

SENATE BILL No. 396

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-18.5; IC 7.1-5-12-5.

Synopsis: Tobacco sales certificate transferability. Provides that a valid tobacco sales certificate held by a retail tobacco store is transferable to subsequent owners of the retail tobacco store.

Effective: July 1, 2016.

Mishler

January 12, 2016, read first time and referred to Committee on Public Policy.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 396

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 7.1-3-18.5-3, AS AMENDED BY P.L.224-2005,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3. ~~(a)~~ A certificate issued by the commission
4 under this chapter must contain the following information:

- 5 (1) The certificate number.
- 6 (2) The certificate holder's name.
- 7 (3) The permanent location of the business or vending machine
- 8 for which the certificate is issued.
- 9 (4) The expiration date of the certificate.

10 ~~(b)~~ A certificate is
11 ~~(1) valid for three (3) years after the date of issuance, unless the~~
12 ~~commission suspends the certificate; and~~
13 ~~(2) nontransferable.~~

14 SECTION 2. IC 7.1-3-18.5-6.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2016]: **Sec. 6.5. A valid tobacco sales**
17 **certificate issued under this chapter and held by a retail tobacco**



1 **store is transferable to subsequent owners of the retail tobacco**
 2 **store.**

3 SECTION 3. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2016]: Sec. 5. (a) Except as provided in subsection (c) and
 6 subject to section 13 of this chapter, smoking may be allowed in the
 7 following:

8 (1) A horse racing facility operated under a permit under
 9 IC 4-31-5 and any other permanent structure on land owned or
 10 leased by the owner of the facility that is adjacent to the facility.

11 (2) A riverboat (as defined in IC 4-33-2-17) and any other
 12 permanent structure that is:

13 (A) owned or leased by the owner of the riverboat; and

14 (B) located on land that is adjacent to:

15 (i) the dock to which the riverboat is moored; or

16 (ii) the land on which the riverboat is situated in the case of
 17 a riverboat described in IC 4-33-2-17(2).

18 (3) A facility that operates under a gambling game license under
 19 IC 4-35-5 and any other permanent structure on land owned or
 20 leased by the owner of the facility that is adjacent to the facility.

21 (4) A satellite facility licensed under IC 4-31-5.5.

22 (5) An establishment owned or leased by a business that meets the
 23 following requirements:

24 (A) The business was in business and permitted smoking on
 25 December 31, 2012.

26 (B) The business prohibits entry by an individual who is less
 27 than twenty-one (21) years of age.

28 (C) The owner or operator of the business holds a beer, liquor,
 29 or wine retailer's permit.

30 (D) The business limits smoking in the establishment to
 31 smoking with a waterpipe or hookah device.

32 (E) During the preceding calendar year, at least ten percent
 33 (10%) of the business's annual gross income was from the sale
 34 of loose tobacco for use in a waterpipe or hookah device.

35 (F) The person in charge of the business posts in the
 36 establishment conspicuous signs that display the message that
 37 cigarette smoking is prohibited.

38 (6) An establishment owned or leased by a business that meets the
 39 following requirements:

40 (A) The business prohibits entry by an individual who is less
 41 than twenty-one (21) years of age.

42 (B) The owner or operator of the business holds a beer, liquor,



- 1 or wine retailer's permit.
- 2 (C) The business limits smoking in the establishment to cigar
- 3 smoking.
- 4 (D) During the preceding calendar year, at least ten percent
- 5 (10%) of the business's annual gross income was from the sale
- 6 of cigars and the rental of onsite humidors.
- 7 (E) The person in charge of the business posts in the
- 8 establishment conspicuous signs that display the message that
- 9 cigarette smoking is prohibited.
- 10 (7) A premises owned or leased by and regularly used for the
- 11 activities of a business that meets all of the following:
- 12 (A) The business is exempt from federal income taxation
- 13 under 26 U.S.C. 501(c).
- 14 (B) The business:
- 15 (i) meets the requirements to be considered a club under
- 16 IC 7.1-3-20-1; or
- 17 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
- 18 (C) The business provides food or alcoholic beverages only to
- 19 its bona fide members and their guests.
- 20 (D) The business:
- 21 (i) provides a separate, enclosed, designated smoking room
- 22 or area that is adequately ventilated to prevent migration of
- 23 smoke to nonsmoking areas of the premises;
- 24 (ii) allows smoking only in the room or area described in
- 25 item (i);
- 26 (iii) does not allow an individual who is less than eighteen
- 27 (18) years of age to enter into the room or area described in
- 28 item (i); and
- 29 (iv) allows a guest in the smoking room or area described in
- 30 item (i) only when accompanied by a bona fide member of
- 31 the business.
- 32 (8) A retail tobacco store used primarily for the sale of tobacco
- 33 products and tobacco accessories that meets the following
- 34 requirements:
- 35 (A) The owner or operator of the store holds a valid tobacco
- 36 sales certificate issued under IC 7.1-3-18.5.
- 37 (B) The store prohibits entry by an individual who is less than
- 38 eighteen (18) years of age.
- 39 (C) The sale of products other than tobacco products and
- 40 tobacco accessories is merely incidental.
- 41 (D) The sale of tobacco products accounts for at least
- 42 eighty-five percent (85%) of the store's annual gross sales.



