

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	2

MR. SPEAKER:

*Your Committee on Public Health, to which was referred House Bill 1232, 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, delete lines 1 through 15, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 6-2.5-1-10 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 1998]: **Sec. 10. "Tobacco product" means**
- 6 **any product that is made:**
- 7 **(1) in whole or in part from tobacco; and**
- 8 **(2) for smoking or chewing, or both.**
- 9 **The term includes snuff.**
- 10 SECTION 2. IC 6-2.5-8-1, AS AMENDED BY P.L.2-1997,
- 11 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 1998]: Sec. 1. (a) A retail merchant may not make a retail
- 13 transaction in Indiana, unless ~~he~~ **the retail merchant** has applied for
- 14 a registered retail merchant's certificate.

1 (b) A retail merchant may obtain a registered retail merchant's
2 certificate by filing an application with the department and paying a
3 registration fee of twenty-five dollars (\$25) for each place of business
4 listed on the application. **The application must provide a space**
5 **where the retail merchant may indicate whether the retail**
6 **merchant requires one (1) or more licenses for selling tobacco**
7 **products, as provided in section 12 of this chapter.** The retail
8 merchant shall also provide such security for payment of the tax as the
9 department may require under IC 6-2.5-6-12.

10 (c) The retail merchant shall list on the application the location
11 (including the township) of each place of business where he makes
12 retail transactions. However, if the retail merchant does not have a
13 fixed place of business, he shall list his residence as his place of
14 business. In addition, a public utility may list only its principal Indiana
15 office as its place of business for sales of public utility commodities or
16 service, but the utility must also list on the application the places of
17 business where it makes retail transactions other than sales of public
18 utility commodities or service.

19 (d) Upon receiving a proper application, the correct fee, and the
20 security for payment, if required, the department shall issue to the retail
21 merchant a separate registered retail merchant's certificate for each
22 place of business listed on the application. Each certificate shall bear
23 a serial number and the location of the place of business for which it is
24 issued.

25 (e) If a retail merchant intends to make retail transactions during
26 a calendar year at a new Indiana place of business, ~~he~~ **the retail**
27 **merchant** must file a supplemental application and pay the fee for that
28 place of business.

29 (f) A retail merchant engaged in business in Indiana as defined in
30 IC 6-2.5-3-1(c) who makes retail transactions that are only subject to
31 the use tax must obtain a registered retail merchant's certificate before
32 making those transactions. The retail merchant may obtain the
33 certificate by following the same procedure as a retail merchant under
34 subsections (b) and (c), except that the retail merchant must also
35 include on the application:

36 (1) the names and addresses of the retail merchant's principal
37 employees, agents, or representatives who engage in Indiana in
38 the solicitation or negotiation of the retail transactions;

1 (2) the location of all of the retail merchant's places of business
2 in Indiana, including offices and distribution houses; and

3 (3) any other information that the department requests.

4 (g) The department may permit an out-of-state retail merchant to
5 collect the use tax. However, before the out-of-state retail merchant
6 may collect the tax, he must obtain a registered retail merchant's
7 certificate in the manner provided by this section. Upon receiving the
8 certificate, the out-of-state retail merchant becomes subject to the same
9 conditions and duties as an Indiana retail merchant and must then
10 collect the use tax due on all sales of tangible personal property that he
11 knows is intended for use in Indiana.

12 (h) The department shall submit to the township assessor before
13 July 15 of each year:

14 (1) the name of each retail merchant that has newly obtained a
15 registered retail merchant's certificate between March 2 of the
16 preceding year and March 1 of the current year for a place of
17 business located in the township; and

18 (2) the address of each place of business of the taxpayer in the
19 township.

20 SECTION 3. IC 6-2.5-8-12 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 1998]: **Sec. 12. (a) A retail merchant must indicate on the retail
23 merchant's application for a certificate under section 1 of this
24 chapter if the retail merchant intends to:**

25 (1) sell a tobacco product at retail; or

26 (2) distribute a tobacco product to the public without charge.

27 (b) **The department shall issue a tobacco products retailer's
28 license to a retail merchant if the retail merchant:**

29 (1) **indicates that the retail merchant requires a tobacco
30 products retailer's license on the application for a certificate
31 under section 1 of this chapter; and**

32 (2) **pays the fee required under section 13 of this chapter.**

33 (c) **A retail merchant must obtain a separate tobacco products
34 retailer's license to do each of the following:**

35 (1) **Sell a tobacco product at retail.**

36 (2) **Distribute a tobacco product to the public without
37 charge.**

38 (d) **A retail merchant who owns or operates more than one (1)**

1 location where the retail merchant wishes to:
 2 (1) sell a tobacco product at retail; or
 3 (2) distribute a tobacco product to the public without charge;
 4 must obtain a separate tobacco products retailer's license for each
 5 location.

