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# SENATE BILL No. 362

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-15-2.5-1.1; IC 5-2-8-8; IC 5-10; IC 5-14-3-2; IC 7.1-1-3; IC 7.1-2; IC 7.1-4; IC 7.1-5; IC 9-13-2-127; IC 10-1; IC 35-41-1-17; IC 35-44-3-3.

**Synopsis:** Excise police. Establishes the excise enforcement section of the state police department. Transfers certain powers, duties, and functions concerning the enforcement of the alcoholic beverage statutes and the alcoholic beverage commission rules to the excise enforcement section of the state police department. Transfers all property and records of the alcoholic beverage commission concerning the enforcement officer activity of the commission to the state police department. Provides that on July 1, 2000, an individual who is an employee of the alcoholic beverage commission and is employed in the commission's enforcement officer activity is an employee of the state police department excise enforcement section. Appropriates funds for the excise officer salary matrix from the state general fund. Eliminates the requirement that an excise enforcement officer post a bond. Makes conforming amendments.

**Effective:** July 1, 2000.

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January 10, 2000, read first time and referred to Committee on Governmental and Regulatory Affairs.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## SENATE BILL No. 362



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

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

1 SECTION 1. IC 4-15-2.5-1.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.1. The personnel  
3 system of the department of insurance, bureau of motor vehicles,  
4 department of **state** revenue, department of natural resources, and  
5 department of adjutant general shall be conducted pursuant to this  
6 chapter, except that the division of audit of the department of **state**  
7 revenue, the conservation officers of the department of natural  
8 resources, and the ~~excise police of the alcoholic beverage commission~~  
9 **officers of the state police excise enforcement section** shall maintain  
10 the political balance established prior to July 1, 1971.

11 SECTION 2. IC 5-2-8-8 IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) There is established the  
13 ~~alcoholic beverage excise~~ enforcement officers' training fund. The  
14 ~~alcoholic beverage commission state police department~~ shall  
15 administer the fund. The fund consists of amounts collected under  
16 IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4) on  
17 behalf of the ~~alcoholic beverage commission~~: **state police department**.



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1 (b) If the ~~alcoholic beverage commission~~ **state police department**  
 2 files a claim under IC 33-19-8-4 or IC 33-19-8-6 against a city or town  
 3 user fee fund or a county user fee fund, the fiscal officer of the city or  
 4 town or the county auditor shall deposit fees collected under the cause  
 5 numbers submitted by the ~~alcoholic beverage commission~~ **state police**  
 6 **department** into the ~~alcoholic beverage excise~~ enforcement officers'  
 7 training fund established under this section.

8 (c) Claims against the ~~alcoholic beverage excise~~ enforcement  
 9 officers' training fund must be submitted in accordance with  
 10 IC 5-11-10.

11 (d) Money in excess of one hundred dollars (\$100) that is  
 12 unencumbered and remains in the ~~alcoholic beverage excise~~  
 13 enforcement officers' training fund for at least one (1) entire calendar  
 14 year from the date of its deposit shall, at the end of the state's fiscal  
 15 year, be deposited in the law enforcement training fund established  
 16 under IC 5-2-1-13(b).

17 SECTION 3. IC 5-10-5.5-1 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) As used in this  
 19 chapter and unless the context clearly denotes otherwise:

20 (a) (1) "Department" means the Indiana department of natural  
 21 resources.

22 (b) "~~Commission~~" means the Indiana alcoholic beverage  
 23 ~~commission~~.

24 (2) "**Enforcement section**" means the **excise enforcement**  
 25 **section of the state police department**.

26 (c) (3) "Officer" means ~~any~~ **Indiana state excise police officer** or  
 27 **any of the following**:

28 (A) **An excise officer (as defined in IC 10-1-1.7-3) of the**  
 29 **excise enforcement section**.

30 (B) **An Indiana state conservation enforcement officer**.

31 (d) (4) "Participant" means any officer who has elected to  
 32 participate in the retirement plan created by this chapter.

33 (e) (5) "Salary" means the total compensation, exclusive of  
 34 expense allowances, paid to any officer by the department or the  
 35 ~~commission~~, **enforcement section**, determined without regard to  
 36 any salary reduction agreement established under Section 125 of  
 37 the Internal Revenue Code.

38 (f) (6) "Average annual salary" means the average annual salary  
 39 of an officer during the five (5) years of highest annual salary in  
 40 the ten (10) years immediately preceding an officer's retirement  
 41 date, determined without regard to any salary reduction agreement  
 42 established under Section 125 of the Internal Revenue Code.



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1 ~~(g)~~ (7) "Public employees' retirement act" means IC 5-10.3.

2 ~~(h)~~ (8) "Public employees' retirement fund" means the public  
3 employees' retirement fund created by IC 5-10.3-2.

4 ~~(i)~~ (9) "Interest" means the same rate of interest as is specified  
5 under the public employees' retirement law.

6 ~~(j)~~ (10) "Americans with Disabilities Act" refers to the Americans  
7 with Disabilities Act (42 U.S.C. 12101 et seq.) and any  
8 amendments and regulations related to the Act.

9 ~~(k)~~ (b) Other words and phrases when used in this chapter shall, for  
10 the purposes of this chapter, have the meanings respectively ascribed  
11 to them as set forth in IC 5-10.3-1.

12 SECTION 4. IC 5-10-5.5-2 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. There is hereby  
14 created a state excise police and conservation enforcement officers'  
15 retirement plan to establish a means of providing special retirement,  
16 disability and survivor benefits to employees of the department and  
17 **officers of the ~~commission enforcement section~~** who are engaged  
18 exclusively in the performance of law enforcement duties.

