

Adopted Rejected

COMMITTEE REPORT

YES: 8
NO: 4

MR. SPEAKER:

*Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 248, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 3-10-8-4.5, AS AMENDED BY P.L.3-1997,
- 4 SECTION 237, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 1998]: Sec. 4.5. Whenever the election division
- 6 receives a notice under section 4 of this chapter, the election division
- 7 shall notify the following offices and agencies that a special election
- 8 will be conducted within all or part of Indiana:
- 9 (1) Each agency serving persons with disabilities and designated
- 10 as a voter registration site under IC 3-7-16.
- 11 (2) Armed forces recruitment offices in accordance with
- 12 procedures established under IC 3-7-17.
- 13 (3) Each agency designated as a voter registration site and
- 14 subject to IC 3-7-18.
- 15 (4) ~~The alcoholic beverage commission for purposes of~~

- 1 ~~enforcing IC 7.1-5-10-1.~~
 2 ~~(5)~~ (4) The bureau of motor vehicles for voter registration
 3 purposes under IC 9-24-2.5.
 4 ~~(6)~~ (5) The adjutant general for purposes of enforcing
 5 IC 10-2-4-16.
 6 ~~(7)~~ (6) The division of family and children for voter registration
 7 purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.
 8 ~~(8)~~ (7) The state department of health for voter registration
 9 purposes under IC 16-35-1.6.
 10 ~~(9)~~ (8) The Federal Voting Assistance Program of the United
 11 States Department of Defense for notification of absent
 12 uniformed services voters and overseas voters.

13 SECTION 2. IC 3-10-8-9, AS AMENDED BY P.L.3-1995,
 14 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 1998]: Sec. 9. (a) If the special election occurs during the
 16 period when registration is open under IC 3-7-13, the registration
 17 period continues through the twenty-ninth day before the special
 18 election occurs and resumes on the first day of the month following the
 19 month in which the special election is conducted.

20 (b) The election board conducting the special election shall
 21 provide poll lists for use at the precincts that include the names of
 22 voters in the precinct who:

- 23 (1) have registered through the twenty-ninth day before the
 24 special election is to be conducted; or
 25 (2) are absent uniformed services voters or overseas voters
 26 registered under IC 3-7-36.

27 (c) This subsection applies when a special election is ordered by
 28 a court under IC 3-12-8-17 or the state recount commission under
 29 IC 3-12-11-18. A candidate may not be placed on the special election
 30 ballot unless the candidate was on the ballot or was a declared write-in
 31 candidate for the office at the general election preceding the special
 32 election.

33 ~~(d) The restrictions on the sale of alcoholic beverages set forth in~~
 34 ~~IC 7.1-5-10-1 apply in each precinct in which the special election is~~
 35 ~~conducted.~~

36 SECTION 3. IC 7.1-1-2-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. ~~Scope: Exceptions:~~

- 38 (a) The provisions of this title shall not prohibit **the following**:

- 1 (1) The manufacture, sale, possession, transportation, or use of
2 vinegar.
- 3 (2) The sale or transportation of sacramental wine to a minister,
4 priest, or rabbi for a religious purpose.
- 5 (3) The manufacture, purchase, possession, transportation, or
6 distribution of sacramental wine for a religious purpose by a
7 minister, priest, or rabbi.
- 8 (4) The manufacture of wine or beer for use in one's own
9 residence.
- 10 (5) The manufacture, sale, possession, transportation, or use of
11 industrial alcohol. ~~or~~
- 12 (6) Alcoholic beverages held, served, or consumed on airline
13 flights.
- 14 **(7) The transportation of beer or wine manufactured in a**
15 **person's residence for use in a person's residence to a**
16 **brewer's premises or winery for testing, evaluation, or**
17 **educational purposes, including home brewer or vintner**
18 **contests, educational seminars, beer or wine tastings, or beer**
19 **or wine judging as set forth in IC 7.1-3-2-7 and IC 7.1-3-12-5.**
- 20 **(8) The use of beer or wine manufactured in a person's**
21 **residence for use in the person's residence on a brewer's**
22 **premises or at a winery for testing, evaluation, or**
23 **educational purposes, including home brewer or vintner**
24 **contests, educational seminars, beer or wine tastings, or beer**
25 **or wine judging as set forth in IC 7.1-3-2-7 and IC 7.1-3-12-5.**
- 26 (b) The purchase, transportation to, and the possession of alcoholic
27 beverages for use only in one's own residence **or the residence of**
28 **another person** shall not be prohibited but shall be subject to the
29 applicable provisions of this title.
- 30 (c) The manufacture, sale, possession, transportation, or use of
31 alcohol or alcoholic beverages, or a preparation containing alcohol for
32 a medicinal, scientific, or mechanical purpose, shall not be prohibited
33 but shall be controlled, regulated, and confined to permittees as
34 provided in this title.
- 35 SECTION 4. IC 7.1-2-3-16 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) The commission
37 shall have the power to regulate and prohibit advertising, signs,
38 displays, posters, and designs intended to advertise an alcoholic

