



Reprinted
April 7, 2005

ENGROSSED SENATE BILL No. 382

DIGEST OF SB 382 (Updated April 6, 2005 3:04 pm - DI 87)

Citations Affected: IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-4; IC 7.1-5; noncode.

Synopsis: Alcoholic beverage and tobacco matters. Requires the alcohol and tobacco commission to establish application requirements, fees, standards, and renewal requirements for certification of alcohol server training programs. Establishes requirements for the certification of alcohol server training programs. Requires retail permittees to: (1) complete a certified alcohol server training program; (2) ensure that each alcohol server completes a certified alcohol server training program and attends refresher courses; and (3) maintain training verification records. Prohibits an applicant for certification of an alcohol server training program from having an interest in a permit issued to a primary source of supply, a wholesaler, or a retailer. Eliminates a requirement that the prosecutor for the alcohol and tobacco commission (commission) reside in Indiana for five years before being appointed prosecutor. Increases the term of a retailer or dealer's permit to two years (instead of one year), but requires a permit
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Effective: Upon passage; July 1, 2005.

Alting, Hershman, Lanane
(HOUSE SPONSORS — ALDERMAN, DUNCAN)

January 11, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.
February 17, 2005, amended, reported favorably — Do Pass.
February 22, 2005, read second time, amended, ordered engrossed.
February 23, 2005, engrossed.
February 28, 2005, read third time, passed. Yeas 39, nays 9.
HOUSE ACTION
March 8, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.
March 31, 2005, amended, reported — Do Pass.
April 6, 2005, read second time, amended, ordered engrossed.

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fee to be paid annually. Increases the following permit fees: (1) One-way retailer's or dealer's permit from \$250 to \$500 annually. (2) Two-way retailer's or dealer's permit from \$500 to \$750 annually. (3) Three-way retailer's or dealer's permit from \$750 to \$1,000 annually. Requires 34% of the permit fees for certain permits to be deposited in the enforcement and administration fund and 66% of the permit fees in the state general fund (currently 100% of the permit fees for these permits are deposited in the general fund.) Changes the distribution of the excise fund to provide that 50% of the excise fund is deposited in the enforcement and administration fund, 25% is distributed to the state general fund, and 25% is distributed to municipal governments. Changes the publication requirement to require that the commission publish notice of a new retailer or dealer's permit and notice of investigation one time in a newspaper of general circulation published in the county where the permit is located. Allows a beer retailer to permit customers to sample beer and flavored malt beverages. Allows a liquor retailer or dealer to allow customers to sample flavored malt beverages. Eliminates supplemental retailer permits and allows one-way, two-way, and three-way retail permit holders to sell alcoholic beverages on Sunday. Increases the fee for a temporary bartender's permit from \$4 to \$5. Increases the fee for a tobacco certificate from \$50 to \$200 and the term of a certificate from one to three years. Increases the fee for an employee's permit used to perform volunteer service from \$5 to \$15. Allows the commission to suspend a permit if the permit holder has not paid the seller of the permit in accordance with the terms of the sale and the seller has obtained a judgment. Allows the commission to auction not more than five three-way permits to restaurants in Jeffersonville and five three-way permits to restaurants in Clarksville that are located in an economic development area. Requires a minimum bid of \$35,000 and a renewal fee of \$1,350, that are deposited in the enforcement and administration fund. Makes it a Class A infraction for a person to sell or distribute tobacco products to a tobacco retailer who does not hold a valid tobacco sales certificate. Provides that if a primary source of supply acquires the rights to a product and decides not to have a beer wholesaler continue to distribute the product, the wholesaler must be compensated for the loss of the right to distribute the product or the wholesaler will continue to distribute the product. Allows a beer wholesaler to offer a special discount price to a beer dealer or beer retailer if the beer or flavored malt beverage is a brand or package the beer wholesaler has discontinued or the beer or flavored malt beverage will expire within a certain date. Allows a manufacturer of alcoholic beverages to offer on a nondiscriminatory basis bona fide incentives to the wholesaler if the incentives are determined based on sales to retailers or dealers occurring during specified times and for specified products. Allows the commission to issue five three-way, two-way, or one-way permits to a restaurant that is located: (1) in a historic district in a city or town; or (2) not more than 500 feet from the historic district; if the historic district meets certain requirements. Provides that the legislative body of the city or town must adopt an ordinance requesting the alcohol and tobacco commission to issue the permit. Provides that an applicant may not already have an alcoholic beverage permit for premises within a historic district or within 500 feet of a district that is subject to a quota. Prohibits a permit issued under these provisions from being transferred. Makes the purchase, offer for sale, or possession of an alcohol vaporizing device or vaporized alcohol a Class A infraction. Makes a subsequent offense a Class A misdemeanor if a person knowingly or intentionally commits the subsequent offense. Provides that an individual may be denied an alcoholic beverage employee's permit if: (1) the individual has two convictions for operating while intoxicated that occurred within ten years before the date of the application; or (2) the individual completed serving a sentence for a conviction of

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operating while intoxicated within two years before the date of the application. Provides that if an individual has three convictions for operating while intoxicated, the individual may apply to the alcohol and tobacco commission and the commission has the discretion to grant or deny the application. Requires the commission to adopt a definition of "grocery store" before January 31, 2006. Prohibits the commission from issuing, renewing, or transferring a permit if an applicant has not paid innkeeper's taxes that are currently due.

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Reprinted
April 7, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 382

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

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

1 SECTION 1. IC 7.1-1-3-5.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 5.5. "Alcohol vaporizing device" means a device or
4 machine that mixes:**

5 (1) liquor; or
6 (2) another product containing alcohol;
7 with oxygen to produce a vaporized product for the purpose of
8 consumption by inhalation.

9 SECTION 2. IC 7.1-1-3-48.5 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2005]: **Sec. 48.5. "Vaporized alcohol" means
12 a vaporized product that:**

13 (1) is created in an alcohol vaporizing device;
14 (2) contains liquor or another product containing alcohol; and
15 (3) is inhaled through the mouth and nose.

16 SECTION 3. IC 7.1-2-2-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: ~~Sec. 2. Qualifications~~

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1 ~~and Appointment.~~ The prosecutor shall be appointed by the governor
2 for a term of four (4) years to be served at the pleasure of the governor.
3 The prosecutor shall be a resident of the state and a practicing member
4 of the Indiana bar. ~~for at least five (5) years preceding his appointment.~~

5 SECTION 4. IC 7.1-3-1-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A permit of
7 any type issued by the commission, except as provided in subsections
8 (b) and (f) or unless otherwise provided in this title, shall be in force
9 for one (1) calendar year only, including the day upon which it is
10 granted. At the end of the one (1) year period the permit shall be fully
11 expired and null and void.

12 (b) Notwithstanding subsection (a), ~~in a county containing a~~
13 ~~consolidated city,~~ a permit that is subject to section 5.5 or 5.6 of this
14 chapter is effective for two (2) calendar years, including the day upon
15 which the permit is granted. However, a local board may recommend
16 to the commission that the permit be issued or renewed for only a one
17 (1) year period. The commission may issue or renew a permit for the
18 period recommended by the local board.

19 (c) A permittee who is granted a two (2) year permit under
20 subsection (b) or subsection (f) is liable for any annual fees assessed by
21 the commission. The annual fee is due on the annual anniversary date
22 upon which the permit was granted.

23 (d) If the commission grants a two (2) year permit, the commission
24 may ask a local board to hold a hearing to reconsider the duration of a
25 permittee's permit. A hearing held under this subsection is subject to
26 section 5.5 or 5.6 of this chapter. A local board shall hold the hearing
27 requested by the commission within thirty (30) days before the
28 permittee's next annual anniversary date and forward a
29 recommendation to the commission following the hearing.

30 (e) If a permittee is granted a permit for more than one (1) year, the
31 commission ~~may shall~~ require the permittee to file annually with the
32 commission the information required for an annual permit renewal.

33 (f) Notwithstanding subsection (a), the following are effective for
34 two (2) calendar years, including the day upon which the permit is
35 granted:

- 36 (1) A beer wholesaler's permit issued under IC 7.1-3-3-1.
- 37 (2) A wine wholesaler's permit issued under IC 7.1-3-13-1.
- 38 (3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

39 SECTION 5. IC 7.1-3-1-14 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful
41 for an appropriate permittee, unless otherwise specifically provided in
42 this title, to sell alcoholic beverages each day Monday through

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1 Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing
2 local time, the following day. Sales shall cease wholly on Sunday at 3
3 a.m., prevailing local time, and not be resumed until the following
4 Monday at 7 a.m., prevailing local time.

5 (b) It is lawful for the holder of a ~~supplemental~~ retailer's permit to
6 sell the appropriate alcoholic beverages on Sunday from 10 a.m.,
7 prevailing local time, until 12:30 a.m., prevailing local time, the
8 following day.

9 (c) It is lawful for the holder of a permit under this article to sell
10 alcoholic beverages at athletic or sports events held on Sunday upon
11 premises that:

- 12 (1) are described in section 25(a) of this chapter;
- 13 (2) are a facility used in connection with the operation of a paved
14 track more than two (2) miles in length that is used primarily in
15 the sport of auto racing; or
- 16 (3) are being used for a professional or an amateur tournament;
17 beginning one (1) hour before the scheduled starting time of the event
18 or, if the scheduled starting time of the event is 1 p.m. or later,
19 beginning at noon.

20 (d) It is lawful for the holder of a valid beer, wine, or liquor
21 wholesaler's permit to sell to the holder of a valid retailer's or dealer's
22 permit at any time.

23 SECTION 6. IC 7.1-3-1-18 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~Publication of~~
25 ~~Notice:~~ (a) Whenever, under the provisions of this title, publication of
26 notice of application for a permit is required, the publication shall be
27 made in ~~two (2) newspapers of opposite political faith published in the~~
28 ~~city, town or township~~ **one (1) newspaper of general circulation**
29 **published in the county** where the permit is to be in effect.

30 (b) ~~If there is only one (1) newspaper published in the city or town;~~
31 ~~the notice shall be published in that newspaper and in another~~
32 ~~newspaper of opposite political faith published in the county; if there~~
33 ~~is one; and if not, then in any newspaper of general circulation~~
34 ~~published in the county:~~

35 (c) ~~If there is no newspaper published in the city or town where the~~
36 ~~permit is to be in effect, then the publication shall be made in two (2)~~
37 ~~newspapers published in the city or town nearest to the city or town~~
38 ~~where the permit is to be in effect:~~

39 (d) ~~(b)~~ Publication required by this section may be made in any
40 newspaper of general circulation published one (1) or more times each
41 week.

42 (e) (c) The rates which shall be paid for the advertising of a notice

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1 required under this title shall be those required to be paid in case of
2 other notices published for or on behalf of the state.

3 SECTION 7. IC 7.1-3-1.5 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2005]:

6 **Chapter 1.5. Certification of Alcohol Server Training Programs**

7 **Sec. 1. As used in this chapter, "alcohol server" means:**

- 8 (1) a manager;
- 9 (2) a bartender; or
- 10 (3) a waiter or a waitress;

11 who works in an establishment where alcoholic beverages are sold
12 for consumption on the licensed premises.

13 **Sec. 2. As used in this chapter, "program" refers to a program
14 designed to educate an alcohol server on the:**

- 15 (1) selling;
 - 16 (2) serving; and
 - 17 (3) consumption;
- 18 of alcoholic beverages.

19 **Sec. 3. As used in this chapter, "retail permittee" means a
20 person who holds a:**

- 21 (1) beer retailer's permit under IC 7.1-3-4;
- 22 (2) liquor retailer's permit under IC 7.1-3-9;
- 23 (3) wine retailer's permit under IC 7.1-3-14; or
- 24 (4) liquor dealer permit under IC 7.1-3-10 for a package
25 liquor store.

26 **Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to
27 establish:**

- 28 (1) an application form;
- 29 (2) standards; and
- 30 (3) fees;

31 for certification of a program under this chapter.

32 (b) The commission shall adopt rules under IC 4-22-2 to
33 otherwise carry out this chapter.