19 SECTION 5. IC 5-10-5.5-12.7 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.7. (a) Upon a  
21 petition from a participant, the department, or the ~~commission;~~  
22 **enforcement section**, the board of trustees of the public employees'  
23 retirement fund, or its designee, shall make the determinations required  
24 by section 13 of this chapter and shall also determine:

25 (1) the degree of impairment of any officer determined to be  
26 disabled; and

27 (2) whether the disability arose in the line of duty (as defined in  
28 section 13.5 of this chapter).

29 (b) The impairment standards contained in the United States  
30 Department of Veterans Affairs Schedule for Rating Disabilities in  
31 effect at the time the application for disability benefits is filed with the  
32 board of trustees shall be used to determine the degree of impairment.

33 (c) To the extent required by the Americans with Disabilities Act,  
34 the transcripts, reports, records, and other material generated as a result  
35 of a hearing, a review, or an appeal conducted under this chapter to  
36 determine the existence of a disability, the cause of a disability, or the  
37 degree of impairment shall be:

38 (1) kept in separate medical files for each member; and

39 (2) treated as confidential medical records.

40 SECTION 6. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) **Except as provided in**  
42 **subsection (b)**, the state police department **and the** conservation

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1 officers of the department of natural resources ~~and the state excise~~  
 2 ~~police~~ may establish common and unified plans of self-insurance for  
 3 their employees, including retired employees, as separate entities of  
 4 state government. These plans may be administered by a private  
 5 agency, business firm, limited liability company, or corporation.

6 (b) The state agencies listed in subsection (a) may not pay as the  
 7 employer portion of benefits for any employee or retiree an amount  
 8 greater than that paid for other state employees for group insurance.

9 SECTION 7. IC 5-10-10-4 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. As used in this  
 11 chapter, "public safety officer" means a state police officer, county  
 12 sheriff, county police officer, correctional officer, ~~excise police officer,~~  
 13 **officer of the excise enforcement section of the state police**  
 14 **department**, county police reserve officer, city police reserve officer,  
 15 conservation enforcement officer, town marshal, deputy town marshal,  
 16 or state university police officer appointed under IC 20-12-3.5.

17 SECTION 8. IC 5-14-3-2, AS AMENDED BY P.L.256-1999,  
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2000]: Sec. 2. As used in this chapter:

20 "Copy" includes transcribing by handwriting, photocopying,  
 21 xerography, duplicating machine, duplicating electronically stored data  
 22 onto a disk, tape, drum, or any other medium of electronic data storage,  
 23 and reproducing by any other means.

24 "Direct cost" means one hundred five percent (105%) of the sum of  
 25 the cost of:

- 26 (1) the initial development of a program, if any;
- 27 (2) the labor required to retrieve electronically stored data; and
- 28 (3) any medium used for electronic output;

29 for providing a duplicate of electronically stored data onto a disk, tape,  
 30 drum, or other medium of electronic data retrieval under section 8(g)  
 31 of this chapter, or for reprogramming a computer system under section  
 32 6(c) of this chapter.

33 "Electronic map" means copyrighted data provided by a public  
 34 agency from an electronic geographic information system.

35 "Enhanced access" means the inspection of a public record by a  
 36 person other than a governmental entity and that:

- 37 (1) is by means of an electronic device other than an electronic  
 38 device provided by a public agency in the office of the public  
 39 agency; or
- 40 (2) requires the compilation or creation of a list or report that does  
 41 not result in the permanent electronic storage of the information.

42 "Facsimile machine" means a machine that electronically transmits

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- 1 exact images through connection with a telephone network.
- 2 "Inspect" includes the right to do the following:
- 3 (1) Manually transcribe and make notes, abstracts, or memoranda.
- 4 (2) In the case of tape recordings or other aural public records, to
- 5 listen and manually transcribe or duplicate, or make notes,
- 6 abstracts, or other memoranda from them.
- 7 (3) In the case of public records available:
- 8 (A) by enhanced access under section 3.5 of this chapter; or
- 9 (B) to a governmental entity under section 3(c)(2) of this
- 10 chapter;
- 11 to examine and copy the public records by use of an electronic
- 12 device.
- 13 (4) In the case of electronically stored data, to manually transcribe
- 14 and make notes, abstracts, or memoranda or to duplicate the data
- 15 onto a disk, tape, drum, or any other medium of electronic
- 16 storage.
- 17 "Investigatory record" means information compiled in the course of
- 18 the investigation of a crime.
- 19 "Patient" has the meaning set out in IC 16-18-2-272(d).
- 20 "Person" means an individual, a corporation, a limited liability
- 21 company, a partnership, an unincorporated association, or a
- 22 governmental entity.
- 23 "Provider" has the meaning set out in IC 16-18-2-295(a) and
- 24 includes employees of the state department of health or local boards of
- 25 health who create patient records at the request of another provider or
- 26 who are social workers and create records concerning the family
- 27 background of children who may need assistance.
- 28 "Public agency" means the following:
- 29 (1) Any board, commission, department, division, bureau,
- 30 committee, agency, office, instrumentality, or authority, by
- 31 whatever name designated, exercising any part of the executive,
- 32 administrative, judicial, or legislative power of the state.
- 33 (2) Any:
- 34 (A) county, township, school corporation, city, or town, or any
- 35 board, commission, department, division, bureau, committee,
- 36 office, instrumentality, or authority of any county, township,
- 37 school corporation, city, or town;
- 38 (B) political subdivision (as defined by IC 36-1-2-13); or
- 39 (C) other entity, or any office thereof, by whatever name
- 40 designated, exercising in a limited geographical area the
- 41 executive, administrative, judicial, or legislative power of the
- 42 state or a delegated local governmental power.

