



March 26, 1999

**ENGROSSED
HOUSE BILL No. 1299**

DIGEST OF HB1299 (Updated March 24, 1999 2:38 pm - DI 100)

Citations Affected: IC 7.1-1; IC 7.1-3; IC 7.1-4.

Synopsis: Small and farm wineries. Changes the name of small winery to farm winery in some sections of the Indiana Code. Provides that a farm winery may produce, bottle, and sell any wine. (Current law limits these activities to table wine only.) Changes the 100,000 gallon limitation on annual production of these wineries to 500,000 gallons.

Effective: July 1, 1999.

Kruzan, Foley, Welch, Steele

(SENATE SPONSORS — SIMPSON, NUGENT, ALTING, BRAY)

January 11, 1999, read first time and referred to Committee on Commerce and Economic Development.

February 8, 1999, reported — Do Pass.

February 11, 1999, read second time, amended, ordered engrossed.

February 12, 1999, engrossed.

February 15, 1999, read third time, recommitted to a Committee of One, amended; passed. Yeas 91, nays 2.

February 16, 1999, engrossed.

SENATE ACTION

February 22, 1999, read first time and referred to Committee on Agriculture and Small Business.

March 25, 1999, amended, reported favorably — Do Pass.

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March 26, 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. 1299

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

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

1 SECTION 1. IC 7.1-1-3-44 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 44. ~~Small Winery~~. The
3 term "~~small winery~~" "**farm winery**" means a commercial winemaking
4 establishment that produces table wine in an amount allowed by
5 IC ~~1971, 7.1-3-12-4~~, from products allowed by that section:
6 **IC 7.1-3-12-4**.

7 SECTION 2. IC 7.1-3-12-3 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. ~~Small Farm~~ Winery
9 Permit. The commission may issue a ~~small farm~~ winery permit to a
10 person who is the proprietor of a **small farm** winery and who desires
11 to commercially manufacture wine. A **small farm** winery permit shall
12 be valid from July 1, of the then current year to June 30, of the
13 following year.

14 SECTION 3. IC 7.1-3-12-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~Small Winery~~:
16 ~~General Requirements~~. (a) In order to be considered a "~~small winery~~"
17 "**farm winery**" within the meaning of this title and to be eligible to

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1 receive a **small farm** winery permit, a wine-making establishment:
2 shall meet the following requirements:

3 ~~(1) It shall~~ **(1) must** produce ~~table~~ wine from grapes, other fruits,
4 or honey produced in this state; and

5 **(2) shall not annually produce more than five**
6 **hundred thousand (500,000) gallons of wine.**

7 ~~(2) Its annual production of table wine shall not exceed one~~
8 ~~hundred thousand (100,000) gallons:~~

9 (b) Table wine that is shipped by the winery outside the state and
10 that involves a change of ownership may not be considered as part of
11 the winery's annual production for purposes of subsection (a)(2).

12 SECTION 4. IC 7.1-3-12-5 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The holder of a
14 **small farm** winery permit:

15 (1) is entitled to manufacture ~~table~~ wine ~~to bottle wine~~; and to
16 bottle ~~table~~ wine produced by the permit holder's **small farm**
17 winery;

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

20 (3) is entitled to sell the winery's ~~table~~ wine on the licensed
21 premises to consumers either by the glass, or by the bottle, or
22 both;

23 (4) is entitled to sell ~~table~~ wine by the bottle or by the case to a
24 person who is the holder of a permit to sell wine at either
25 wholesale or retail;

26 (5) is exempt from the provisions of IC 7.1-3-14; and

27 (6) is entitled to advertise the name and address of any retailer or
28 dealer who sells wine produced by the permit holder's winery.

29 (b) With the approval of the commission, a holder of a permit under
30 this chapter may conduct business at a second location that is separate
31 from the winery. At the second location, the holder of a permit may
32 conduct any business that is authorized at the first location, except for
33 the manufacturing or bottling of wine.

34 (c) With the approval of the commission, a holder of a permit under
35 this chapter may, individually or with other permit holders under this
36 chapter, participate in a trade show or an exposition at which products
37 of each permit holder participant are displayed, promoted, and sold.
38 The commission may not grant approval under this subsection to a
39 holder of a permit under this chapter:

40 (1) more than three (3) times in a calendar year; and

41 (2) for more than three (3) days for each event.

42 SECTION 5. IC 7.1-3-12-6 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Importation by ~~Small~~
 2 **Farm** Winery. The holder of a ~~small farm~~ winery permit, by filing an
 3 affidavit with the commission stating that grapes, grape juice, other
 4 fruits or fruit juice, or honey produced in Indiana is not obtainable, may
 5 apply for a permit to import these products.

