



March 30, 1999

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# ENGROSSED HOUSE BILL No. 1104

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DIGEST OF HB 1104 (Updated March 24, 1999 4:13 pm - DI 94)

**Citations Affected:** IC 6-2.5; IC 6-8.1; IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-5; IC 7.1-6; IC 35-46; noncode.

**Synopsis:** Noncommercial beer and wine and retail tobacco. Requires the department of revenue to compile a list of retailer's that sell tobacco products. Requires the department of state revenue to provide to the  
(Continued next page)

**Effective:** May 13, 1999; May 14, 1999; July 1, 1999.

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**Hasler, Budak, Kuzman, Alderman,  
Lytle, Crawford, Murphy,  
Brown C, Bottorff, Goeglein,  
Kruzan, Crosby**

(SENATE SPONSORS — GARD, MERRITT, LEWIS, SIMPSON)

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January 6, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 24, 1999, amended, reported — Do Pass.

March 1, 1999, read second time, ordered engrossed. Engrossed.

March 3, 1999, placed back on second reading for purpose of amendment.

March 4, 1999, reread second time, amended, ordered engrossed.

March 5, 1999, engrossed.

March 8, 1999, read third time, passed. Yeas 93, nays 4.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

March 29, 1999, amended, reported favorably — Do Pass.

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alcoholic beverage commission and the division of mental health an annual list of retail merchants that sell tobacco products. Provides that the alcoholic beverage laws do not prohibit the manufacture of beer or wine that is not offered for sale and is used only for specific personal or noncommercial uses. Authorizes excise police and the alcoholic beverage commission to enforce tobacco laws. Provides that a brewer or winery may allow transportation to and consumption of this beer or wine on the licensed premises but may not allow sale of the product on the licensed premises. Allows a person to carry, convey, or consume this beer or wine on or about a licensed premises. Establishes the tobacco education and enforcement fund. Establishes specific penalties.

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March 30, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1104

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A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

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

- 1 SECTION 1. IC 6-2.5-6-14 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 14. (a) The department shall compile a list annually**  
4 **of retail merchants that sell tobacco products that includes the**  
5 **following information:**  
6 (1) **On a county by county basis, the name and business**  
7 **address for each location at which the retail merchant sells**  
8 **tobacco products.**  
9 (2) **The name and business address of each new retail**  
10 **merchant since the previous report.**  
11 (3) **The name and business address of each retail merchant**  
12 **that no longer sells tobacco products since the previous**  
13 **report.**  
14 **The department shall deliver the list prepared under this section**  
15 **to the division of mental health and the alcoholic beverage**  
16 **commission.**  
17 (b) **A retail merchant that sells tobacco products must provide**  
18 **the information required by the department under this section.**

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1           **(c) The department shall prescribe the form, or modify an**  
 2           **existing form, to collect the information required by this section.**

3           SECTION 2. IC 6-8.1-7-1 IS AMENDED TO READ AS  
 4           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) This subsection  
 5           does not apply to the disclosure of information concerning a conviction  
 6           on a tax evasion charge. Unless in accordance with a judicial order or  
 7           as otherwise provided in this chapter, the department, its employees,  
 8           former employees, counsel, agents, or any other person may not divulge  
 9           the amount of tax paid by any taxpayer, terms of a settlement  
 10          agreement executed between a taxpayer and the department,  
 11          investigation records, investigation reports, or any other information  
 12          disclosed by the reports filed under the provisions of the law relating  
 13          to any of the listed taxes, including required information derived from  
 14          a federal return, except to:

- 15           (1) members and employees of the department;  
 16           (2) the governor;  
 17           (3) the attorney general or any other legal representative of the  
 18           state in any action in respect to the amount of tax due under the  
 19           provisions of the law relating to any of the listed taxes; or  
 20           (4) any authorized officers of the United States;

21          when it is agreed that the information is to be confidential and to be  
 22          used solely for official purposes.

23          (b) The information described in subsection (a) may be revealed  
 24          upon the receipt of a certified request of any designated officer of the  
 25          state tax department of any other state, district, territory, or possession  
 26          of the United States when:

- 27           (1) the state, district, territory, or possession permits the exchange  
 28           of like information with the taxing officials of the state; and  
 29           (2) it is agreed that the information is to be confidential and to be  
 30           used solely for tax collection purposes.

