

# SENATE BILL No. 28

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## 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 city or town to designate an outdoor location as a refreshment area with the approval of the alcohol and tobacco commission (commission). Provides that if a refreshment area is approved, the commission designates retailer permittees that may sell alcoholic beverages for consumption within the refreshment area. Prohibits a refreshment area from being located near a school or church unless the school or church does not object. Allows a minor to be within the refreshment area. Makes it a Class C misdemeanor for a participating retailer permittee or vendor to: (1) sell a person more than one alcoholic beverage at a time or an alcoholic beverage that exceeds the volume limitations; or (2) allow a person who is not wearing a wristband identification to enter the refreshment area with an alcoholic beverage.

**Effective:** July 1, 2023.

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January 9, 2023, read first time and referred to Committee on Public Policy.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 28

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 7.1-3-21-10 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) An application  
3 for:

- 4 (1) a permit for premises; or
- 5 (2) **approval of a designated refreshment area under**
- 6 **IC 7.1-3-31;**

7 **that is** situated within a distance of two hundred (200) feet from an  
8 elementary or secondary school or church must disclose this fact.

9 (b) The local board shall state, if required by the commission, in the  
10 questionnaire its opinion as to the propriety of granting the particular  
11 application.

12 SECTION 2. IC 7.1-3-21-11, AS AMENDED BY P.L.194-2021,  
13 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2023]: Sec. 11. (a) As used in this section, "craft  
15 manufacturer" means:

- 16 (1) a small brewery under IC 7.1-3-2-7(5);
- 17 (2) a farm winery under IC 7.1-3-12, including any additional



1 locations of the farm winery operated under IC 7.1-3-12-5(b); or  
 2 (3) an artisan distillery under IC 7.1-3-27.

3 **(b) As used in this section, "designated refreshment area"**  
 4 **means a refreshment area designated under IC 7.1-3-31.**

5 ~~(b)~~ **(c)** As used in this section, "wall" means a wall of a building.  
 6 The term does not include a boundary wall.

7 ~~(c)~~ **(d)** Except as provided in subsections ~~(d)~~, ~~(h)~~, and ~~(i)~~; **(e)**, **(i)**,  
 8 **and (j)**, the commission may not issue a permit for a premises **or**  
 9 **approve a designated refreshment area** if **both of the following**  
 10 **apply:**

11 (1) A wall of ~~the premises is situated within two hundred (200)~~  
 12 ~~feet from a wall of a school or church and is situated within two~~  
 13 **hundred (200) feet of:**

14 **(A) a wall of the premises; or**

15 **(B) a boundary of the designated refreshment area.**

16 (2) A permit has not been issued for the premises under the  
 17 provisions of Acts 1933, Chapter 80.

18 ~~(d)~~ **(e)** This section does not apply to the premises of a:

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

23 (A) a wall of ~~the premises is situated within two hundred (200)~~  
 24 ~~feet from a wall of a church or school is situated within two~~  
 25 **hundred (200) feet of:**

26 **(i) a wall of the premises; or**

27 **(ii) a boundary of the designated refreshment area;**

28 (B) the commission receives a written statement from the  
 29 authorized representative of the church or school stating  
 30 expressly that the church or school does not object to the  
 31 issuance of the permit for the premises **or approval of the**  
 32 **designated refreshment area;** and

33 (C) the commission determines that the church or school does  
 34 not object to the issuance of the permit for the premises **or**  
 35 **approval of the designated refreshment area;** or

36 (2) church or school that applies for a temporary beer or wine  
 37 permit.

38 ~~(e)~~ **(f)** The commission shall base its determination under subsection  
 39 ~~(d)(1)(C)~~ **(e)(1)(C)** solely on the written statement of the authorized  
 40 representative of the church or school.

41 ~~(f)~~ **(g)** If the commission does not receive the written statement of  
 42 the authorized representative of the church or school, the premises of



1 the grocery store, drug store, restaurant, hotel, catering hall, **designated**  
 2 **refreshment area**, craft manufacturer, or location for which the use of  
 3 a supplemental catering permit has been approved may not obtain the  
 4 waiver allowed under this section.

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

10 ~~(h)~~ **(i)** If the commission:

11 (1) receives a written statement from the authorized  
 12 representative of a church or school as described in subsection  
 13 ~~(d)(1)(B)~~; **(e)(1)(B)**; and

14 (2) determines the church or school does not object as described  
 15 in subsection ~~(d)(1)(C)~~; **(e)(1)(C)**;

16 the commission may not consider subsequent objections from the  
 17 church or school to the issuance of the same permit type at the same  
 18 premises location.

