



Reprinted
February 3, 2006

HOUSE BILL No. 1250

DIGEST OF HB 1250 (Updated February 2, 2006 3:25 pm - DI 87)

Citations Affected: IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-5; IC 24-3; IC 35-46; noncode.

Synopsis: Alcohol beverage matters. Requires that the provisions of the alcohol and tobacco law be strictly construed and that the words used in the law be interpreted according to their literal meanings. Defines "grocery store". Allows the alcohol and tobacco commission (ATC) to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Allows a person at least 18 years of age and under 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Provides that the ATC has certain powers regarding enforcement of the tobacco laws. Makes changes to the cigarette fair trade act. Requires a local alcoholic beverage board to allow an individual to make oral comments at a public meeting or hearing. Requires: (1) a liquor dealer, beginning January 1, 2007, to display liquor in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age unless the liquor dealer meets certain requirements; and (2) dealer permittees to have at least one employee who holds an employee's permit and, beginning January 1, 2007,
(Continued next page)

Effective: Upon passage; July 1, 2006.

Messer, Stutzman, Burton

(SENATE SPONSOR — LANDSKE)

January 10, 2006, read first time and referred to Committee on Public Policy and Veterans Affairs.

January 25, 2006, amended, reported — Do Pass.

January 30, 2006, read second time, amended, ordered engrossed.

January 31, 2006, engrossed.

February 2, 2006, read third time, recommitted to Committee of One, amended; passed. Yeas 68, nays 27.

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ensure that a sales clerk working on the license premises receives training. Provides that the ATC may adopt rules to implement these requirements. Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (1) the first conviction occurred less than ten years before the date of the permit application; and (2) the individual completed the sentence for the second conviction less than two years before the permit application. Provides that if an individual has at least three convictions for operating while intoxicated and the individual completed the sentence for the last conviction more than ten years before the permit application, the individual may apply to the ATC for a permit, but the commission may grant or deny the application. Provides for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. Provides that an alcoholic beverage permit of any type may not be issued to an entity that is not domiciled or admitted to do business in Indiana. Allows a holder of an alcoholic beverage permit to sell or offer to sell an alcoholic beverage on credit to an individual who does not hold an alcoholic beverage permit. Provides that any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages. Provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the commission or the law. Requires the ATC to issue a permit to the state fair commission. Allows for three new alcoholic permits within a district in an economic development area with a unit of the National Park Service partially located within the district, and with an international deep water seaport located within the district. Requires the legislative body of the municipality in the district to recommend sites for the permits. Provides that the permits cost \$6,000. Allows for extended time for alcohol sales on New Years Eve if New Years eve falls on a Sunday. Defines as a club an association or corporation in a consolidated city that has been in existence for 25 years, held a bingo licence for ten years, and does not allow persons under the age of 18 to be members, guests, or workers. Creates the interim study committee on alcoholic beverage issues. Makes it a Class C infraction for a licensed premises to furnish an alcoholic beverage to a minor and increases the penalty for subsequent violations. Repeals provisions that: (1) require an individual, partnership, corporation, limited partnership, or limited liability company to meet Indiana residency requirements to obtain a retailer's, dealer's or wholesaler's permit; (2) prohibit the issuance of a retailer's, dealer's, or wholesaler's permit to a partnership unless each member of the partnership possesses the same qualifications required of an individual permit applicant; and (3) exempt certain entities from the Indiana residency requirement.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1250

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 7.1-1-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction:~~ (a)
3 This title is an exercise of the police powers of the state.
4 (b) The classifications and differentiations made in this title are real
5 and are actually and substantially related to the accomplishment of the
6 purposes of this title.
7 (c) The provisions of this title **and rules adopted under this title**
8 shall be ~~liberally construed so as to effectuate the purposes of this title:~~
9 **strictly construed. The words used in this title and rules adopted**
10 **under this title shall be interpreted according to their literal**
11 **meanings.**
12 (d) **In accordance with IC 1-1-1-8, if any provision of this title**
13 **is held to be invalid or unconstitutional, it is the intention of the**
14 **state that the remaining provisions of this title shall be construed**
15 **to:**
16 (1) **further limit rather than expand commerce in alcoholic**
17 **beverages; and**

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1 (2) maintain a transparent and accountable three (3) tier
2 system of alcoholic beverage distribution by a person with a
3 substantial presence in Indiana.

