



January 24, 2018

SENATE BILL No. 35

DIGEST OF SB 35 (Updated January 23, 2018 9:52 am - DI 84)

Citations Affected: IC 6-9.

Synopsis: Vigo County food and beverage tax. Authorizes the county council of Vigo County to adopt a county food and beverage tax (tax). Provides that the tax rate may not exceed 1%. Specifies that the revenue from the tax shall be distributed to the capital improvement board and may be used by the board only for the acquisition, construction, improvement, maintenance, or financing of the following: (1) A convention center. (2) A facility that is used or will be used principally for convention or tourism related events or the arts. (3) Wayfinding improvements. Requires the construction or improvements to be made after June 30, 2018. (4) To pay the principal and interest on bonds issued to finance one of these purposes. Specifies that the tax expires December 31, 2043.

Effective: Upon passage.

Ford

January 3, 2018, read first time and referred to Committee on Rules and Legislative Procedure.

January 16, 2018, amended; reassigned to Committee on Tax and Fiscal Policy.

January 23, 2018, reported favorably — Do Pass.

SB 35—LS 6061/DI 13



January 24, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 35

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 6-9-48 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 48. Vigo County Food and Beverage Tax**
5 **Sec. 1. This chapter applies to Vigo County.**
6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**
8 **Sec. 3. As used in this chapter, "capital improvement board"**
9 **means a capital improvement board of managers of the county**
10 **established under IC 36-10-8.**
11 **Sec. 4. (a) The fiscal body of the county may adopt an ordinance**
12 **to impose an excise tax, known as the county food and beverage**
13 **tax, on transactions described in section 5 of this chapter. The**
14 **county fiscal body may adopt an ordinance under this subsection**
15 **only after the county fiscal body has previously held at least one (1)**
16 **separate public hearing in which a discussion of the proposed**
17 **ordinance to impose the county food and beverage tax is the only**

SB 35—LS 6061/DI 13



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substantive issue on the agenda for that public hearing.

(b) If the county fiscal body adopts an ordinance under subsection (a), the county fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the county fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance is adopted.

Sec. 5. (a) Except as provided in subsection (c), a tax imposed under section 4 of this chapter applies before January 1, 2044, to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the county; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 6. The county food and beverage tax rate may not exceed one percent (1%) of the gross retail income received by the merchant from the food or beverage transaction described in section 5 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction



1 does not include the amount of tax imposed on the transaction
2 under IC 6-2.5.

3 **Sec. 7.** A tax imposed under this chapter shall be imposed, paid,
4 and collected in the same manner that the state gross retail tax is
5 imposed, paid, and collected under IC 6-2.5. However, the return
6 to be filed with the payment of the tax imposed under this chapter
7 may be made on a separate return or may be combined with the
8 return filed for the payment of the state gross retail tax, as
9 prescribed by the department of state revenue.

10 **Sec. 8.** The amounts received from the tax imposed under this
11 chapter shall be paid monthly by the treasurer of state to the
12 treasurer of the capital improvement board upon warrants issued
13 by the auditor of state.

14 **Sec. 9. (a)** If a tax is imposed under section 4 of this chapter by
15 the county fiscal body, the treasurer of the capital improvement
16 board shall establish a food and beverage tax receipts fund.

17 **(b)** The treasurer of the capital improvement board shall
18 deposit in the fund all amounts received under this chapter.

19 **(c)** Money earned from the investment of money in the fund
20 becomes a part of the fund.

21 **Sec. 10.** Amounts received by the capital improvement board
22 under this chapter may be used by the capital improvement board
23 only for the following purposes:

24 **(1)** The acquisition, construction, improvement, maintenance,
25 or financing of:

26 **(A)** a convention center that is constructed after June 30,
27 2018;

28 **(B)** a facility that is used or will be used principally for:

29 **(i)** convention or tourism related events; or

30 **(ii)** the arts;

31 that is constructed after June 30, 2018; or

32 **(C)** wayfinding improvements made after June 30, 2018,
33 that assist individuals in locating and following or
34 discovering a route through and to a given location,
35 including kiosks, indoor maps, and building directories.

36 **(2)** To pay the principal and interest on bonds issued to
37 finance a purpose described in subdivision (1).

38 **Sec. 11.** This chapter expires December 31, 2043.

39 **SECTION 2.** An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 35 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 35 as printed January 17, 2018.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0