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- 1 (3) Any entity or office that is subject to:  
 2 (A) budget review by either the state board of tax  
 3 commissioners or the governing body of a county, city, town,  
 4 township, or school corporation; or  
 5 (B) an audit by the state board of accounts.  
 6 (4) Any building corporation of a political subdivision that issues  
 7 bonds for the purpose of constructing public facilities.  
 8 (5) Any advisory commission, committee, or body created by  
 9 statute, ordinance, or executive order to advise the governing  
 10 body of a public agency, except medical staffs or the committees  
 11 of any such staff.  
 12 (6) Any law enforcement agency, which means an agency or a  
 13 department of any level of government that engages in the  
 14 investigation, apprehension, arrest, or prosecution of alleged  
 15 criminal offenders, such as the state police department, the police  
 16 or sheriff's department of a political subdivision, prosecuting  
 17 attorneys, ~~members of the excise police division of the alcoholic~~  
 18 ~~beverage commission~~, conservation officers of the department of  
 19 natural resources, and the security division of the state lottery  
 20 commission.  
 21 (7) Any license branch staffed by employees of the bureau of  
 22 motor vehicles commission under IC 9-16.  
 23 (8) The state lottery commission, including any department,  
 24 division, or office of the commission.  
 25 (9) The Indiana gaming commission established under IC 4-33,  
 26 including any department, division, or office of the commission.  
 27 (10) The Indiana horse racing commission established by IC 4-31,  
 28 including any department, division, or office of the commission.  
 29 "Public record" means any writing, paper, report, study, map,  
 30 photograph, book, card, tape recording, or other material that is  
 31 created, received, retained, maintained, used, or filed by or with a  
 32 public agency and which is generated on paper, paper substitutes,  
 33 photographic media, chemically based media, magnetic or machine  
 34 readable media, electronically stored data, or any other material,  
 35 regardless of form or characteristics.  
 36 "Standard-sized documents" includes all documents that can be  
 37 mechanically reproduced (without mechanical reduction) on paper  
 38 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
 39 and one-half (8 1/2) inches by fourteen (14) inches.  
 40 "Trade secret" has the meaning set forth in IC 24-2-3-2.  
 41 "Work product of an attorney" means information compiled by an  
 42 attorney in reasonable anticipation of litigation and includes the



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- 1 attorney's:
- 2 (1) notes and statements taken during interviews of prospective
- 3 witnesses; and
- 4 (2) legal research or records, correspondence, reports, or
- 5 memoranda to the extent that each contains the attorney's
- 6 opinions, theories, or conclusions.

7 This definition does not restrict the application of any exception under

8 section 4 of this chapter.

9 SECTION 9. IC 7.1-1-3-10.1 IS ADDED TO THE INDIANA

10 CODE AS A **NEW SECTION TO READ AS FOLLOWS**

11 [EFFECTIVE JULY 1, 2000]: **Sec. 10.1. The term "commander"**

12 **refers to the commander of the excise enforcement section of the**

13 **state police department.**

14 SECTION 10. IC 7.1-1-3-16 IS AMENDED TO READ AS

15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. ~~Enforcement~~

16 ~~Officer.~~ The term "enforcement officer" means a person employed by

17 ~~the commission~~ **the state police department excise enforcement**

18 **section** to perform duties pursuant to IC 1971, 7-1-2: **under**

19 **IC 10-1-1.7.**

20 SECTION 11. IC 7.1-1-3-16.1 IS ADDED TO THE INDIANA

21 CODE AS A **NEW SECTION TO READ AS FOLLOWS**

22 [EFFECTIVE JULY 1, 2000]: **Sec. 16.1. The term "enforcement**

23 **section" refers to the excise enforcement section of the state police**

24 **department established by IC 10-1-1.7.**

25 SECTION 12. IC 7.1-1-3-45.2 IS ADDED TO THE INDIANA

26 CODE AS A **NEW SECTION TO READ AS FOLLOWS**

27 [EFFECTIVE JULY 1, 2000]: **Sec. 45.2. The term "state police"**

28 **refers to the state police department established by IC 10-1-1-1.**

29 SECTION 13. IC 7.1-1-3-45.5 IS ADDED TO THE INDIANA

30 CODE AS A **NEW SECTION TO READ AS FOLLOWS**

31 [EFFECTIVE JULY 1, 2000]: **Sec. 45.5. The term "superintendent"**

32 **refers to the superintendent of the state police department**

33 **appointed under IC 10-1-1-1.**

34 SECTION 14. IC 7.1-2-1-9 IS AMENDED TO READ AS

35 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. ~~Surety Bonds.~~ The

36 required surety bond executed and filed on behalf of a commissioner

37 ~~an enforcement officer~~, or the prosecutor shall be made payable to the

38 state of Indiana and conditioned upon the faithful discharge of the

39 bonded party's respective duties.

40 SECTION 15. IC 7.1-2-2-12 IS AMENDED TO READ AS

41 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. ~~(a)~~ The commission

42 shall have the power to employ and remove at will all necessary clerks,

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1 stenographers, bookkeepers, auditors, accountants, assistants of any  
 2 nature, and other employees, and to fix their duties, authorities, and,  
 3 with proper approval, their compensation.

4 ~~(b) The superintendent of the enforcement officers may discharge~~  
 5 ~~a non-probationary enforcement officer for just cause. The commission~~  
 6 ~~shall adopt rules to establish a procedure for the adjudication of the~~  
 7 ~~propriety of the discharge of a non-probationary enforcement officer.~~

8 SECTION 16. IC 7.1-2-3-2 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Power to Organize:~~  
 10 The commission shall have the power to:

11 (1) organize its work; ~~and~~

12 (2) carry on the functions of the commission; ~~and to~~

13 (3) **except for enforcement matters that are the responsibility**  
 14 **of the enforcement section under IC 10-1-1.7**, enforce and  
 15 administer:

16 (A) the provisions of this title; and

17 (B) the rules ~~and regulations~~ of the commission.