1 beverage or the place where alcoholic beverages are sold.

2 (b) The commission shall not exercise the prohibition power
3 contained in subsection (a) as to any advertisement appearing in a
4 newspaper which:

5 (1) is published at least once a week;

6 (2) regularly publishes information of current news interest to
7 the community; and

8 (3) circulates generally to the public in any part of this state,
9 regardless of where printed.

10 However, a newspaper shall not include publications devoted to special
11 interests such as labor, religious, fraternal, society, or trade
12 publications or journals, or publications owned or issued by political
13 organizations or parties.

14 (c) The commission shall not exercise the prohibition power
15 contained in subsection (a) as to any advertisement broadcast over duly
16 licensed radio and television stations.

17 (d) All advertisements relating to alcoholic beverages, whether
18 published in a newspaper or broadcast over radio or television, shall
19 conform to the rules and regulations of the commission.

20 (e) The commission shall not exercise the prohibition power
21 contained in subsection (a) as to advertising in the official program of
22 the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane
23 Race.

24 (f) Notwithstanding any other law, the commission may not
25 prohibit the use of an illuminated sign advertising alcoholic beverages
26 by brand name that is displayed within the interior or on the exterior of
27 the premises covered by the permit, regardless of whether the sign is
28 illuminated constantly or intermittently. ~~However, it is unlawful for a~~
29 ~~primary source of supply or a wholesaler of alcoholic beverages to sell;~~
30 ~~give; supply; furnish; or grant to; or maintain for; a retail or dealer~~
31 ~~permittee an illuminated advertising sign. It is unlawful for a retail or~~
32 ~~dealer permittee to receive; accept; display; or permit to be displayed;~~
33 ~~an illuminated advertising sign sold; given; supplied; furnished;~~
34 ~~granted; or maintained in violation of this subsection.~~

35 (g) The commission may not prohibit the advertisement of:

36 (1) alcoholic beverages; or

37 (2) a place where alcoholic beverages may be obtained;

38 in a program, scorecard, handbill, throw-away newspaper, or menu;

1 however, those advertisements must conform to the rules of the
2 commission.

3 SECTION 5. IC 7.1-3-2-7, AS AMENDED BY P.L.107-1995,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 1998]: Sec. 7. The holder of a brewer's permit or an
6 out-of-state brewer holding either a primary source of supply permit or
7 an out-of-state brewer's permit may do the following:

- 8 (1) Manufacture beer.
9 (2) Place beer in containers or bottles.
10 (3) Transport beer.
11 (4) Sell and deliver beer to a person holding a beer wholesaler's
12 permit issued under IC 7.1-3-3.
13 (5) If the brewer's brewery manufactures not more than twenty
14 thousand (20,000) barrels of beer in a calendar year, do the
15 following:

16 (A) Sell and deliver beer to a person holding a retailer or a
17 dealer permit under this title.

18 (B) Be the proprietor of a restaurant.

19 (C) Hold a beer retailer's permit, a wine retailer's permit, or
20 a liquor retailer's permit for a restaurant established under
21 clause (B).

22 (D) Transfer beer directly from the brewery to the restaurant
23 by means of:

24 (i) bulk containers; or

25 (ii) a continuous flow system.

26 (E) Install a window between the brewery and an adjacent
27 restaurant that allows the public and the permittee to view
28 both premises.