19 ~~(i)~~ **(j)** The commission may issue a permit for a premises **or**  
 20 **approve a designated refreshment area** if the wall of the premises **or**  
 21 **the boundary of the designated refreshment area** and the wall of a  
 22 church are separated by at least eighty-five (85) feet, including a two  
 23 (2) lane road of at least thirty (30) feet in width.

24 SECTION 3. IC 7.1-3-31 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2023]:

27 **Chapter 31. Designated Refreshment Area**

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

30 **(1) has licensed premises within a refreshment area; and**

31 **(2) is designated by the commission under section 8 of this**  
 32 **chapter.**

33 **Sec. 2. As used in this chapter, "municipality" means a city or**  
 34 **town.**

35 **Sec. 3. As used in this chapter, "refreshment area" means an**  
 36 **outdoor area that a municipality designates as a refreshment area**  
 37 **as provided in this chapter.**

38 **Sec. 4. As used in this chapter, "vendor" means a person issued**  
 39 **a temporary beer or wine permit and a temporary vendor**  
 40 **designation under section 9 of this chapter.**

41 **Sec. 5. If a municipality designates a refreshment area under**  
 42 **this chapter, a person may:**



- 1 (1) exit the licensed premises of a designated permittee or
- 2 vendor with not more than one (1) open container of an
- 3 alcoholic beverage at a time; and
- 4 (2) consume the alcoholic beverage within the refreshment
- 5 area.

6 **Sec. 6. A municipality may designate a refreshment area subject**  
 7 **to the following:**

- 8 (1) The refreshment area must include at least four (4)
- 9 licensed premises that are designated permittees.
- 10 (2) The following limitations:
- 11 (A) A municipality that has a population of more than fifty
- 12 thousand (50,000) may create not more than four (4)
- 13 refreshment areas. Each refreshment area may not exceed
- 14 three hundred twenty (320) contiguous acres.
- 15 (B) A municipality that has a population of more than
- 16 thirty-five thousand (35,000) and not more than fifty
- 17 thousand (50,000) may create not more than two (2)
- 18 refreshment areas. Each refreshment area may not exceed
- 19 three hundred twenty (320) contiguous acres.
- 20 (C) A municipality that has a population of not more than
- 21 thirty-five thousand (35,000) may create one (1)
- 22 refreshment area that is not more than one hundred fifty
- 23 (150) contiguous acres.
- 24 (3) The refreshment area is subject to IC 7.1-3-21-11.

25 **Sec. 7. (a) To designate a refreshment area, the municipal**  
 26 **legislative body must adopt an ordinance that includes at least the**  
 27 **following:**

- 28 (1) A map of the refreshment area in sufficient detail to
- 29 identify the refreshment area's boundaries.
- 30 (2) The boundaries of the refreshment area, by street
- 31 addresses.
- 32 (3) The locations of the proposed designated permittees and
- 33 vendors within the refreshment area.
- 34 (4) A statement that the refreshment area is consistent with
- 35 the municipality's zoning ordinance.
- 36 (5) The number, spacing, and type of signage designating the
- 37 refreshment area.
- 38 (6) The hours of operation for the refreshment area, which
- 39 may not violate IC 7.1-3-1-14.
- 40 (b) The ordinance may include any other provisions regarding
- 41 the operation of the refreshment area, including:
- 42 (1) requiring designated permittees and vendors to use only



1 nonbreakable plastic bottles, plastic cups, or paper cups for  
2 alcoholic beverages consumed in the refreshment area;

3 (2) requiring bottles or cups to be affixed with a logo that  
4 identifies the container for use only in the refreshment area;

5 (3) providing nontransferable wristband identifications to  
6 designated permittees and vendors to issue to individuals who  
7 are at least twenty-one (21) years of age;

8 (4) providing a public safety plan for the refreshment area; or

9 (5) providing a sanitation plan for the refreshment area.

10 Sec. 8. (a) The municipality shall submit the adopted ordinance  
11 to the commission with an application for approval of a  
12 refreshment area. The commission shall review the ordinance for  
13 compliance with this chapter.

14 (b) If the ordinance is approved, the commission shall issue a  
15 refreshment area designation to each retailer permittee that is  
16 located within and participating in the refreshment area. The  
17 commission may approve a refreshment area and issue  
18 refreshment area designations to retailer permittees without  
19 publication of notice or investigation before a local board. The  
20 commission may not charge a fee for designating a retailer  
21 permittee.

22 (c) Designated permittees and vendors shall comply with the  
23 applicable public health and safety requirements established by  
24 ordinance for the refreshment area.