31          (c) The information described in subsection (a) relating to a person  
 32          on public welfare or a person who has made application for public  
 33          welfare may be revealed to the director of the division of family and  
 34          children, and to any county director of family and children located in  
 35          Indiana, upon receipt of a written request from either director for the  
 36          information. The information shall be treated as confidential by the  
 37          directors. In addition, the information described in subsection (a)  
 38          relating to a person who has been designated as an absent parent by the  
 39          state Title IV-D agency shall be made available to the state Title IV-D  
 40          agency upon request. The information shall be subject to the  
 41          information safeguarding provisions of the state and federal Title IV-D  
 42          programs.



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1 (d) The name, address, Social Security number, and place of  
2 employment relating to any individual who is delinquent in paying  
3 educational loans owed to an institution of higher education may be  
4 revealed to that institution if it provides proof to the department that the  
5 individual is delinquent in paying for educational loans. This  
6 information shall be provided free of charge to approved institutions of  
7 higher learning (as defined by IC 20-12-21-3(2)). The department shall  
8 establish fees that all other institutions must pay to the department to  
9 obtain information under this subsection. However, these fees may not  
10 exceed the department's administrative costs in providing the  
11 information to the institution.

12 (e) The information described in subsection (a) relating to reports  
13 submitted under IC 6-6-1.1-502 concerning the number of gallons of  
14 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of  
15 gallons of special fuel sold by a supplier and the number of gallons of  
16 special fuel exported by a licensed exporter or imported by a licensed  
17 transporter may be released by the commissioner upon receipt of a  
18 written request for the information.

19 (f) The information described in subsection (a) may be revealed  
20 upon the receipt of a written request from the administrative head of a  
21 state agency of Indiana when:

22 (1) the state agency shows an official need for the information;  
23 and

24 (2) the administrative head of the state agency agrees that any  
25 information released will be kept confidential and will be used  
26 solely for official purposes.

27 (g) The name and address of retail merchants, including township,  
28 as specified in IC 6-2.5-8-1(h) may be released solely for tax collection  
29 purposes to township assessors.

30 (h) The department shall notify the appropriate innkeepers' tax  
31 board, bureau, or commission that a taxpayer is delinquent in remitting  
32 innkeepers' taxes under IC 6-9.

33 (i) All information relating to the delinquency or evasion of the  
34 motor vehicle excise tax shall be disclosed to the bureau of motor  
35 vehicles in Indiana and may be disclosed to another state, if the  
36 information is disclosed for the purpose of the enforcement and  
37 collection of the taxes imposed by IC 6-6-5.

38 (j) This section does not apply to:

39 (1) the beer excise tax (IC 7.1-4-2);

40 (2) the liquor excise tax (IC 7.1-4-3);

41 (3) the wine excise tax (IC 7.1-4-4);

42 (4) the hard cider excise tax (IC 7.1-4-4.5);



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- 1 (5) the malt excise tax (IC 7.1-4-5);  
 2 (6) the motor vehicle excise tax (IC 6-6-5); and  
 3 (7) the fees under IC 13-23.

4 **(k) The name and business address of retail merchants within**  
 5 **each county that sell tobacco products may be released to the**  
 6 **division of mental health and the alcoholic beverage commission**  
 7 **solely for the purpose of the list prepared under IC 6-2.5-6-14.**

8 SECTION 3. IC 7.1-1-2-3 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. ~~Scope: Exceptions:~~

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

- 11 (1) The manufacture, sale, possession, transportation, or use of  
 12 vinegar.  
 13 (2) The sale or transportation of sacramental wine to a minister,  
 14 priest, or rabbi for a religious purpose.  
 15 (3) The manufacture, purchase, possession, transportation, or  
 16 distribution of sacramental wine for a religious purpose by a  
 17 minister, priest, or rabbi.  
 18 (4) The manufacture of wine or beer **that is not offered for sale**  
 19 **and is used only for the following purposes:**  
 20 **(A) Personal or family use.**  
 21 **(B) Use in one's own the residence of the person who**  
 22 **manufactures the wine or beer.**  
 23 **(C) Use at organized affairs or exhibitions.**  
 24 **(D) Technical or sensory evaluations.**  
 25 **(E) Wine or beer educational seminars.**  
 26 **(F) Wine or beer competitions including contests, tastings,**  
 27 **or judgments.**  
 28 (5) The manufacture, sale, possession, transportation, or use of  
 29 industrial alcohol. ~~or~~  
 30 (6) Alcoholic beverages held, served, or consumed on airline  
 31 flights.