4 SECTION 2. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2006]: Sec. 18.5. (a) "Grocery store" means
7 a store or a part of a store that:

- 8 (1) has the primary North American Industry Classification
- 9 System (NAICS) classification 445110 or 452910; and
- 10 (2) is primarily engaged in the retail sale of a general food
- 11 line, which may include:

- 12 (A) canned and frozen foods;
- 13 (B) dry goods, including tea, coffee, sugar, and flour;
- 14 (C) fresh fruits and vegetables; and
- 15 (D) fresh and prepared meats.

16 (b) The term does not include a store that has less than two
17 hundred fifty thousand dollars (\$250,000) in annual gross sales of
18 food, excluding the following:

- 19 (1) Candy, confectionaries, and chewing gum.
- 20 (2) Alcoholic beverages.
- 21 (3) Cocktail mixers.
- 22 (4) Soft drinks, sodas, and other similar beverages.
- 23 (5) Medicines, tonics, vitamins, and other dietary
- 24 supplements.
- 25 (6) Water (except natural spring water), mineral water,
- 26 carbonated water, and ice.
- 27 (7) Pet food.
- 28 (8) Food furnished, prepared, or served for consumption at a
- 29 location, or on equipment, provided by the retail merchant.
- 30 (9) Meals served by a retail merchant off the merchant's
- 31 premises.
- 32 (10) Food sold by a retail merchant who ordinarily bags,
- 33 wraps, or packages the food for immediate consumption on or
- 34 near the merchant's premises, including food sold on a "take
- 35 out" or "to go" basis.
- 36 (11) Food sold through a vending machine.
- 37 (12) Tobacco products.

38 SECTION 3. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2006]: Sec. 40.5. "Sales clerk" means a
41 person who:

- 42 (1) rings up; or

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1 **(2) otherwise records;**
 2 **an alcoholic beverage sale in the course of the person's employment**
 3 **in a dealer establishment.**
 4 SECTION 4. IC 7.1-2-4-24 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2006]: **Sec. 24. A local board shall allow all individuals attending**
 7 **a public local board meeting or hearing to make oral comments at**
 8 **the meeting or hearing regarding the subject of the meeting or**
 9 **hearing. However, a local board may set a reasonable limit on the**
 10 **amount of time allowed to each individual to provide oral**
 11 **comment.**
 12 SECTION 5. IC 7.1-2-5-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2006]: ~~Sec. 4. Disposition of~~
 14 ~~Articles Pending Judgment:~~ An alcoholic beverage **or tobacco** seized
 15 pursuant to this chapter and any other article which may be found on
 16 the searched premises and taken under the warrant shall not be taken
 17 from the custody of the person who served the warrant by a writ of
 18 replevin or other process while the proceedings provided in this chapter
 19 are pending. A final judgment of conviction in that proceeding shall be
 20 a bar in all cases to an action for recovery of the thing seized or the
 21 value of it or damages alleged to have arisen by reason of the seizing
 22 and detention of it.
 23 SECTION 6. IC 7.1-2-5-5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2006]: ~~Sec. 5. Property Rights~~
 25 ~~Limited:~~ All rights of any kind in an alcoholic beverage **or a tobacco**
 26 **product** of any type, or in a container for an alcoholic beverage, or in
 27 an article, apparatus, package, fixture or utensil in which an alcoholic
 28 beverage may be placed, or which is used in connection with it, or a
 29 vehicle or conveyance in which an alcoholic beverage is being
 30 transported or which is used for the transportation of an alcoholic
 31 beverage, shall at all times and under all circumstances by whomsoever
 32 held, owned, or possessed, be deemed qualified by the right of the
 33 state, the commission, and the chairman, to administer, execute and
 34 enforce the provisions of this title.
 35 SECTION 7. IC 7.1-2-5-6 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2006]: ~~Sec. 6. Certain Property~~
 37 ~~Rights Prohibited:~~ A person shall have no property right of any kind in
 38 alcohol, an alcoholic beverage, or malt article, **or tobacco product**
 39 had, kept, transported, or possessed contrary to law, or in or to a
 40 receptacle or container of any kind in which these liquids and articles
 41 may be found, or in an unlawful or prohibited receptacle or container,
 42 or in a receptacle or container which does not conform to or which is

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1 being used contrary to or which is not kept in conformity to a rule or
 2 regulation of the commission, or which is being used to contain an
 3 alcoholic beverage upon which a tax is due and unpaid, or an
 4 adulterated or misbranded alcoholic beverage, or which is being used
 5 in an unlawful practice, or a practice contrary to a rule or regulation of
 6 the commission.