25 Sec. 9. A person must obtain a temporary beer or wine permit  
26 and a temporary vendor designation to participate in an event or  
27 festival held within a refreshment area. The commission may only  
28 charge a fee for the temporary beer or wine permit. The  
29 commission may issue the permit and designation without  
30 publication of notice or investigation before a local board.

31 Sec. 10. A municipal legislative body may adopt an ordinance  
32 dissolving a refreshment area at any time. The municipal  
33 legislative body shall notify the chair of the commission that the  
34 refreshment area is dissolved. Upon receipt of the notice, the  
35 commission shall revoke all refreshment area designations issued  
36 within the dissolved refreshment area.

37 Sec. 11. A designated permittee or vendor within the  
38 refreshment area may allow a person to exit the designated  
39 permittee's or vendor's licensed premises with not more than one  
40 (1) open container of an alcoholic beverage at a time. The contents  
41 of the open container may not exceed the following:

42 (1) Beer or flavored malt beverage of not more than sixteen



- 1 (16) ounces.
- 2 (2) Wine, cider, or hard seltzer of not more than twelve (12)
- 3 ounces.
- 4 (3) A mixed drink of not more than ten (10) ounces
- 5 containing:
- 6 (A) at least one (1) liquor; and
- 7 (B) at least one (1) nonalcoholic mixer other than water or
- 8 ice.
- 9 (4) Not more than two (2) ounces of:
- 10 (A) only liquor;
- 11 (B) liquor and water; or
- 12 (C) liquor and ice.
- 13 Sec. 12. (a) A person may consume an alcoholic beverage
- 14 purchased from a designated permittee or vendor anywhere within
- 15 the refreshment area boundaries.
- 16 (b) A person may not enter:
- 17 (1) a licensed premises in violation of IC 7.1-5-8-5; or
- 18 (2) a restaurant in violation of IC 7.1-5-8-6;
- 19 with an alcoholic beverage purchased from a designated permittee
- 20 or vendor for consumption within a refreshment area.
- 21 Sec. 13. (a) A person may not:
- 22 (1) exit a designated permittee's premises or vendor's
- 23 premises; or
- 24 (2) enter a 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 or vendor may not allow a person to
- 29 exit the permittee's premises or vendor's premises with an open
- 30 container of an alcoholic beverage for consumption in the
- 31 refreshment area, unless the person is wearing a nontransferable
- 32 wristband identification imprinted with the name or logo of the
- 33 refreshment area.
- 34 Sec. 14. A person may not consume an alcoholic beverage within
- 35 a refreshment area that was purchased outside of the refreshment
- 36 area.
- 37 Sec. 15. If a designated permittee in a refreshment area includes
- 38 outdoor dining:
- 39 (1) the designated permittee may serve alcoholic beverages in
- 40 open containers during the hours of operation and in the
- 41 areas authorized by the retailer permit;
- 42 (2) glass containers may be allowed in the outdoor dining



1           **areas but may not be removed from those areas into the**  
 2           **refreshment area; and**  
 3           **(3) no fencing or other enclosure of the outdoor dining area is**  
 4           **required other than the fencing or enclosure required for the**  
 5           **retailer permit.**

6           SECTION 4. IC 7.1-5-7-11, AS AMENDED BY P.L.105-2022,  
 7           SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8           JULY 1, 2023]: Sec. 11. (a) The provisions of sections 9 and 10 of this  
 9           chapter shall not apply if the public place involved is one (1) of the  
 10          following:

- 11           (1) Civic center.
- 12           (2) Convention center.
- 13           (3) Sports arena.
- 14           (4) Bowling center.
- 15           (5) Bona fide club.
- 16           (6) Drug store.
- 17           (7) Grocery store.
- 18           (8) Boat.
- 19           (9) Dining car.
- 20           (10) Pullman car.
- 21           (11) Club car.
- 22           (12) Passenger airplane.
- 23           (13) Horse racetrack facility holding a recognized meeting permit  
 24           under IC 4-31-5.
- 25           (14) Satellite facility (as defined in IC 4-31-2.1-36).
- 26           (15) Catering hall under IC 7.1-3-20-24 that is not open to the  
 27           public.
- 28           (16) That part of a restaurant which is separate from a room in  
 29           which is located a bar over which alcoholic beverages are sold or  
 30           dispensed by the drink.
- 31           (17) Entertainment complex.
- 32           (18) Indoor golf facility.
- 33           (19) A recreational facility such as a golf course, bowling center,  
 34           or similar facility that has the recreational activity and not the sale  
 35           of food and beverages as the principal purpose or function of the  
 36           person's business.
- 37           (20) A licensed premises owned or operated by a postsecondary  
 38           educational institution described in IC 21-17-6-1.
- 39           (21) An automobile racetrack.
- 40           (22) An indoor theater under IC 7.1-3-20-26.
- 41           (23) A senior residence facility campus (as defined in  
 42           IC 7.1-3-1-29(c)) at which alcoholic beverages are given or





1 furnished as provided under IC 7.1-3-1-29.