18 SECTION 17. IC 7.1-2-3-2.1 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2000]: Sec. 2.1. (a) **The commission is**  
 21 **responsible for developing alcoholic beverage policies and adopting**  
 22 **rules under this title. The state police may not develop alcoholic**  
 23 **beverage policies and adopt rules except for policies and rules**  
 24 **concerning enforcement matters that are the responsibility of the**  
 25 **state police under IC 10-1-1.7.**

26 (b) **The chairman shall consult with the superintendent**  
 27 **concerning the priorities of enforcement matters that are the**  
 28 **responsibility of the enforcement section under IC 10-1-1.7.**

29 SECTION 18. IC 7.1-2-3-7 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. ~~Rules and~~  
 31 ~~Regulations:~~ The commission shall have the power to ~~promulgate~~  
 32 **adopt rules and regulations governing the following:**

33 ~~(a)~~ (1) The conduct of the meetings and business of the  
 34 commission.

35 ~~(b)~~ (2) The conduct of hearings before any of the commission's  
 36 representatives.

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

39 ~~(d)~~ (4) **Except for enforcement matters that are the**  
 40 **responsibility of the enforcement section under IC 10-1-1.7**,  
 41 the enforcement of the provisions of this title and of the rules ~~and~~  
 42 ~~regulations~~ of the commission.



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

3           ~~(f)~~ **(6)** The prevention of misbranding or adulteration of alcohol  
4           or alcoholic beverages. ~~and~~

5           ~~(g)~~ **(7)** The prevention of fraud, evasion, trickery, or deceit in the  
6           manufacture, labeling, importation, advertisement, transportation,  
7           or sale of alcohol or alcoholic beverages, or the evasion of other  
8           laws of Indiana relating to alcohol or alcoholic beverages.

9           SECTION 19. IC 7.1-2-3-15 IS AMENDED TO READ AS  
10          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. ~~Destruction of~~  
11          ~~Personal Property~~. The commission **and the enforcement section** shall  
12          have the power to require the destruction or removal of bottles, whether  
13          empty or not, cases, containers, apparatus, or devices, used or likely to  
14          be used, in evading, violating, or preventing the enforcement of the  
15          provisions of this title or of the rules ~~and regulations of the~~  
16          ~~commission~~. **adopted under this title.**

17          SECTION 20. IC 7.1-2-3-30 IS AMENDED TO READ AS  
18          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 30. ~~Limitation of~~  
19          ~~Liability~~. **(a) Except as provided in subsection (b),** the members of  
20          the commission, ~~their the commander,~~ officers and employees **of the**  
21          **commission, and officers and employees of the enforcement section**  
22          shall be exempt from civil liability for an act or omission done under  
23          the authority, or the color of authority, conferred by this title or by a  
24          rule ~~regulation,~~ or order of the commission **or the enforcement**  
25          **section.**

26          **(b) However, they The persons listed in subsection (a)** shall be  
27          liable to the state of Indiana for their acts and omissions.

28          SECTION 21. IC 7.1-2-5-2 IS AMENDED TO READ AS  
29          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Service of Warrant~~.  
30          **(a)** The warrant shall be directed to the officer, agent, or employee of  
31          the commission **or enforcement section** who filed the affidavit for the  
32          warrant and otherwise it shall be directed to any officer who has the  
33          power to serve criminal process.

34          **(b)** The warrant shall be served by the person to whom it was issued  
35          in the daytime or nighttime and the return made within twenty (20)  
36          days from the date of issue.

37          SECTION 22. IC 7.1-2-8-2 IS AMENDED TO READ AS  
38          FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Jurisdiction~~  
39          ~~Restricted~~. Except as otherwise provided in this title, a person shall not  
40          bring an action against the state of Indiana, the commission, the  
41          chairman, ~~or~~ the chairman pro tempore, **the state police department,**  
42          **the commander, or the superintendent** based upon a claim arising



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1 from the collection of money received by the state in connection with  
 2 the administration or enforcement of a provision of this title. The  
 3 consent of the state of Indiana is hereby expressly withdrawn and  
 4 denied in such an action and no court shall have jurisdiction in such an  
 5 action.

6 SECTION 23. IC 7.1-4-6-1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. ~~Power of~~  
 8 ~~Commission and Department~~. The chairman, ~~and~~ the department, ~~and~~  
 9 **the enforcement section** shall have the power to examine the books,  
 10 papers, records, and premises of a manufacturer, wholesaler, retailer,  
 11 or dealer under this title for the purpose of determining whether the  
 12 excise taxes imposed by this title have been paid fully and whether the  
 13 provisions of ~~the this~~ title are being complied with.

14 SECTION 24. IC 7.1-4-10-2 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Use of Funds~~: (a)  
 16 The ~~monies~~ **money** in the enforcement and administration fund shall  
 17 be used and disbursed solely to:

- 18 (1) **the commission; and**
- 19 (2) **the enforcement section;**

20 for the enforcement and administration of this title, and for no other  
 21 purpose.

22 (b) Any unexpended balance remaining in the fund at the end of a  
 23 fiscal year shall not lapse but shall remain exclusively appropriated and  
 24 available only for the purpose of the enforcement and administration  
 25 of this title.