32 (b) ~~The purchase, transportation to, and the possession of alcoholic~~  
 33 ~~beverages for use only in one's own residence~~ **described in subsection**  
 34 **(a)(4)** shall not be prohibited but shall be subject to the applicable  
 35 provisions of this title.

36 (c) The manufacture, sale, possession, transportation, or use of  
 37 alcohol or alcoholic beverages, or a preparation containing alcohol for  
 38 a medicinal, scientific, or mechanical purpose, shall not be prohibited  
 39 but shall be controlled, regulated, and confined to permittees as  
 40 provided in this title.

41 SECTION 4. IC 7.1-2-2-9 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) An enforcement

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1 officer is vested with full police powers and duties to enforce:

- 2 (1) the provisions of this title;  
 3 (2) any other law of this state relating to alcohol or alcoholic  
 4 beverages; and  
 5 (3) ~~youth tobacco sales laws, including tobacco vending~~  
 6 ~~machines.~~

7 (b) An enforcement officer may issue a summons for infraction or  
 8 misdemeanor violations if the defendant promises to appear by signing  
 9 the summons. A defendant who fails to appear is subject to the  
 10 penalties provided by IC 35-44-3-6.5. Upon failure to appear, the court  
 11 shall issue a warrant for the arrest of the defendant.

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

17 SECTION 5. IC 7.1-2-3-33 IS ADDED TO THE INDIANA CODE  
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 19 1, 1999]: **Sec. 33. The commission is authorized to:**

- 20 (1) investigate a violation of; and  
 21 (2) enforce a penalty for a violation of;

22 **IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.3, IC 35-46-1-11.5,**  
 23 **or IC 35-46-1-11.7.**

24 SECTION 6. IC 7.1-3-2-7 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7.** The holder of a  
 26 brewer's permit or an out-of-state brewer holding either a primary  
 27 source of supply permit or an out-of-state brewer's permit may do the  
 28 following:

- 29 (1) Manufacture beer.  
 30 (2) Place beer in containers or bottles.  
 31 (3) Transport beer.  
 32 (4) Sell and deliver beer to a person holding a beer wholesaler's  
 33 permit issued under IC 7.1-3-3.  
 34 (5) If the brewer's brewery manufactures not more than twenty  
 35 thousand (20,000) barrels of beer in a calendar year, do the  
 36 following:  
 37 (A) Sell and deliver beer to a person holding a retailer or a  
 38 dealer permit under this title.  
 39 (B) Be the proprietor of a restaurant.  
 40 (C) Hold a beer retailer's permit, a wine retailer's permit, or a  
 41 liquor retailer's permit for a restaurant established under clause  
 42 (B).