34 **Sec. 5. The commission shall require the following standards for
35 certification of a program under this chapter:**

- 36 (1) Training by an instructor who has knowledge in the
37 subject areas described in this section.
- 38 (2) Information on specific subject areas as required by the
39 commission.
- 40 (3) A minimum of at least two (2) hours of training to
41 complete the program.
- 42 (4) Information on:

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- 1 (A) state laws and rules regarding the sale and service of
- 2 alcoholic beverages;
- 3 (B) the classification of alcohol as a depressant and the
- 4 effect of alcohol on the human body, particularly on the
- 5 ability to drive a motor vehicle;
- 6 (C) the effects of alcohol:
 - 7 (i) when taken with commonly used prescription and
 - 8 nonprescription drugs; and
 - 9 (ii) on human behavior;
- 10 (D) methods of:
 - 11 (i) identifying and refusing to serve an underage or
 - 12 intoxicated person; and
 - 13 (ii) handling situations involving an underage or
 - 14 intoxicated person;
- 15 (E) methods for properly and effectively:
 - 16 (i) checking the identification of an individual;
 - 17 (ii) identifying an illegal identification of an individual;
 - 18 and
 - 19 (iii) handling situations involving individuals who have
 - 20 provided illegal identification;
- 21 (F) security and law enforcement issues regarding the sale
- 22 and service of alcoholic beverages; and
- 23 (G) recognizing certain behavior to assess the amount of
- 24 alcohol an individual:
 - 25 (i) has consumed; and
 - 26 (ii) may safely consume.
- 27 (5) One (1) or both of the following:
 - 28 (A) A written test.
 - 29 (B) An oral test.
- 30 **Sec. 6. The commission shall issue a certificate to an applicant**
- 31 **who:**
 - 32 (1) files the application and pays the fees established by the
 - 33 commission under section 4 of this chapter;
 - 34 (2) meets the:
 - 35 (A) requirements under this chapter; and
 - 36 (B) rules adopted by the commission;
 - 37 (3) is a:
 - 38 (A) nonprofit corporation or organization; or
 - 39 (B) for-profit corporation or organization that does not
 - 40 have an interest in a permit issued to a primary source of
 - 41 supply, a wholesaler, or a retailer under this chapter; and
 - 42 (4) does not hold a permit under this article.

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1 **Sec. 7. (a) A certificate issued under this chapter expires at a**
2 **time and date designated by the commission.**

3 **(b) The commission shall adopt rules to establish:**

4 **(1) an application form; and**

5 **(2) fees;**

6 **for the renewal of a certificate under this chapter.**

7 **(c) The commission shall send written notice of the upcoming**
8 **expiration of a certificate to each certificate holder at least sixty**
9 **(60) days before the expiration of the certificate. The notice must**
10 **inform the certificate holder of the need to renew and the**
11 **requirement of payment of the renewal fee. If notice of expiration**
12 **is not sent by the commission, the certificate holder is not subject**
13 **to a sanction for failure to renew if, once notice is received from**
14 **the commission, the certificate is renewed within forty-five (45)**
15 **days after the receipt of the notice.**

16 **Sec. 8. To renew a certificate under this chapter, the certificate**
17 **holder must:**

18 **(1) file the renewal application established and provided by**
19 **the commission; and**

20 **(2) pay the renewal fee in the amount established by the**
21 **commission;**

22 **not later than the expiration date of the certificate.**

23 **Sec. 9. (a) The commission may:**

24 **(1) refuse to issue, renew, or restore a certificate issued under**
25 **this chapter; or**

26 **(2) suspend or revoke a certificate issued under this chapter;**
27 **if the board determines that the applicant or certificate holder has**
28 **not complied with this chapter.**

29 **(b) The commission may fine a certificate holder for the**
30 **violation of a:**

31 **(1) provision of this chapter; or**

32 **(2) rule adopted by the commission under this chapter.**

33 **The commission may fine a certificate holder for each day the**
34 **violation continues if the violation is of a continuing nature.**

35 **Sec. 10. (a) If a person violates this chapter, the attorney**
36 **general, the commission, or the prosecuting attorney of the county**
37 **in which the person violates this chapter may maintain an action**
38 **in the name of the state to enjoin the person from continuing in**
39 **violation of this chapter.**

40 **(b) A person who is enjoined and who violates the injunction**
41 **shall be punished for contempt of court.**

42 **Sec. 11. A person who operates a program without a certificate**

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under this chapter commits a Class B infraction.

Sec. 12. (a) A retail permittee who operates an establishment where alcoholic beverages are served must:

- (1) ensure that each alcohol server completes a program certified under this chapter not later than ninety (90) days after the date the alcohol server begins employment at the establishment;**
- (2) require each alcoholic beverage server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 5 of this chapter, as required by the commission; and**
- (3) maintain training verification records of each alcohol server.**

(b) A retail permittee must complete a program certified under this chapter not later than ninety (90) days after the date the retail permittee is issued a permit described in section 3 of this chapter.

(c) The commission may suspend or revoke a retail permittee's permit or fine a retail permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 8. IC 7.1-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

- (1) another beer wholesaler authorized by the brewer to sell the brand purchased;
- (2) a consumer; or
- (3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, ~~or supplemental caterer's permit; or supplemental retailer's permit;~~

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

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1 (d) The importation, transportation, possession, sale, and delivery
 2 of beer shall be subject to the rules of the commission and subject to
 3 the same restrictions provided in this title for a person holding a
 4 brewer's permit.

5 (e) The holder of a beer wholesaler's permit may purchase, import,
 6 possess, transport, sell, and deliver any commodity listed in
 7 IC 7.1-3-10-5, unless prohibited by this title. However, a beer
 8 wholesaler may deliver flavored malt beverages only to the holder of
 9 one (1) of the following permits:

10 (1) A beer wholesaler or wine wholesaler permit, if the wholesaler
 11 is authorized by the primary source of supply to sell the brand of
 12 flavored malt beverage purchased.

13 (2) A wine retailer's permit, wine dealer's permit, temporary wine
 14 permit, dining car wine permit, boat permit, airplane permit, **or**
 15 supplemental caterer's permit. ~~or supplemental retailer's permit.~~

16 (f) A beer wholesaler may:

17 (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9
 18 and deliver the stored beer to another beer wholesaler that the
 19 out-of-state brewer authorizes to sell the beer;

20 (2) perform all necessary accounting and auditing functions
 21 associated with the services described in subdivision (1); and

22 (3) receive a fee from an out-of-state brewer for the services
 23 described in subdivisions (1) through (2).

24 SECTION 9. IC 7.1-3-4-8 IS ADDED TO THE INDIANA CODE
 25 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 26 **UPON PASSAGE]: Sec. 8. (a) A beer retailer may allow customers**
 27 **to sample beer and flavored malt beverages.**

28 **(b) Sampling is allowed only:**

29 **(1) on the beer retailer's permit premises; and**

30 **(2) during the beer retailer's regular business hours.**

31 **(c) A beer retailer may not charge for samples provided to the**
 32 **customers.**

33 **(d) A sample size of beer or flavored malt beverage may not**
 34 **exceed six (6) ounces.**

35 SECTION 10. IC 7.1-3-8-3 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder
 37 of a liquor wholesaler's permit shall be entitled to sell liquor at
 38 wholesale.

39 (b) A liquor wholesaler shall be entitled to purchase liquor within
 40 this state from a person who holds a distiller's permit, a rectifier's
 41 permit, or a liquor wholesaler's permit. A liquor wholesaler also may
 42 purchase liquor outside this state from the primary source of supply

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1 and, from that source, may transport and import liquor into this state.

2 (c) A liquor wholesaler may sell, transport, and deliver liquor only
3 to a person who, under this title, holds a:

- 4 (1) liquor retailer's permit;
- 5 (2) supplemental caterer's permit;
- 6 ~~(3) supplemental retailer's permit;~~
- 7 ~~(4) (3) liquor dealer's permit;~~ or
- 8 ~~(5) (4) liquor wholesaler's permit.~~

9 The sale, transportation, and delivery of liquor shall be made only from
10 inventory that has been located on the wholesaler's premises before the
11 time of invoicing and delivery, and only in permissible containers and
12 is subject to the rules of the commission fixing the quantity which may
13 be sold or delivered at any one (1) time.

14 SECTION 11. IC 7.1-3-9-11 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A liquor
16 retailer may allow customers to sample the following:

- 17 (1) Beer.
- 18 **(2) Flavored malt beverage.**
- 19 ~~(2) (3) Wines.~~
- 20 ~~(3) (4) Liquors.~~
- 21 ~~(4) (5) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).~~

- 22 (b) Sampling is permitted only:
- 23 (1) on the liquor retailer's permit premises; and
- 24 (2) during the permittee's regular business hours.

25 (c) A liquor retailer may not charge for the samples provided to
26 customers.

27 (d) Sample size of wines may not exceed one (1) ounce.

28 (e) In addition to the other provisions of this section, a liquor retailer
29 who allows customers to sample liquors, liqueurs, or cordials shall
30 comply with all of the following:

- 31 (1) A liquor retailer may allow a customer to sample only a
32 combined total of two (2) liquor, liqueur, or cordial samples per
33 day.
- 34 (2) Sample size of liqueurs or cordials may not exceed one-half
35 (1/2) ounce.
- 36 (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
- 37 (f) A sample size of beer may not exceed six (6) ounces.

38 **(g) A sample size of flavored malt beverage may not exceed six**
39 **(6) ounces.**

40 SECTION 12. IC 7.1-3-10-13 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A liquor
42 dealer permittee who is a proprietor of a package liquor store may

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- 1 allow customers to sample the following:
- 2 (1) Beer.
- 3 **(2) Flavored malt beverage.**
- 4 ~~(2)~~ **(3) Wines.**
- 5 ~~(3)~~ **(4) Liquors.**
- 6 ~~(4)~~ **(5) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).**
- 7 (b) Sampling is permitted:
- 8 (1) only on the package liquor store permit premises; and
- 9 (2) only during the store's regular business hours.
- 10 (c) No charge may be made for the samples provided to the
- 11 customers.
- 12 (d) Sample size of wines may not exceed one (1) ounce.
- 13 (e) In addition to the other provisions of this section, a proprietor
- 14 who allows customers to sample liquors, liqueurs, or cordials shall
- 15 comply with all of the following:
- 16 (1) A proprietor may allow a customer to sample not more than a
- 17 combined total of two (2) liquor, liqueur, or cordial samples per
- 18 day.
- 19 (2) Sample size of liqueurs or cordials may not exceed one-half
- 20 (1/2) ounce.
- 21 (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
- 22 (f) Sample size of beer may not exceed six (6) ounces.
- 23 **(g) Sample size of flavored malt beverage may not exceed six (6)**
- 24 **ounces.**
- 25 SECTION 13. IC 7.1-3-12-5 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder
- 27 of a farm winery permit:
- 28 (1) is entitled to manufacture wine and to bottle wine produced by
- 29 the permit holder's farm winery;
- 30 (2) is entitled to serve complimentary samples of the winery's
- 31 wine on the licensed premises;
- 32 (3) is entitled to sell the winery's wine on the licensed premises to
- 33 consumers either by the glass, or by the bottle, or both;
- 34 (4) is entitled to sell wine by the bottle or by the case to a person
- 35 who is the holder of a permit to sell wine at either wholesale or
- 36 retail;
- 37 (5) is exempt from the provisions of IC 7.1-3-14;
- 38 (6) is entitled to advertise the name and address of any retailer or
- 39 dealer who sells wine produced by the permit holder's winery;
- 40 (7) for wine described in IC 7.1-1-2-3(a)(4):
- 41 (A) may allow transportation to and consumption of the wine
- 42 on the licensed premises; and

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1 (B) may not sell, offer to sell, or allow the sale of the wine on
 2 the licensed premises; ~~and~~
 3 (8) is entitled to purchase and sell bulk wine as set forth in this
 4 chapter; ~~and~~
 5 **(9) is entitled to sell wine as authorized by this section for**
 6 **carryout on Sunday.**

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

12 (c) With the approval of the commission, a holder of a permit under
 13 this chapter may, individually or with other permit holders under this
 14 chapter, participate in a trade show or an exposition at which products
 15 of each permit holder participant are displayed, promoted, and sold.
 16 The commission may not grant approval under this subsection to a
 17 holder of a permit under this chapter for more than nine (9) days in a
 18 calendar year.

19 SECTION 14. IC 7.1-3-13-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder
 21 of a wine wholesaler's permit may purchase, import, and transport
 22 wine, brandy, or flavored malt beverage from the primary source of
 23 supply. A wine wholesaler may export and transport wine, brandy, or
 24 flavored malt beverage by the bottle, barrel, cask, or other container, to
 25 points outside Indiana. A wine wholesaler is entitled to sell, furnish,
 26 and deliver wine or flavored malt beverage from inventory that has
 27 been located on the wholesaler's premises before the time of invoicing
 28 and delivery to a wine wholesaler, a wine retailer, a supplemental
 29 caterer, a temporary wine permittee, ~~a supplemental retailer,~~ and a wine
 30 dealer, but not at retail. A wine wholesaler may sell, furnish, and
 31 deliver brandy from inventory that has been located on the wholesaler's
 32 premises before the time of invoicing and delivery, but not at retail,
 33 only to a person who holds a liquor retailer's permit, a supplemental
 34 caterer's permit, ~~a supplemental retailer's permit,~~ or a liquor dealer's
 35 permit. A wine wholesaler also may sell and deliver wine to a
 36 consumer, at the consumer's residence, in bottles or other permissible
 37 containers in a quantity that does not exceed fifty (50) gallons at any
 38 one (1) time.

