

SENATE BILL No. 161

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1; IC 7.1-2; IC 7.1-3-17.1; IC 7.1-4-1-45; IC 7.1-4-10-3; IC 7.1-5-1-1; IC 7.1-5-10-5; IC 16-18-2-143; IC 16-18-2-351.7; IC 16-46-12; IC 35-46-1-11.5.

Synopsis: Permits for retail sale of tobacco products. Requires a person to have a tobacco products retailer's permit if the person: (1) sells a tobacco product at retail; (2) sells a tobacco product from a vending machine; or (3) distributes a tobacco product to the public without charge. Requires a person to obtain a separate permit for each location where the person wishes to sell or distribute tobacco products. Requires the Indiana alcoholic beverage commission to issue tobacco products retailer's permits and enforce the requirements of holding a permit. Provides the alcoholic beverage commission with the same powers over tobacco products that the commission has over alcohol and alcoholic beverages. Sets the fee for an annual tobacco products (Continued next page)

Effective: July 1, 1998.

Gard

January 6, 1998, read first time and referred to Committee on Commerce and Consumer Affairs.



Digest Continued

retailer's permit at \$100. Creates the youth antismoking education fund. Deposits fines from tobacco products retailer's permit holders into the fund. Requires the state department of health to administer the fund. Removes obsolete language.



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 161

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-1-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. ~~General Purposes:~~
3 The general purposes of this title ~~are~~ **include the following:**
4 (a) ~~(1)~~ **(1)** To protect the economic welfare, health, peace, and morals
5 of the people of this state.
6 (b) ~~(2)~~ **(2)** To regulate and limit the manufacture, sale, possession,
7 and use of alcohol, ~~and~~ alcoholic beverages, **and tobacco**
8 **products. and**
9 (c) ~~(3)~~ **(3)** To provide for the raising of revenue.
- 10 SECTION 2. IC 7.1-1-2-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. ~~Scope:~~ This title
12 applies to **the following:**
13 (1) The commercial manufacturing, bottling, selling, bartering,
14 importing, transporting, delivering, furnishing, or possessing of
15 alcohol, alcoholic beverages, industrial alcohol, malt, malt syrup,



1 malt extract, liquid malt, or wort.

2 **(2) The sale, possession, and distribution of tobacco products.**

3 SECTION 3. IC 7.1-1-3-47.5 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 1998]: **Sec. 47.5. The term "tobacco product"**
6 **means 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 4. IC 7.1-2-2-5 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. ~~Prosecutor: Powers~~
12 ~~and Duties.~~ The prosecutor shall have the following powers and duties:

13 ~~(a)~~ **(1)** To prosecute before the commission all violations of laws
14 pertaining to alcohol and alcoholic beverages.

15 ~~(b)~~ **(2)** To prosecute before the commission all violations of the
16 rules and regulations of the commission.

17 ~~(c)~~ **(3)** To:

18 **(A)** assist the prosecuting attorneys of the various judicial
19 circuits in the investigation and prosecution of violations of
20 laws pertaining to alcohol, ~~and~~ alcoholic beverages, **and**
21 **tobacco products;** and ~~to~~

22 **(B)** represent the state in these matters.

23 ~~(d)~~ **(4)** To appear before grand juries to assist in their
24 investigations into matters pertaining to alcohol, ~~and~~ alcoholic
25 beverages, **and tobacco products.**

26 ~~(e)~~ **(5)** To establish a seal of ~~his~~ **the prosecutor's** office.

27 ~~(f)~~ **(6)** To administer oaths and to do all other acts authorized by
28 law for notaries public. ~~and;~~

29 ~~(g)~~ **(7)** To employ, with the consent of the commission and at
30 salaries fixed by the commission in their budget, the clerical staff
31 required by ~~him~~ **the prosecutor** to effectively discharge ~~his~~ **the**
32 **prosecutor's** duties.