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- 1 (D) Transfer beer directly from the brewery to the restaurant  
 2 by means of:  
 3 (i) bulk containers; or  
 4 (ii) a continuous flow system.  
 5 (E) Install a window between the brewery and an adjacent  
 6 restaurant that allows the public and the permittee to view both  
 7 premises.  
 8 (F) Install a doorway or other opening between the brewery  
 9 and an adjacent restaurant that provides the public and the  
 10 permittee with access to both premises.  
 11 (6) If the brewer's brewery manufactures more than twenty  
 12 thousand (20,000) barrels of beer in a calendar year, own a  
 13 portion of the corporate stock of another brewery that:  
 14 (A) is located in the same county as the brewer's brewery;  
 15 (B) manufactures less than twenty thousand (20,000) barrels  
 16 of beer in a calendar year; and  
 17 (C) is the proprietor of a restaurant that operates under  
 18 subdivision (5).  
 19 (7) Sell and deliver beer to a consumer at the plant of the brewer  
 20 or at the residence of the consumer. The delivery to a consumer  
 21 shall be made only in a quantity at any one (1) time of not more  
 22 than one-half (1/2) barrel, but the beer may be contained in bottles  
 23 or other permissible containers.  
 24 (8) Provide complimentary samples of beer that are:  
 25 (A) produced by the brewer; and  
 26 (B) offered to consumers for consumption on the brewer's  
 27 premises.  
 28 (9) Own a portion of the corporate stock of a sports corporation  
 29 that:  
 30 (A) manages a minor league baseball stadium located in the  
 31 same county as the brewer's brewery; and  
 32 (B) holds a beer retailer's permit, a wine retailer's permit, or a  
 33 liquor retailer's permit for a restaurant located in that stadium.  
 34 **(10) For beer described in IC 7.1-1-2-3(a)(4):**  
 35 **(A) may allow transportation to and consumption of the**  
 36 **beer on the licensed premises; and**  
 37 **(B) may not sell, offer to sell, or allow sale of the beer on**  
 38 **the licensed premises.**  
 39 SECTION 7. IC 7.1-3-12-5 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The holder of a  
 41 small winery permit:  
 42 (1) is entitled to manufacture table wine, to bottle wine, and to

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- 1 bottle table wine produced by the permit holder's small winery;  
 2 (2) is entitled to serve complimentary samples of the winery's  
 3 table wine on the licensed premises;  
 4 (3) is entitled to sell the winery's table wine on the licensed  
 5 premises to consumers either by the glass, or by the bottle, or  
 6 both;  
 7 (4) is entitled to sell table wine by the bottle or by the case to a  
 8 person who is the holder of a permit to sell wine at either  
 9 wholesale or retail;  
 10 (5) is exempt from the provisions of IC 7.1-3-14; ~~and~~  
 11 (6) is entitled to advertise the name and address of any retailer or  
 12 dealer who sells wine produced by the permit holder's winery;  
 13 **and**

14 **(7) for wine described in IC 7.1-1-2-3(a)(4):**

- 15 **(A) may allow transportation to and consumption of the**  
 16 **wine on the licensed premises; and**  
 17 **(B) may not sell, offer to sell, or allow the sale of the wine**  
 18 **on the licensed premises.**

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

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

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

32 SECTION 8. IC 7.1-5-8-5 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. ~~Taking Alcoholic~~  
 34 ~~Beverage On Licensed Premises Prohibited:~~ **(a) This section does not**  
 35 **apply to a person who, on or about a licensed premises, carries,**  
 36 **conveys, or consumes beer or wine:**

- 37 **(1) described in IC 7.1-1-2-3(a)(4); and**  
 38 **(2) not sold or offered for sale.**

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

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1 SECTION 9. IC 7.1-6-2-6 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 1999]: **Sec. 6. (a) The youth tobacco education and enforcement  
 4 fund is established. The fund shall be administered by the  
 5 commission.**

6 **(b) Expenses of administering the fund shall be paid from  
 7 money in the fund.**

8 **(c) The treasurer of state shall invest the money in the fund not  
 9 currently needed to meet the obligations of the fund in the same  
 10 manner as other public money may be invested.**

11 **(d) Money in the fund at the end of a state fiscal year does not  
 12 revert to the state general fund.**

13 **(e) Money in the fund shall be used for the following purposes:**

14 **(1) One-third (1/3) of the money in the fund for youth smoking  
 15 prevention education. The commission may contract with the  
 16 state department of health or the office of the secretary of  
 17 family and social services for youth smoking prevention  
 18 education programs.**

19 **(2) One-third (1/3) of the money in the fund for education and  
 20 training of retailers who sell tobacco products. The  
 21 commission may contract with education and training  
 22 programs of the office of the secretary of family and social  
 23 services, the division of mental health, enforcement officers,  
 24 or a program approved by the commission.**

25 **(3) One-third (1/3) of the money in the fund to the commission  
 26 for enforcement of youth tobacco laws.**

27 SECTION 10. IC 35-46-1-10 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10. (a) A person who  
 29 knowingly sells or distributes tobacco to a person less than eighteen  
 30 (18) years of age commits a Class C infraction. For a sale to take  
 31 place under this section, the buyer must pay the seller for the  
 32 tobacco product.**