39 (b) As used in this section, "brandy" means:
 40 (1) any alcoholic distillate described in 27 CFR 5.22(d) as in
 41 effect on January 1, 1983; or
 42 (2) a beverage product that:

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- 1 (A) is prepared from a liquid described in subdivision (1);
- 2 (B) is classified as a cordial or liqueur as defined in 27 CFR
- 3 5.22(h) as in effect on January 1, 1997; and
- 4 (C) meets the following requirements:
 - 5 (i) At least sixty-six and two-thirds percent (66 2/3%) of the
 - 6 product's alcohol content is composed of a substance
 - 7 described in subdivision (1).
 - 8 (ii) The product's label makes no reference to any distilled
 - 9 spirit other than brandy.
 - 10 (iii) The product's alcohol content is not less than sixteen
 - 11 percent (16%) by volume or thirty-two (32) degrees proof.
 - 12 (iv) The product contains dairy cream.
 - 13 (v) The product's sugar, dextrose, or levulose content is at
 - 14 least twenty percent (20%) of the product's weight.
 - 15 (vi) The product contains caramel coloring.
- 16 (c) Nothing in this section allows a wine wholesaler to sell, give,
- 17 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless
- 18 the wine wholesaler also holds a beer wholesaler's permit under
- 19 IC 7.1-3-3-1.
- 20 (d) A wine wholesaler that also holds a liquor wholesaler's permit
- 21 under IC 7.1-3-8 may not:
 - 22 (1) hold a beer wholesaler's permit under IC 7.1-3-3;
 - 23 (2) possess, sell, or transport beer; or
 - 24 (3) sell more than one million (1,000,000) gallons of flavored
 - 25 malt beverage during a calendar year.
- 26 SECTION 15. IC 7.1-3-18-9 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The commission
- 28 may issue an employee's permit to a person who desires to act as a
- 29 clerk in a package liquor store or as a bartender, waiter, waitress, or
- 30 manager in a retail establishment, excepting dining car and boat
- 31 employees.
 - 32 (b) A permit authorized by this section is conditioned upon the
 - 33 compliance by the holder with reasonable rules relating to the permit
 - 34 which the commission may prescribe from time to time.
 - 35 (c) A permit issued under this section entitles its holder to work for
 - 36 any lawful employer. However, a person may work without an
 - 37 employee's permit for thirty (30) days from the date shown on a receipt
 - 38 for a cashier's check or money order payable to the commission for that
 - 39 person's employee's permit application.
 - 40 (d) A person who, for a package liquor store or retail establishment,
 - 41 is:
 - 42 (1) the sole proprietor;

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- 1 (2) a partner, a general partner, or a limited partner in a
- 2 partnership or limited partnership that owns the business
- 3 establishment;
- 4 (3) a member of a limited liability company that owns the
- 5 business establishment; or
- 6 (4) a stockholder in a corporation that owns the business
- 7 establishment;

8 is not required to obtain an employee's permit in order to perform any
 9 of the acts listed in subsection (a).

10 (e) An applicant may declare on the application form that the
 11 applicant will use the employee's permit only to perform volunteer
 12 service that benefits a nonprofit organization. It is unlawful for an
 13 applicant who makes a declaration under this subsection to use an
 14 employee's permit for any purpose other than to perform volunteer
 15 service that benefits a nonprofit organization.

16 (f) An applicant is not entitled to an employee's permit if:

17 (1) the applicant is serving a sentence for a conviction for
 18 operating while intoxicated, including any term of probation or
 19 parole;

20 (2) the applicant has:

21 (A) more than one (1) but less than three (3) unrelated
 22 convictions:

- 23 (i) for operating while intoxicated; and
- 24 (ii) that occurred not more than ten (10) years before the
- 25 date of the applicant's application for the permit; and

26 (B) less than two (2) years have elapsed after the applicant
 27 completed the applicant's sentence for a conviction for
 28 operating while intoxicated, including any term of probation
 29 or parole or not more than two (2) years before the date of
 30 the applicant's application for the permit.

31 ~~(3)~~ If the applicant has at least three (3) unrelated convictions for
 32 operating while intoxicated, **the applicant may apply to the**
 33 **commission for an employee's permit. The commission has the**
 34 **discretion to grant or deny the issuance of the permit.**

35 (g) The commission shall revoke a permit issued to an employee
 36 under this section if:

37 (1) the employee is convicted of a Class B misdemeanor for
 38 violating IC 7.1-5-10-15(a); or

39 (2) the employee becomes ineligible for the issuance of an
 40 employee's permit under subsection (f).

41 The commission may revoke a permit issued to an employee under this
 42 section for any violation of this title or the rules adopted by the

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commission.

SECTION 16. IC 7.1-3-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The commission may issue a temporary bartender's permit to any person who is at least twenty-one (21) years of age for any of the following purposes:

- (1) To be a bartender at any activity or event for which a temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16 (wine).
- (2) To be a bartender at a nonprofit club for a maximum of four (4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is ~~four~~ **five** dollars ~~(\$4)~~ **(\$5)**.

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 17. IC 7.1-3-18.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.
- (2) A fee of ~~fifty dollars (\$50)~~ **two hundred dollars (\$200)**.

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 18. IC 7.1-3-18.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

- (1) The certificate number.

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- 1 (2) The certificate holder's name.
- 2 (3) The permanent location of the business or vending machine
- 3 for which the certificate is issued.
- 4 (4) The expiration date of the certificate.
- 5 (b) A certificate is:
- 6 (1) valid for ~~one (1) year~~ **three (3) years** after the date of
- 7 issuance, unless the commission suspends the certificate; and
- 8 (2) nontransferable.

9 SECTION 19. IC 7.1-3-18.5-8 IS ADDED TO THE INDIANA
 10 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 11 [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) As used in this section,**
 12 **"tobacco retailer" means a person who sells or otherwise**
 13 **distributes tobacco products at retail.**

14 **(b) A person who sells or distributes tobacco products to a**
 15 **tobacco retailer who does not hold a valid tobacco sales certificate**
 16 **issued by the commission commits a Class A infraction.**

17 **(c) Each violation of this section constitutes a separate offense.**

18 SECTION 20. IC 7.1-3-19-5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~Publication of~~
 20 ~~Notice of investigation:~~ The commission shall cause ~~two (2) notices~~
 21 **one (1) notice** of the pending investigation to be published in a
 22 newspaper in accordance with the provisions of IC ~~1971~~, 7.1-3-1-18.
 23 The publication of ~~notices~~ **the notice** shall be ~~one (1) calendar week~~
 24 ~~apart, and the first publication shall be at least fifteen (15)~~ **thirty (30)**
 25 days before the investigation.

26 SECTION 21. IC 7.1-3-20-2.5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. ~~(a) This~~
 28 ~~section applies notwithstanding IC 7.1-3-16.5:~~

29 ~~(b)~~ **(a)** This section applies to each holder of a permit issued under
 30 section 2, 3, or 4 of this chapter.

31 ~~(c)~~ **(b)** A permit holder may sell alcoholic beverages under the terms
 32 of the permit on any twelve (12) Sundays during a calendar year.

33 ~~(d)~~ **(c)** Sales under this section may be made only for on-premises
 34 consumption.

35 SECTION 22. IC 7.1-3-20-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The
 37 commission may issue a three-way permit for the sale of alcoholic
 38 beverages to the proprietor of a restaurant which is located outside the
 39 corporate limits of an incorporated city or town if the restaurant meets
 40 the additional requirements:

- 41 (1) It shall be a table service restaurant in which a patron is seated
- 42 at a table and is served by a waiter or waitress and the food served

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1 is predominantly consumed on the premises.
 2 (2) It shall be sufficiently served by adequate law enforcement at
 3 its premises.
 4 (3) If it does business during seven (7) or more months of each
 5 year, it shall have had an annual gross food sales of at least one
 6 hundred thousand dollars (\$100,000) for the three (3) years
 7 immediately preceding its application for a permit unless the
 8 permittee is the proprietor of a recreational facility such as a golf
 9 course, bowling center, or similar facility ~~to which~~
 10 ~~IC 7.1-3-16.5-2(c) applies.~~ **that has the recreational activity**
 11 **and not the sale of food and beverages as the principal**
 12 **purpose or function of the person's business.**
 13 (4) If it does business during six (6) or fewer months of each year,
 14 it shall have had average monthly gross food sales of at least eight
 15 thousand five hundred dollars (\$8,500) for each month it did
 16 business for the three (3) years immediately preceding its
 17 application for a permit.
 18 SECTION 23. IC 7.1-3-20-13.5 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5.
 20 Notwithstanding sections 12 and 13 of this chapter, ~~IC 7.1-3-16.5-2(c);~~
 21 ~~and IC 7.1-3-16.5-3(c);~~ there is no annual or monthly gross food sales
 22 requirement to obtain a three-way permit ~~or a supplemental retailer's~~
 23 ~~permit~~ for the sale of alcoholic beverages in a restaurant that is:
 24 (1) open to the general public; and
 25 (2) located on:
 26 (A) the grounds of a regulation size golf course that has at
 27 least nine (9) holes; or
 28 (B) the premises of a tennis club that has at least eight (8)
 29 regulation size tennis courts.
 30 SECTION 24. IC 7.1-3-20-16 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is
 32 authorized by this section may be issued without regard to the quota
 33 provisions of IC 7.1-3-22.
 34 (b) The commission may issue a three-way permit to sell alcoholic
 35 beverages for on premises consumption only to an applicant who is the
 36 proprietor, as owner or lessee, or both, of a restaurant facility in the
 37 passenger terminal complex of a publicly owned airport which is
 38 served by a scheduled commercial passenger airline certified to
 39 enplane and deplane passengers on a scheduled basis by a federal
 40 aviation agency. A permit issued under this subsection shall not be
 41 transferred to a location off the airport premises.
 42 (c) The commission may issue a three-way, two-way, or one-way

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1 permit to sell alcoholic beverages for on premises consumption only to
2 an applicant who is the proprietor, as owner or lessee, or both, of a
3 restaurant within a redevelopment project consisting of a building or
4 group of buildings that:

- 5 (1) was formerly used as part of a union railway station;
- 6 (2) has been listed in or is within a district that has been listed in
7 the federal National Register of Historic Places maintained
8 pursuant to the National Historic Preservation Act of 1966, as
9 amended; and
- 10 (3) has been redeveloped or renovated, with the redevelopment or
11 renovation being funded in part with grants from the federal,
12 state, or local government.

13 A permit issued under this subsection shall not be transferred to a
14 location outside of the redevelopment project.

15 (d) The commission may issue a three-way, two-way, or one-way
16 permit to sell alcoholic beverages for on premises consumption only to
17 an applicant who is the proprietor, as owner or lessee, or both, of a
18 restaurant:

- 19 (1) on land; or
 - 20 (2) in a historic river vessel;
- 21 within a municipal riverfront development project funded in part with
22 state and city money. A permit issued under this subsection may not be
23 transferred.

24 (e) The commission may issue a three-way, two-way, or one-way
25 permit to sell alcoholic beverages for on premises consumption only to
26 an applicant who is the proprietor, as owner or lessee, or both, of a
27 restaurant within a renovation project consisting of a building that:

- 28 (1) was formerly used as part of a passenger and freight railway
29 station; and
- 30 (2) was built before 1900.

31 The permit authorized by this subsection may be issued without regard
32 to the proximity provisions of IC 7.1-3-21-11.

33 (f) The commission may issue a three-way permit for the sale of
34 alcoholic beverages for on premises consumption at a cultural center
35 for the visual and performing arts to a town that:

- 36 (1) is located in a county having a population of more than four
37 hundred thousand (400,000) but less than seven hundred thousand
38 (700,000); and
- 39 (2) has a population of more than twenty thousand (20,000) but
40 less than twenty-three thousand (23,000).

41 **(g) The commission may issue a three-way permit for the sale of**
42 **alcoholic beverages for on premises consumption to an applicant**

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1 who will locate as the proprietor, as owner or lessee, or both, of a
2 restaurant within an economic development area under IC 36-7-14
3 in:

4 (1) a town with a population of more than twenty thousand
5 (20,000); or

6 (2) a city with a population of more than twenty-seven
7 thousand (27,000) but less than twenty-seven thousand four
8 hundred (27,400);

9 located in a county having a population of more than ninety
10 thousand (90,000) but less than one hundred thousand (100,000).
11 The commission may issue not more than five (5) licenses under
12 this section to premises within a municipality described in
13 subdivision (1) and not more than five (5) licenses to premises
14 within a municipality described in subdivision (2). The commission
15 shall conduct an auction of the permits under IC 7.1-3-22-9, except
16 that the auction may be conducted at any time as determined by
17 the commission. Notwithstanding any other law, the minimum bid
18 for an initial license under this subsection is thirty-five thousand
19 dollars (\$35,000), and the renewal fee for a license under this
20 subsection is one thousand three hundred fifty dollars (\$1,350).
21 Before the district expires, a permit issued under this subsection
22 may not be transferred. After the district expires, a permit issued
23 under this subsection may be renewed, and the ownership of the
24 permit may be transferred, but the permit may not be transferred
25 from the permit premises.

26 (h) After June 30, 2005, the commission may issue not more
27 than five (5) new three-way, two-way, or one-way permits to sell
28 alcoholic beverages for on premises consumption to applicants,
29 each of whom must be the proprietor, as owner or lessee, or both,
30 of a restaurant located within a district, or not more than five
31 hundred (500) feet from a district, that meets the following
32 requirements:

33 (1) The district has been listed in the National Register of
34 Historic Places maintained under the National Historic
35 Preservation Act of 1966, as amended.