33 SECTION 5. IC 7.1-2-2-9 AS AMENDED BY P.L.256-1996,
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 1998]: Sec. 9. (a) An enforcement officer is vested with full
36 police powers and duties to enforce:

37 (1) the provisions of this title;

38 (2) any other law of this state relating to alcohol, ~~or~~ alcoholic
39 beverages, **or tobacco products;** and

40 (3) youth tobacco sales.

41 (b) An enforcement officer may issue a summons for infraction or
42 misdemeanor violations if the defendant promises to appear by signing



1 the summons. A defendant who fails to appear is subject to the
 2 penalties provided by IC 35-44-3-6.5. Upon failure to appear, the court
 3 shall issue a warrant for the arrest of the defendant.

4 (c) In addition to the authority of an enforcement officer under
 5 subsection (a), an enforcement officer may act as an officer for the
 6 arrest of offenders against the laws of this state if the enforcement
 7 officer reasonably believes that a crime is or is about to be committed
 8 or attempted in the enforcement officer's presence.

9 SECTION 6. IC 7.1-2-3-7 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. ~~Rules and~~
 11 ~~Regulations~~. The commission shall have the power to ~~promulgate~~
 12 ~~adopt~~ rules ~~and regulations~~ governing **the following**:

13 ~~(a)~~ **(1)** The conduct of the meetings and business of the
 14 commission.

15 ~~(b)~~ **(2)** The conduct of hearings before any of the commission's
 16 representatives.

17 ~~(c)~~ **(3)** The conduct of the business of a permittee authorized or
 18 governed by the provisions of this title.

19 ~~(d)~~ **(4)** The enforcement of the provisions of this title and of the
 20 rules ~~and regulations~~ of the commission.

21 ~~(e)~~ **(5)** The standards of purity and methods of manufacturing
 22 used in the production of alcohol and alcoholic beverages.

23 ~~(f)~~ **(6)** The prevention of misbranding or adulteration of alcohol
 24 or alcoholic beverages. ~~and~~;

25 ~~(g)~~ **(7)** The:

26 **(A)** prevention of fraud, evasion, trickery, or deceit in the
 27 manufacture, labeling, importation, advertisement,
 28 transportation, or sale of; ~~alcohol; or alcoholic beverages; or~~
 29 ~~the~~

30 **(B)** evasion of other laws of Indiana relating to:

31 alcohol, ~~or~~ alcoholic beverages, **or tobacco products**.

32 SECTION 7. IC 7.1-2-3-11 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. ~~Emergencies~~. The
 34 commission shall have the power to prohibit the sale, transportation, or
 35 movement of alcoholic beverages **or tobacco products** when, in the
 36 judgment of the commission, it is necessary during a time of public
 37 emergency, civil disturbance, riot, or epidemic. The prohibition may
 38 be:

39 **(1)** imposed without prior notice or advertisement; and ~~may be~~

40 **(2)** continued in force as long as the need continues.

41 SECTION 8. IC 7.1-2-3-12 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. ~~Searches and~~



1 ~~Seizures.~~ (a) The commission shall have the power to examine, inspect,
2 and search a licensed premises or a vehicle where alcohol, alcoholic
3 beverages, ~~or~~ malt articles, **or tobacco products** are kept,
4 manufactured, or sold.

5 (b) The commission shall have the power to seize alcohol, alcoholic
6 beverages, malt articles, **tobacco products**, or any other personal
7 property when the seizure is lawful under the provisions of this title.

8 SECTION 9. IC 7.1-2-3-19 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. ~~Regulation of~~
10 ~~Records.~~ The commission shall have the power to **do the following:**

11 (a) ~~(1)~~ **(1)** Prescribe the manner and methods by which all records
12 relating to alcoholic beverages **and tobacco products** are kept
13 and preserved.

14 (b) ~~(2)~~ **(2)** Inspect all records relating to alcoholic beverages and
15 **tobacco products.**

16 (c) ~~(3)~~ **(3)** Require true copies of any record to be made and furnished
17 to the commission.