33 **(b) It is not a defense that the person to whom the tobacco was sold  
 34 or distributed did not smoke, chew, or otherwise consume the tobacco.**

35 **(c) It is a defense that the accused person reasonably believed that  
 36 the buyer or taker was at least eighteen (18) years of age. The  
 37 following defenses are available to a person accused of selling or  
 38 distributing tobacco to a person who is less than eighteen (18) years  
 39 of age:**

40 **(1) The buyer or recipient produced a driver's license bearing  
 41 the purchaser's or recipient's photograph, showing that the  
 42 purchaser or recipient was of legal age to make the purchase.**

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1 (2) The buyer or recipient produced a photographic  
 2 identification card issued under IC 9-24-16-1, or a similar  
 3 card issued under the laws of another state or the federal  
 4 government, showing that the purchaser or recipient was of  
 5 legal age to make the purchase.

6 (3) The appearance of the purchaser or recipient was such  
 7 that an ordinary prudent person would believe that the  
 8 purchaser or recipient was not less than the age that complies  
 9 with regulations promulgated by the federal Food and Drug  
 10 Administration.

11 (d) It is a defense that the accused person sold or delivered the  
 12 tobacco to a person who acted in the ordinary course of employment or  
 13 a business concerning tobacco:

- 14 (1) agriculture;  
 15 (2) processing;  
 16 (3) transporting;  
 17 (4) wholesaling; or  
 18 (5) retailing.

19 (e) As used in this section, "distribute" means to give tobacco to  
 20 another person as a means of promoting, advertising, or marketing the  
 21 tobacco to the general public.

22 (f) Unless a person buys or receives tobacco under the direction  
 23 of a law enforcement officer as part of an enforcement action, a  
 24 person who sells or distributes tobacco is not liable for a violation  
 25 of this section unless the person less than eighteen (18) years of age  
 26 who bought or received the tobacco is issued a citation or summons  
 27 under section 10.5 of this chapter.

28 (g) Notwithstanding IC 34-28-5-4(c), civil penalties collected  
 29 under this section must be deposited in the youth tobacco education  
 30 and enforcement fund (IC 7.1-6-2-6).

31 SECTION 11. IC 35-46-1-10.2 IS ADDED TO THE INDIANA  
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 1999]: **Sec. 10.2. (a) A retail establishment  
 34 that sells or distributes tobacco to a person less than eighteen (18)  
 35 years of age commits a Class C infraction. For a sale to take place  
 36 under this section, the buyer must pay the retail establishment for  
 37 the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil  
 38 judgment for an infraction committed under this section must be  
 39 imposed as follows:**

40 (1) If the retail establishment at that specific business location  
 41 has not been issued a citation or summons for a violation of  
 42 this section in the previous ninety (90) days, a civil penalty of

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**fifty dollars (\$50).**

**(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).**

**(3) If the retail establishment at that specific business location has had two (2) citations or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).**

**(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).**

**A retail establishment may not be issued a citation or summonses for a violation of this section more than once every twenty-four (24) hours for each specific business location.**

**(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.**

**(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:**

**(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.**

**(2) The buyer or recipient 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 or recipient was of legal age to make the purchase.**

**(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.**

**(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:**

- (1) agriculture;**
- (2) processing;**
- (3) transporting;**
- (4) wholesaling; or**

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**(5) retailing.**

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 12. IC 35-46-1-11.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 13, 1999]: Sec. 11.3. (a) This section does not apply to advertisements that are less than fourteen (14) square feet and posted:

- (1) at street level in the window or on the exterior of a business property or establishment where tobacco products are manufactured, distributed, or sold; or
- (2) on vehicles.

(b) After ~~December 31, 1996~~, **May 13, 1999**, a person may not advertise or cause to be advertised tobacco products on a billboard located within two hundred (200) feet of a public or private elementary or secondary school, as measured between the nearest point of the billboard and the nearest point of a building used by the school for instructional purposes, or an outdoor advertisement that occupies an area that exceeds fourteen (14) square feet, including any advertisement that functions as a segment of a larger advertising unit or series.