7 SECTION 8. IC 7.1-2-5-7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. ~~Illegal~~
 9 ~~Transportation: Property Rights Limited.~~ A person who is interested in
 10 illegal transportation, or who has knowledge of it, shall have no right,
 11 title, or interest in or to a conveyance of any kind used for the illegal
 12 transportation of alcohol, alcoholic beverages, ~~or~~ malt articles, **or**
 13 **tobacco.**

14 SECTION 9. IC 7.1-2-5-8 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~Forfeiture to State.~~
 16 An officer who makes an arrest for a violation of the provisions of this
 17 title shall seize the evidence of the commission of that violation,
 18 including any vehicle, automobile, boat, air or water craft, or other
 19 conveyance in which alcohol, alcoholic beverages or malt articles are
 20 kept, possessed or transported contrary to law, or contrary to a rule or
 21 regulation of the commission. The articles and vehicles mentioned in
 22 this section and in ~~IC 1971, 7.1-2-5-5, 7.1-2-5-7, IC 7.1-2-5-5 through~~
 23 **IC 7.1-2-5-7**, are hereby declared forfeited to the state and shall be
 24 seized.

25 SECTION 10. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005,
 26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee,
 28 unless otherwise specifically provided in this title, to sell alcoholic
 29 beverages each day Monday through Saturday from 7 a.m., prevailing
 30 local time, until 3 a.m., prevailing local time, the following day. Sales
 31 shall cease wholly on Sunday at 3 a.m., prevailing local time, and not
 32 be resumed until the following Monday at 7 a.m., prevailing local time.

33 (b) It is lawful for the holder of a retailer's permit to sell the
 34 appropriate alcoholic beverages for consumption on the licensed
 35 premises only on Sunday from 10 a.m., prevailing local time, until
 36 12:30 a.m., prevailing local time, the following day.

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

- 40 (1) are described in section 25(a) of this chapter;
 41 (2) are a facility used in connection with the operation of a paved
 42 track more than two (2) miles in length that is used primarily in

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1 the sport of auto racing; or
2 (3) are being used for a professional or an amateur tournament;
3 beginning one (1) hour before the scheduled starting time of the event
4 or, if the scheduled starting time of the event is 1 p.m. or later,
5 beginning at noon.

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

9 **(e) Notwithstanding subsection (b), if December 31 (New Year's**
10 **Eve) is on a Sunday, it is lawful for the holder of a retailer's permit**
11 **to sell the appropriate alcoholic beverages on Sunday, December**
12 **31 from the time provided in subsection (b) until 3 a.m. the**
13 **following day.**

14 SECTION 11. IC 7.1-3-1-25 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county
16 listed in this subsection that by itself or in combination with any other
17 municipal body acquires by ownership or by lease any stadium,
18 exhibition hall, auditorium, theater, convention center, or civic center
19 may permit the retail sale of alcoholic beverages upon the premises if
20 the governing board of the facility first applies for and secures the
21 necessary permits as required by this title. The cities and counties to
22 which this subsection applies are as follows:

- 23 (1) A consolidated city or its county.
- 24 (2) A city of the second class.
- 25 (3) A county having a population of more than one hundred
- 26 eighty-two thousand seven hundred ninety (182,790) but less than
- 27 two hundred thousand (200,000).
- 28 (4) A county having a population of more than one hundred
- 29 seventy thousand (170,000) but less than one hundred eighty
- 30 thousand (180,000).
- 31 (5) A county having a population of more than one hundred thirty
- 32 thousand (130,000) but less than one hundred forty-five thousand
- 33 (145,000).
- 34 (6) A county having a population of more than three hundred
- 35 thousand (300,000) but less than four hundred thousand
- 36 (400,000).
- 37 (7) A city having a population of more than five thousand one
- 38 hundred thirty-five (5,135) but less than five thousand two
- 39 hundred (5,200).
- 40 (8) A county having a population of more than one hundred
- 41 twenty thousand (120,000) but less than one hundred thirty
- 42 thousand (130,000).