18 SECTION 10. IC 7.1-2-3-20.5 IS ADDED TO THE INDIANA
19 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
20 [EFFECTIVE JULY 1, 1998]: Sec. 20.5. **The commission has the**
21 **power to prohibit or regulate by rule the sale of tobacco products**
22 **within Indiana when the sale violates IC 24-3-2.**

23 SECTION 11. IC 7.1-2-5-1 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. A judge of any court
25 may issue a warrant to search a house or other place for alcohol, an
26 alcoholic liquid or substance, a still, a distilling apparatus, **tobacco**
27 **product**, or another article that is being possessed, kept, sold, bartered,
28 given away, used, or transported in violation of this title.

29 SECTION 12. IC 7.1-2-5-4 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. ~~Disposition of~~
31 ~~Articles Pending Judgment.~~ An alcoholic beverage **or tobacco product**
32 seized pursuant to this chapter and any other article which may be
33 found on the searched premises and taken under the warrant shall not
34 be taken from the custody of the person who served the warrant by a
35 writ of replevin or other process while the proceedings provided in this
36 chapter are pending. A final judgment of conviction in that proceeding
37 shall be a bar in all cases to an action for recovery of the thing seized
38 or the value of it or damages alleged to have arisen by reason of the
39 seizing and detention of it.

40 SECTION 13. IC 7.1-2-5-5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. ~~Property Rights~~
42 ~~Limited.~~ All rights of any kind in an alcoholic beverage **or tobacco**



1 **product** of any type, or in a container for an alcoholic beverage **or a**
 2 **tobacco product**, or in an article, apparatus, package, fixture, or
 3 utensil in which an alcoholic beverage **or a tobacco product** may be
 4 placed, or which is used in connection with it, or a vehicle or
 5 conveyance in which an alcoholic beverage **or a tobacco product** is
 6 being transported or which is used for the transportation of an alcoholic
 7 beverage **or a tobacco product**, shall at all times and under all
 8 circumstances by whomsoever held, owned, or possessed, be deemed
 9 qualified by the right of the state, the commission, and the chairman,
 10 to administer, execute, and enforce the provisions of this title.

11 SECTION 14. IC 7.1-2-5-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. ~~Certain Property~~
 13 ~~Rights Prohibited~~: A person shall have no property right of any kind in
 14 alcohol, an alcoholic beverage, ~~or~~ malt article, **or tobacco product**,
 15 had, kept, transported, or possessed contrary to law, or in or to a
 16 receptacle or container of any kind in which these liquids, **tobacco**
 17 **products**, and articles may be found, or in an unlawful or prohibited
 18 receptacle or container, or in a receptacle or container which does not
 19 conform to or which is being used contrary to or which is not kept in
 20 conformity to a rule ~~or regulation~~ of the commission, or which is being
 21 used to contain an alcoholic beverage upon which a tax is due and
 22 unpaid, or an adulterated or misbranded alcoholic beverage, or which
 23 is being used in an unlawful practice, or a practice contrary to a rule ~~or~~
 24 ~~regulation~~ of the commission.

25 SECTION 15. IC 7.1-2-5-8 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. ~~Forfeiture to State~~:
 27 An officer who makes an arrest for a violation of the provisions of this
 28 title shall seize the evidence of the commission of that violation,
 29 including any vehicle, automobile, boat, air or water craft, or other
 30 conveyance in which alcohol, alcoholic beverages, ~~or~~ malt articles, **or**
 31 **tobacco products** are kept, possessed, or transported contrary to law,
 32 or contrary to a rule ~~or regulation~~ of the commission. The articles and
 33 vehicles mentioned in this section and in ~~IC 1971, 7.1-2-5-5) 7.1-2-5-7,~~
 34 **sections 5, 6, and 7 of this chapter** are hereby declared forfeited to the
 35 state and shall be seized.