(c) A person who violates this section commits a ~~Class C~~ **Class C** misdemeanor. **Class C** infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.

(d) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education

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1 **and enforcement fund (IC 7.1-6-2-6).**

2 SECTION 13. IC 35-46-1-11.5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.5. (a) **Except for a**  
4 **coin machine that is placed in or directly adjacent to an**  
5 **entranceway or an exit, or placed in a hallway, a restroom, or**  
6 **another common area that is accessible to persons who are less**  
7 **than eighteen (18) years of age**, this section does not apply to a coin  
8 machine that is located in the following:

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

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

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

17 (4) ~~A location where the vending machine can be operated only~~  
18 ~~by:~~

19 ~~(A) the owner; or~~

20 ~~(B) an employee;~~

21 ~~who is at least eighteen (18) years of age. The vending machine~~  
22 ~~may be operated directly or through a remote control device if the~~  
23 ~~device is inaccessible to all customers. **Riverboats where entry**~~  
24 **is limited to persons who are at least twenty-one (21) years of**  
25 **age and on which lawful gambling is authorized.**

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

28 (c) ~~a person~~ **Except as provided in subsection (a), an owner of a**  
29 **retail establishment** may not:

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

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

33 (d) ~~A person~~ **An owner of a retail establishment** who violates this  
34 section commits a Class C infraction. **A citation or summons issued**  
35 **under this section must provide notice that the coin machine must**  
36 **be moved within two (2) business days. Notwithstanding**  
37 **IC 34-28-5-4(c), a civil judgment for an infraction committed**  
38 **under this section must be imposed as follows:**

39 (1) **If the owner of the retail establishment has not been issued**  
40 **a citation or summons for a violation of this section in the**  
41 **previous ninety (90) days, a civil penalty of fifty dollars (\$50).**

42 (2) **If the owner of the retail establishment has had one (1)**



1 citation or summons issued for a violation of this section in the  
2 previous ninety (90) days, a civil penalty of two hundred fifty  
3 dollars (\$250).

4 (3) If the owner of the retail establishment has had two (2)  
5 citations or summonses issued for a violation of this section in  
6 the previous ninety (90) days for the same machine, the coin  
7 machine shall be removed or impounded by a law  
8 enforcement officer having jurisdiction where the violation  
9 occurs.

10 An owner of a retail establishment may not be issued a citation or  
11 summons for a violation of this section more than once every two  
12 (2) business days for each business location.

13 (e) Notwithstanding IC 34-28-5-4(c), civil penalties collected  
14 under this section must be deposited in the youth tobacco education  
15 and enforcement fund IC 7.1-6-2-6.

16 SECTION 14. IC 35-46-1-11.7 IS ADDED TO THE INDIANA  
17 CODE AS A NEW SECTION TO READ AS FOLLOWS  
18 [EFFECTIVE JULY 1, 1999]: Sec. 11.7. (a) A retail establishment  
19 that has as its primary purpose the sale of tobacco products may  
20 not allow an individual who is less than eighteen (18) years of age  
21 to enter the retail establishment.

22 (b) An individual who is less than eighteen (18) years of age may  
23 not enter a retail establishment described in subsection (a).

24 (c) A retail establishment described in subsection (a) must  
25 conspicuously post on all entrances to the retail establishment a  
26 sign in boldface type that states "NOTICE: It is unlawful for a  
27 person less than 18 years old to enter this store.".

28 (d) A person who violates this section commits a Class C  
29 infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for  
30 an infraction committed under this section must be imposed as  
31 follows:

32 (1) If the person has not been cited for a violation of this  
33 section in the previous ninety (90) days, a civil penalty of fifty  
34 dollars (\$50).

35 (2) If the person has had one (1) violation in the previous  
36 ninety (90) days, a civil penalty of one hundred dollars (\$100).

37 (3) If the person has had two (2) violations in the previous  
38 ninety (90) days, a civil penalty of two hundred fifty dollars  
39 (\$250).

40 (4) If the person has had three (3) or more violations in the  
41 previous ninety (90) days, a civil penalty of five hundred  
42 dollars (\$500).