36 (2) A county courthouse is located within the district.

37 (3) A historic opera house listed on the National Register of
38 Historic Places is located within the district.

39 (4) A historic jail and sheriff's house listed on the National
40 Register of Historic Places is located within the district.

41 An applicant may not be the holder of a permit to sell alcoholic
42 beverages that is subject to IC 7.1-3-22 and is for premises located

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1 **within the district described in this section or within five hundred**
 2 **(500) feet of the district. A permit issued under this subsection shall**
 3 **not be transferred. The fee for an initial license under this**
 4 **subsection shall be ten thousand dollars (\$10,000), and the renewal**
 5 **fee for a license under this subsection shall be two thousand dollars**
 6 **(\$2,000). The fees accrued under this subsection shall be deposited**
 7 **into the Richard D. Doyle youth tobacco education and**
 8 **enforcement fund established under IC 7.1-6-2-6. Nothing in this**
 9 **subsection affects or restricts an alcoholic beverage permit issued**
 10 **before July 1, 2005.**

11 SECTION 25. IC 7.1-3-21-15 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The commission
 13 shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other
 14 permit of any type if the applicant:

- 15 (1) is seeking a renewal and the applicant has not paid all the
 16 property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9**
 17 that are due currently;
- 18 (2) is seeking a transfer and the applicant has not paid all the
 19 property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9**
 20 for the assessment periods during which the transferor held the
 21 permit; or
- 22 (3) is on the most recent tax warrant list supplied to the
 23 commission by the department of state revenue.

24 (b) The commission shall issue, renew, or transfer a permit that the
 25 commission denied under subsection (a) when the appropriate one (1)
 26 of the following occurs:

- 27 (1) The person, if seeking a renewal, provides to the commission
 28 a statement from the county treasurer of the county in which the
 29 property of the applicant was assessed indicating that all the
 30 property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9**
 31 that were delinquent have been paid.
- 32 (2) The person, if seeking a transfer of ownership, provides to the
 33 commission a statement from the county treasurer of the county
 34 in which the property of the transferor was assessed indicating
 35 that all the property taxes under IC 6-1.1 **and innkeeper's tax**
 36 **under IC 6-9** have been paid for the assessment periods during
 37 which the transferor held the permit.
- 38 (3) The person provides to the commission a statement from the
 39 commissioner of the department of state revenue indicating that
 40 the person's delinquent tax liability has been satisfied.
- 41 (4) The commission receives a notice from the commissioner of
 42 the department of state revenue under IC 6-8.1-8-2(k).

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1 (c) An applicant may not be considered delinquent in the payment
2 of listed taxes if the applicant has filed a proper protest under
3 IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant
4 shall be considered delinquent in the payment of those taxes if the
5 applicant does not remit the taxes owed to the state department of
6 revenue after a final determination on the protest is made by the
7 department of state revenue.

8 (d) The commission may require that an applicant for the issuance,
9 renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other
10 permit of any type furnish proof of the payment of a listed tax (as
11 defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission
12 shall allow the applicant to certify, under the penalties for perjury, that
13 the applicant is not delinquent in filing returns or remitting taxes.

14 SECTION 26. IC 7.1-3-23-26.1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26.1. (a) A retailer or
16 dealer permittee who violates **IC 7.1-3-1.5-12**, IC 7.1-5-7-4, or
17 IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his~~ **the**
18 **permittee's** permit suspended, or be fined and have ~~his~~ **the**
19 **permittee's** permit suspended, as determined by the commission;
20 however, if the penalty imposed by the commission exceeds a fine and
21 three (3) day suspension, the commission must issue written findings
22 of fact and conclusions which show the necessity of the penalty. If the
23 retailer or dealer permittee commits a subsequent violation of the
24 provisions listed in this subsection within twelve (12) months of the
25 first violation, the commission may fine the permittee, fine ~~him~~ **the**
26 **permittee** and suspend ~~his~~ **the permittee's** permit, or revoke ~~his~~ **the**
27 **permittee's** permit; however, if the penalty exceeds a fine and
28 suspension of more than fifteen (15) days, the commission must issue
29 written findings of fact and conclusions which show the necessity of
30 the penalty.

31 (b) The holder of an employee permit who violates IC 7.1-5-7-4 or
32 IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his~~ **the**
33 **permittee's** permit suspended, be both fined and have ~~his~~ **the**
34 **permittee's** permit suspended, or have ~~his~~ **the permittee's** permit
35 revoked, as determined by the commission.

36 SECTION 27. IC 7.1-3-23-43 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2005]: **Sec. 43. (a) The commission may**
39 **suspend the permit of a permit holder if:**

- 40 (1) **the permit holder has not paid the person who sold the**
41 **permit to the permit holder in accordance with the terms of**
42 **the sale;**

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1 (2) the seller of the permit receives a judgment against the
2 permit holder in an action to obtain payment for the permit
3 in accordance with the terms of the sale; and
4 (3) the seller of the permit sends a certified copy of the
5 judgment to the commission.
6 (b) Before suspending a certificate under this section, the
7 commission shall provide written notice to the permit holder and
8 conduct a hearing. The commission shall provide written notice of
9 the suspension to the permit holder.
10 (c) If a person who sells a permit:
11 (1) sends a judgment to the commission under subsection (a);
12 and
13 (2) subsequently receives full payment of the judgment;
14 the seller shall notify the commission in a manner prescribed by
15 the commission that the seller has received full payment of the
16 judgment not later than ten (10) days after receiving the payment.
17 SECTION 28. IC 7.1-3-25 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]:
20 **Chapter 25. Product Transfer Between Wholesalers**
21 **Sec. 1.** As used in this chapter, "existing wholesaler" means a
22 beer wholesaler who distributes a product at the time a successor
23 primary source of supply acquires rights to a product under
24 section 5 of this chapter.
25 **Sec. 2.** As used in this chapter, "product" means an existing
26 brand of:
27 (1) beer (as defined in IC 7.1-1-3-6); or
28 (2) flavored malt beverage (as defined in IC 7.1-1-3-16.7).
29 **Sec. 3.** As used in this chapter, "successor" means a primary
30 source of supply that acquires rights to a product under section 5
31 of this chapter.
32 **Sec. 4.** As used in this chapter, "successor's designee" means one
33 (1) or more beer wholesalers designated by a successor to replace
34 the existing wholesaler, for all or part of the existing wholesaler's
35 territory, in the distribution of the existing product.
36 **Sec. 5. A successor:**
37 (1) who acquires the rights to manufacture or distribute an
38 existing product; and
39 (2) who:
40 (A) does not reappoint the existing wholesaler to distribute
41 the product;
42 (B) reduces the existing wholesaler's territory for the

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1 **product; or**
 2 **(C) offers to compensate the existing wholesaler in an**
 3 **amount less than the fair market value determined under**
 4 **section 7 of this chapter;**
 5 **must comply with this chapter. A successor's designee must also**
 6 **comply with this chapter.**

7 **Sec. 6. The successor shall notify the existing wholesaler of the**
 8 **successor's intent not to appoint the existing wholesaler for all or**
 9 **a part of the existing wholesaler's territory for the product. The**
 10 **successor shall mail the notice by certified mail, return receipt**
 11 **requested, to the existing wholesaler. The successor shall include**
 12 **in the notice the names, addresses, and telephone numbers of the**
 13 **successor's designees.**

14 **Sec. 7. A successor's designee shall negotiate with the existing**
 15 **wholesaler to determine the fair market value of the existing**
 16 **wholesaler's right:**

- 17 **(1) to distribute the product in the existing wholesaler's**
- 18 **territory immediately before the successor acquired rights to**
- 19 **the product under section 5 of this chapter; and**
- 20 **(2) as determined in an arms length transaction entered into**
- 21 **without duress or threat of termination of the initial**
- 22 **wholesaler's right described in subdivision (1).**

23 **Sec. 8. The existing wholesaler shall continue to distribute the**
 24 **product until payment of the compensation agreed to under section**
 25 **7 of this chapter or awarded under section 11 of this chapter is**
 26 **received.**

27 **Sec. 9. (a) The successor's designee and the existing wholesaler**
 28 **shall negotiate in good faith. If the parties fail to reach an**
 29 **agreement not later than thirty (30) days after the existing**
 30 **wholesaler receives the notice under section 6 of this chapter, the**
 31 **successor's designee or the existing wholesaler may send a written**
 32 **notice to the:**

- 33 **(1) other party; and**
- 34 **(2) American Arbitration Association or its successor in**
- 35 **interest;**

36 **declaring the party's intention to proceed with final and binding**
 37 **arbitration administered by the American Arbitration Association**
 38 **under the American Arbitration Association's Commercial**
 39 **Arbitration Rules.**

40 **(b) Notice of intent to arbitrate shall be sent, as provided in**
 41 **subsection (a), not later than thirty-five (35) days after the existing**
 42 **wholesaler receives notice under section 6 of this chapter. The**

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1 arbitration proceedings shall conclude not later than forty-five (45)
2 days after the date the notice of intent to arbitrate is mailed to a
3 party.

4 Sec. 10. (a) The arbitration shall be conducted in the city within
5 Indiana that:

- 6 (1) is closest to the existing wholesaler; and
- 7 (2) has a population of more than fifty thousand (50,000).

8 (b) The arbitration shall be conducted before one (1) impartial
9 arbitrator to be selected by the American Arbitration Association.
10 The arbitration shall be conducted in accordance with the rules
11 and procedures of the American Arbitration Association.

12 Sec. 11. The arbitrator's award must be monetary only and may
13 not enjoin or compel conduct. The arbitration is instead of all other
14 remedies and procedures.

15 Sec. 12. (a) The cost of the arbitrator and any other direct costs
16 of the arbitration shall be equally divided by the parties engaged
17 in the arbitration. All other costs shall be paid by the party
18 incurring them.

19 (b) The arbitrator shall render a decision not later than thirty
20 (30) days after the conclusion of the arbitration unless this time
21 period is extended by mutual agreement of the parties or by the
22 arbitrator. The decision of the arbitration is final and binding on
23 the parties. Under no circumstances may the parties appeal the
24 decision of the arbitrator.

25 (c) A party who fails to participate in the arbitration hearings
26 waives all rights the party would have had in the arbitration and
27 is considered to have consented to the determination of the
28 arbitrator.

29 Sec. 13. If the existing wholesaler does not receive payment of
30 the compensation under section 7 or 11 of this chapter not later
31 than thirty (30) days after the date of the settlement or arbitration
32 award:

- 33 (1) the existing wholesaler shall remain the distributor of the
34 product in the existing wholesaler's territory to at least the
35 same extent that the existing wholesaler distributed the
36 product immediately before the successor acquired rights to
37 the product; and
- 38 (2) the existing wholesaler is not entitled to the settlement or
39 arbitration award.

40 Sec. 14. Nothing in this chapter shall be construed to limit or
41 prohibit good faith settlements voluntarily entered into by the
42 parties.

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1 **Sec. 15. Nothing in this chapter shall be construed to give the**
2 **existing wholesaler or a successor wholesaler any right to**
3 **compensation if the existing wholesaler or successor wholesaler is**
4 **terminated by the primary source of supply or predecessor source**
5 **supplier either for failure to comply with any provision in the**
6 **agreement to distribute the product or in accordance with**
7 **IC 7.1-5-5-9.**

8 SECTION 29. IC 7.1-4-4.1-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following
10 biennial license fee is imposed for an employee's permit:

- 11 (1) ~~Five~~ **Fifteen** dollars (~~\$5~~) (**\$15**) if the permit is used only to
12 perform volunteer service that benefits a nonprofit organization.
- 13 (2) Thirty dollars (\$30) if subdivision (1) does not apply.