29 (F) Install a doorway or other opening between the brewery
30 and an adjacent restaurant that provides the public and the
31 permittee with access to both premises.

32 (6) If the brewer's brewery manufactures more than twenty
33 thousand (20,000) barrels of beer in a calendar year, own a
34 portion of the corporate stock of another brewery that:

35 (A) is located in the same county as the brewer's brewery;

36 (B) manufactures less than twenty thousand (20,000)
37 barrels of beer in a calendar year; and

38 (C) is the proprietor of a restaurant that operates under

- 1 subdivision (5).
- 2 (7) Sell and deliver beer to a consumer at the plant of the brewer
3 or at the residence of the consumer. The delivery to a consumer
4 shall be made only in a quantity at any one (1) time of not more
5 than one-half (1/2) barrel, but the beer may be contained in
6 bottles or other permissible containers.
- 7 (8) Provide complimentary samples of beer that are:
8 (A) produced by the brewer; and
9 (B) offered to consumers for consumption on the brewer's
10 premises.
- 11 (9) Own a portion of the corporate stock of a sports corporation
12 that:
13 (A) manages a minor league baseball stadium located in the
14 same county as the brewer's brewery; and
15 (B) holds a beer retailer's permit, a wine retailer's permit, or
16 a liquor retailer's permit for a restaurant located in that
17 stadium.
- 18 **(10) Allow the transportation and consumption on a brewer's**
19 **premises of beer manufactured by a person for use at the**
20 **person's residence. The transportation and consumption of**
21 **the beer may be only for testing, evaluation, or educational**
22 **purposes, including home brewer contests, educational**
23 **seminars, beer tastings, or beer judging. Beer transported**
24 **and used as prescribed in this subdivision may not be sold or**
25 **offered for sale.**
- 26 SECTION 6. IC 7.1-3-3-4 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. ~~Premises Described~~
28 ~~in Application.~~ (a) The premises to be used as a warehouse by an
29 applicant shall be described in the application for the permit. The
30 commission shall not issue a beer wholesaler's permit to an applicant
31 for any other warehouse or premises than that described in the
32 application.
- 33 (b) **Except as provided in subsection (c),** the commission shall
34 issue only one (1) beer wholesaler's permit to an applicant, but a
35 permittee may be permitted to transfer his warehouse to another
36 location within the county, upon application to, and approval of, the
37 commission.
- 38 (c) **Notwithstanding subsection (b), the commission may issue**

1 **to an individual applicant one (1) beer wholesaler's permit for each**
 2 **county having a population of:**

3 **(1) more than one hundred eight thousand nine hundred fifty**
 4 **(108,950) but less than one hundred twelve thousand**
 5 **(112,000); or**

6 **(2) more than twenty-three thousand six hundred fifty**
 7 **(23,650) but less than twenty-three thousand seven hundred**
 8 **(23,700).**

9 SECTION 7. IC 7.1-3-10-13, AS AMENDED BY P.L.106-1995,
 10 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 1998]: Sec. 13. (a) A liquor dealer permittee who is a
 12 proprietor of a package liquor store may allow customers to sample **the**
 13 **following:**

14 (1) Wines. ~~and~~

15 **(2) Liquors.**

16 **(3) Liqueurs and cordials** (as defined in 27 CFR 5.22(h)).

17 (b) Sampling is permitted:

18 (1) only on the package liquor store permit premises; and

19 (2) only during the store's regular business hours.

20 (c) No charge may be made for the samples provided to the
 21 customers.

22 (d) Sample size **of wines** may not exceed one (1) ounce.

23 (e) In addition to the other provisions of this section, a proprietor
 24 who allows customers to sample **liquors**, liqueurs, or cordials shall
 25 comply with all of the following:

26 (1) A proprietor may not allow a customer to sample more than
 27 two (2) **liquor**, liqueur, or cordial samples per day.

28 (2) Sample size of **liquors**, liqueurs, or cordials may not exceed
 29 one-half (1/2) ounce.