6 (e) A retail merchant who is issued a tobacco products
 7 retailer's license under this chapter shall provide to each employee
 8 of the retail merchant a written summary of the laws and penalties
 9 associated with selling or distributing a tobacco product to an
 10 individual who is less than eighteen (18) years of age.

11 SECTION 4. IC 6-2.5-8-13 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 1998]: Sec. 13. (a) The annual fee for each tobacco products
 14 retailer's license is twenty-five dollars (\$25).

15 (b) A tobacco products retailer's license issued under section
 16 12 of this chapter is valid for one (1) year. The department shall
 17 send a renewal notice to each retail merchant who receives a
 18 tobacco products retailer's license in order to allow the retail
 19 merchant to send the fee required under subsection (a) to the
 20 department on a timely basis.

21 SECTION 5. IC 6-2.5-8-14 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 1998]: Sec. 14. (a) In addition to any other
 24 action allowed under this chapter, the department may revoke or
 25 refuse to issue a tobacco products retailer's license if the
 26 department finds that any of the following conditions exist:

27 (1) The retail merchant or the retail merchant's employees
 28 have demonstrated a pattern of selling or distributing
 29 tobacco products to individuals less than eighteen (18) years
 30 of age.

31 (2) The retail merchant has been convicted of violating
 32 tobacco product tax laws in Indiana or in another
 33 jurisdiction.

34 (3) The retail merchant has violated a court order issued
 35 under IC 34-4-38.

36 (4) The retail merchant has owned or controlled a tobacco
 37 vending machine in violation of IC 35-46-1-11.5.

38 (b) In addition to a penalty under subsection (a), the

1 department may assess a civil penalty against the holder of a
 2 tobacco products retailer's license for the violation of a provision
 3 of this chapter. The department may assess a civil penalty against
 4 a holder for each day the violation continues if the violation is of a
 5 continuing nature.

6 SECTION 6. IC 6-2.5-8-15 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 1998]: **Sec. 15. (a) The department shall revoke a tobacco
 9 products retailer's license issued under section 12 of this chapter
 10 if the state excise police or another appropriate law enforcement
 11 entity determines that a retail merchant has at least five (5)
 12 separate violations of IC 35-46-1-10 in a period of twelve (12)
 13 consecutive months.**

14 (b) A member of the state excise police or another law
 15 enforcement entity that observes a violation of IC 35-46-1-10 shall
 16 do the following:

17 (1) Provide the retail merchant with a written notice of the
 18 violation.

19 (2) Provide a copy of the notice under subdivision (1) to the
 20 department.

21 (c) Before the department revokes a license as provided in
 22 subsection (a), the department shall hold a hearing that complies
 23 with IC 4-21.5.

24 SECTION 7. IC 6-2.5-8-16 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 1998]: **Sec. 16. (a) The department shall monthly transfer the
 27 application fees collected by the department under section 13 of
 28 this chapter for tobacco products retailer's licenses to the state
 29 department of health.**

30 (b) The commissioner of the state department of health shall
 31 reimburse the department for the costs of administering the
 32 program for tobacco products retailer's licenses under section 12
 33 through 15 of this chapter."

