

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 149

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-3-18.5-2, AS AMENDED BY P.L.49-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.
- (2) Except as provided in section 6(c) of this chapter, a fee of two hundred dollars (\$200).
- (3) The name under which the applicant transacts or intends to transact business.
- (4) The address of the applicant's principal place of business or headquarters, if any.
- (5) The statement required under section 2.6 of this chapter.
- (6) If the applicant is applying for a new certificate under section 3.2 of this chapter, a copy of each of the following:**
 - (A) If the new ownership of the business is a business entity, the articles of incorporation, articles of organization, or any other formation documents of the business entity.**
 - (B) If the new ownership of the business is an individual, either:**

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- (i) the sales or purchase agreement; or
- (ii) an affidavit signed by the applicant concerning the sale or purchase, on a form prescribed by the commission, that includes the name and address of the seller and purchaser.

(C) The certificate held by the previous ownership of the business.

(b) A separate certificate is required for each location where the tobacco products or electronic cigarettes are sold or distributed. **A retail establishment may not hold more than one (1) active tobacco sales certificate for a retail location at any time.**

(c) A certificate holder shall conspicuously display the holder's certificate on the holder's premises where the tobacco products or electronic cigarettes are sold or distributed.

(d) Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.

(e) A certificate may be issued only to a person who meets the following requirements:

- (1) If the person is an individual, the person must be at least twenty-one (21) years of age.
- (2) The person must be authorized to do business in Indiana.
- (3) The person has not had an interest in a certificate revoked by the commission for that business location within the preceding one (1) year.

(f) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 2. IC 7.1-3-18.5-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2.4. (a) Subject to available resources, the commission shall not issue a tobacco sales certificate, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

- (1) A person who does not have lawful status (as defined in IC 9-13-2-92.3).**
- (2) A person who has been convicted within five (5) years before the date of application of:**
 - (A) a federal crime having a sentence of at least one (1) year;**
 - (B) a Level 1, Level 2, Level 3, Level 4, or Level 5 felony;**
 - or**
 - (C) a crime in a state other than Indiana having a penalty**



equal to the penalty for an Indiana Level 1, Level 2, Level 3, Level 4, or Level 5 felony.

However, this subdivision does not apply to a conviction that has been expunged under IC 35-38-9.

(3) A person who does not meet at least one (1) of the following descriptions:

(A) The person owns the premises to which the certificate will be applicable.

(B) The person has a valid lease on the premises:

(i) at the time of the application for a certificate; and

(ii) for the duration of the period in which the person sells or distributes in the manner described in section 1 of this chapter.

(C) The person has a franchise agreement with a franchisor:

(i) that owns the premises to which the certificate will be applicable; or

(ii) that has a bona fide lease on the premises for the full period for which the certificate is to be issued.

(4) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required for the issuance of a tobacco sales certificate to the person.

(5) A minor.

(6) A person non compos mentis.

(7) A person who has held a permit or certificate under this title and who has had that permit or certificate revoked within one (1) year prior to the date of application for a tobacco sales certificate.

(8) A person who has made an application for a permit or certificate of any type under this title which has been denied less than one (1) year prior to the person's application for a tobacco sales certificate unless the first application was denied by reason of a procedural or technical defect.

(b) Subsection (a)(5) does not prevent a minor from being a stockholder in a corporation.

SECTION 3. IC 7.1-3-18.5-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 3.2. If the majority of the ownership of a business that is a certificate holder is sold or transferred:**

(1) the new ownership of the business must apply for a new



certificate under section 2 of this chapter; and
 (2) the certificate and the permit number held by the previous ownership of the business are void ninety (90) days after the date of the sale or transfer of the ownership of the business.

SECTION 4. IC 7.1-3-18.5-9.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9.2. (a) An employee of a certificate holder must hold a valid:

- (1) driver's license issued by the state of Indiana or another state; or
- (2) identification card issued by the state of Indiana, another state, or the United States;

to sell tobacco products.

(b) An employee must have the employee's driver's license or identification card or a copy of the employee's driver's license or identification card:

- (1) either:
 - (A) in the employee's possession; or
 - (B) on file with the employee's employer; and
- (2) upon request, readily available to show to an excise officer or law enforcement;

when selling tobacco products.

(c) If an employee holds a valid license or identification card as described in subsection (a) but is unable to show the license, identification card, or a copy to an excise officer under subsection

(b) because:

- (1) the employee has left the license, identification card, or copy in another location; or
- (2) the license, identification card, or copy has otherwise been lost or mislaid;

the employee may, within five (5) days of the employee's inability to show the license, identification card, or copy to the excise officer, produce to the excise officer or to the office of the commission satisfactory evidence of a license or identification card issued to the individual that was valid at the time the individual was unable to show the license, identification card, or copy.

(d) If an employee who is unable to show a license, identification card, or copy to an excise officer fails to produce satisfactory evidence within five (5) days in the manner described in subsection (c), the commission may impose a civil penalty on the certificate holder under IC 7.1-3-23-3.

SECTION 5. IC 7.1-5-10-26 IS ADDED TO THE INDIANA CODE



AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2024]: **Sec. 26. A person who recklessly, knowingly, or intentionally sells a tobacco product without a valid tobacco sales certificate commits a Class C infraction.**

SECTION 6. IC 35-46-1-11.4, AS ADDED BY P.L.49-2020, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11.4. (a) ~~This section~~ **Subsection (b)** does not apply to a tobacco and vaping business:

(1) operating as a tobacco and vaping business before July 1, 2020; or

(2) that began operating as a tobacco and vaping business after June 30, 2020, **and before July 1, 2024**, if at the time the tobacco and vaping business began operating the tobacco and vaping business was not located in an area prohibited under this section.

(b) A person may not operate a tobacco and vaping business within one thousand (1,000) feet of a public or private elementary or secondary school, as measured between the nearest point of the premises occupied by the tobacco and vaping business and the nearest point of a building used by the school for instructional purposes.

(c) Subsection (d) does not apply to a tobacco and vaping business:

(1) operating as a tobacco and vaping business before July 1, 2024; or

(2) that began operating as a tobacco and vaping business after June 30, 2024, if at the time the tobacco and vaping business began operating the tobacco and vaping business was not located in an area prohibited under this section.

(d) A person may not operate a tobacco and vaping business within one thousand (1,000) feet of school property, measured from the nearest point of the premises occupied by the tobacco and vaping business.

~~(c)~~ **(e) A person who violates this section commits a Class C misdemeanor.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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