

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.

## HOUSE ENROLLED ACT No. 1299

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AN ACT to amend the Indiana Code concerning alcoholic beverages.

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

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

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.

SECTION 3. IC 7.1-3-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~Small Winery: General Requirements~~. (a) In order to be considered a "~~small winery~~" "**farm winery**" within the meaning of this title and to be eligible to receive a ~~small farm~~ winery permit, a wine-making establishment: ~~shall meet the following requirements:~~

(~~†~~) ~~It shall~~ **(1) must** produce ~~table~~ wine from grapes, other fruits,

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or honey produced in this state; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. 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

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fruits or fruit juice, or honey produced in Indiana is not obtainable, may apply for a permit to import these products.

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 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

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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 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

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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.

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