36 SECTION 16. IC 7.1-2-5-12 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. ~~Oral Evidence~~: The
 38 court shall receive oral testimony also upon a matter referred to in
 39 ~~IC 1971, 7.1-2-5-10 and 7.1-2-5-11,~~ **section 11 of this chapter** for the
 40 purpose of showing a violation of this title whether the bottle **or**
 41 **tobacco product** is offered in evidence or not.

42 SECTION 17. IC 7.1-2-6-3 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. ~~Public Nuisance:~~
 2 ~~Untaxed Liquor:~~ A malt article, liquid, alcoholic beverage, ~~or~~ container
 3 of a substance or beverage, **or a tobacco product** in respect to which
 4 an excise tax or license fee is imposed under this title, **IC 6-7-1, or**
 5 **IC 6-7-2**, and upon which the tax or fee has not been paid, the
 6 receptacle in which it is contained and the premises where it is kept or
 7 hidden shall constitute a public nuisance.

8 SECTION 18. IC 7.1-2-6-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. ~~Abatement of Public~~
 10 ~~Nuisance:~~ The commission, the chairman, the attorney general, a
 11 prosecuting attorney, a permittee authorized to sell alcoholic beverages
 12 **or tobacco products** within the county in which a common nuisance
 13 exists, **is kept, or is maintained,** or a number of permittees authorized
 14 to sell alcoholic beverages **or tobacco products** within the county or
 15 elsewhere within the state, or a taxpayer of the county, may maintain
 16 an action in the name of the state to abate and perpetually enjoin a
 17 public nuisance, or to abate, or enjoin, or both, a practice, or conduct
 18 of a person, whether a permittee or not, in violation of this title or a rule
 19 **or regulation** of the commission.

20 SECTION 19. IC 7.1-2-6-8 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. ~~Conditions of Bond:~~
 22 The bond required by ~~IC 1971, 7.1-2-6-7,~~ **section 7 of this chapter**
 23 shall be conditioned **upon the following:**

- 24 (1) That an alcoholic beverage **or a tobacco product** will not
 25 thereafter be manufactured, possessed, sold, bartered, given away,
 26 furnished, or otherwise disposed of in or on the public nuisance,
 27 or kept in or on it with the intent to sell, barter, give away, or
 28 otherwise dispose of it contrary to law or to a rule **or regulation** of
 29 the commission. ~~The bond shall be conditioned also~~
 30 (2) That the unlawful conduct or practice, or conduct of another
 31 person, whether a permittee or not, the violation of this title or of
 32 a rule **or regulation** of the commission, will not be permitted on
 33 or in the premises. ~~The bond shall be conditioned further~~
 34 (3) That the defendant will pay all fines, costs, and damages
 35 ~~against him~~ for the **defendant's** violation of this title.

36 SECTION 20. IC 7.1-3-17.1 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 1998]:

39 **Chapter 17.1. Tobacco Products Retailer's Permit**

40 **Sec. 1. The commission may issue a tobacco products retailer's**
 41 **permit to a person who desires to:**

- 42 (1) **sell a tobacco product at retail;**



1 (2) sell a tobacco product from a vending machine; or

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

3 **Sec. 2.** In addition to any other action allowed under this title,
4 the commission may revoke or refuse to issue a permit if the
5 commission finds that any of the following conditions exist:

6 (1) The person made a false or deceptive statement on the
7 application for the permit.

8 (2) The person or the person's employees have demonstrated
9 a pattern of selling or distributing tobacco products to
10 individuals less than eighteen (18) years of age.

11 (3) The person has been convicted of violating tobacco
12 product tax laws in Indiana or another jurisdiction.

13 (4) The person has violated a court order issued under
14 IC 34-4-38.

15 (5) The person has owned or controlled a tobacco vending
16 machine in violation of IC 35-46-1-11 or IC 35-46-1-11.5.