30 SECTION 8. IC 7.1-3-12-5, AS AMENDED BY P.L.74-1996,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 1998]: Sec. 5. (a) The holder of a small winery permit:

33 (1) is entitled to manufacture table wine, to bottle wine, and to
 34 bottle table wine produced by the permit holder's small winery;

35 (2) is entitled to serve complimentary samples of the winery's
 36 table wine on the licensed premises;

37 (3) is entitled to sell the winery's table wine on the licensed
 38 premises to consumers either by the glass, or by the bottle, or

1 both;
 2 (4) is entitled to sell table wine by the bottle or by the case to a
 3 person who is the holder of a permit to sell wine at either
 4 wholesale or retail;
 5 (5) is exempt from the provisions of IC 7.1-3-14; ~~and~~
 6 (6) is entitled to advertise the name and address of any retailer
 7 or dealer who sells wine produced by the permit holder's winery;
 8 **and**
 9 **(7) is entitled to allow the transportation and consumption on**
 10 **the licensed premises of wine manufactured by a person for**
 11 **use at the person's residence. The transportation and**
 12 **consumption of the wine described in this subdivision may be**
 13 **only for testing, evaluation, or educational purposes,**
 14 **including home vintner contests, educational seminars, wine**
 15 **tastings, and wine judging. Wine transported and used as**
 16 **described in this subdivision may not be sold or offered for**
 17 **sale.**

18 (b) With the approval of the commission, a holder of a permit
 19 under this chapter may conduct business at a second location that is
 20 separate from the winery. At the second location, the holder of a permit
 21 may conduct any business that is authorized at the first location, except
 22 for the manufacturing or bottling of wine.

23 (c) With the approval of the commission, a holder of a permit
 24 under this chapter may, individually or with other permit holders under
 25 this chapter, participate in a trade show or an exposition at which
 26 products of each permit holder participant are displayed, promoted, and
 27 sold. The commission may not grant approval under this subsection to
 28 a holder of a permit under this chapter:

- 29 (1) more than three (3) times in a calendar year; and
- 30 (2) for more than three (3) days for each event."

31 Page 2, after line 3, begin a new paragraph and insert:

32 "SECTION 10. IC 7.1-5-7-5.1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.1. (a) A permittee in
 34 a criminal prosecution or in a proceeding before the commission or a
 35 local board based upon a charge of unlawfully furnishing an alcoholic
 36 beverage to a minor may offer ~~either or both~~ **at least one (1)** of the
 37 following proofs as a defense or defenses to the prosecution or
 38 proceeding:

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- (1) That:
 - (A) the purchaser:
 - (i) falsely represented the purchaser's age in a written statement, such as that prescribed by subsection (b), supported by two (2) forms of identification showing the purchaser to be at least twenty-one (21) years of age;
 - (ii) produced a driver's license bearing the purchaser's photograph **that showed that the purchaser was of legal age to make the purchase;** or
 - (iii) produced a photographic identification card, issued under IC 9-24-16-1 or a similar card, issued under the laws of another state or the federal government, showing that the purchaser was of legal age to make the purchase;
 - (B) the appearance of the purchaser was such that an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and
 - (C) the sale was made in good faith based upon the reasonable belief that the purchaser was actually of legal age to make the purchase.

(2) That the permittee or his agent had taken all reasonable precautions in instructing his employees, in hiring his employees, and in supervising them as to sale of alcoholic beverages to minors.

(3) That the permittee or the permittee's agent has required each purchaser having an appearance that would result in an ordinary prudent person believing the purchaser to be twenty-six (26) years of age or less to produce photographic identification on at least one (1) occasion showing that the purchaser is of legal age to make the purchase.

(b) The following written statement is sufficient for the purposes of subsection (a)(1)(A)(i):

REPRESENTATION AND STATEMENT
OF AGE
FOR PURCHASE OF ALCOHOLIC
BEVERAGES

I understand that misrepresentation of age to induce the sale,

1 service, or delivery of alcoholic beverages to me is cause for my arrest
2 and prosecution, which can result in punishment as follows:

- 3 (1) Possible payment of a fine of up to \$500.
- 4 (2) Possible imprisonment for up to 60 days.
- 5 (3) Possible loss or deferment of driver's license privileges for up
6 to one year.
- 7 (4) Possible requirement to participate in an alcohol education
8 or treatment program.