34 Delete page 2.

35 Page 3, delete lines 1 through 5.

36 Page 3, line 16, delete "IC 16-41-40 and".

37 Page 3, line 17, delete "IC 16-41-40-2" and insert "**IC
 38 16-46-12-2**".

- 1 Page 3, delete lines 18 through 42.
- 2 Delete page 4.
- 3 Page 5, delete lines 1 through 38.
- 4 Page 6, line 4, delete "has the" and insert "**means any product**
- 5 **that is made:**
- 6 (1) **in whole or in part from tobacco; and**
- 7 (2) **for smoking or chewing, or both.**
- 8 **The term includes snuff."**
- 9 Page 6, delete line 5.
- 10 Page 6, line 9, delete "and".
- 11 Page 6, line 11, delete "." and insert "; **and**".
- 12 Page 6, between lines 11 and 12, begin a new line block indented
- 13 and insert:
- 14 **"(3) providing assistance to implement youth tobacco**
- 15 **antismoking enforcement authority as provided in**
- 16 **IC 7.1-6-2."**
- 17 Page 6, line 22, delete "deposited under IC 16-41-40-18" and
- 18 insert "**received from the department of state revenue as provided**
- 19 **in IC 6-2.5-8-16."**
- 20 Page 6, between lines 29 and 30, begin a new paragraph and
- 21 insert:
- 22 **"Sec. 8. The youth antismoking education and enforcement**
- 23 **fund advisory panel is established for the purpose of advising the**
- 24 **commissioner on how to distribute money in the fund for the**
- 25 **following:**
- 26 (1) **To the department of state revenue, as provided in**
- 27 **IC 6-2.5-8-16.**
- 28 (2) **To enforcement authorities for enforcement activities, as**
- 29 **provided in IC 7.1-6-2.**
- 30 (3) **To local organizations through grants to accomplish the**
- 31 **educational purposes of the fund.**
- 32 **Sec. 9. The advisory panel consists of the following members:**
- 33 (1) **The commissioner or the commissioner's designee, who**
- 34 **serves as chair of the advisory panel.**
- 35 (2) **The commissioner of the department of state revenue or**
- 36 **the commissioner's designee.**
- 37 (3) **The director of the division of mental health or the**
- 38 **director's designee.**

1 **(4) The director of the state excise police or the director's**
2 **designee.**

3 **(5) A member of the commission for a drug free Indiana, to**
4 **be appointed by the governor.**

5 **(6) Four (4) members of the general assembly shall serve as**
6 **nonvoting members of the advisory panel. The president pro**
7 **tempore of the senate shall appoint two (2) senators, both of**
8 **whom may not be members of the same political party. The**
9 **speaker of the house of representatives shall appoint two (2)**
10 **representatives, both of whom may not be members of the**
11 **same political party.**

12 **Sec. 10. (a) The advisory panel shall meet quarterly or more**
13 **frequently at the call of the chair.**

14 **(b) A member of the general assembly who serves on the**
15 **advisory panel is entitled to receive the same mileage and travel**
16 **allowance paid to individuals who serve as legislative members of**
17 **interim study committees established by the legislative council.**

18 **(c) Three (3) members of the advisory panel constitute a**
19 **quorum.**

20 **(d) The affirmative vote of three (3) members of the advisory**
21 **panel is required for the advisory panel to take any action."**

22 Page 6, line 30, delete "8. The state department may" and insert
23 **"11. Notwithstanding section 8 of this chapter, the advisory panel**
24 **may suggest to the commissioner that the commissioner".**

25 Page 6, line 34, reset in roman "This section".

26 Page 6, reset in roman lines 35 through 38.

27 Page 6, line 38, after "." insert "**However, this subdivision does**
28 **not apply to a part of a licensed premises that is a restroom or**
29 **other common area that is accessible to persons who are less than**
30 **eighteen (18) years of age."**

31 Page 6, reset in roman lines 39 through 42.

32 Page 7, reset in roman line 1.

33 Page 7, line 9, reset in roman "(b)".

34 Page 7, line 11, reset in roman "(c)".

35 Page 7, line 11, delete "(b)".

36 Page 7, line 15, reset in roman "(d)".

37 Page 7, line 15, delete "(c)".

38 Page 7, line 17, delete "(d)" and insert "(e)".

1 Page 7, delete lines 20 through 21.

2 Page 7, line 24, delete "IC 16-41-40-2" and insert "**IC**
3 **16-46-12-2**".

4 Page 7, line 25, delete "IC 16-41-40, as added" and insert "**IC**
5 **6-2.5-8-12, as added**".

6 Page 7, line 30, delete "IC 16-41-40, as added" and insert "**IC**
7 **6-2.5-8-12, as added**".

8 Page 7, after line 31, begin a new paragraph and insert:

9 "SECTION 8. [EFFECTIVE JULY 1, 1998] (a) **As used in this**
10 **SECTION, "settlement" refers to the Universal Tobacco**
11 **Settlement that was agreed to in June 1997 by tobacco industry**
12 **representatives and the attorneys general of several states.**

13 (b) **As used in this SECTION, "tobacco product" has the**
14 **meaning set forth in IC 16-46-12-2, as added by this act.**

15 (c) **If implementation of the settlement by the United States**
16 **Congress requires Indiana to prohibit the sale or distribution of**
17 **tobacco products through vending machines in order to be eligible**
18 **to receive financial benefits of the settlement, the sale or**
19 **distribution of tobacco products in Indiana through vending**
20 **machines is prohibited, effective on the earliest date required by**
21 **the United States Congress for Indiana to receive financial benefits**
22 **of the settlement."**

23 Renumber all SECTIONS consecutively.

(Reference is to HB 1232 as introduced.)

and when so amended that said bill do pass.

Representative C. Brown