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1     **A person may not be cited more than once every twenty-four (24)**  
2     **hours.**  
3     **(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected**  
4     **under this section must be deposited in the youth tobacco education**  
5     **and enforcement fund IC 7.1-6-2-6.**  
6     **SECTION 15. [EFFECTIVE MAY 14, 1999] (a) Notwithstanding**  
7     **IC 35-46-1-11.3, as amended by this act, a person who before May**  
8     **14, 1999, had:**  
9         **(1) an advertisement of a tobacco product on a billboard that**  
10        **was compliant with IC 35-46-1-11.3, before its amendment by**  
11        **this act; and**  
12        **(2) a contract to continue the advertisement of the tobacco**  
13        **product after May 13, 1999;**  
14     **may continue to advertise the tobacco product on the billboard.**  
15     **However, the person may not renew or extend the contract after**  
16     **May 13, 1999.**  
17        **(b) This SECTION expires July 1, 2000.**  
18     **SECTION 16. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1104, 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:

Page 2, line 8, strike "purchase,".

Page 2, line 8, strike "to,".

Page 4, line 28, delete "the" and insert "**a**".

Page 4, line 28, after "premises" insert ",".

Page 4, line 28, delete "of a".

Page 4, line 29, delete "brewer or winery,".

and when so amended that said bill do pass.

(Reference is to HB 1104 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1104 be returned to the second reading calender forthwith for the purpose of amendment.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1104 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-6-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 14. (a) The department shall compile a list annually of retail merchants that sell tobacco products that includes the following information:**

- (1) On a county by county basis, the name and business address for each location at which the retail merchant sells tobacco products.
- (2) The name and business address of each new retail merchant since the previous report.
- (3) The name and business address of each retail merchant that no longer sells tobacco products since the previous report.

**The department shall deliver the list prepared under this section to the division of mental health.**

**(b) A retail merchant that sells tobacco products must provide the information required by the department under this section.**

**(c) The department shall prescribe the form, or modify an existing form, to collect the information required by this section."**

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 2. IC 7.1-2-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9. (a) An enforcement officer is vested with full police powers and duties to enforce:**

- (1) the provisions of this title;
- (2) any other law of this state relating to alcohol or alcoholic beverages; and



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**(3) youth tobacco sales: laws, including tobacco vending machines.**

(b) An enforcement officer may issue a summons for infraction or misdemeanor violations if the defendant promises to appear by signing the summons. A defendant who fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon failure to appear, the court shall issue a warrant for the arrest of the defendant.

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

SECTION 3. IC 7.1-2-3-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 33. The commission is authorized to:**

- (1) investigate a violation of; and**
- (2) enforce a penalty for a violation of;**

**IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.3, IC 35-46-1-11.5, or IC 35-46-1-11.7."**

Page 4, after line 35, begin a new paragraph and insert:

"SECTION 7. IC 7.1-6-2-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6. (a) The youth tobacco education and enforcement fund is established. The fund shall be administered by the commission.**

**(b) Expenses of administering the fund shall be paid from money in the fund.**

**(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**(e) Money in the fund shall be used for the following purposes:**

**(1) One-third (1/3) of the money in the fund for youth smoking prevention education. The commission may contract with the state department of health or the office of the secretary of family and social services for youth smoking prevention education programs.**

**(2) One-third (1/3) of the money in the fund for education and training of retailers who sell tobacco products. The commission may contract with education and training programs of the office of the secretary of family and social**

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**services, the division of mental health, enforcement officers, or a program approved by the commission.**

**(3) One-third (1/3) of the money in the fund to the commission for enforcement of youth tobacco laws.**

SECTION 8. IC 35-46-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A person who knowingly sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. **For a sale to take place under this section, the buyer must pay the seller for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must impose a civil penalty of fifty dollars (\$50). A person may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours.**

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) It is a defense that the accused person reasonably believed that the buyer or taker was at least eighteen (18) years of age. **The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:**

**(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.**

**(2) The buyer or recipient 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 or recipient was of legal age to make the purchase.**

**(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.**

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.



