may enter into an agreement with the fiscal**
 23 **officer of an entity:**

24 **(1) created under IC 6-9; and**

25 **(2) that is responsible for the expenditure of funds from an**
 26 **innkeeper's tax under IC 6-9;**

27 **to furnish the fiscal officer each month with the name and retail**
 28 **address of each business collecting the innkeeper's tax, and the**
 29 **amount of money collected from each business. An agreement with**
 30 **a fiscal officer under this subsection must include a nondisclosure**
 31 **provision the same as is required for a fiscal officer under**
 32 **subsection (d).**

33 SECTION 2. IC 6-8.1-7-1, AS AMENDED BY P.L.86-2018,
 34 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]: Sec. 1. (a) This subsection does not apply to the
 36 disclosure of information concerning a conviction on a tax evasion
 37 charge. Unless in accordance with a judicial order or as otherwise
 38 provided in this chapter, the department, its employees, former
 39 employees, counsel, agents, or any other person may not divulge the
 40 amount of tax paid by any taxpayer, terms of a settlement agreement
 41 executed between a taxpayer and the department, investigation records,
 42 investigation reports, or any other information disclosed by the reports



1 filed under the provisions of the law relating to any of the listed taxes,
2 including required information derived from a federal return, except to
3 any of the following when it is agreed that the information is to be
4 confidential and to be used solely for official purposes:

5 (1) Members and employees of the department.

6 (2) The governor.

7 (3) A member of the general assembly or an employee of the
8 house of representatives or the senate when acting on behalf of a
9 taxpayer located in the member's legislative district who has
10 provided sufficient information to the member or employee for
11 the department to determine that the member or employee is
12 acting on behalf of the taxpayer.

13 (4) An employee of the legislative services agency to carry out the
14 responsibilities of the legislative services agency under
15 IC 2-5-1.1-7 or another law.

16 (5) The attorney general or any other legal representative of the
17 state in any action in respect to the amount of tax due under the
18 provisions of the law relating to any of the listed taxes.

19 (6) Any authorized officers of the United States.

20 (b) The information described in subsection (a) may be revealed
21 upon the receipt of a certified request of any designated officer of the
22 state tax department of any other state, district, territory, or possession
23 of the United States when:

24 (1) the state, district, territory, or possession permits the exchange
25 of like information with the taxing officials of the state; and

26 (2) it is agreed that the information is to be confidential and to be
27 used solely for tax collection purposes.

28 (c) The information described in subsection (a) relating to a person
29 on public welfare or a person who has made application for public
30 welfare may be revealed to the director of the division of family
31 resources, and to any director of a county office of the division of
32 family resources located in Indiana, upon receipt of a written request
33 from either director for the information. The information shall be
34 treated as confidential by the directors. In addition, the information
35 described in subsection (a) relating to a person who has been
36 designated as an absent parent by the state Title IV-D agency shall be
37 made available to the state Title IV-D agency upon request. The
38 information shall be subject to the information safeguarding provisions
39 of the state and federal Title IV-D programs.

40 (d) The name, address, Social Security number, and place of
41 employment relating to any individual who is delinquent in paying
42 educational loans owed to a postsecondary educational institution may



1 be revealed to that institution if it provides proof to the department that
2 the individual is delinquent in paying for educational loans. This
3 information shall be provided free of charge to approved postsecondary
4 educational institutions (as defined by IC 21-7-13-6(a)). The
5 department shall establish fees that all other institutions must pay to the
6 department to obtain information under this subsection. However, these
7 fees may not exceed the department's administrative costs in providing
8 the information to the institution.

9 (e) The information described in subsection (a) relating to reports
10 submitted under IC 6-6-1.1-502 concerning the number of gallons of
11 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
12 gallons of special fuel sold by a supplier and the number of gallons of
13 special fuel exported by a licensed exporter or imported by a licensed
14 transporter may be released by the commissioner upon receipt of a
15 written request for the information.

