

SENATE BILL No. 362

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-53.5.

Synopsis: Hobart food and beverage tax. Authorizes the city of Hobart to impose a food and beverage tax.

Effective: July 1, 2021.

Charbonneau, Melton

January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 362



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 6-9-53.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:
4 **Chapter 53.5. Hobart Food and Beverage Tax**
5 **Sec. 1. This chapter applies to the city of Hobart.**
6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**
8 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
9 **impose an excise tax, known as the city food and beverage tax, on**
10 **transactions described in section 4 of this chapter. The fiscal body**
11 **of the city may adopt an ordinance under this subsection only after**
12 **the fiscal body has previously held at least one (1) separate public**
13 **hearing in which a discussion of the proposed ordinance to impose**
14 **the city food and beverage tax is the only substantive issue on the**
15 **agenda for that public hearing.**
16 **(b) If the city fiscal body adopts an ordinance under subsection**
17 **(a), the city fiscal body shall immediately send a certified copy of**



1 the ordinance to the department of state revenue.

2 (c) If the city fiscal body adopts an ordinance under subsection
3 (a), the city food and beverage tax applies to transactions that
4 occur after the later of the following:

5 (1) The day specified in the ordinance.

6 (2) The last day of the month following sixty (60) days after
7 the date on which the ordinance is adopted.

8 Sec. 4. (a) Except as provided in subsection (c), a tax imposed
9 under section 3 of this chapter applies to a transaction in which a
10 food or beverage is furnished, prepared, or served:

11 (1) for consumption at a location or on equipment provided by
12 a retail merchant;

13 (2) in the city; and

14 (3) by a retail merchant for consideration.

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

17 (1) served by a retail merchant off the merchant's premises;

18 (2) food sold in a heated state or heated by a retail merchant;

19 (3) made of two (2) or more food ingredients, mixed or
20 combined by a retail merchant for sale as a single item (other
21 than food that is only cut, repackaged, or pasteurized by the
22 seller, and eggs, fish, meat, poultry, and foods containing these
23 raw animal foods requiring cooking by the consumer as
24 recommended by the federal Food and Drug Administration
25 in chapter 3, subpart 3-401.11 of its Food Code so as to
26 prevent food borne illnesses); or

27 (4) food sold with eating utensils provided by a retail
28 merchant, including plates, knives, forks, spoons, glasses,
29 cups, napkins, or straws (for purposes of this subdivision, a
30 plate does not include a container or package used to
31 transport the food).

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

36 Sec. 5. The city food and beverage tax rate:

37 (1) must be imposed in an increment of twenty-five
38 hundredths percent (0.25%); and

39 (2) may not exceed one percent (1%);

40 of the gross retail income received by the merchant from the food
41 or beverage transaction described in section 4 of this chapter. For
42 purposes of this chapter, the gross retail income received by the



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

3 **Sec. 6.** 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. 7.** The amounts received from the tax imposed under this
11 chapter shall be paid monthly by the treasurer of state to the city
12 fiscal officer upon warrants issued by the auditor of state.

13 **Sec. 8. (a)** If a tax is imposed under section 3 of this chapter by
14 the city, the city fiscal officer shall establish a food and beverage
15 tax receipts fund.

16 **(b)** The city fiscal officer shall deposit in the fund all amounts
17 received under this chapter.

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

20 **Sec. 9.** Money in the food and beverage tax receipts fund must
21 be used by the city for one (1) or more of the following purposes:

22 **(1)** To reduce the city's property tax levy for a particular year
23 at the discretion of the city, but this use does not reduce the
24 maximum permissible ad valorem property tax levy under
25 IC 6-1.1-18.5 for the city.

26 **(2)** For economic development purposes, including the pledge
27 of money under IC 5-1-14-4 for bonds, leases, or other
28 obligations for economic development purposes.

29 **(3)** Construction, renovation, improvement, equipping, or
30 maintenance of city capital improvements.

31 **(4)** Parks and recreation.

32 **(5)** The pledge of money under IC 5-1-14-4 for bonds, leases,
33 or other obligations incurred for a purpose described in
34 subdivisions (3) through (4).

35 Revenue derived from the imposition of a tax under this chapter
36 may be treated by the city as additional revenue for the purpose of
37 fixing its budget for the budget year during which the revenues are
38 to be distributed to the city.

39 **Sec. 10.** With respect to obligations for which a pledge has been
40 made under section 9 of this chapter, the general assembly
41 covenants with the holders of the obligations that this chapter will
42 not be repealed or amended in a manner that will adversely affect



1 **the imposition or collection of the tax imposed under this chapter**
2 **if the payment of any of the obligations is outstanding.**