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(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

**(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.**

**(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).**

SECTION 9. IC 35-46-1-10.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:**

**(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).**

**(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).**

**(3) If the retail establishment at that specific business location has had two (2) citations or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).**

**(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).**

**A retail establishment may not be issued a citation or summonses for a violation of this section more than once every twenty-four (24) hours for each specific business location.**

**(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the**



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tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient 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 or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 10. IC 35-46-1-11.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 13, 1999]: Sec. 11.3. (a) This section does not apply to advertisements **that are less than fourteen (14) square feet and** posted:

- (1) at street level **in the window or** on the exterior of a business



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**property or** establishment where tobacco products are manufactured, distributed, or sold; or

(2) on vehicles.

(b) After ~~December 31, 1996~~, **May 13, 1999**, a person may not advertise or cause to be advertised tobacco products on a billboard located within two hundred (200) feet of a public or private elementary or secondary school, as measured between the nearest point of the billboard and the nearest point of a building used by the school for instructional purposes: **or an outdoor advertisement that occupies an area that exceeds fourteen (14) square feet, including any advertisement that functions as a segment of a larger advertising unit or series.**

(c) A person who violates this section commits a ~~Class E misdemeanor~~: **Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.**

(d) **Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).**

SECTION 7. IC 35-46-1-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.5. (a) **Except for a coin machine that is placed in an entranceway, an exit, a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:**

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
- (3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
- (4) ~~A location where the vending machine can be operated only by:~~
  - (A) the owner; or



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(B) an employee;  
 who is at least eighteen (18) years of age. The vending machine may be operated directly or through a remote control device if the device is inaccessible to all customers. **Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.**

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

(c) ~~a person~~ **Except as provided in subsection (a), an owner of a retail establishment** may not:

- (1) distribute or sell tobacco by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) ~~A person~~ **An owner of a retail establishment** who violates this section commits a Class C infraction. **A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:**

- (1) **If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).**
- (2) **If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).**
- (3) **If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.**

**An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.**

(e) **Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund IC 7.1-6-2-6.**

SECTION 8. IC 35-46-1-11.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.7. (a) A retail establishment that derives at least fifty percent (50%) of its monthly gross sales**



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from the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund IC 7.1-6-2-6.

SECTION 9. [EFFECTIVE MAY 14, 1999] (a) Notwithstanding IC 35-46-1-11.3, as amended by this act, a person who before May 14, 1999, had:

(1) an advertisement of a tobacco product on a billboard that was compliant with IC 35-46-1-11.3, before its amendment by this act; and

(2) a contract to continue the advertisement of the tobacco product after May 13, 1999;

may continue to advertise the tobacco product on the billboard. However, the person may not renew or extend the contract after May 13, 1999.

(b) This SECTION expires July 1, 2000.

SECTION 10. An emergency is declared for this act."



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Renumber all SECTIONS consecutively.

(Reference is to HB 1104 as printed February 25, 1999.)

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SENATE MOTION

Mr. President: I move that Senator Gard be removed as cosponsor of Engrossed House Bill 1104.

GARD

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SENATE MOTION

Mr. President: I move that Senator Merritt be removed as sponsor of Engrossed House Bill 1104 and that Senator Gard be substituted therefor.

MERRITT

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SENATE MOTION

Mr. President: I move that Senator Merritt be added as cosponsor of Engrossed House Bill 1104.

GARD

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1104, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "health" insert "**and the alcoholic beverage commission**".

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 2. IC 6-8.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the



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information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to township assessors.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax shall be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the

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information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5); and
- (7) the fees under IC 13-23.

**(k) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and the alcoholic beverage commission solely for the purpose of the list prepared under IC 6-2.5-6-14."**

Page 6, line 27, delete "Notwithstanding IC 34-28-5-4(c), a civil judgment".

Page 6, delete lines 28 through 31.

Page 10, line 3, after "in" insert "**or directly adjacent to**".

Page 10, line 3, after "entranceway" delete "," and insert "**or**".

Page 10, line 3, after "exit," insert "**or placed in**".

Page 11, line 16, after "establishment" insert "**that has as its primary purpose the sale of tobacco products**".

Page 11, delete line 17.

Page 11, line 18, delete "from the sale of tobacco products".

and when so amended that said bill do pass.

(Reference is to HB 1104 as reprinted March 5, 1999.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 1.

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