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1 (9) A county having a population of more than one hundred eighty
 2 thousand (180,000) but less than one hundred eighty-two
 3 thousand seven hundred ninety (182,790).
 4 (b) A county having a population of more than four hundred
 5 thousand (400,000) but less than seven hundred thousand (700,000) or
 6 a township located in such a county that has established a public park
 7 with a golf course within its jurisdiction under IC 36-10-3 or
 8 IC 36-10-7 may be issued a permit for the retail sale of alcoholic
 9 beverages on the premises of any community center within the park,
 10 including a clubhouse, social center, or pavilion.
 11 (c) A township that:
 12 (1) is located in a county having a population of more than one
 13 hundred five thousand (105,000) but less than one hundred ten
 14 thousand (110,000); and
 15 (2) acquires ownership of a golf course;
 16 may permit the retail sale of alcoholic beverages upon the premises of
 17 the golf course, if the governing board of the golf course first applies
 18 for and secures the necessary permits required by this title.
 19 (d) A township:
 20 (1) having a population of more than thirty-five thousand (35,000)
 21 but less than one hundred thousand (100,000); and
 22 (2) located in a county having a population of more than four
 23 hundred thousand (400,000) but less than seven hundred thousand
 24 (700,000);
 25 may be issued a permit for the retail sale of alcoholic beverages on the
 26 premises of any community center or social center that is located
 27 within the township and operated by the township.
 28 (e) A city that
 29 (1) has a population of:
 30 (A) more than fifty-nine thousand seven hundred (59,700) but
 31 less than sixty-five thousand (65,000); or
 32 (B) more than forty-six thousand five hundred (46,500) but
 33 less than fifty thousand (50,000); and
 34 (2) owns a golf course
 35 may permit the retail sale of alcoholic beverages upon the premises of
 36 the golf course if the governing board of the golf course first applies for
 37 and secures the necessary permits required by this title.
 38 (f) A city that:
 39 (1) has a population of more than thirty-two thousand (32,000)
 40 but less than thirty-two thousand eight hundred (32,800); and
 41 (2) owns or leases a marina;
 42 may permit the retail sale of alcoholic beverages upon the premises of

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1 the marina, if the governing board of the marina first applies for and
2 secures the necessary permits required by this title. The permit may
3 include the carryout sale of alcoholic beverages in accordance with
4 IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29
5 but may not include at-home delivery of alcoholic beverages.

6 (g) A city listed in this subsection that owns a marina may be issued
7 a permit for the retail sale of alcoholic beverages on the premises of the
8 marina. The permit may include the carryout sale of alcoholic
9 beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c),
10 IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home
11 delivery of alcoholic beverages. However, the city must apply for and
12 secure the necessary permits that this title requires. This subsection
13 applies to the following cities:

- 14 (1) A city having a population of more than ninety thousand
15 (90,000) but less than one hundred five thousand (105,000).
- 16 (2) A city having a population of more than seventy-five thousand
17 (75,000) but less than ninety thousand (90,000).
- 18 (3) A city having a population of more than thirty-two thousand
19 eight hundred (32,800) but less than thirty-three thousand
20 (33,000).
- 21 (4) A city having a population of more than thirty-three thousand
22 (33,000) but less than thirty-six thousand (36,000).
- 23 (5) A city having a population of more than twenty-seven
24 thousand (27,000) but less than twenty-seven thousand four
25 hundred (27,400).

26 (h) Notwithstanding subsection (a), the commission may issue a
27 civic center permit to a person that:

- 28 (1) by the person's self or in combination with another person is
29 the proprietor, as owner or lessee, of an entertainment complex;
30 or
- 31 (2) has an agreement with a person described in subdivision (1)
32 to act as a concessionaire for the entertainment complex for the
33 full period for which the permit is to be issued.

34 SECTION 12. IC 7.1-2-3-16 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission
36 shall have the power to regulate and prohibit advertising, signs,
37 displays, posters, and designs intended to advertise an alcoholic
38 beverage or the place where alcoholic beverages are sold.

39 (b) The commission shall not exercise the prohibition power
40 contained in subsection (a), as to any advertisement appearing in a
41 newspaper which:

- 42 (1) is published at least once a week;

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1 (2) regularly publishes information of current news interest to the
2 community; and

3 (3) circulates generally to the public in any part of this state,
4 regardless of where printed.

5 However, a newspaper shall not include publications devoted to special
6 interests such as labor, religious, fraternal, society, or trade
7 publications or journals, or publications owned or issued by political
8 organizations or parties.