17 **Sec. 3.** The commission shall refuse to issue and shall revoke a
18 permit if the commission finds that the person has at least five (5)
19 separate violations of IC 35-46-1-10 in a twelve (12) month period.

20 **Sec. 4.** A person must obtain a separate tobacco products
21 retailer's permit to do each of the following:

22 (1) Sell a tobacco product at retail.

23 (2) Sell a tobacco product from a vending machine.

24 (3) Distribute a tobacco product to the public without charge.

25 **Sec. 5.** A person that owns or operates more than one (1)
26 location where the person wishes to:

27 (1) sell a tobacco product at retail;

28 (2) sell a tobacco product from a vending machine; or

29 (3) distribute a tobacco product to the public without charge;

30 must obtain a separate tobacco products retailer's permit for each
31 location.

32 **Sec. 6.** A person who has been issued a tobacco products
33 retailer's permit under this chapter shall provide to each employee
34 a written summary of the laws and penalties associated with selling
35 or distributing a tobacco product to an individual who is less than
36 eighteen (18) years of age.

37 SECTION 21. IC 7.1-4-1-45 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 1998]: **Sec. 45.** The annual license fee for a tobacco products
40 retailer's permit is one hundred dollars (\$100).

41 SECTION 22. IC 7.1-4-10-3 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 3.** Deposit of Fines in



1 ~~Fund.~~ (a) **Except as provided in subsection (b)**, the chairman shall
 2 deposit the ~~monies~~ **money** realized from fines imposed pursuant to the
 3 provisions of ~~IC 1971, 7.1-3-23-2,~~ **under IC 7.1-3-23-2**, in its
 4 enforcement and administration fund to be used for the purposes
 5 provided in this chapter.

6 (b) **The chairman shall deposit money collected from fines**
 7 **against tobacco products retailer's permit holders under**
 8 **IC 7.1-3-23-2 in the youth antismoking education fund established**
 9 **under IC 16-46-12.**

10 SECTION 23. IC 7.1-5-1-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. ~~Prohibition Against~~
 12 ~~Commercial Purposes.~~ It is unlawful for a person to:

13 (1) manufacture for sale, bottle, sell, barter, import, transport,
 14 deliver, furnish, or possess, alcohol or alcoholic beverages, malt,
 15 malt syrup, malt extract, liquid malt, or wort; **or**

16 (2) **sell, possess, or distribute a tobacco product;**

17 for commercial purposes except as authorized in this title.

18 SECTION 24. IC 7.1-5-10-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. ~~Sale Without Permit~~
 20 ~~Prohibited.~~ It is unlawful for a person, except as otherwise permitted by
 21 this title, **to do the following:**

22 (1) Purchase, receive, manufacture, import, or transport, or cause
 23 to be imported or transported from another state, territory, or
 24 country, into this state, or transport, ship, barter, give away,
 25 exchange, furnish, or otherwise handle, or dispose of an alcoholic
 26 beverage. ~~or to~~

27 (2) Possess an alcoholic beverage **or a tobacco product** for
 28 purpose of sale.

29 It is unlawful, also, for a person knowingly to receive or acquire an
 30 alcoholic beverage from a person who does not hold, unrevoked, the
 31 appropriate permit under this title to sell, deliver, furnish, or give the
 32 alcoholic beverage to him.

33 SECTION 25. IC 16-18-2-143 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 143. (a) "Fund", for
 35 purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

36 (b) "Fund", for purposes of ~~IC 16-45-6,~~ **IC 16-46-5**, has the meaning
 37 set forth in IC 16-46-5-3.

38 (c) **"Fund", for purposes of IC 16-46-12, has the meaning set**
 39 **forth in IC 16-46-12-1.**

40 SECTION 26. IC 16-18-2-351.7 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 1998]: **Sec. 351.7. "Tobacco product", for**



1 purposes of IC 16-46-12, has the meaning set forth in
2 IC 16-46-12-2.