14 The term of a biennial employee's license is two (2) years.

15 SECTION 30. IC 7.1-4-4.1-9 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section
17 applies to the following ~~seasonal or annual~~ **biennial** permits:

- 18 (1) Beer retailer's permit.
- 19 (2) Liquor retailer's permit.
- 20 (3) Wine retailer's permit.
- 21 (4) One-way permit.
- 22 (5) Two-way permit.
- 23 (6) Three-way permit.
- 24 (7) Airplane beer permit.
- 25 (8) Airplane liquor permit.
- 26 (9) Airplane wine permit.
- 27 (10) Boat beer permit.
- 28 (11) Boat liquor permit.
- 29 (12) Boat wine permit.
- 30 (13) Dining car beer permit.
- 31 (14) Dining car liquor permit.
- 32 (15) Dining car wine permit.
- 33 (16) Hotel seasonal permit.
- 34 ~~(17) Supplemental retailer's permit.~~

35 (b) The commission shall charge a single fee for the issuance of any
36 combination of retailer's permits issued for the same location or
37 conveyance. ~~Except as provided in sections 10 and 11 of this chapter,~~
38 ~~the fee is equal to the sum of the amount determined under subsection~~
39 ~~(c) and the amount determined under subsection (d):~~

40 (c) An annual permit fee in the following amount is imposed on a
41 retailer:

- 42 (1) ~~Two hundred fifty~~ **Five hundred** dollars (~~\$250~~), (**\$500**), if the

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1 retailer serves only beer or only wine.
 2 (2) ~~Five hundred~~ **Seven hundred fifty** dollars (~~\$500~~), (**\$750**), if
 3 the retailer serves both beer and wine but no liquor.
 4 (3) ~~Seven hundred fifty~~ **One thousand** dollars (~~\$750~~), (**\$1,000**),
 5 if the retailer serves beer, wine, and liquor.
 6 (d) ~~An additional fee in the following amount is imposed on a~~
 7 ~~retailer~~
 8 (1) ~~Two hundred fifty~~ dollars (~~\$250~~), if the retailer under the
 9 authority of IC 7.1-3-16.5 sells food and any combination of beer,
 10 wine, or liquor on Sunday.
 11 (2) ~~One thousand five hundred~~ dollars (~~\$1,500~~) if the retailer who
 12 is not under the authority of IC 7.1-3-16.5, sells any combination
 13 of beer, wine, or liquor on Sunday.
 14 SECTION 31. IC 7.1-4-4.1-12 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section
 16 applies to the following **biennial** permits:
 17 (1) Beer dealer's permit.
 18 (2) Liquor dealer's permit.
 19 (3) Malt dealer's permit.
 20 (4) Wine dealer's permit.
 21 (b) The commission shall charge a single fee for the issuance of any
 22 combination of dealers' permits issued for the same location. The fee
 23 is equal to the sum of the amount determined under subsection (c).
 24 (c) An annual permit fee in the following amount is imposed on a
 25 dealer:
 26 (1) ~~Two hundred fifty~~ **Five hundred** dollars (~~\$250~~), (**\$500**), if the
 27 dealer sells only beer, only liquor, or only wine.
 28 (2) ~~Five hundred~~ **Seven hundred fifty** dollars (~~\$500~~), (**\$750**), if
 29 the dealer sells:
 30 (A) both beer and wine but no liquor;
 31 (B) both wine and liquor but no beer; or
 32 (C) both beer and liquor but no wine.
 33 (3) ~~Seven hundred fifty~~ **One thousand** dollars (~~\$750~~), (**\$1,000**),
 34 if the dealer sells beer, wine, and liquor.
 35 SECTION 32. IC 7.1-4-7-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as
 37 provided in subsection (b), the chairman and the department shall
 38 deposit the money collected under sections 1, 2, and 3 of this chapter
 39 daily with the treasurer of state, and not later than the fifth day of the
 40 following month shall cover: ~~them~~
 41 (1) **thirty-four percent (34%) of the money collected under**
 42 **section 1 of this chapter into the enforcement and**

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1 **administration fund established under IC 7.1-4-10-1; and**
 2 **(2) sixty-six percent (66%) of the money collected under**
 3 **section 1 of this chapter and money collected under sections**
 4 **2 and 3 of this chapter** into the state general fund of state for
 5 **state general fund purposes.**

6 (b) The chairman and the department shall deposit ~~the~~ **all** money
 7 collected under IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5,
 8 IC 7.1-3-17.7, IC 7.1-3-22-9, and IC 7.1-4-4.1-5 daily with the treasurer
 9 of state, and not later than the fifth day of the following month shall
 10 cover ~~them~~ **the money** into the enforcement and administration fund
 11 established under IC 7.1-4-10-1.

12 SECTION 33. IC 7.1-4-9-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Collection of~~
 14 ~~Annual License Fees~~. The chairman shall collect the required annual
 15 license fee paid in connection with the issuance of a beer retailer's
 16 permit, a beer dealer's permit, a liquor retailer's permit, a supplemental
 17 caterer's permit, a liquor dealer's permit, a wine retailer's permit, and
 18 a wine dealer's permit. ~~and a supplemental retailer's permit.~~

19 SECTION 34. IC 7.1-4-9-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Fees Deposited in~~
 21 ~~Excise Fund~~. **(a) Except as provided in subsection (b),** the chairman
 22 shall deposit the monies collected under the authority of this chapter
 23 daily with the treasurer of the state, and not later than the fifth day of
 24 the following month shall cover them into the "excise fund" to be
 25 distributed as provided in this chapter.

26 **(b) The chairman shall deposit the money received from the**
 27 **collection of the fees for a three-way permit under**
 28 **IC 7.1-3-20-16(g) daily with the treasurer of state, and not later**
 29 **than the fifth day of the following month shall transfer the money**
 30 **into the enforcement and administration fund of the commission**
 31 **under IC 7.1-4-11.**

32 SECTION 35. IC 7.1-4-9-4 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Distribution to~~
 34 ~~State General Fund~~. ~~Thirty-three and one-third percent (33 1/3%)~~
 35 **Twenty-five percent (25%)** of the ~~monies~~ **money** in the excise fund
 36 shall be deposited in the state general fund on the first day of June and
 37 the first day of December of each year.

38 SECTION 36. IC 7.1-4-9-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~Distribution to~~
 40 ~~Cities and Towns~~. ~~Sixty-six and two-thirds percent (66 2/3%)~~
 41 **Twenty-five percent (25%)** of the ~~monies~~ **money** in the excise fund
 42 shall, upon warrant of the state auditor, be paid into the general fund of

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1 the treasury of the city or town in which the retailer's or dealer's
2 licensed premises are located. The money shall be paid to the treasurer
3 of the county in which the retailer's or dealer's premises are located if
4 they are located outside the corporate limits of a city or town.

5 SECTION 37. IC 7.1-4-9-7.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. Fifty percent (50%) of**
8 **the money in the excise fund shall be deposited in the enforcement**
9 **and administration fund under IC 7.1-4-10 on the first day of June**
10 **and the first day of December of each year.**

11 SECTION 38. IC 7.1-4-11-2.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. The chairman shall deposit**
14 **the money received from the collection of the fees for a three-way**
15 **permit under IC 7.1-3-20-16(g) daily with the treasurer of state,**
16 **and not later than the fifth day of the following month shall**
17 **transfer the money into the enforcement and administration fund.**

18 SECTION 39. IC 7.1-5-5-7 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) It is unlawful
20 for a permittee in a sale or contract to sell alcoholic beverages to
21 discriminate between purchasers by granting a price, discount,
22 allowance, or service charge which is not available to all purchasers at
23 the same time. However, this section does not authorize or require a
24 permittee to sell to a person to whom ~~he~~ **the permittee** is not
25 authorized to sell under this title.

26 (b) A premises that operates at least two (2) restaurants that are
27 separate and distinct from each other on the same premises may
28 provide for a different schedule of prices in each restaurant if each
29 restaurant conforms to all other laws and rules of the commission
30 regarding pricing and price discrimination in its separate and distinct
31 areas.

32 (c) This section does not apply to the holder of an excursion and
33 adjacent landsite permit that complies with IC 7.1-3-17.5-6.

34 (d) **Notwithstanding subsection (a), a beer wholesaler may offer**
35 **a special discount price to a beer dealer or beer retailer for beer or**
36 **flavored malt beverage, if the beer or flavored malt beverage:**

37 (1) **is a brand or package the beer wholesaler has**
38 **discontinued; or**

39 (2) **will expire in not more than:**

40 (A) **twenty (20) days for packaged beer or packaged**
41 **flavored malt beverage; and**

42 (B) **ten (10) days for draft beer or draft flavored malt**

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beverage.

(e) The special discount under subsection (d) only applies to beer or flavored malt beverage that will expire and be subject to removal from retailer or dealer shelves in accordance with the primary source of supply's coding data clearly identified on the container.

(f) Any beer or flavored malt beverage sold at a special discount price under subsection (d) shall be accompanied by an invoice clearly designating, in addition to all other information required by law, all the following information:

- (1) The date of delivery.
- (2) The expiration date of each brand, package type, and quantity delivered.
- (3) The per unit price for each package.

SECTION 40. IC 7.1-5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. ~~Unequitable Termination of Contract Prohibited.~~ It is unlawful for a beer wholesaler or a brewer in this state; or a brewer or other person located outside this state who sells beer to a permittee in this state for the purpose of importation and resale within this state **primary source of supply** to:

- (1) coerce, or attempt to coerce, or persuade a beer wholesaler to enter into an agreement, or to take an action, which will violate, or tend to violate, a provision of this title or of the rules and regulations of the commission; or
- (2) cancel or terminate an agreement or contract between a beer wholesaler and a **brewer primary source of supply** for the sale of beer, unfairly and without due regard for the equities of the other party.

SECTION 41. IC 7.1-5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in ~~subsection~~ **subsections (c) and (d)**, it is unlawful for a manufacturer of alcoholic beverages or a permittee authorized to sell and deliver alcoholic beverages to:

- (1) give, supply, furnish, or grant to another permittee who purchases alcoholic beverages from him a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, lease, or rental of premises; or
- (2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have a business dealing with the other permittee.

(b) This section shall not apply to the sale and delivery and collection of the sale price of an alcoholic beverage in the ordinary course of business.

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1 (c) If the promotional program is approved under the rules adopted
2 by the commission and is conducted in all wholesaler establishments
3 through which the manufacturer distributes alcoholic beverages in
4 Indiana, a manufacturer of alcoholic beverages may award bona fide
5 promotional prizes and awards to any of the following:

- 6 (1) A person with a wholesaler's permit issued under IC 7.1-3.
- 7 (2) An employee of a person with a wholesaler's permit issued
8 under IC 7.1-3.

9 (d) **A manufacturer may offer on a nondiscriminatory basis
10 bona fide incentives to wholesalers when the incentives are
11 determined based on sales to retailers or dealers occurring during
12 specified times for specified products. The incentive may be
13 conditioned on the wholesaler selling a:**

- 14 (1) **specified product at a specified price or less than a
15 specified price; or**
- 16 (2) **minimum quantity of a specified product to a single
17 customer in a single transaction.**

18 **The incentive may not be conditioned on a wholesaler having total
19 sales of a minimum quantity of a specified product during the
20 applicable period.**

21 SECTION 42. IC 7.1-5-7-11 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The
23 provisions of sections 9 and 10 of this chapter shall not apply if the
24 public place involved is one (1) of the following:

- 25 (1) Civic center.
- 26 (2) Convention center.
- 27 (3) Sports arena.
- 28 (4) Bowling center.
- 29 (5) Bona fide club.
- 30 (6) Drug store.
- 31 (7) Grocery store.
- 32 (8) Boat.
- 33 (9) Dining car.
- 34 (10) Pullman car.
- 35 (11) Club car.
- 36 (12) Passenger airplane.
- 37 (13) Horse racetrack facility holding a recognized meeting permit
38 under IC 4-31-5.
- 39 (14) Satellite facility (as defined in IC 4-31-2-20.5).
- 40 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
41 public.
- 42 (16) That part of a hotel or restaurant which is separate from a

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- 1 room in which is located a bar over which alcoholic beverages are
- 2 sold or dispensed by the drink.
- 3 (17) Entertainment complex.
- 4 (18) Indoor golf facility.
- 5 (19) A recreational facility such as a golf course, bowling center,
- 6 or similar facility to which ~~IC 7.1-3-16.5-2(c)~~ applies: **that has**
- 7 **the recreational activity and not the sale of food and**
- 8 **beverages as the principal purpose or function of the person's**
- 9 **business.**
- 10 (20) A licensed premises owned or operated by an educational
- 11 institution of higher learning (as defined in IC 20-12-15-1).
- 12 (21) An automobile racetrack.
- 13 (b) For the purpose of this subsection, "food" means meals prepared
- 14 on the licensed premises. It is lawful for a minor to be on licensed
- 15 premises in a room in which is located a bar over which alcoholic
- 16 beverages are sold or dispensed by the drink if all the following
- 17 conditions are met:
- 18 (1) The minor is eighteen (18) years of age or older.
- 19 (2) The minor is in the company of a parent, guardian, or family
- 20 member who is twenty-one (21) years of age or older.
- 21 (3) The purpose for being on the licensed premises is the
- 22 consumption of food and not the consumption of alcoholic
- 23 beverages.
- 24 SECTION 43. IC 7.1-5-7-13 IS AMENDED TO READ AS
- 25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. ~~(a)~~ Section 12 of
- 26 this chapter does not prohibit the following:
- 27 (1) The employment of a person at least eighteen (18) years of age
- 28 but less than twenty-one (21) years of age on or about licensed
- 29 premises where alcoholic beverages are sold, furnished, or given
- 30 away for consumption either on or off the licensed premises, for
- 31 a purpose other than:
- 32 (A) selling;
- 33 (B) furnishing, other than serving;
- 34 (C) consuming; or
- 35 (D) otherwise dealing in;
- 36 alcoholic beverages.
- 37 (2) A person at least eighteen (18) years of age but less than
- 38 twenty-one (21) years of age from ringing up a sale of alcoholic
- 39 beverages in the course of the person's employment.
- 40 (3) A person at least nineteen (19) years of age but less than
- 41 twenty-one (21) years of age who:
- 42 (A) has successfully completed ~~a~~ **an alcohol** server training

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1 program approved by the commission before applying for an
 2 employee permit, **certified under IC 7.1-3-1.5**; and
 3 (B) serves alcoholic beverages in a dining area or family room
 4 of a restaurant or hotel:
 5 (i) in the course of a person's employment as a waiter,
 6 waitress, or server; and
 7 (ii) under the supervision of a person who is at least
 8 twenty-one (21) years of age, is present at the restaurant or
 9 hotel, and has successfully completed ~~a~~ **an alcohol** server
 10 training program ~~approved~~ **certified under IC 7.1-3-1.5** by
 11 the commission.