9 (c) The commission shall not exercise the prohibition power
10 contained in subsection (a) as to any advertisement broadcast over duly
11 licensed radio and television stations.

12 (d) All advertisements relating to alcoholic beverages, whether
13 published in a newspaper or broadcast over radio or television, shall
14 conform to the rules and regulations of the commission.

15 (e) The commission shall not exercise the prohibition power
16 contained in subsection (a) as to advertising in the official program of
17 the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane
18 Race.

19 (f) Notwithstanding any other law, the commission may not prohibit
20 the use of an illuminated sign advertising alcoholic beverages by brand
21 name that is displayed within the interior or on the exterior of the
22 premises covered by the permit, regardless of whether the sign is
23 illuminated constantly or intermittently. However, it is unlawful for a
24 primary source of supply or a wholesaler of alcoholic beverages to sell,
25 give, supply, furnish, or grant to, or maintain for, a retail or dealer
26 permittee an illuminated advertising sign **in a manner that violates**
27 **the trade practice restrictions of the commission or this title.** It is
28 unlawful for a retail or dealer permittee to receive, accept, display, or
29 permit to be displayed, an illuminated advertising sign sold, given,
30 supplied, furnished, granted, or maintained in violation of this
31 subsection.

32 (g) The commission may not prohibit the advertisement of:
33 (1) alcoholic beverages; or
34 (2) a place where alcoholic beverages may be obtained;
35 in a program, scorecard, handbill, throw-away newspaper, or menu;
36 however, those advertisements must conform to the rules of the
37 commission.

38 SECTION 13. IC 7.1-3-2-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application~~. The
40 commission may issue a brewer's permit to a person who desires to
41 commercially manufacture beer **in Indiana.**

42 SECTION 14. IC 7.1-3-2-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as
2 provided in subsection (b), the commission may issue a brewer's permit
3 only to:

- 4 (1) an individual;
- 5 (2) a partnership ~~all the partners of which are bona fide residents~~
6 **of Indiana; domiciled in or admitted to do business in Indiana;**
- 7 (3) a limited liability company ~~all the members of which are bona~~
8 **fide residents of domiciled in or admitted to do business in**
9 **Indiana; or**
- 10 (4) a corporation ~~organized and existing under the laws of~~
11 **domiciled in or admitted to do business in** Indiana. ~~and having~~
12 ~~authority under its charter to manufacture or sell beer.~~

13 (b) The commission may issue a brewer's permit to a brewer for a
14 brewery that manufactures not more than twenty thousand (20,000)
15 barrels of beer in a calendar year to:

- 16 (1) an individual;
- 17 (2) a partnership ~~organized and existing under the laws of~~
18 **domiciled in or admitted to do business in** Indiana;
- 19 (3) a limited liability company ~~organized and existing under the~~
20 ~~laws of~~ **domiciled in or admitted to do business in** Indiana; or
- 21 (4) a corporation ~~organized and existing under the laws of~~
22 **domiciled in or admitted to do business in** Indiana.

23 SECTION 15. IC 7.1-3-2-7 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a
25 brewer's permit or an out-of-state brewer holding either a primary
26 source of supply permit or an out-of-state brewer's permit may do **only**
27 the following:

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

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by means of:

- (i) bulk containers; or
- (ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

~~(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.~~

~~(8)~~ (7) Provide complimentary samples of beer that are:

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

~~(9)~~ (8) Own a portion of the corporate stock of a sports corporation that:

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

~~(10)~~ (9) For beer described in IC 7.1-1-2-3(a)(4):

- (A) may allow transportation to and consumption of the beer on the licensed premises; and
- (B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

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SECTION 16. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2006]: **Sec. 4. (a) A holder of a beer dealer permit must have at
3 least one (1) employee who:**

- 4 **(1) works on the licensed premises; and**
- 5 **(2) holds an employee's permit under IC 7.1-3-18-9.**
- 6 **(b) Beginning January 1, 2007, a holder of a beer dealer permit**
- 7 **must ensure that a sales clerk working on the licensed premises**
- 8 **receives training approved by the commission and provided by an**
- 9 **employee described in subsection (a).**

10 **(c) The commission may adopt rules under IC 4-22-2 to**
11 **implement this section.**

12 SECTION 17. IC 7.1-3-6-2 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. Persons Eligible for**
14 **Permits:** The commission may issue a temporary beer permit to a
15 person who is qualified to hold a beer retailer's permit and who has
16 such other qualifications as the commission may prescribe by a
17 provisional order until it adopts a rule or regulation on the matter.
18 However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c);~~
19 ~~(h); and (m)~~ and the residency requirements provided in ~~IC 1971,~~
20 ~~7.1-3-21-3;~~ **IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and**
21 **IC 7.1-3-4-2(a)(13)** shall not apply to an applicant for a temporary beer
22 permit.