6 SECTION 6. IC 7.1-3-16.5-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The commission
 8 may issue a supplemental retailer's permit only to a person:

9 (1) who is, and continues to be, the holder of a beer retailer's
 10 permit, a liquor retailer's permit, or a wine retailer's permit;

11 (2) whose business:

12 (A) has had annual gross sales of food and beverages of at
 13 least one hundred thousand dollars (\$100,000), of which at
 14 least fifty percent (50%) was in the retail sale of food; or

15 (B) has had annual gross retail sales of food of at least one
 16 hundred thousand dollars (\$100,000);

17 for the year immediately preceding the person's application for the
 18 permit; and

19 (3) whose business operates during seven (7) or more months of
 20 the year.

21 (b) Notwithstanding subsection (a), the commission may issue a
 22 supplemental retailer's permit to a person whose business operates
 23 during fewer than seven (7) months of the year if:

24 (1) the person is, and continues to be, the holder of a beer
 25 retailer's permit, a liquor retailer's permit, or a wine retailer's
 26 permit; and

27 (2) the person's business, for each month of business during the
 28 year immediately preceding the application for a permit has had:

29 (A) average monthly gross sales of food and beverages of at
 30 least eight thousand five hundred dollars (\$8,500), of which at
 31 least fifty percent (50%) was in the retail sale of food; or

32 (B) average monthly gross retail sales of food of at least eight
 33 thousand five hundred dollars (\$8,500).

34 (c) Notwithstanding subsection (a), the commission may issue a
 35 supplemental retailer's permit to a person who meets the following
 36 requirements:

37 (1) Is the proprietor of a recreational facility such as a golf course,
 38 bowling center, or similar facility.

39 (2) Has the recreational activity and not the sale of food and
 40 beverages as the principal purpose or function of the person's
 41 business.

42 (3) Is, and continues to be, the holder of a beer retailer's permit,

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1 a liquor retailer's permit, or a wine retailer's permit.

2 (4) Has had at the person's business annual gross sales of food and
3 beverages of at least twenty-five thousand dollars (\$25,000), of
4 which at least twelve thousand five hundred dollars (\$12,500) was
5 in the retail sale of food.

6 (d) The commission may issue a supplemental retailer's permit to a
7 person who is, and continues to be, the holder of a **small farm** winery
8 permit under IC 7.1-3-12.

9 SECTION 7. IC 7.1-3-16.5-5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Scope of Permit. The
11 holder of a supplemental retailer's permit shall be entitled to purchase
12 alcoholic beverages only from a permittee entitled to sell to him under
13 this title. A supplemental retailer shall be entitled to possess and sell
14 only those types of alcoholic beverages which he may lawfully possess
15 and sell under his beer retailer's, liquor retailer's, wine retailer's permit,
16 or **small farm** winery permit, that qualifies him to hold a supplemental
17 retailer's permit. A supplemental retailer shall be entitled to sell the
18 appropriate alcoholic beverages at retail for on the licensed premises
19 consumption only on Sunday as provided in IC 7.1-3-1-14. The holder
20 of a supplemental retailer's permit shall not be entitled to sell alcoholic
21 beverages at wholesale, nor for carryout or at-home delivery. However,
22 the holder of both a **small farm** winery permit and supplemental
23 retailer's permit is entitled to sell wine as authorized under IC 7.1-3-12-
24 5 for carryout on Sunday.

25 SECTION 8. IC 7.1-4-1-25 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. **Small Farm**
27 Winery Permit Fee. The annual license fee for a **small farm** winery
28 permit is two hundred fifty dollars (\$250).

29 SECTION 9. IC 7.1-4-4-3 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Persons Liable for
31 Tax. The wine excise tax shall be paid by the holder of a vintner's
32 permit, a **small farm** winery permit, a wine wholesaler's permit, a
33 dining car wine permit, or a boat wine permit on the alcoholic beverage
34 to which the tax is applicable and which has been manufactured or
35 imported by him into this state. However, the same article shall be
36 taxed only once for wine excise tax purposes.

37 SECTION 10. IC 7.1-4-4-5 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Power of
39 Commission and Department. The commission and the department
40 shall have the power to prescribe regulations and maintain gauges in a
41 winery, **small farm** winery, or a wholesaler's premises for the proper
42 gauging of the alcoholic beverages to which the wine excise tax is

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1 applicable and the assessment of that tax.