12 This subdivision does not allow a person at least nineteen (19)
 13 years of age but less than twenty-one (21) years of age to be a
 14 bartender.

15 (b) The commission may adopt rules under ~~IC 4-22-2~~ to:
 16 (1) create a server training program;
 17 (2) outsource the server training program and licensing; and
 18 (3) establish fees under this section.

19 SECTION 44. IC 7.1-5-8-11 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2005]: **Sec. 11. (a) A person who:**

22 (1) purchases;
 23 (2) offers for sale; or
 24 (3) possesses;
 25 **an alcohol vaporizing device or vaporized alcohol commits**
 26 **possession, sale, or purchase of vaporized alcohol or vaporized**
 27 **alcohol paraphernalia, a Class A infraction.**

28 (b) A person who:
 29 (1) knowingly or intentionally violates subsection (a); and
 30 (2) has a prior unrelated judgment or conviction under this
 31 section;
 32 **commits a Class A misdemeanor.**

33 SECTION 45. IC 7.1-3-16.5 REPEALED [EFFECTIVE UPON
 34 PASSAGE].

35 SECTION 46. [EFFECTIVE JULY 1, 2005] **IC 7.1-5-8-11, as**
 36 **added by this act, applies only to acts committed after June 30,**
 37 **2005.**

38 SECTION 47. [EFFECTIVE JULY 1, 2005] (a) **As used in this**
 39 **SECTION, "commission" refers to the alcohol and tobacco**
 40 **commission established by IC 7.1-2-1-1.**

41 (b) **As used in this SECTION, "program" has the meaning set**
 42 **forth in IC 7.1-3-1.5-2, as added by this act.**

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1 (c) As used in this SECTION, "retail permittee" has the
 2 meaning set forth in IC 7.1-3-1.5-3, as added by this act.
 3 (d) Notwithstanding IC 7.1-3-1.5-11, as added by this act, a
 4 person who is operating a program before July 1, 2005, may
 5 continue to operate the program without a certificate issued under
 6 IC 7.1-3-1.5, as added by this act, pending the processing of an
 7 application for a certificate under this SECTION.
 8 (e) The person described in subsection (d) may submit to the
 9 commission an application for a certificate to operate a program
 10 under IC 7.1-3-1.5, as added by this act. To be entitled to continue
 11 operating without a certificate under subsection (d), the person
 12 must submit the application before March 1, 2006.
 13 (f) The person described in subsection (d) shall cease operating
 14 a program if:
 15 (1) the person fails to submit an application within the time
 16 allowed under subsection (e); or
 17 (2) the commission notifies the person that the commission has
 18 rejected the application submitted by the person under this
 19 SECTION.
 20 (g) Notwithstanding IC 7.1-3-1.5-12, as added by this act:
 21 (1) a retail permittee who is operating an establishment where
 22 alcoholic beverages are served must ensure that each alcohol
 23 server completes a program certified under IC 7.1-3-1.5, as
 24 added by this act, not later than:
 25 (A) January 1, 2008; or
 26 (B) ninety (90) days after the date the alcohol server begins
 27 employment at the establishment;
 28 whichever is later; and
 29 (2) a retail permittee must complete a program certified
 30 under IC 7.1-3-1.5, as added by this act, not later than:
 31 (A) January 1, 2008; or
 32 (B) ninety (90) days after the date the retail permittee is
 33 issued a retail permit under IC 7.1-3;
 34 whichever is later.
 35 (h) This SECTION expires December 31, 2009.
 36 SECTION 48. [EFFECTIVE UPON PASSAGE] (a)
 37 Notwithstanding IC 7.1-3-1.5, as added by this act, the alcohol and
 38 tobacco commission may initiate rulemaking to implement
 39 IC 7.1-3-1.5, as added by this act.
 40 (b) This SECTION expires January 1, 2006.
 41 SECTION 49. [EFFECTIVE UPON PASSAGE] (a) The alcohol
 42 and tobacco commission shall adopt a definition of "grocery store"

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1 **for purposes of administering IC 7.1-3, as amended by this act,**
2 **before January 31, 2006.**
3 **(b) This SECTION expires December 31, 2006.**
4 **SECTION 50. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Senate Bill No. 382, 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 2, line 3, delete "or".

Page 2, line 4, delete "IC 7.1-3-14." and insert "**IC 7.1-3-14; or**".

Page 2, between lines 4 and 5, begin a new line block indented and insert:

"(4) liquor dealer permit under IC 7.1-3-10 for a package liquor store."

Page 2, line 29, after "alcohol" insert ":

(i)".

Page 2, line 30, delete "drugs;" and insert "**drugs; and**

(ii) on human behavior."

Page 2, line 41, delete "and".

Page 3, line 1, delete "beverages." and insert "**beverages; and**".

Page 3, between lines 1 and 2, begin a new line double block indented and insert:

"(H) recognizing certain behavior to assess the amount of alcohol an individual:

(i) has consumed; and

(ii) may safely consume."

Page 3, line 12, delete "two (2)".

Page 3, line 13, delete "years after the certificate is issued,".

Page 4, delete lines 14 through 19.

Page 4, line 20, delete "13." and insert "**12."**

Page 4, line 26, delete ", at least".

Page 4, line 27, delete "once every two (2) years,".

Page 4, line 29, delete "chapter;" and insert "**chapter, as required by the commission;**".

and when so amended that said bill do pass.

(Reference is to SB 382 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 2.

ES 382—LS 7107/DI 110+



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SENATE MOTION

Madam President: I move that Senate Bill 382 be amended to read as follows:

Page 2, line 13, delete "may" and insert "**shall**".

Page 2, delete lines 26 through 27.

Page 2, line 28, delete "(C)" and insert "**(B)**".

Page 2, line 31, delete "(D)" and insert "**(C)**".

Page 2, line 34, delete "human behavior." and insert "**human behavior;**".

Page 2, line 35, delete "(E)" and insert "**(D)**".

Page 2, line 40, delete "(F)" and insert "**(E)**".

Page 3, line 4, delete "(G)" and insert "**(F)**".

Page 3, line 6, delete "(H)" and insert "**(G)**".

Page 3, line 16, delete "and".

Page 3, line 19, delete "commission." and insert "**commission;**".

Page 3, between lines 19 and 20, begin a new line block indented and insert:

"**(3) is a:**

(A) nonprofit corporation or organization; or

(B) for-profit corporation or organization that does not have a pecuniary relationship with the alcoholic beverage industry; and

(4) does not hold a permit under this article."

Page 3, line 41, delete "license." and insert "**certificate.**".

Page 4, line 1, delete "license" and insert "**certificate**".

Page 4, line 2, delete "article;" and insert "**chapter;**".

Page 4, line 3, delete "license" and insert "**certificate**".

Page 4, line 3, delete "article;" and insert "**chapter;**".

Page 4, line 36, delete "retail".

Page 4, line 36, delete "under this article." and insert "**described in section 3 of this chapter.**".

Page 4, line 42, delete "IC 7.1-3-1.5-13," and insert "**IC 7.1-3-1.5-12,**".

Page 6, line 39, delete "IC 7.1-3-1.5-13," and insert "**IC 7.1-3-1.5-12,**".

Page 7, line 2, delete "September 1, 2006;" and insert "**January 1, 2008;**".

Page 7, line 8, delete "September 1, 2006;" and insert "**January 1, 2008;**".

Page 7, line 12, delete "2006." and insert "**2009.**".

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Page 7, line 17, delete "2005." and insert "**2006.**".

(Reference is to SB 382 as printed February 18, 2005.)

ALTING

SENATE MOTION

Madam President: I move that Senators Hershman and Lanane be added as coauthors of Engrossed Senate Bill 382.

ALTING

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 382, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-1-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. "Alcohol vaporizing device" means a device or machine that mixes:**

- (1) liquor; or**
- (2) another product containing alcohol;**

with oxygen to produce a vaporized product for the purpose of consumption by inhalation.

SECTION 2. IC 7.1-1-3-48.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2005]: **Sec. 48.5. "Vaporized alcohol" means a vaporized product that:**

- (1) is created in an alcohol vaporizing device;**
- (2) contains liquor or another product containing alcohol; and**
- (3) is inhaled through the mouth and nose.**

SECTION 3. IC 7.1-2-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. ~~Qualifications and Appointment.~~** The prosecutor shall be appointed by the governor for a term of four (4) years to be served at the pleasure of the governor. The prosecutor shall be a resident of the state and a practicing member

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of the Indiana bar. ~~for at least five (5) years preceding his appointment.~~

SECTION 4. IC 7.1-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A permit of any type issued by the commission, except as provided in subsections (b) and (f) or unless otherwise provided in this title, shall be in force for one (1) calendar year only, including the day upon which it is granted. At the end of the one (1) year period the permit shall be fully expired and null and void.

(b) Notwithstanding subsection (a), ~~in a county containing a consolidated city,~~ a permit that is subject to section 5.5 or 5.6 of this chapter is effective for two (2) calendar years, including the day upon which the permit is granted. However, a local board may recommend to the commission that the permit be issued or renewed for only a one (1) year period. The commission may issue or renew a permit for the period recommended by the local board.

(c) A permittee who is granted a two (2) year permit under subsection (b) or subsection (f) is liable for any annual fees assessed by the commission. The annual fee is due on the annual anniversary date upon which the permit was granted.

(d) If the commission grants a two (2) year permit, the commission may ask a local board to hold a hearing to reconsider the duration of a permittee's permit. A hearing held under this subsection is subject to section 5.5 or 5.6 of this chapter. A local board shall hold the hearing requested by the commission within thirty (30) days before the permittee's next annual anniversary date and forward a recommendation to the commission following the hearing.

(e) If a permittee is granted a permit for more than one (1) year, the commission ~~may~~ **shall** require the permittee to file annually with the commission the information required for an annual permit renewal.

(f) Notwithstanding subsection (a), the following are effective for two (2) calendar years, including the day upon which the permit is granted:

- (1) A beer wholesaler's permit issued under IC 7.1-3-3-1.
- (2) A wine wholesaler's permit issued under IC 7.1-3-13-1.
- (3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

SECTION 5. IC 7.1-3-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following

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Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a ~~supplemental~~ retailer's permit to sell the appropriate alcoholic beverages on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

- (1) are described in section 25(a) of this chapter;
- (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
- (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 6. IC 7.1-3-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~Publication of Notice:~~ (a) Whenever, under the provisions of this title, publication of notice of application for a permit is required, the publication shall be made in two (2) newspapers of opposite political faith published in the city, town or township **one (1) newspaper of general circulation published in the county** where the permit is to be in effect.

(b) If there is only one (1) newspaper published in the city or town, the notice shall be published in that newspaper and in another newspaper of opposite political faith published in the county, if there is one; and if not, then in any newspaper of general circulation published in the county.

(c) If there is no newspaper published in the city or town where the permit is to be in effect, then the publication shall be made in two (2) newspapers published in the city or town nearest to the city or town where the permit is to be in effect.

(d) (b) Publication required by this section may be made in any newspaper of general circulation published one (1) or more times each week.

(e) (c) The rates which shall be paid for the advertising of a notice required under this title shall be those required to be paid in case of other notices published for or on behalf of the state."

Page 3, line 13, after "and" insert "**pays the**".

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Page 3, line 21, delete "a pecuniary relationship with the alcoholic beverage".

Page 3, line 22, delete "industry;" and insert "**an interest in a permit issued to a primary source of supply, a wholesaler, or a retailer under this chapter;**".

Page 4, line 18, delete "a" and insert "**the**".

Page 5, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 8. IC 7.1-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

- (1) another beer wholesaler authorized by the brewer to sell the brand purchased;
- (2) a consumer; or
- (3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, **or** supplemental caterer's permit; ~~or supplemental retailer's permit;~~

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

- (1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.
- (2) A wine retailer's permit, wine dealer's permit, temporary wine

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permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit. ~~or supplemental retailer's permit.~~

(f) A beer wholesaler may:

- (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;
- (2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and
- (3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 9. IC 7.1-3-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) A beer retailer may allow customers to sample beer and flavored malt beverages.**

(b) Sampling is allowed only:

- (1) on the beer retailer's permit premises; and**
- (2) during the beer retailer's regular business hours.**

(c) A beer retailer may not charge for samples provided to the customers.

(d) A sample size of beer or flavored malt beverage may not exceed six (6) ounces.