26 (c) **The budget agency shall disburse the money in the fund**  
 27 **under this section.**

28 SECTION 25. IC 7.1-4-11-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. ~~Enforcement~~  
 30 ~~Officer's Retirement Fund~~: (a) **This section applies to an officer of**  
 31 **the excise enforcement section.**

32 (b) The sums realized from the collection of the ~~annual~~ license fees  
 33 imposed by IC ~~497+~~ 7.1-4-1-38 shall be paid first and are hereby  
 34 appropriated to the state excise police retirement fund **established**  
 35 **under IC 5-10-5.5 for officers of the excise enforcement section.**  
 36 The board of trustees of the public employees' retirement fund shall  
 37 determine the amount to be appropriated. The amount to be  
 38 appropriated shall be sufficient, when added to the funds already held  
 39 by the retirement fund, for the payment of benefits to enforcement  
 40 officers to pay the aggregate liability of the retirement fund for the  
 41 payment of benefits and administration costs to the end of the fiscal  
 42 year. The appropriation of funds shall be credited to the state excise



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1 police retirement fund in equal installments at the end of each month  
2 during each fiscal year.

3 SECTION 26. IC 7.1-4-11-2 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Reversion of Funds:~~  
5 The sums realized from the collection of the ~~annual~~ license fees  
6 imposed by IC ~~1971~~, 7.1-4-1-38, and not appropriated by  
7 ~~IC 1971, 7.1-4-11-1~~, **section 1 of this chapter**, are hereby appropriated  
8 to the enforcement and administration fund. ~~of the commission.~~

9 SECTION 27. IC 7.1-5-5-1 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. ~~Issuance of Permits:~~  
11 ~~Legal Influence Prohibited:~~ (a) It is unlawful for a permittee, or an  
12 applicant for a permit, to solicit or accept the assistance of an officer or  
13 employee of the state, or of one (1) of its political subdivisions or  
14 municipal corporations, or of the United States, or of a political party  
15 or political committee, in obtaining the issuance or renewal of a permit  
16 or in preventing the suspension or revocation of a permit.

17 (b) This section shall have no application to an officer or employee  
18 of the commission, ~~nor to~~ a member of a local board, **or an officer or**  
19 **an employee of the enforcement section.**

20 (c) This section does not prohibit the employment of an attorney,  
21 regardless of political affiliations, by a permittee or applicant, in  
22 obtaining the issuance or renewal of a permit or in preventing the  
23 suspension or revocation of a permit.

24 SECTION 28. IC 7.1-5-5-2 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. ~~Commission:~~  
26 ~~Receiving Gifts Prohibited:~~ It is unlawful for a commissioner, an  
27 officer or **an** employee of the commission, ~~or~~ a member of a local  
28 board, **or an officer or an employee of the enforcement section** to  
29 receive a gratuity, commission, or profit of any kind from a person  
30 applying for or receiving a permit under this title. A person who  
31 violates the provisions of this section also shall be dismissed as  
32 provided in this title **or under IC 10-1-1.7.**

33 SECTION 29. IC 7.1-5-9-1 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. ~~Commission:~~  
35 ~~Prohibited Interests:~~ It is unlawful for a commissioner, an officer or **an**  
36 employee of the commission, ~~or~~ a member of a local board, **or an**  
37 **officer or an employee of the enforcement section** to have an  
38 interest, either ~~proprietary~~ **proprietary** or by means of a loan,  
39 mortgage, or lien, or in any other manner, or to own stock in a  
40 corporation which has an interest, in the premises where alcoholic  
41 beverages are manufactured or sold, or in a business wholly or partially  
42 devoted to the manufacture, sale, transportation, or storage of alcoholic



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1 beverages. The prohibition contained in this section shall not apply to  
 2 an expert or professional employee employed by the commission **or the**  
 3 **enforcement section** only for a special undertaking. A person who  
 4 violates a provision of this section also shall be dismissed as provided  
 5 in this title **or under IC 10-1-1.7.**

6 SECTION 30. IC 9-13-2-127 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 127. (a) "Police officer"  
 8 means, except as provided in subsection (b), the following:

9 (1) A regular member of the state police department **who is not**  
 10 **an officer of the excise enforcement section.**

11 (2) A regular member of a city or town police department.

12 (3) A town marshal or town marshal deputy.

13 (4) A regular member of a county sheriff's department.

14 (5) A conservation officer of the department of natural resources.

15 (b) "Police officer", for purposes of IC 9-21, means an officer  
 16 authorized to direct or regulate traffic or to make arrests for violations  
 17 of traffic regulations.

18 SECTION 31. IC 10-1-1-2 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this  
 20 chapter:

21 (1) The term "department" means the state police department  
 22 created by this chapter.

23 (2) The term "employee" means any employee of the department,  
 24 including police employees.

25 (3) The term "police employee" means any employee who is  
 26 assigned police work as a peace officer, pursuant to the provisions  
 27 of section 10 of this chapter. **The term does not include an**  
 28 **officer of the excise enforcement section.**

29 (4) The term "civilian employee" means any employee assigned  
 30 to a position other than one having police rank as a peace officer.

31 (5) The term "board" means the state police board.