3 SECTION 27. IC 16-46-12 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 1998]:

6 **Chapter 12. Youth Antismoking Education Fund**

7 **Sec. 1. As used in this chapter, "fund" refers to the youth
8 antismoking education fund established under section 3 of this
9 chapter.**

10 **Sec. 2. As used in this chapter, "tobacco product" has the
11 meaning set forth in IC 7.1-1-3-47.5.**

12 **Sec. 3. The youth antismoking education fund is established for
13 the purpose of:**

- 14 (1) educating the youth of Indiana to prevent members of this
15 group from beginning to use tobacco products; and
16 (2) encouraging the youth of Indiana who use tobacco
17 products to cease using tobacco products.

18 **Sec. 4. The fund shall be administered by the state department.
19 The expenses of administering the fund shall be paid from money
20 in the fund.**

21 **Sec. 5. The treasurer of state shall invest the money in the fund
22 not currently needed to meet the obligations of the fund in the same
23 manner as other public funds may be invested. Interest that
24 accrues from these investments shall be deposited in the fund.**

25 **Sec. 6. Money in the fund at the end of a state fiscal year does
26 not revert to the state general fund.**

27 **Sec. 7. Money in the fund consists of the following:**

- 28 (1) Money deposited under IC 7.1-4-10-3(b).
29 (2) Appropriations.
30 (3) Grants.
31 (4) Gifts.

32 **Sec. 8. (a) A portion of the money that Indiana receives from the
33 settlement of an action between:**

- 34 (1) Indiana and other states; and
35 (2) the tobacco industry;

36 **may be deposited into the fund. This portion must be set by
37 agreement between the attorney general and the state department.**

38 **Sec. 9. The state department may use money in the fund to
39 participate in joint ventures with other governmental agencies or
40 public or private entities to carry out the purposes of the fund.**

41 SECTION 28. IC 35-46-1-11.5 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11.5. (a) This section



1 does not apply to a coin machine **that is owned or operated by a**
 2 **person that has obtained a tobacco products retailer's permit**
 3 **under IC 7.1-3-17.1 and** that is located in the following:

4 (1) That part of a licensed premises (as defined in IC 7.1-1-3-20)
 5 where entry is limited to persons who are at least eighteen (18)
 6 years of age.

7 (2) Private industrial or office locations that are customarily
 8 accessible only to persons who are at least eighteen (18) years of
 9 age.

10 (3) Private clubs if the membership is limited to persons who are
 11 at least eighteen (18) years of age.

12 (4) A location where the vending machine can be operated only
 13 by:

14 (A) the owner; or

15 (B) an employee;

16 who is at least eighteen (18) years of age. The vending machine
 17 may be operated directly or through a remote control device if the
 18 device is inaccessible to all customers.

19 (b) As used in this section, "coin machine" has the meaning set forth
 20 in IC 35-43-5-1.

21 (c) A person may not:

22 (1) distribute or sell tobacco by use of a coin machine; or

23 (2) install or maintain a coin machine that is intended to be used
 24 for the sale or distribution of tobacco.

25 (d) A person who violates this section commits a Class C infraction.

26 SECTION 29. IC 7.1-2-3-20 IS REPEALED [EFFECTIVE JULY
 27 1, 1998].

28 SECTION 30. [EFFECTIVE JULY 1, 1998] (a) **As used in this**
 29 **SECTION, "tobacco product" has the meaning set forth in**
 30 **IC 7.1-1-3-47.5, as added by this act.**

31 (b) **Notwithstanding IC 7.1-3-17.1, as added by this act, a person**
 32 **who:**

33 (1) **sells a tobacco product at retail;**

34 (2) **sells a tobacco product from a vending machine; or**

35 (3) **distributes a tobacco product to the public without charge;**

36 **is not required to have a tobacco products retailer's permit.**

37 (c) **This SECTION expires January 1, 1999.**