SECTION 10. IC 7.1-3-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

(b) A liquor wholesaler shall be entitled to purchase liquor within this state from a person who holds a distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A liquor wholesaler also may purchase liquor outside this state from the primary source of supply and, from that source, may transport and import liquor into this state.

(c) A liquor wholesaler may sell, transport, and deliver liquor only to a person who, under this title, holds a:

- (1) liquor retailer's permit;
- (2) supplemental caterer's permit;
- ~~(3) supplemental retailer's permit;~~
- ~~(4)~~ **(3)** liquor dealer's permit; or
- ~~(5)~~ **(4)** liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.



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SECTION 11. IC 7.1-3-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A liquor retailer may allow customers to sample the following:

- (1) Beer.
- (2) Flavored malt beverage.**
- ~~(2)~~ **(3) Wines.**
- ~~(3)~~ **(4) Liquors.**
- ~~(4)~~ **(5) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).**
- (b) Sampling is permitted only:
 - (1) on the liquor retailer's permit premises; and
 - (2) during the permittee's regular business hours.
- (c) A liquor retailer may not charge for the samples provided to customers.
- (d) Sample size of wines may not exceed one (1) ounce.
- (e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:
 - (1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per day.
 - (2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.
 - (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
- (f) A sample size of beer may not exceed six (6) ounces.
- (g) A sample size of flavored malt beverage may not exceed six (6) ounces.**

SECTION 12. IC 7.1-3-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:

- (1) Beer.
- (2) Flavored malt beverage.**
- ~~(2)~~ **(3) Wines.**
- ~~(3)~~ **(4) Liquors.**
- ~~(4)~~ **(5) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).**
- (b) Sampling is permitted:
 - (1) only on the package liquor store permit premises; and
 - (2) only during the store's regular business hours.
- (c) No charge may be made for the samples provided to the customers.
- (d) Sample size of wines may not exceed one (1) ounce.
- (e) In addition to the other provisions of this section, a proprietor



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who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

- (1) A proprietor may allow a customer to sample not more than a combined total of two (2) liquor, liqueur, or cordial samples per day.
- (2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.
- (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
- (f) Sample size of beer may not exceed six (6) ounces.

(g) Sample size of flavored malt beverage may not exceed six (6) ounces.

SECTION 13. IC 7.1-3-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
- (2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;
- (3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
- (4) is entitled to sell 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;
- (6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;
- (7) for wine described in IC 7.1-1-2-3(a)(4):
 - (A) may allow transportation to and consumption of the wine on the licensed premises; and
 - (B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; ~~and~~
- (8) is entitled to purchase and sell bulk wine as set forth in this chapter; **and**
- (9) is entitled to sell wine as authorized by this section for carryout on Sunday.**

(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

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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 for more than nine (9) days in a calendar year.

SECTION 14. IC 7.1-3-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, ~~a supplemental retailer~~, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, ~~a supplemental retailer's permit~~, or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time.

(b) As used in this section, "brandy" means:

- (1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or
- (2) a beverage product that:
 - (A) is prepared from a liquid described in subdivision (1);
 - (B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and
 - (C) meets the following requirements:
 - (i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).
 - (ii) The product's label makes no reference to any distilled spirit other than brandy.
 - (iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.
 - (iv) The product contains dairy cream.
 - (v) The product's sugar, dextrose, or levulose content is at

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least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

- (1) hold a beer wholesaler's permit under IC 7.1-3-3;
- (2) possess, sell, or transport beer; or
- (3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

SECTION 15. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as a clerk in a package liquor store or as a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an

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employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) An applicant is not entitled to an employee's permit if:

(1) the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole;

(2) the applicant has:

(A) more than one (1) but less than three (3) unrelated convictions:

(i) for operating while intoxicated; **and**

(ii) **that occurred not more than ten (10) years before the date of the applicant's application for the permit; and**

(B) **less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated, including any term of probation or parole or not more than two (2) years before the date of the applicant's application for the permit.**

~~(3)~~ **If the applicant has at least three (3) unrelated convictions for operating while intoxicated, the applicant may apply to the commission for an employee's permit. The commission has the discretion to grant or deny the issuance of the permit.**

(g) The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee becomes ineligible for the issuance of an employee's permit under subsection (f).

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

SECTION 16. IC 7.1-3-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The commission may issue a temporary bartender's permit to any person who is at least twenty-one (21) years of age for any of the following purposes:

(1) To be a bartender at any activity or event for which a temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16 (wine).

(2) To be a bartender at a nonprofit club for a maximum of four (4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary

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bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is ~~four~~ **five** dollars ~~(\$4)~~ **(\$5)**.

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 17. IC 7.1-3-18.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.

(2) A fee of ~~fifty dollars (\$50)~~ **two hundred dollars (\$200)**.

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 18. IC 7.1-3-18.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

(1) The certificate number.

(2) The certificate holder's name.

(3) The permanent location of the business or vending machine for which the certificate is issued.

(4) The expiration date of the certificate.

(b) A certificate is:

(1) valid for ~~one (1) year~~ **three (3) years** after the date of issuance, unless the commission suspends the certificate; and

(2) nontransferable.

SECTION 19. IC 7.1-3-18.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) As used in this section, "tobacco retailer" means a person who sells or otherwise distributes tobacco products at retail.**



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(b) A person who sells or distributes tobacco products to a tobacco retailer who does not hold a valid tobacco sales certificate issued by the commission commits a Class A infraction.

(c) Each violation of this section constitutes a separate offense.

SECTION 20. IC 7.1-3-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~Publication of Notice of Investigation.~~ The commission shall cause ~~two (2) notices~~ **one (1) notice** of the pending investigation to be published in a newspaper in accordance with the provisions of IC ~~1971~~, 7.1-3-1-18. The publication of ~~notices~~ **the notice** shall be ~~one (1) calendar week~~ **apart, and the first publication shall be at least fifteen (15) thirty (30)** days before the investigation.

SECTION 21. IC 7.1-3-20-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. ~~(a) This section applies notwithstanding IC 7.1-3-16.5.~~

~~(b)~~ **(a)** This section applies to each holder of a permit issued under section 2, 3, or 4 of this chapter.

~~(c)~~ **(b)** A permit holder may sell alcoholic beverages under the terms of the permit on any twelve (12) Sundays during a calendar year.

~~(d)~~ **(c)** Sales under this section may be made only for on-premises consumption.

SECTION 22. IC 7.1-3-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The commission may issue a three-way permit for the sale of alcoholic beverages to the proprietor of a restaurant which is located outside the corporate limits of an incorporated city or town if the restaurant meets the additional requirements:

(1) It shall be a table service restaurant in which a patron is seated at a table and is served by a waiter or waitress and the food served is predominantly consumed on the premises.

(2) It shall be sufficiently served by adequate law enforcement at its premises.

(3) If it does business during seven (7) or more months of each year, it shall have had an annual gross food sales of at least one hundred thousand dollars (\$100,000) for the three (3) years immediately preceding its application for a permit unless the permittee is the proprietor of a recreational facility such as a golf course, bowling center, or similar facility ~~to which IC 7.1-3-16.5-2(c) applies.~~ **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**

(4) If it does business during six (6) or fewer months of each year,

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it shall have had average monthly gross food sales of at least eight thousand five hundred dollars (\$8,500) for each month it did business for the three (3) years immediately preceding its application for a permit.

SECTION 23. IC 7.1-3-20-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. Notwithstanding sections 12 and 13 of this chapter, ~~IC 7.1-3-16.5-2(c); and IC 7.1-3-16.5-3(c);~~ there is no annual or monthly gross food sales requirement to obtain a three-way permit ~~or a supplemental retailer's permit~~ for the sale of alcoholic beverages in a restaurant that is:

- (1) open to the general public; and
- (2) located on:
 - (A) the grounds of a regulation size golf course that has at least nine (9) holes; or
 - (B) the premises of a tennis club that has at least eight (8) regulation size tennis courts.

SECTION 24. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a

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location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

- (1) a town with a population of more than twenty thousand (20,000); or**
- (2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);**

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises

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within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(h) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.
- (2) A county courthouse is located within the district.
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located must adopt an ordinance requesting the commission to issue the permit to the applicant. An applicant may not be the holder of a permit to sell alcoholic beverages that is subject to IC 7.1-3-22 and is for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred to another location. Nothing in this subsection affects or restricts an alcoholic beverage permit issued before July 1, 2005."

Page 5, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 26. IC 7.1-3-23-43 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 43. (a) The commission may suspend the permit of a permit holder if:**

- (1) the permit holder has not paid the person who sold the

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permit to the permit holder in accordance with the terms of the sale;

(2) the seller of the permit receives a judgment against the permit holder in an action to obtain payment for the permit in accordance with the terms of the sale; and

(3) the seller of the permit sends a certified copy of the judgment to the commission.

(b) Before suspending a certificate under this section, the commission shall provide written notice to the permit holder and conduct a hearing. The commission shall provide written notice of the suspension to the permit holder.

(c) If a person who sells a permit:

(1) sends a judgment to the commission under subsection (a); and

(2) subsequently receives full payment of the judgment;

the seller shall notify the commission in a manner prescribed by the commission that the seller has received full payment of the judgment not later than ten (10) days after receiving the payment.

SECTION 27. IC 7.1-3-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 25. Product Transfer Between Wholesalers

Sec. 1. As used in this chapter, "existing wholesaler" means a beer wholesaler who distributes a product at the time a successor primary source of supply acquires rights to a product under section 5 of this chapter.

Sec. 2. As used in this chapter, "product" means an existing brand of:

(1) beer (as defined in IC 7.1-1-3-6); or

(2) flavored malt beverage (as defined in IC 7.1-1-3-16.7).

Sec. 3. As used in this chapter, "successor" means a primary source of supply that acquires rights to a product under section 5 of this chapter.

Sec. 4. As used in this chapter, "successor's designee" means one (1) or more beer wholesalers designated by a successor to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing product.

Sec. 5. A successor:

(1) who acquires the rights to manufacture or distribute an existing product; and

(2) who:

(A) does not reappoint the existing wholesaler to distribute

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the product;

(B) reduces the existing wholesaler's territory for the product; or

(C) offers to compensate the existing wholesaler in an amount less than the fair market value determined under section 7 of this chapter;

must comply with this chapter. A successor's designee must also comply with this chapter.

Sec. 6. The successor shall notify the existing wholesaler of the successor's intent not to appoint the existing wholesaler for all or a part of the existing wholesaler's territory for the product. The successor shall mail the notice by certified mail, return receipt requested, to the existing wholesaler. The successor shall include in the notice the names, addresses, and telephone numbers of the successor's designees.

Sec. 7. A successor's designee shall negotiate with the existing wholesaler to determine the fair market value of the existing wholesaler's right:

(1) to distribute the product in the existing wholesaler's territory immediately before the successor acquired rights to the product under section 5 of this chapter; and

(2) as determined in an arms length transaction entered into without duress or threat of termination of the initial wholesaler's right described in subdivision (1).

Sec. 8. The existing wholesaler shall continue to distribute the product until payment of the compensation agreed to under section 7 of this chapter or awarded under section 11 of this chapter is received.

Sec. 9. (a) The successor's designee and the existing wholesaler shall negotiate in good faith. If the parties fail to reach an agreement not later than thirty (30) days after the existing wholesaler receives the notice under section 6 of this chapter, the successor's designee or the existing wholesaler may send a written notice to the:

(1) other party; and

(2) American Arbitration Association or its successor in interest;

declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules.

(b) Notice of intent to arbitrate shall be sent, as provided in

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subsection (a), not later than thirty-five (35) days after the existing wholesaler receives notice under section 6 of this chapter. The arbitration proceedings shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party.

Sec. 10. (a) The arbitration shall be conducted in the city within Indiana that:

- (1) is closest to the existing wholesaler; and
- (2) has a population of more than fifty thousand (50,000).

(b) The arbitration shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

Sec. 11. The arbitrator's award must be monetary only and may not enjoin or compel conduct. The arbitration is instead of all other remedies and procedures.

Sec. 12. (a) The cost of the arbitrator and any other direct costs of the arbitration shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(b) The arbitrator shall render a decision not later than thirty (30) days after the conclusion of the arbitration unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator.

(c) A party who fails to participate in the arbitration hearings waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.

Sec. 13. If the existing wholesaler does not receive payment of the compensation under section 7 or 11 of this chapter not later than thirty (30) days after the date of the settlement or arbitration award:

- (1) the existing wholesaler shall remain the distributor of the product in the existing wholesaler's territory to at least the same extent that the existing wholesaler distributed the product immediately before the successor acquired rights to the product; and
- (2) the existing wholesaler is not entitled to the settlement or arbitration award.

Sec. 14. Nothing in this chapter shall be construed to limit or

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prohibit good faith settlements voluntarily entered into by the parties.

Sec. 15. Nothing in this chapter shall be construed to give the existing wholesaler or a successor wholesaler any right to compensation if the existing wholesaler or successor wholesaler is terminated by the primary source of supply or predecessor source supplier either for failure to comply with any provision in the agreement to distribute the product or in accordance with IC 7.1-5-5-9.