16 (f) The information described in subsection (a) may be revealed
17 upon the receipt of a written request from the administrative head of a
18 state agency of Indiana when:

19 (1) the state agency shows an official need for the information;
20 and

21 (2) the administrative head of the state agency agrees that any
22 information released will be kept confidential and will be used
23 solely for official purposes.

24 (g) The information described in subsection (a) may be revealed
25 upon the receipt of a written request from the chief law enforcement
26 officer of a state or local law enforcement agency in Indiana when it is
27 agreed that the information is to be confidential and to be used solely
28 for official purposes.

29 (h) The name and address of retail merchants, including township,
30 as specified in IC 6-2.5-8-1(k) may be released solely for tax collection
31 purposes to township assessors and county assessors.

32 (i) The department shall notify the appropriate innkeeper's tax
33 board, bureau, or commission that a taxpayer is delinquent in remitting
34 innkeepers' taxes under IC 6-9.

35 (j) All information relating to the delinquency or evasion of the
36 vehicle excise tax may be disclosed to the bureau of motor vehicles in
37 Indiana and may be disclosed to another state, if the information is
38 disclosed for the purpose of the enforcement and collection of the taxes
39 imposed by IC 6-6-5.

40 (k) All information relating to the delinquency or evasion of
41 commercial vehicle excise taxes payable to the bureau of motor
42 vehicles in Indiana may be disclosed to the bureau and may be



1 disclosed to another state, if the information is disclosed for the
 2 purpose of the enforcement and collection of the taxes imposed by
 3 IC 6-6-5.5.

4 (l) All information relating to the delinquency or evasion of
 5 commercial vehicle excise taxes payable under the International
 6 Registration Plan may be disclosed to another state, if the information
 7 is disclosed for the purpose of the enforcement and collection of the
 8 taxes imposed by IC 6-6-5.5.

9 (m) All information relating to the delinquency or evasion of the
 10 excise taxes imposed on recreational vehicles and truck campers that
 11 are payable to the bureau of motor vehicles in Indiana may be disclosed
 12 to the bureau and may be disclosed to another state if the information
 13 is disclosed for the purpose of the enforcement and collection of the
 14 taxes imposed by IC 6-6-5.1.

15 (n) This section does not apply to:

- 16 (1) the beer excise tax, including brand and packaged type
 17 (IC 7.1-4-2);
- 18 (2) the liquor excise tax (IC 7.1-4-3);
- 19 (3) the wine excise tax (IC 7.1-4-4);
- 20 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 21 (5) the malt excise tax (IC 7.1-4-5);
- 22 (6) the vehicle excise tax (IC 6-6-5);
- 23 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 24 (8) the fees under IC 13-23.

25 (o) The name and business address of retail merchants within each
 26 county that sell tobacco products may be released to the division of
 27 mental health and addiction and the alcohol and tobacco commission
 28 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

29 (p) The name and business address of a person licensed by the
 30 department under IC 6-6 or IC 6-7 may be released for the purpose of
 31 reporting the status of the person's license.

32 (q) The department may release information concerning total
 33 incremental tax amounts under:

- 34 (1) IC 5-28-26;
- 35 (2) IC 36-7-13;
- 36 (3) IC 36-7-26;
- 37 (4) IC 36-7-27;
- 38 (5) IC 36-7-31;
- 39 (6) IC 36-7-31.3; or
- 40 (7) any other statute providing for the calculation of incremental
 41 state taxes that will be distributed to or retained by a political
 42 subdivision or other entity;



1 to the fiscal officer of the political subdivision or other entity that
 2 established the district or area from which the incremental taxes were
 3 received if that fiscal officer enters into an agreement with the
 4 department specifying that the political subdivision or other entity will
 5 use the information solely for official purposes.