2 (24) A hotel other than a part of a hotel that is a room in a  
3 restaurant in which a bar is located over which alcoholic  
4 beverages are sold or dispensed by the drink.

5 (25) The location of an allowable event to which IC 7.1-3-6.1  
6 applies.

7 (26) The location of a charity auction to which IC 7.1-3-6.2  
8 applies.

9 (27) A tour of a brewery as provided in IC 7.1-3-20-16.4, if the  
10 minor is in the company of a parent, legal guardian or custodian,  
11 or family member who is at least twenty-one (21) years of age.

12 (28) A farm winery and any additional locations of the farm  
13 winery under IC 7.1-3-12, if the minor is in the company of a  
14 parent, legal guardian or custodian, or family member who is at  
15 least twenty-one (21) years of age and the minor is accompanied  
16 by the adult in any area that the adult may be present whether or  
17 not the area:

18 (A) is separated in any manner from where the wine is  
19 manufactured, sold, or consumed within the farm winery  
20 premises; or

21 (B) operates under a retailer's permit.

22 (29) An artisan distillery under IC 7.1-3-27, if:

23 (A) the person who holds the artisan distiller's permit also  
24 holds a farm winery permit under IC 7.1-3-12, or  
25 IC 7.1-3-20-16.4(a) applies to the person; and

26 (B) the minor is in the company of a parent, legal guardian or  
27 custodian, or family member who is at least twenty-one (21)  
28 years of age.

29 (30) An art instruction studio under IC 7.1-5-8-4.6.

30 (31) The licensed premises of a food hall under IC 7.1-3-20-29  
31 and the food and beverage vending space of a food hall vendor  
32 permittee under IC 7.1-3-20-30. However, sections 9 and 10 of  
33 this chapter apply to a bar within the food and beverage vending  
34 space of a food hall vendor permittee under IC 7.1-3-20-30 that  
35 serves alcoholic beverages intended to be consumed while sitting  
36 or standing at the bar.

37 **(32) A refreshment area designated under IC 7.1-3-31.**

38 (b) For the purpose of this subsection, "food" means meals prepared  
39 on the licensed premises. It is lawful for a minor to be on licensed  
40 premises in a room in which is located a bar over which alcoholic  
41 beverages are sold or dispensed by the drink if all the following  
42 conditions are met:



1 (1) The minor is eighteen (18) years of age or older.

2 (2) The minor is in the company of a parent, guardian, or family  
3 member who is twenty-one (21) years of age or older.

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

7 SECTION 5. IC 7.1-5-8-12 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2023]: **Sec. 12. (a) As used in this section, "designated permittee"**  
10 **has the meaning set forth in IC 7.1-3-31-1.**

11 **(b) As used in this section, "vendor" has the meaning set forth**  
12 **in IC 7.1-3-31-4.**

13 **(c) A designated permittee or vendor who knowingly or**  
14 **intentionally allows a person who is not wearing a nontransferable**  
15 **wristband as required under IC 7.1-3-31-13 to exit the licensed**  
16 **premises of the designated permittee or vendor with an open**  
17 **container of an alcoholic beverage purchased on the premises**  
18 **commits a Class C misdemeanor.**

19 SECTION 6. IC 7.1-5-8-13 IS ADDED TO THE INDIANA CODE  
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
21 1, 2023]: **Sec. 13. (a) As used in this section, "designated permittee"**  
22 **has the meaning set forth in IC 7.1-3-31-1.**

23 **(b) As used in this section, "vendor" has the meaning set forth**  
24 **in IC 7.1-3-31-4.**

25 **(c) A designated permittee or vendor who knowingly or**  
26 **intentionally sells, furnishes, or gives a person for consumption in**  
27 **a refreshment area designated under IC 7.1-3-31:**

28 **(1) an open container of an alcoholic beverage that exceeds**  
29 **the content limitations in IC 7.1-3-31-11; or**

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

32 **commits a Class C misdemeanor.**

33 SECTION 7. IC 35-52-7-49.1 IS ADDED TO THE INDIANA  
34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
35 [EFFECTIVE JULY 1, 2023]: **Sec. 49.1. IC 7.1-5-8-12 defines a**  
36 **crime concerning alcohol.**

37 SECTION 8. IC 35-52-7-49.2 IS ADDED TO THE INDIANA  
38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2023]: **Sec. 49.2. IC 7.1-5-8-13 defines a**  
40 **crime concerning alcohol.**