32 SECTION 32. IC 10-1-1-10 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) **This section**  
 34 **does not apply to an officer of the excise enforcement section.**

35 (b) The officers and police employees of the department have all  
 36 necessary police powers to enforce the laws of Indiana for the  
 37 regulation and use of vehicles, and for the protection of the surface or  
 38 other physical portion of the highways of Indiana, and without writ or  
 39 warrant to arrest for violation thereof when committed in their  
 40 presence. The police employees of the department shall prevent and  
 41 detect offenses, apprehend offenders, enforce the laws, and perform  
 42 other duties imposed upon them by law, and to this end, police



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1 employees of the department have in any part of the state the same  
 2 powers with respect to criminal matters and the enforcement of the  
 3 laws relating thereto as sheriffs, constables, and police officers have in  
 4 their respective jurisdictions, and have power to act as agents for the  
 5 state on return of parolees, fugitives from justice, and persons  
 6 extradited to Indiana for offenses. Any warrant of arrest or search  
 7 warrant may be executed by any police employee of the department in  
 8 any part of the state, according to the tenor thereof, without  
 9 endorsement. They are subject to the call of the governor, and the  
 10 governor may assign to the department other police duties as the  
 11 executive department may deem advisable, including the duties now  
 12 performed by deputy fire marshals. They have power to arrest, without  
 13 warrant, any person committing or attempting to commit in their  
 14 presence or view a violation of any of the laws of Indiana. And, under  
 15 order of the superintendent, they may cooperate with any other  
 16 department of the state or with local authorities. They may not exercise  
 17 their powers within the limits of any city in labor disputes, nor may  
 18 they suppress rioting and disorder except by direction of the governor  
 19 or upon the request of the mayor of any such city with the approval of  
 20 the governor, or if the governor is not available, with the approval of  
 21 the lieutenant governor. And without the limits of any city they may not  
 22 exercise their power in labor disputes except by direction of the  
 23 governor, or the request of the judge of the circuit court of the county  
 24 with the approval of the governor, or if the governor is not available,  
 25 with the approval of the lieutenant governor. The control or direction  
 26 of the officers or members of the department may not be transferred or  
 27 delegated to any other agency or officer of the state or any subdivision  
 28 thereof.

29 SECTION 33. IC 10-1-1.7 IS ADDED TO THE INDIANA CODE  
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2000]:

32 **Chapter 1.7. Excise Enforcement**

33 **Sec. 1. As used in this chapter, "board" refers to the state police  
 34 board established by IC 10-1-1-1.**

35 **Sec. 2. As used in this chapter, "excise enforcement section"  
 36 refers to the excise enforcement section of the state police  
 37 department established by section 5 of this chapter.**

38 **Sec. 3. As used in this chapter, "excise officer" refers to an  
 39 officer of the state police department excise enforcement section.**

40 **Sec. 4. As used in this chapter, "superintendent" refers to the  
 41 superintendent of the state police department appointed under  
 42 IC 10-1-1.**

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1           **Sec. 5. The excise enforcement section of the state police**  
2 **department is established.**

3           **Sec. 6. The enforcement section shall enforce IC 7.1 and**  
4 **perform duties assigned to the enforcement section by either of the**  
5 **following:**

6               (1) **The superintendent.**

7               (2) **The governor.**

8           **Sec. 7. The superintendent shall appoint a commander of the**  
9 **excise enforcement section to organize and administer the excise**  
10 **enforcement section. The commander serves at the pleasure of the**  
11 **superintendent.**

12           **Sec. 8. All employees of the excise enforcement section,**  
13 **including excise officers, shall be appointed by the superintendent**  
14 **with the approval of the board.**

15           **Sec. 9. An excise officer shall execute and file with the state**  
16 **police department an oath of office.**

17           **Sec. 10. The state police department shall issue to an excise**  
18 **officer a certificate of employment under the seal of the state police**  
19 **department. Indiana courts shall take judicial notice of a certificate**  
20 **of employment.**

21           **Sec. 11. An excise officer is vested with full police powers and**  
22 **duties to enforce the following:**

23               (1) **IC 7.1.**

24               (2) **Any other Indiana law relating to alcohol or alcoholic**  
25 **beverages.**

26               (3) **Youth tobacco sales.**

27           **Sec. 12. (a) An excise officer may issue a summons for an**  
28 **infraction or a misdemeanor violation if the defendant promises to**  
29 **appear by signing the summons.**

30               (b) **A defendant who fails to appear is subject to the penalties**  
31 **provided by IC 35-44-3-6.5. If the defendant fails to appear, the**  
32 **court shall issue a warrant for the arrest of the defendant.**

33           **Sec. 13. An excise officer may act as an officer for the arrest of**  
34 **violators of Indiana law if the excise officer reasonably believes**  
35 **that a crime is or is about to be committed or attempted in the**  
36 **excise officer's presence.**

37           **Sec. 14. (a) The injury to, the injury to the health of, or the**  
38 **death of an excise officer is compensable under the appropriate**  
39 **provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to**  
40 **the health, or death arises out of and in the course of the**  
41 **performance of the excise officer's duties as an excise officer.**

42               (b) **For purposes of subsection (a) and IC 22-3-2 through**



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1 IC 22-3-7, an excise officer is conclusively presumed to have  
 2 accepted the compensation provisions provided in IC 22-3-2  
 3 through IC 22-3-7.

4 **Sec. 15. An eligible excise officer who retires with at least twenty**  
 5 **(20) years of service as an excise officer may:**

- 6 (1) retain the officer's service weapon;  
 7 (2) receive, in recognition of the officer's service, a badge  
 8 indicating that the officer is retired; and  
 9 (3) be issued by the state police department an identification  
 10 card that does the following:

- 11 (A) States the officer's name and rank.  
 12 (B) Signifies that the officer is retired.  
 13 (C) Notes the officer's authority to retain the service  
 14 weapon.

15 **Sec. 16. (a) The state police department shall categorize salaries**  
 16 **of excise officers within each rank based upon the rank held and**  
 17 **the number of years of service in the department through the tenth**  
 18 **year. The salary ranges that the board assigns to each rank shall**  
 19 **be divided into a base salary and ten (10) increments above the**  
 20 **base salary with:**

- 21 (1) the base salary in the rank paid to a person with less than  
 22 one (1) year of service in the department; and  
 23 (2) the highest salary in the rank paid to a person with at least  
 24 ten (10) years of service in the department.