2 SECTION 11. IC 7.1-4-4.5-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The hard cider
4 excise tax shall be paid by the holder of a vintner's permit, a ~~small~~
5 **farm** winery permit, a wine wholesaler's permit, a dining car wine
6 permit, or a boat wine permit on the hard cider to which the tax is
7 applicable and that is manufactured or imported by the person into this
8 state. However, an item may only be taxed once for hard cider excise
9 tax purposes.

10 SECTION 12. IC 7.1-4-4.5-4 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The commission and
12 the department may adopt rules and maintain gauges in a winery, ~~small~~
13 **farm** winery, or a wholesaler's premises for the proper gauging of the
14 alcoholic beverages to which the hard cider excise tax is applicable and
15 the assessment of that tax.

16 SECTION 13. IC 7.1-4-7-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Collection of Annual
18 License Fees. The chairman shall collect the required annual license
19 fee paid in connection with the issuance of a brewer's permit, a beer
20 wholesaler's permit, a temporary beer permit, a dining car permit of any
21 type, a boat permit of any type, a distiller's permit, a rectifier's permit,
22 a liquor wholesaler's permit, a vintner's permit, a ~~small farm~~ winery
23 permit, a wine wholesaler's permit, a wine bottler's permit, a temporary
24 wine permit, a salesman's permit, and a carrier's alcoholic permit.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1299, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BOTTORFF, Chair

Committee Vote: yeas 14, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1299 be amended to read as follows:

Page 1, line 3, delete "small winery" and insert "**farm winery**".

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 2. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. **Small Farm** Winery Permit. The commission may issue a **small farm** winery permit to a person who is the proprietor of a **small farm** winery and who desires to commercially manufacture wine. A **small farm** winery permit shall be valid from July 1, of the then current year to June 30, of the following year.

Page 1, line 8, delete "small winery" and insert "**farm winery**".

Page 1, line 9, delete "small" and insert "**farm**".

Page 1, line 12, before "must" insert "**(1)**".

Page 1, line 13, strike "." and insert "**and**".

Page 1, after line 13, insert "(2) **Its annual production of wine shall not exceed five hundred thousand (500,000) gallons.**".

Page 2, line 4, delete "small" and insert "**farm**".

Page 2, line 6, delete "small" and insert "**farm**".

Page 2, after line 30, begin a new paragraph and insert:

SECTION 4. IC 7.1-3-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. Importation by **Small Farm** Winery. The holder of a **small farm** winery permit, by filing an affidavit with the commission stating that grapes, grape juice, other fruits or fruit juice, or honey produced in Indiana is not obtainable, may apply for a permit to import these products.

Renumber all SECTIONS consecutively.

(Reference is to HB 1299 as printed February 9, 1999.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1299 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 3, delete ""farm winery"" and insert ""**small winery**""
"farm winery".

Page 1, line 15, delete ""farm winery"" and insert ""**small winery**""
"farm winery".

Page 1, line 16, after "a" insert "**small**".

Page 1, line 17, after "establishment" insert ":".

Page 2, line 3, delete "state; and, ~~and,~~" and insert "state; and".

Page 2, line 4, delete "Its annual production of wine".

Page 2, line 4, delete "exceed" and insert "**annually produce more than**".

Page 2, line 5, after "gallons" insert "**of wine**".

Page 2, line 12, after "of a" insert "**small**".

Page 2, line 15, after "holder's" insert "**small**".

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

"SECTION 6. IC 7.1-3-16.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The commission may issue a supplemental retailer's permit only to a person:

(1) who is, and continues to be, the holder of a beer retailer's permit, a liquor retailer's permit, or a wine retailer's permit;

(2) whose business:

(A) has had annual gross sales of food and beverages of at least one hundred thousand dollars (\$100,000), of which at least fifty percent (50%) was in the retail sale of food; or

(B) has had annual gross retail sales of food of at least one hundred thousand dollars (\$100,000);

for the year immediately preceding the person's application for the permit; and

(3) whose business operates during seven (7) or more months of the year.

(b) Notwithstanding subsection (a), the commission may issue a supplemental retailer's permit to a person whose business operates during fewer than seven (7) months of the year if:

(1) the person is, and continues to be, the holder of a beer retailer's permit, a liquor retailer's permit, or a wine retailer's permit; and

(2) the person's business, for each month of business during the year immediately preceding the application for a permit has had:

(A) average monthly gross sales of food and beverages of at

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least eight thousand five hundred dollars (\$8,500), of which at least fifty percent (50%) was in the retail sale of food; or
 (B) average monthly gross retail sales of food of at least eight thousand five hundred dollars (\$8,500).