9 Knowing the possible penalties for misstatement, I hereby
10 represent and state, for the purpose of inducing

11 _____
12 (Name of licensee)

13 to sell, serve, or deliver alcoholic beverages to me, that I was born:

14 _____, _____, _____ and am _____ years of age.
15 (Month) (Day) (Year)

16 Date _____ Signed _____
17 Address _____

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19	_____	
20	Other Identification	Signature of person
21	Presented:	who witnessed completion
22	Nonphoto's driver's	of this statement
23	license: (number & state)	by patron:

24 _____
25 Social Security Number

26 _____
27 Other _____

28 _____
29 _____

30 SECTION 11. IC 7.1-5-7-8 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) It is a ~~Class E~~
32 **Class B** misdemeanor for a person to recklessly sell, barter, exchange,
33 provide, or furnish an alcoholic beverage to a minor.

34 (b) This section shall not be construed to impose civil liability
35 upon any educational institution of higher learning, including but not
36 limited to public and private universities and colleges, business
37 schools, vocational schools, and schools for continuing education, or
38 its agents for injury to any person or property sustained in consequence

1 of a violation of this section unless such institution or its agent sells,
 2 barter, exchanges, provides, or furnishes an alcoholic beverage to a
 3 minor.

4 SECTION 12. IC 7.1-5-8-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. ~~Faking Alcoholic~~
 6 ~~Beverage On Licensed Premises Prohibited:~~ **(a) This section does not**
 7 **apply to a person who carries, conveys, or consumes on or about**
 8 **the licensed premises of a brewer or winery for testing, evaluation,**
 9 **or educational purposes beer or wine manufactured in the person's**
 10 **residence for use in the person's residence as described in**
 11 **IC 7.1-3-2-7 and IC 7.1-3-12-5.**

12 **(b)** It is a Class C misdemeanor for a person, for his own use, to
 13 knowingly carry on, convey to, or consume, on or about the licensed
 14 premises of a permittee, an alcoholic beverage that was not then and
 15 there purchased from that permittee.

16 SECTION 13. IC 7.1-5-9-4, AS AMENDED BY P.L.51-1994,
 17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 1998]: Sec. 4. An applicant for a beer wholesaler's permit
 19 shall have no interest in the following:

- 20 (1) A permit to manufacture or to sell at retail alcoholic
 21 beverages of any kind.
- 22 (2) **Except as provided in IC 7.1-3-3-4(c)**, any other permit to
 23 wholesale alcoholic beverages.
- 24 (3) Through stock ownership or otherwise, in a partnership,
 25 limited liability company, or corporation that holds:
 - 26 (A) a permit to manufacture or to sell at retail alcoholic
 27 beverages of any kind; or
 - 28 (B) any other permit to wholesale alcoholic beverages of
 29 any kind.

30 SECTION 14. IC 7.1-5-10-1, AS AMENDED BY P.L.3-1997,
 31 SECTION 423, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) It is unlawful to sell alcoholic
 33 beverages at the following times:

- 34 (1) At a time other than that made lawful by the provisions of
 35 IC 7.1-3-1-14.
- 36 (2) On Christmas Day and until 7:00 o'clock in the morning,
 37 prevailing local time, the following day.
- 38 ~~(3) On primary election day, and general election day, from 3:00~~

1 o'clock in the morning, prevailing local time, until the voting
2 polls are closed in the evening on these days:

3 (4) During a special election under IC 3-10-8-9 (within the
4 precincts where the special election is being conducted); from
5 3:00 o'clock in the morning until the voting polls are closed in
6 the evening on these days:

7 (b) During the time when the sale of alcoholic beverages is
8 unlawful, no alcoholic beverages shall be sold, dispensed, given away,
9 or otherwise disposed of on the licensed premises, and the licensed
10 premises shall remain closed to the extent that the nature of the
11 business carried on on the premises, as at a hotel or restaurant, permits.

12 (c) It is unlawful to sell alcoholic beverages on New Year's Day
13 for off-premises consumption."

14 Renumber all SECTIONS consecutively.

(Reference is to SB 248 as printed January 30, 1998.)

and when so amended that said bill do pass.

Representative Bailey