25 **(b) For purposes of creating the salary matrix prescribed by this**  
 26 **section, the state police department may not approve salary ranges**  
 27 **for any rank that are less than the salary ranges effective for that**  
 28 **rank on January 1, 1999.**

29 **(c) The salary matrix prescribed by this section must be**  
 30 **reviewed and approved by the budget agency before**  
 31 **implementation.**

32 **(d) The money needed to fund the salaries resulting from the**  
 33 **matrix prescribed by this section is appropriated from the state**  
 34 **general fund.**

35 **Sec. 17. The superintendent may discharge a nonprobationary**  
 36 **excise officer for just cause. The board shall adopt rules to**  
 37 **establish a procedure for the adjudication of the propriety of the**  
 38 **discharge of a nonprobationary excise officer.**

39 SECTION 34. IC 10-1-1.9-3 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. "Eligible employee"  
 41 means any regular police employee of the department. **The term does**  
 42 **not include an officer of the excise enforcement section.**



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1 SECTION 35. IC 10-1-2.6-0.5 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2000]: **Sec. 0.5. This chapter does not apply**  
 4 **to an officer of the excise enforcement section.**

5 SECTION 36. IC 35-41-1-17 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) "Law  
 7 enforcement officer" means:

- 8 (1) a police officer, sheriff, constable, marshal, or prosecuting  
 9 attorney;
- 10 (2) a deputy of any of those persons;
- 11 (3) an investigator for a prosecuting attorney;
- 12 (4) a conservation officer; or
- 13 (5) an ~~enforcement officer of the alcoholic beverage commission~~

14 **excise enforcement section of the state police department.**

15 (b) "Federal enforcement officer" means any of the following:

- 16 (1) A Federal Bureau of Investigation special agent.
- 17 (2) A United States Marshals Service marshal or deputy.
- 18 (3) A United States Secret Service special agent.
- 19 (4) A United States Fish and Wildlife Service special agent.
- 20 (5) A United States Drug Enforcement Agency agent.
- 21 (6) A Bureau of Alcohol, Tobacco, and Firearms agent.
- 22 (7) A United States Forest Service law enforcement officer.
- 23 (8) A United States Department of Defense police officer or  
 24 criminal investigator.
- 25 (9) A United States Customs Service agent.
- 26 (10) A United States Postal Service investigator.
- 27 (11) A National Park Service law enforcement commissioned  
 28 ranger.

29 SECTION 37. IC 35-44-3-3 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person who  
 31 knowingly or intentionally:

- 32 (1) forcibly resists, obstructs, or interferes with a law enforcement  
 33 officer or a person assisting the officer while the officer is  
 34 lawfully engaged in the execution of his duties as an officer;
- 35 (2) forcibly resists, obstructs, or interferes with the authorized  
 36 service or execution of a civil or criminal process or order of a  
 37 court; or
- 38 (3) flees from a law enforcement officer after the officer has, by  
 39 visible or audible means, identified himself and ordered the  
 40 person to stop;

41 commits resisting law enforcement, a Class A misdemeanor, except as  
 42 provided in subsection (b).



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- 1 (b) The offense under subsection (a) is a:
- 2 (1) Class D felony if:
- 3 (A) the offense is described in subsection (a)(3) and the person
- 4 uses a vehicle to commit the offense; or
- 5 (B) while committing any offense described in subsection (a),
- 6 the person draws or uses a deadly weapon, inflicts bodily
- 7 injury on another person, or operates a vehicle in a manner
- 8 that creates a substantial risk of bodily injury to another
- 9 person;
- 10 (2) Class C felony if, while committing any offense described in
- 11 subsection (a), the person operates a vehicle in a manner that
- 12 causes serious bodily injury to another person; and
- 13 (3) Class B felony if, while committing any offense described in
- 14 subsection (a), the person operates a vehicle in a manner that
- 15 causes the death of another person.
- 16 (c) For purposes of this section, a law enforcement officer includes
- 17 an ~~alcoholic beverage enforcement~~ officer **of the excise enforcement**
- 18 **section of the state police department** and a conservation officer of
- 19 the department of natural resources.
- 20 SECTION 38. THE FOLLOWING ARE REPEALED [EFFECTIVE
- 21 JULY 1, 2000]: IC 7.1-2-2-8; IC 7.1-2-2-9; IC 7.1-2-2-10;
- 22 IC 7.1-2-2-11; IC 7.1-2-2-11.5; IC 7.1-2-2-13.
- 23 SECTION 39. [EFFECTIVE JULY 1, 2000] (a) **As used in this**
- 24 **SECTION, "commission" refers to the Indiana alcoholic beverage**
- 25 **commission created by IC 7.1-2-1-1.**
- 26 (b) **As used in this SECTION, "enforcement officer activity"**
- 27 **refers to all activities of the commission that relate to the**
- 28 **commission's enforcement officers under IC 7.1.**
- 29 (c) **As used in this SECTION, "enforcement section" refers to**
- 30 **the excise enforcement section of the state police department**
- 31 **established by IC 10-1-1.7, as added by this act.**
- 32 (d) **The enforcement officer activity of the commission is**
- 33 **abolished and all powers, duties, and functions adhering to the**
- 34 **enforcement officer activity of the commission or the chairman of**
- 35 **the commission are transferred to the enforcement section.**
- 36 (e) **The property and records relating to the enforcement officer**
- 37 **activity of the commission are transferred to the enforcement**
- 38 **section.**
- 39 (f) **This SECTION expires July 1, 2001.**
- 40 SECTION 40. [EFFECTIVE JULY 1, 2000] (a) **As used in this**
- 41 **SECTION, "commission" refers to the Indiana alcoholic beverage**
- 42 **commission created by IC 7.1-2-1-1.**

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1 (b) As used in this SECTION, "enforcement section" refers to  
 2 the excise enforcement section of the state police department  
 3 established by IC 10-1-1.7, as added by this act.

