

**STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

**IN THE MATTER OF
THE PERMIT OF:**

Jacob S. Day

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Applicant No. 3695184

**PROPOSED FINDINGS OF FACT
AND
CONCLUSIONS OF LAW**

**I.
BACKGROUND OF THE CASE**

The Applicant, Jacob S. Day, Applicant Number 3695184 (“Applicant”) is the Applicant for an Alcohol and Tobacco Commission (“ATC”) employee permit. The Applicant filed his application on March 9, 2022. Upon review of Applicant’s record with the Indiana Bureau of Motor Vehicles, ATC staff determined that Applicant had three unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5. The dates of the convictions are as follows:

1. Conviction under cause number 49D25-2104-F6-009889 on November 8, 2021;
2. Conviction under cause number 41D03-1910-F6-000688 on February 19, 2020;
and
3. Conviction under cause number 41D03-1807-CM-000579 on August 30, 2018.

Applicant appealed the denial of his permit and the matter was set for a hearing on May 2, 2022.

**II.
EVIDENCE BEFORE THE ATC**

1. The following individuals testified before the ATC in favor of the Applicant in this cause:

- a. Jacob S Day, applicant;
- b. Stephen Day, father of the applicant;
- c. Michael Didion, friend, mentor and supervisor at Brother's Bar and Grill, Broad Ripple;
- d. Sydney Beebar, live-in girlfriend, college student, and juvenile diversion program case manager; and
- e. Laura Iosue, attorney for applicant.

2. Applicant's Exhibits were received into the record:

- a. Adult Recovery Plan, Fairbanks Hospital;
- b. Certificate of Completion of Intensive Outpatient Treatment at Advantage Counseling;
- c. Complete Records from Fairbanks Hospital (confidential, not for public distribution); and
- d. Letter dated April 27, 2022 from Andrew McDonough, Regional Manager, Brothers Bar and Grill, stating applicant has been offered a promotion to a manager's position at Brothers Bar and Grill, if he can obtain an employee alcohol permit from the ATC. Further, that applicant can continue to work at Brothers in other positions that do not require serving alcohol, if he cannot be issued an employee alcohol permit.

III.

FINDINGS OF FACT

1. The Applicant, Jacob S. Day, is the Applicant for an Alcohol and Tobacco Commission employee permit, number 3695184 (ATC File.)
2. The Applicant had three unrelated convictions for operating while intoxicated as defined by IC 7.1-1-3-13.5 (conviction) in the past ten years. (ATC File.)
3. Any Finding of Fact may be considered a Conclusion of Law if the context so warrants.

IV. CONCLUSIONS OF LAW

1. At the time of the application, Applicant was prohibited from holding an employee permit under IC 7.1-3-18-9(h) because Applicant had three unrelated convictions for operating while intoxicated.
2. Applicant will be eligible for an employee permit on August 30, 2028.
3. Pursuant to IC 7.1-3-19-12, twenty dollars (\$20) of the permit fee shall be returned to the Applicant. Twenty-five dollars (\$25) of the permit fee shall be disposed of pursuant to Title 7.1, Article 4 of the Indiana Code.
4. Any conclusion of law may be considered a finding of fact if the context so warrants.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the denial of the application number 3695184 is in compliance with the law. The eligibility date for Applicant is August 30, 2028, subject to change with pending case. Twenty dollars (\$20) of the permit fee shall be returned to the applicant.