6 (r) The department may release the information as required in
 7 IC 6-8.1-3-7.1 concerning:

8 (1) an innkeeper's tax, a food and beverage tax, or an admissions
 9 tax under IC 6-9;

10 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and

11 (3) the covered taxes allocated to a professional sports
 12 development area fund, sports and convention facilities operating
 13 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

14 (s) Information concerning state gross retail tax exemption
 15 certificates that relate to a person who is exempt from the state gross
 16 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as
 17 defined in IC 6-2.5-4-5) or a person selling the services or commodities
 18 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the
 19 state gross retail and use taxes under IC 6-2.5.

20 **(t) The department may release the information as required by**
 21 **IC 6-9-29-4 and IC 6-9-29-5 concerning an innkeeper's tax or a**
 22 **food and beverage tax under IC 6-9.**

23 SECTION 3. IC 6-9-3-4, AS AMENDED BY P.L.175-2018,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 4. (a) In counties to which this chapter applies,
 26 there shall be levied each year a tax on every person engaged in the
 27 business of renting or furnishing, for periods of less than thirty (30)
 28 days, any room or rooms or lodgings or accommodations in any
 29 commercial hotel, motel, inn, tourist camp, or tourist cabin. However,
 30 this tax does not apply to the renting or furnishing of rooms, lodgings,
 31 or accommodations to a person for a period of thirty (30) days or more.

32 (b) Such tax shall be at the rate of ~~four~~ **six** percent (~~4%~~) (**6%**) on the
 33 gross retail income derived from lodging income only and shall be in
 34 addition to the state gross retail tax imposed on such persons by
 35 IC 6-2.5.

36 (c) The county fiscal body may adopt an ordinance to require that
 37 the tax shall be paid monthly to the county treasurer. If such an
 38 ordinance is adopted, the tax shall be paid to the county treasurer not
 39 more than twenty (20) days after the end of the month the tax is
 40 collected. If such an ordinance is not adopted, the tax shall be imposed,
 41 paid, and collected in exactly the same manner as the state gross retail
 42 tax is imposed, paid, and collected pursuant to IC 6-2.5.



1 (d) All of the provisions of IC 6-2.5 relating to rights, duties,
 2 liabilities, procedures, penalties, definitions, exemptions, and
 3 administration shall be applicable to the imposition and administration
 4 of the tax imposed by this section except to the extent such provisions
 5 are in conflict or inconsistent with the specific provisions of this
 6 chapter or the requirements of the county treasurer. Specifically, and
 7 not in limitation of the foregoing sentence, the terms "person" and
 8 "gross retail income" shall have the same meaning in this section as
 9 they have in IC 6-2.5.

10 (e) If the tax is paid to the department of state revenue, the returns
 11 to be filed for the payment of the tax under this section may be either
 12 a separate return or may be combined with the return filed for the
 13 payment of the state gross retail tax as the department of state revenue
 14 may by rule determine.

15 (f) If the tax is paid to the department of state revenue, the amounts
 16 received from such tax shall be paid monthly by the treasurer of state
 17 to the county treasurer upon warrants issued by the auditor of state.

18 SECTION 4. IC 6-9-29-4 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2019]: Sec. 4. ~~Upon a request by a county~~
 20 ~~auditor or treasurer, Each month,~~ the department of state revenue shall
 21 provide summary data regarding:

22 (1) innkeeper's tax collections for the county **and food and**
 23 **beverage tax collections for the county to each county auditor**
 24 **and county treasurer; and**

25 (2) **food and beverage tax collections for a political**
 26 **subdivision to the fiscal officer of the political subdivision in**
 27 **the case of a food and beverage tax imposed by a political**
 28 **subdivision that is not a county.**

29 **The department shall include in the summary a list identifying the**
 30 **name and retail address of each business that has remitted**
 31 **innkeeper's or food and beverage tax for the time period covered**
 32 **by the summary.** This data may not include any confidential
 33 information. ~~The department shall provide the summary data within ten~~
 34 ~~(10) business days after the request is made:~~

35 SECTION 5. IC 6-9-29-5, AS ADDED BY P.L.175-2018,
 36 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2019]: Sec. 5. (a) As used in this section, "commission" refers
 38 to the following:

39 (A) a board of managers, established under:

40 (A) IC 6-9-1-2 (St. Joseph County);

41 (B) IC 6-9-3-1 (Floyd/Clark County);

42 (C) IC 6-9-6-2 (LaPorte County);



- 1 (Ⓓ) IC 6-9-10-2 (Wayne County); or
 2 (Ⓔ) IC 6-9-15-2 (Jefferson County);
 3 (2) a capital improvement board of managers, established under:
 4 (A) IC 36-10-9-3 (Marion County); or
 5 (B) IC 36-10-8 (Allen County);
 6 (3) a commission, established under:
 7 (A) IC 6-9-10.5-9 (White County);
 8 (B) IC 6-9-18-5 (Uniform County Innkeeper's Tax);
 9 (C) IC 6-9-19-5 (Elkhart County);
 10 (Ⓕ) IC 6-9-32-5 (Jackson County); or
 11 (E) IC 6-9-37-5 (Hendricks County);
 12 (4) a convention and visitor bureau,
 13 (A) established under IC 6-9-2-3 (Lake County); or
 14 (B) designated as a grant recipient under IC 6-9-9-3(b) (Allen
 15 County);
 16 (5) a convention and visitor commission, established under:
 17 (A) IC 6-9-2.5-2 (Vanderburgh County);
 18 (B) IC 6-9-4-2 (Monroe County);
 19 (C) IC 6-9-7-2 (Tippecanoe County);
 20 (Ⓖ) IC 6-9-11-2 (Vigo County);
 21 (E) IC 6-9-14-2 (Brown County);
 22 (F) IC 6-9-16-2 (Howard County); or
 23 (G) IC 6-9-17-5 (Madison County);
 24 (6) or any other similar entity that is authorized to administer
 25 funds received from an innkeeper's tax or a food and beverage
 26 tax imposed under this article.
 27 (b) Each month, the department of state revenue shall also provide
 28 summary data of the amount of:
 29 (1) the county's innkeeper's tax collections and food and
 30 beverage tax collections to the commission established
 31 authorized for that county; and
 32 (2) the political subdivision's food and beverage tax collections
 33 to the commission authorized for the political subdivision in
 34 the case of a food and beverage tax imposed by a political
 35 subdivision that is not a county.
 36 The department shall include in the summary a list identifying the
 37 name and retail address of each business that has remitted
 38 innkeeper's or food and beverage tax for the time period covered
 39 by the summary.
 40 (c) This subsection applies only to a county that has adopted an
 41 ordinance requiring the payment of the innkeeper's tax to the county
 42 treasurer instead of the department of state revenue. The county



1 treasurer shall determine and report to the department of state revenue
 2 before March 1 of each year the amount of innkeeper's tax collected in
 3 the county in the preceding calendar year. Not later than April 1 of
 4 each year, the department of state revenue shall provide summary data
 5 of the total amount of the county's innkeeper's tax collected in the
 6 preceding calendar year to the commission established for that county.

7 SECTION 6. IC 6-9-29-6, IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

9 1, 2019]: **Sec. 6. (a) A county treasurer may enter into an
 10 agreement with the fiscal officer of an entity:**

11 **(1) created under this article; and**

12 **(2) that is responsible for the expenditure of funds from an
 13 innkeeper's tax under this article;**

14 **to furnish the fiscal officer each month with the name and retail
 15 address of each business collecting the innkeeper's tax, and the
 16 amount of money collected from each business.**

17 **(b) An agreement under subsection (a) must include a provision
 18 that, unless in accordance with a judicial order, the fiscal officer,
 19 employees of the fiscal officer, former employees of the fiscal
 20 officer, counsel of the fiscal officer, agents of the fiscal officer, or
 21 any other person may not divulge the names or retail addresses of
 22 the businesses, the amount of taxes paid by the businesses or any
 23 other information disclosed to the fiscal officer by the county
 24 treasurer.**