4 (c) As used in this SECTION, "excise enforcement activity"  
 5 refers to all activities of the commission that relate to the  
 6 commission's enforcement officers under IC 7.1 before July 1,  
 7 2000.

8 (d) The employees of the enforcement section shall initially be  
 9 composed of the employees of the commission who are employed  
 10 on June 30, 2000, by the commission as part of its excise  
 11 enforcement activity.

12 (e) An employee described in subsection (d):

13 (1) is entitled to have the employee's service under the  
 14 commission before July 1, 2000, included for the purpose of  
 15 computing all applicable employment rights and benefits with  
 16 the enforcement section;

17 (2) retains any rights or benefits acquired in the employee's  
 18 position with the commission; and

19 (3) remains a member of the retirement fund or pension plan  
 20 the employee was a member of on June 30, 2000.

21 (f) Notwithstanding IC 10-1-1.7, as added by this act, and except  
 22 as provided in subsections (g) and (h), the salary matrix in effect on  
 23 June 30, 2000, for the commission's enforcement officers shall be  
 24 transferred to the enforcement section.

25 (g) The salary of an enforcement officer with the commission  
 26 who transfers to the enforcement section under subsection (d) shall  
 27 not be reduced below the amount of the officer's salary as of June  
 28 30, 2000.

29 (h) After June 30, 2000, the state police board shall establish a  
 30 salary matrix for excise officers in accordance with IC 10-1-1.7-16,  
 31 as added by this act.

32 (i) The rank of an officer with the commission on June 30, 2000,  
 33 who:

34 (1) holds the permanent rank of:

35 (A) lieutenant; or

36 (B) a rank lower than lieutenant; and

37 (2) transfers to the enforcement section under subsection (d);  
 38 may not be reduced below the officer's rank as of June 30, 2000.

39 (j) An officer with the commission on June 30, 2000, who:

40 (1) holds a permanent rank higher than lieutenant; and

41 (2) transfers to the enforcement section under subsection (d);  
 42 reverts to the permanent rank of lieutenant after June 30, 2000.



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1           (k) All leases and obligations entered into by the commission  
2 and related to the commission's excise enforcement activities that  
3 are legal and valid before July 1, 2000, are legal and valid after  
4 June 30, 2000.

5           (l) This act does not affect a permit (as defined in IC 7.1-1-3-29)  
6 issued before July 1, 2000, or a hearing, a proceeding, or an appeal  
7 concerning the issuance or denial of a permit begun before July 1,  
8 2000.

9           SECTION 41. [EFFECTIVE JULY 1, 2000] (a) After June 30,  
10 2000, a reference to the powers, duties, or functions of alcoholic  
11 beverage enforcement officers in a statute or rule shall be treated  
12 as a reference to:

13           (1) the excise enforcement section of the state police  
14 department established by IC 10-1-1.7, as added by this act;  
15 or

16           (2) that section's excise enforcement officers.

17           (b) A rule of the Indiana alcoholic beverage commission made  
18 under IC 7.1-2-3-6 and filed with the secretary of state before July  
19 1, 2000, that relates to the powers, duties, or functions of an  
20 alcoholic beverage enforcement officer of the commission shall be  
21 treated after June 30, 2000, as though it has been adopted by the  
22 excise enforcement section of the state police department  
23 established by IC 10-1-1.7, as added by this act.

24           (c) A pending rulemaking proceeding begun by the Indiana  
25 alcoholic beverage commission before July 1, 2000, shall be treated  
26 after June 30, 2000, as a rulemaking proceeding of the excise  
27 enforcement section of the state police department.

28           (d) This SECTION expires July 1, 2004.

29           SECTION 42. [EFFECTIVE JULY 1, 2000] (a) As used in this  
30 SECTION, "enforcement officer activity" refers to all activities of  
31 the Indiana alcoholic beverage commission that relate to the  
32 commission's enforcement officers under IC 7.1.

33           (b) On July 1, 2000, appropriations made to the Indiana  
34 alcoholic beverage commission created under IC 7.1-2-1-1 for  
35 enforcement officer activity are transferred to the excise  
36 enforcement section of the state police department established by  
37 IC 10-1-1.7, as added by this act.

38           (c) This SECTION expires July 1, 2001.

39           SECTION 43. [EFFECTIVE JULY 1, 2000] (a) As used in this  
40 SECTION, "officer" means a person who is:

41           (1) an alcoholic beverage enforcement officer with the  
42 alcoholic beverage commission before July 1, 2000; and

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- 1           **(2) an excise enforcement officer with the excise enforcement**
- 2           **section of the state police department after June 30, 2000;**
- 3           **under this act.**
- 4           **(b) After June 30, 2000, an officer retains any unused vacation**
- 5           **days accrued before July 1, 2000, under the employee's service**
- 6           **with the Indiana alcoholic beverage commission.**
- 7           **(c) Except as provided in subsection (d), after June 30, 2000, an**
- 8           **officer shall use accrued but unused vacation days in accordance**
- 9           **with state police department policies.**
- 10           **(d) An officer may not be required to use the unused vacation**
- 11           **days the officer accrued before July 1, 2000, at a time before the**
- 12           **officer consents to use the vacation days.**
- 13           **(e) An officer disciplined before July 1, 2000, shall be disciplined**
- 14           **under the policies and procedures of the Indiana alcoholic**
- 15           **beverage commission.**

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