- 1 (E) Food or beverages are not sold in a manner that requires
2 consumption on the premises, and there is not an area set aside
3 for customers to consume food or beverages on the premises.
- 4 (9) A bar or tavern:
- 5 (A) for which a permittee holds:
- 6 (i) a beer retailer's permit under IC 7.1-3-4;
- 7 (ii) a liquor retailer's permit under IC 7.1-3-9; or
- 8 (iii) a wine retailer's permit under IC 7.1-3-14;
- 9 (B) that does not employ an individual who is less than
10 eighteen (18) years of age;
- 11 (C) that does not allow an individual who:
- 12 (i) is less than twenty-one (21) years of age; and
- 13 (ii) is not an employee of the bar or tavern;
- 14 to enter any area of the bar or tavern; and
- 15 (D) that is not located in a business that would otherwise be
16 subject to this chapter.
- 17 (10) A cigar manufacturing facility that does not offer retail sales.
- 18 (11) A premises of a cigar specialty store to which all of the
19 following apply:
- 20 (A) The owner or operator of the store holds a valid tobacco
21 sales certificate issued under IC 7.1-3-18.5.
- 22 (B) The sale of tobacco products and tobacco accessories
23 account for at least fifty percent (50%) of the store's annual
24 gross sales.
- 25 (C) The store has a separate, enclosed, designated smoking
26 room that is adequately ventilated to prevent migration of
27 smoke to nonsmoking areas.
- 28 (D) Smoking is allowed only in the room described in clause
29 (C).
- 30 (E) Individuals who are less than eighteen (18) years of age are
31 prohibited from entering into the room described in clause (C).
- 32 (F) Cigarette smoking is not allowed on the premises of the
33 store.
- 34 (G) The owner or operator of the store posts a conspicuous
35 sign on the premises of the store that displays the message that
36 cigarette smoking is prohibited.
- 37 (H) The store does not prepare any food or beverage that
38 would require a certified food handler under IC 16-42-5.2.
- 39 (12) The premises of a business that is located in the business
40 owner's private residence (as defined in IC 3-5-2-42.5) if the only
41 employees of the business who work in the residence are the
42 owner and other individuals who reside in the residence.



1 (b) The owner, operator, manager, or official in charge of an
2 establishment or premises in which smoking is allowed under this
3 section shall post conspicuous signs in the establishment that read
4 "WARNING: Smoking Is Allowed In This Establishment" or other
5 similar language.

6 (c) This section does not allow smoking in the following enclosed
7 areas of an establishment or premises described in subsection (a)(1)
8 through (a)(11):

9 (1) Any hallway, elevator, or other common area where an
10 individual who is less than eighteen (18) years of age is permitted.

11 (2) Any room that is intended for use by an individual who is less
12 than eighteen (18) years of age.

13 (d) The owner, operator, or manager of an establishment or premises
14 that is listed under subsection (a) and that allows smoking shall provide
15 a verified statement to the commission that states that the establishment
16 or premises qualifies for the exemption. The commission may require
17 the owner, operator, or manager of an establishment or premises to
18 provide documentation or additional information concerning the
19 exemption of the establishment or premises.

20 (e) **As provided in IC 7.1-3-18.5-6.5, a valid tobacco sales**
21 **certificate issued under IC 7.1-3-18.5 and held by a retail tobacco**
22 **store is transferable to subsequent owners of a retail tobacco store.**