(c) Notwithstanding subsection (a), the commission may issue a supplemental retailer's permit to a person who meets the following requirements:

- (1) Is the proprietor of a recreational facility such as a golf course, bowling center, or similar facility.
- (2) Has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.
- (3) Is, and continues to be, the holder of a beer retailer's permit, a liquor retailer's permit, or a wine retailer's permit.
- (4) Has had at the person's business annual gross sales of food and beverages of at least twenty-five thousand dollars (\$25,000), of which at least twelve thousand five hundred dollars (\$12,500) was in the retail sale of food.

(d) The commission may issue a supplemental retailer's permit to a person who is, and continues to be, the holder of a **small farm** winery permit under IC 7.1-3-12.

SECTION 7. IC 7.1-3-16.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Scope of Permit. The holder of a supplemental retailer's permit shall be entitled to purchase alcoholic beverages only from a permittee entitled to sell to him under this title. A supplemental retailer shall be entitled to possess and sell only those types of alcoholic beverages which he may lawfully possess and sell under his beer retailer's, liquor retailer's, wine retailer's permit, or **small farm** winery permit, that qualifies him to hold a supplemental retailer's permit. A supplemental retailer shall be entitled to sell the appropriate alcoholic beverages at retail for on the licensed premises consumption only on Sunday as provided in IC 7.1-3-1-14. The holder of a supplemental retailer's permit shall not be entitled to sell alcoholic beverages at wholesale, nor for carryout or at-home delivery. However, the holder of both a **small farm** winery permit and supplemental retailer's permit is entitled to sell wine as authorized under IC 7.1-3-12-5 for carryout on Sunday.

SECTION 8. IC 7.1-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. **Small Farm** Winery Permit Fee. The annual license fee for a **small farm** winery permit is two hundred fifty dollars (\$250).

SECTION 9. IC 7.1-4-4-3 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Persons Liable for Tax. The wine excise tax shall be paid by the holder of a vintner's permit, a **small farm** winery permit, a wine wholesaler's permit, a dining car wine permit, or a boat wine permit on the alcoholic beverage to which the tax is applicable and which has been manufactured or imported by him into this state. However, the same article shall be taxed only once for wine excise tax purposes.

SECTION 10. IC 7.1-4-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Power of Commission and Department. The commission and the department shall have the power to prescribe regulations and maintain gauges in a winery, **small farm** winery, or a wholesaler's premises for the proper gauging of the alcoholic beverages to which the wine excise tax is applicable and the assessment of that tax.

SECTION 11. IC 7.1-4-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The hard cider excise tax shall be paid by the holder of a vintner's permit, a **small farm** winery permit, a wine wholesaler's permit, a dining car wine permit, or a boat wine permit on the hard cider to which the tax is applicable and that is manufactured or imported by the person into this state. However, an item may only be taxed once for hard cider excise tax purposes.

SECTION 12. IC 7.1-4-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The commission and the department may adopt rules and maintain gauges in a winery, **small farm** winery, or a wholesaler's premises for the proper gauging of the alcoholic beverages to which the hard cider excise tax is applicable and the assessment of that tax.

SECTION 13. IC 7.1-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Collection of Annual License Fees. The chairman shall collect the required annual license fee paid in connection with the issuance of a brewer's permit, a beer wholesaler's permit, a temporary beer permit, a dining car permit of any type, a boat permit of any type, a distiller's permit, a rectifier's permit, a liquor wholesaler's permit, a vintner's permit, a **small farm** winery permit, a wine wholesaler's permit, a wine bottler's permit, a temporary wine permit, a salesman's permit, and a carrier's alcoholic permit."

Renumber all SECTIONS consecutively.

(Reference is to HB 1299 as reprinted February 12, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1299, begs leave to report that said bill has been amended as directed.

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SENATE MOTION

Mr. President: I move that Senator Simpson be removed as a second sponsor of Engrossed House Bill 1299.

NUGENT

SENATE MOTION

Mr. President: I move that Senator Nugent be added as a second sponsor of Engrossed House Bill 1299.

SIMPSON

SENATE MOTION

Mr. President: I move that Senator Nugent be removed as sponsor of Engrossed House Bill 1299 and that Senator Simpson be substituted therefor.

NUGENT

SENATE MOTION

Mr. President: I move that Senators Alting and Bray be added as cosponsors of Engrossed House Bill 1299.

SIMPSON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Agriculture and Small Business, to which was referred House Bill No. 1299, 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 16, reset in roman "(a)".

Page 2, line 5, delete "(2)" and insert "(2)".

Page 2, reset in roman lines 9 through 11.

and when so amended that said bill do pass.

(Reference is to HB 1299 as reprinted February 16, 1999.)

NUGENT, Chairperson

Committee Vote: Yeas 6, Nays 0.

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