

SENATE BILL No. 306

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-5-12-5.

Synopsis: Tobacco shop sale of food and beverages. Makes a change to the requirement that qualifies a retail tobacco store or cigar specialty store to allow smoking on the premises to provide that the store may not sell food or beverages in a manner that requires consumption on the premises. (Current law provides that the store may not sell food or beverages for consumption on the premises.)

Effective: July 1, 2014.

Becker

January 14, 2014, read first time and referred to Committee on Public Policy.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 306

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 7.1-5-12-5, AS ADDED BY P.L.141-2012,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 5. (a) Except as provided in subsection (c) and
4 subject to section 13 of this chapter, smoking may be allowed in the
5 following:
6 (1) A horse racing facility operated under a permit under
7 IC 4-31-5 and any other permanent structure on land owned or
8 leased by the owner of the facility that is adjacent to the facility.
9 (2) A riverboat (as defined in IC 4-33-2-17) and any other
10 permanent structure that is:
11 (A) owned or leased by the owner of the riverboat; and
12 (B) located on land that is adjacent to:
13 (i) the dock to which the riverboat is moored; or
14 (ii) the land on which the riverboat is situated in the case of
15 a riverboat described in IC 4-33-2-17(2).
16 (3) A facility that operates under a gambling game license under



- 1 IC 4-35-5 and any other permanent structure on land owned or
 2 leased by the owner of the facility that is adjacent to the facility.
 3 (4) A satellite facility licensed under IC 4-31-5.5.
 4 (5) An establishment owned or leased by a business that meets the
 5 following requirements:
 6 (A) The business was in business and permitted smoking on
 7 December 31, 2012.
 8 (B) The business prohibits entry by an individual who is less
 9 than twenty-one (21) years of age.
 10 (C) The owner or operator of the business holds a beer, liquor,
 11 or wine retailer's permit.
 12 (D) The business limits smoking in the establishment to either:
 13 (i) cigar smoking; or
 14 (ii) smoking with a waterpipe or hookah device.
 15 (E) During the preceding calendar year, at least ten percent
 16 (10%) of the business's annual gross income was from:
 17 (i) the sale of cigars and the rental of onsite humidors; or
 18 (ii) the sale of loose tobacco for use in a waterpipe or
 19 hookah device.
 20 (F) The person in charge of the business posts in the
 21 establishment conspicuous signs that display the message that
 22 cigarette smoking is prohibited.
 23 (6) A premises owned or leased by and regularly used for the
 24 activities of a business that meets all of the following:
 25 (A) The business is exempt from federal income taxation
 26 under 26 U.S.C. 501(c).
 27 (B) The business:
 28 (i) meets the requirements to be considered a club under
 29 IC 7.1-3-20-1; or
 30 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 31 (C) The business provides food or alcoholic beverages only to
 32 its bona fide members and their guests.
 33 (D) The business, during a meeting of the business's members,
 34 voted within the previous two (2) years to allow smoking on
 35 the premises.
 36 (E) The business:
 37 (i) provides a separate, enclosed, designated smoking room
 38 or area that is adequately ventilated to prevent migration of
 39 smoke to nonsmoking areas of the premises;
 40 (ii) allows smoking only in the room or area described in
 41 item (i); and
 42 (iii) does not allow an individual who is less than eighteen



- 1 (18) years of age to enter into the room or area described in
 2 item (i).
- 3 (7) A retail tobacco store used primarily for the sale of tobacco
 4 products and tobacco accessories that meets the following
 5 requirements:
- 6 (A) The owner or operator of the store held a valid tobacco
 7 sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.
 8 (B) The store prohibits entry by an individual who is less than
 9 eighteen (18) years of age.
 10 (C) The sale of products other than tobacco products and
 11 tobacco accessories is merely incidental.
 12 (D) The sale of tobacco products accounts for at least
 13 eighty-five percent (85%) of the store's annual gross sales.
 14 (E) Food or beverages are not sold **for in a manner that**
 15 **requires** consumption on the premises, and there is not an
 16 area set aside for customers to consume food or beverages on
 17 the premises.
- 18 (8) A bar or tavern:
- 19 (A) for which a permittee holds:
- 20 (i) a beer retailer's permit under IC 7.1-3-4;
 21 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 22 (iii) a wine retailer's permit under IC 7.1-3-14;
- 23 (B) that does not employ an individual who is less than
 24 eighteen (18) years of age;
- 25 (C) that does not allow an individual who:
- 26 (i) is less than twenty-one (21) years of age; and
 27 (ii) is not an employee of the bar or tavern;
 28 to enter any area of the bar or tavern; and
- 29 (D) that is not located in a business that would otherwise be
 30 subject to this chapter.
- 31 (9) A cigar manufacturing facility that does not offer retail sales.
- 32 (10) A premises of a cigar specialty store to which all of the
 33 following apply:
- 34 (A) The owner or operator of the store held a valid tobacco
 35 sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.
 36 (B) The sale of tobacco products and tobacco accessories
 37 account for at least fifty percent (50%) of the store's annual
 38 gross sales.
 39 (C) The store has a separate, enclosed, designated smoking
 40 room that is adequately ventilated to prevent migration of
 41 smoke to nonsmoking areas.
 42 (D) Smoking is allowed only in the room described in clause



- 1 (C).
2 (E) Individuals who are less than eighteen (18) years of age are
3 prohibited from entering into the room described in clause (C).
4 (F) Cigarette smoking is not allowed on the premises of the
5 store.
6 (G) The owner or operator of the store posts a conspicuous
7 sign on the premises of the store that displays the message that
8 cigarette smoking is prohibited.
9 (H) Food or beverages are not sold ~~for~~ **in a manner that**
10 **requires** consumption on the premises, and there is not an
11 area set aside for customers to consume food or beverages on
12 the premises.
13 (11) The premises of a business that is located in the business
14 owner's private residence (as defined in IC 3-5-2-42.5) if the only
15 employees of the business who work in the residence are the
16 owner and other individuals who reside in the residence.
17 (b) The owner, operator, manager, or official in charge of an
18 establishment or premises in which smoking is allowed under this
19 section shall post conspicuous signs in the establishment that read
20 "WARNING: Smoking Is Allowed In This Establishment" or other
21 similar language.
22 (c) This section does not allow smoking in the following enclosed
23 areas of an establishment or premises described in subsection (a)(1)
24 through (a)(10):
25 (1) Any hallway, elevator, or other common area where an
26 individual who is less than eighteen (18) years of age is permitted.
27 (2) Any room that is intended for use by an individual who is less
28 than eighteen (18) years of age.
29 (d) The owner, operator, or manager of an establishment or premises
30 that is listed under subsection (a) and that allows smoking shall provide
31 a verified statement to the commission that states that the establishment
32 or premises qualifies for the exemption. The commission may require
33 the owner, operator, or manager of an establishment or premises to
34 provide documentation or additional information concerning the
35 exemption of the establishment or premises.