SECTION 28. IC 7.1-4-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following biennial license fee is imposed for an employee's permit:

- (1) ~~Five~~ **Fifteen** dollars (~~\$5~~) (**\$15**) if the permit is used only to perform volunteer service that benefits a nonprofit organization.
- (2) Thirty dollars (\$30) if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years.

SECTION 29. IC 7.1-4-4.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] : Sec. 9. (a) This section applies to the following ~~seasonal or annual~~ **biennial** permits:

- (1) Beer retailer's permit.
- (2) Liquor retailer's permit.
- (3) Wine retailer's permit.
- (4) One-way permit.
- (5) Two-way permit.
- (6) Three-way permit.
- (7) Airplane beer permit.
- (8) Airplane liquor permit.
- (9) Airplane wine permit.
- (10) Boat beer permit.
- (11) Boat liquor permit.
- (12) Boat wine permit.
- (13) Dining car beer permit.
- (14) Dining car liquor permit.
- (15) Dining car wine permit.
- (16) Hotel seasonal permit.
- ~~(17) Supplemental retailer's permit.~~

(b) The commission shall charge a single fee for the issuance of any combination of retailer's permits issued for the same location or conveyance. ~~Except as provided in sections 10 and 11 of this chapter, the fee is equal to the sum of the amount determined under subsection (c) and the amount determined under subsection (d).~~

(c) An annual permit fee in the following amount is imposed on a

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retailer:

- (1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars (~~\$250~~); (**\$375**), if the retailer serves only beer or only wine.
- (2) ~~Five hundred~~ **Six hundred twenty-five** dollars (~~\$500~~); (**\$625**), if the retailer serves both beer and wine but no liquor.
- (3) ~~Seven hundred fifty~~ **One thousand three hundred fifty** dollars (~~\$750~~); (**\$1,350**), if the retailer serves beer, wine, and liquor.

(d) ~~An additional fee in the following amount is imposed on a retailer~~

- (1) ~~Two hundred fifty~~ dollars (~~\$250~~); if the retailer under the authority of IC 7.1-3-16.5 sells food and any combination of beer, wine, or liquor on Sunday.
- (2) ~~One thousand five hundred~~ dollars (~~\$1,500~~) if the retailer who is not under the authority of IC 7.1-3-16.5, sells any combination of beer, wine, or liquor on Sunday.

SECTION 30. IC 7.1-4-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following **biennial** permits:

- (1) Beer dealer's permit.
- (2) Liquor dealer's permit.
- (3) Malt dealer's permit.
- (4) Wine dealer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of dealers' permits issued for the same location. The fee is equal to the sum of the amount determined under subsection (c).

(c) An annual permit fee in the following amount is imposed on a dealer:

- (1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars (~~\$250~~); (**\$375**), if the dealer sells only beer, only liquor, or only wine.
- (2) ~~Five hundred~~ **Six hundred twenty-five** dollars (~~\$500~~); (**\$625**), if the dealer sells:
 - (A) both beer and wine but no liquor;
 - (B) both wine and liquor but no beer; or
 - (C) both beer and liquor but no wine.
- (3) ~~Seven hundred fifty~~ **One thousand three hundred fifty** dollars (~~\$750~~); (**\$1,350**), if the dealer sells beer, wine, and liquor.

SECTION 31. IC 7.1-4-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), the chairman and the department shall deposit the money collected under sections 1, 2, and 3 of this chapter

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daily with the treasurer of state, and not later than the fifth day of the following month shall cover: ~~them~~

- (1) thirty-four percent (34%) of the money collected under section 1 of this chapter into the enforcement and administration fund established under IC 7.1-4-10-1; and**
- (2) sixty-six percent (66%) of the money collected under section 1 of this chapter and money collected under sections 2 and 3 of this chapter into the state general fund of state for state general fund purposes.**

(b) The chairman and the department shall deposit ~~the~~ **all** money collected under IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5, IC 7.1-3-17.7, IC 7.1-3-22-9, and IC 7.1-4-4.1-5 daily with the treasurer of state, and not later than the fifth day of the following month shall cover ~~them~~ **the money** into the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 32. IC 7.1-4-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Collection of Annual License Fees.~~ The chairman shall collect the required annual license fee paid in connection with the issuance of a beer retailer's permit, a beer dealer's permit, a liquor retailer's permit, a supplemental caterer's permit, a liquor dealer's permit, a wine retailer's permit, and a wine dealer's permit. ~~and a supplemental retailer's permit.~~

SECTION 33. IC 7.1-4-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Fees Deposited in Excise Fund.~~ **(a) Except as provided in subsection (b),** the chairman shall deposit the monies collected under the authority of this chapter daily with the treasurer of the state, and not later than the fifth day of the following month shall cover them into the "excise fund" to be distributed as provided in this chapter.

(b) The chairman shall deposit the money received from the collection of the fees for a three-way permit under IC 7.1-3-20-16(g) daily with the treasurer of state, and not later than the fifth day of the following month shall transfer the money into the enforcement and administration fund of the commission under IC 7.1-4-11.

SECTION 34. IC 7.1-4-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Distribution to State General Fund.~~ ~~Thirty-three and one-third percent (33 1/3%)~~ **Twenty-five percent (25%)** of the monies ~~money~~ in the excise fund shall be deposited in the state general fund on the first day of June and the first day of December of each year.

SECTION 35. IC 7.1-4-9-7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~Distribution to Cities and Towns: Sixty-six and two-thirds percent (66 2/3%)~~ **Twenty-five percent (25%)** of the ~~monies~~ **money** in the excise fund shall, upon warrant of the state auditor, be paid into the general fund of the treasury of the city or town in which the retailer's or dealer's licensed premises are located. The money shall be paid to the treasurer of the county in which the retailer's or dealer's premises are located if they are located outside the corporate limits of a city or town.

SECTION 36. IC 7.1-4-9-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. Fifty percent (50%) of the money in the excise fund shall be deposited in the enforcement and administration fund under IC 7.1-4-10 on the first day of June and the first day of December of each year.**

SECTION 37. IC 7.1-4-11-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. The chairman shall deposit the money received from the collection of the fees for a three-way permit under IC 7.1-3-20-16(g) daily with the treasurer of state, and not later than the fifth day of the following month shall transfer the money into the enforcement and administration fund.**

SECTION 38. IC 7.1-5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom ~~he~~ **the permittee** is not authorized to sell under this title.

(b) A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.

(c) This section does not apply to the holder of an excursion and adjacent landsite permit that complies with IC 7.1-3-17.5-6.

(d) Notwithstanding subsection (a), a beer wholesaler may offer a special discount price to a beer dealer or beer retailer for beer or flavored malt beverage, if the beer or flavored malt beverage:

(1) is a brand or package the beer wholesaler has discontinued; or

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(2) will expire in not more than:

(A) twenty (20) days for packaged beer or packaged flavored malt beverage; and

(B) ten (10) days for draft beer or draft flavored malt beverage.

(e) The special discount under subsection (d) only applies to beer or flavored malt beverage that will expire and be subject to removal from retailer or dealer shelves in accordance with the primary source of supply's coding data clearly identified on the container.

(f) Any beer or flavored malt beverage sold at a special discount price under subsection (d) shall be accompanied by an invoice clearly designating, in addition to all other information required by law, all the following information:

(1) The date of delivery.

(2) The expiration date of each brand, package type, and quantity delivered.

(3) The per unit price for each package.

SECTION 39. IC 7.1-5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. ~~Unrequitable Termination of Contract Prohibited.~~ It is unlawful for a beer wholesaler or a brewer in this state; or a brewer or other person located outside this state who sells beer to a permittee in this state for the purpose of importation and resale within this state **primary source of supply** to:

(1) coerce, or attempt to coerce, or persuade a beer wholesaler to enter into an agreement, or to take an action, which will violate, or tend to violate, a provision of this title or of the rules and regulations of the commission; or

(2) cancel or terminate an agreement or contract between a beer wholesaler and a ~~brewer~~ **primary source of supply** for the sale of beer, unfairly and without due regard for the equities of the other party.

SECTION 40. IC 7.1-5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in ~~subsection~~ **subsections (c) and (d)**, it is unlawful for a manufacturer of alcoholic beverages or a permittee authorized to sell and deliver alcoholic beverages to:

(1) give, supply, furnish, or grant to another permittee who purchases alcoholic beverages from him a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, lease, or rental of premises; or

(2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have

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a business dealing with the other permittee.

(b) This section shall not apply to the sale and delivery and collection of the sale price of an alcoholic beverage in the ordinary course of business.

(c) If the promotional program is approved under the rules adopted by the commission and is conducted in all wholesaler establishments through which the manufacturer distributes alcoholic beverages in Indiana, a manufacturer of alcoholic beverages may award bona fide promotional prizes and awards to any of the following:

- (1) A person with a wholesaler's permit issued under IC 7.1-3.
- (2) An employee of a person with a wholesaler's permit issued under IC 7.1-3.

(d) A manufacturer may offer on a nondiscriminatory basis bona fide incentives to wholesalers when the incentives are determined based on sales to retailers or dealers occurring during specified times for specified products. The incentive may be conditioned on the wholesaler selling a:

- (1) specified product at a specified price or less than a specified price; or**
- (2) minimum quantity of a specified product to a single customer in a single transaction.**

The incentive may not be conditioned on a wholesaler having total sales of a minimum quantity of a specified product during the applicable period.

SECTION 41. IC 7.1-5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.

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- (14) Satellite facility (as defined in IC 4-31-2-20.5).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.
- (19) A recreational facility such as a golf course, bowling center, or similar facility ~~to which IC 7.1-3-16.5-2(c) applies~~; **that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.**
- (20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).
- (21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

- (1) The minor is eighteen (18) years of age or older.
- (2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
- (3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages."

Page 6, between lines 18 and 19, begin a new paragraph and insert:
 "SECTION 43. IC 7.1-5-8-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A person who:**

- (1) purchases;**
- (2) offers for sale; or**
- (3) possesses;**

an alcohol vaporizing device or vaporized alcohol commits possession, sale, or purchase of vaporized alcohol or vaporized alcohol paraphernalia, a Class A infraction.

(b) A person who:

- (1) knowingly or intentionally violates subsection (a); and**
- (2) has a prior unrelated judgment or conviction under this section;**

commits a Class A misdemeanor.

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SECTION 44. IC 7.1-3-16.5 REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 45. [EFFECTIVE JULY 1, 2005] **IC 7.1-5-8-11, as added by this act, applies only to acts committed after June 30, 2005.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 382 as reprinted February 23, 2005.)

ALDERMAN, Chair

Committee Vote: yeas 9, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 18, line 27, delete "ten (10)" and insert "**five (5)**".

Page 18, delete lines 41 through 42.

Page 19, line 1, delete "issue the permit to the applicant".

Page 19, line 5, delete "to".

Page 19, line 6, delete "another location." and insert "**. The fee for an initial license under this subsection shall be ten thousand dollars (\$10,000), and the renewal fee for a license under this subsection shall be two thousand dollars (\$2,000). The fees accrued under this subsection shall be deposited into the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.**".

(Reference is to ESB 382 as printed April 1, 2005.)

ALDERMAN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 31, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 47. [EFFECTIVE UPON PASSAGE] (a) The alcohol and tobacco commission shall adopt a definition of "grocery store"



for purposes of administering IC 7.1-3, as amended by this act, before January 31, 2006.

(b) This SECTION expires December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed April 1, 2005.)

ALDERMAN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 19, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 25. IC 7.1-3-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

- (1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9** that are due currently;
- (2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9** for the assessment periods during which the transferor held the permit; or
- (3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

- (1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9** that were delinquent have been paid.
- (2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 **and innkeeper's tax under IC 6-9** have been paid for the assessment periods during which the transferor held the permit.

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(3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's delinquent tax liability has been satisfied.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission shall allow the applicant to certify, under the penalties for perjury, that the applicant is not delinquent in filing returns or remitting taxes."

Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed April 1, 2005.)

WHETSTONE

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 23, line 36, delete "Three hundred seventy-five" and insert "**Five hundred**".

Page 23, line 37, delete "\$375," and insert "**(\$500)**".

Page 23, line 38, delete "Six hundred twenty-five" and insert "**Seven hundred fifty**".

Page 23, line 38, delete "\$625," and insert "**(\$750)**".

Page 23, line 40, delete "One thousand three hundred fifty" and insert "**One thousand**".

Page 23, line 41, delete "\$1,350," and insert "**(\$1,000)**".

Page 24, line 21, delete "Three hundred seventy-five" and insert "**Five hundred**".

Page 24, line 22, delete "\$375," and insert "**(\$500)**".

Page 24, line 24, delete "Six hundred twenty-five" and insert "**Seven**".



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hundred fifty".

Page 24, line 24, delete "\$625," and insert "**(\$750)**,".

Page 24, line 29, delete "One thousand three hundred fifty" and insert "**One thousand**".

Page 24, line 30, delete "\$1,350," and insert "**(\$1,000)**,".

(Reference is to ESB 382 as printed April 1, 2005.)

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