23 SECTION 18. IC 7.1-3-10-14 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply**
26 **to a package liquor store.**

27 **(b) Beginning January 1, 2007, and except as provided in**
28 **subsection (c), a holder of a liquor dealer permit must display**
29 **liquor for sale in a clearly designated area that forbids the**
30 **presence of a minor unless the minor is accompanied by a parent**
31 **or guardian who is at least twenty-one (21) years of age. Other**
32 **alcoholic beverages may be displayed in a designated area where**
33 **liquor is displayed under this subsection.**

34 **(c) The holder of a liquor dealer permit is not required to**
35 **comply with subsection (b) if the holder of the liquor dealer**
36 **permit:**

- 37 **(1) displays liquor in an area that does not exceed twenty-five**
- 38 **(25) linear feet; and**
- 39 **(2) uses at least one (1) of the following security measures:**
 - 40 **(A) The liquor is displayed behind a retail counter or in a**
 - 41 **locked display case.**
 - 42 **(B) Each bottle of liquor for sale on the licensed premises**

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has a security cap.

(C) The liquor is displayed adjacent to a pharmacy counter.

(d) Liquor may not be displayed within thirty (30) feet of a public entrance of a licensed premises.

(e) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 19. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) This section does not apply to a package liquor store.

(b) A holder of a liquor dealer permit must have at least one (1) employee who:

- (1) works on the licensed premises; and
- (2) holds an employee's permit under IC 7.1-3-18.

(c) Beginning January 1, 2007, a holder of a liquor dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(d) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 20. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A holder of a wine dealer permit must have at least one (1) employee who:

- (1) works on the licensed premises; and
- (2) holds an employee's permit under IC 7.1-3-18.

(b) Beginning January 1, 2007, a holder of a wine dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 21. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:

- (1) a sales clerk in a:
 - (A) drugstore;
 - (B) grocery store; or
 - (C) package liquor store; or as
- (2) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~

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

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

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

- 11 (1) the sole proprietor;
- 12 (2) a partner, a general partner, or a limited partner in a
- 13 partnership or limited partnership that owns the business
- 14 establishment;
- 15 (3) a member of a limited liability company that owns the
- 16 business establishment; or
- 17 (4) a stockholder in a corporation that owns the business
- 18 establishment;

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

21 (e) An applicant may declare on the application form that the
22 applicant will use the employee's permit only to perform volunteer
23 service that benefits a nonprofit organization. It is unlawful for an
24 applicant who makes a declaration under this subsection to use an
25 employee's permit for any purpose other than to perform volunteer
26 service that benefits a nonprofit organization.

27 (f) ~~An applicant is not entitled to~~ **The commission may not issue**
28 ~~an employee's permit if: (1) the~~ **to an applicant while the applicant is**
29 ~~convicted of a crime involving the operation of a motor vehicle~~ **convicted of a crime involving the operation of a motor vehicle,**
30 ~~including any term of probation or parole.~~ **including any term of probation or parole.**

31 ~~(2) the~~

32 **(g) The commission may not issue an employee's permit to an**
33 **applicant who has more than one (1) but less than three (3) two (2)**
34 **unrelated convictions for operating while intoxicated and less than two**
35 **(2) years have elapsed after the applicant completed the applicant's**
36 **sentence for a conviction for operating while intoxicated; including any**
37 **term of probation or parole; or if:**

- 38 **(1) the first conviction occurred less than ten (10) years before**
- 39 **the date of the applicant's application for the permit; and**
- 40 **(2) the applicant completed the sentence for the second**
- 41 **conviction, including any term of probation or parole, less**
- 42 **than two (2) years before the date of the applicant's**

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application for the permit.
~~(3) the~~
(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated, and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit.

~~(g)~~ **(i)** 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):~~ **is convicted of operating while intoxicated after the issuance of the permit.**

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.

(j) This section does not apply to a dining car, boat, or airline employee.

SECTION 22. IC 7.1-3-18.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. An application for a tobacco certificate must contain the express statement of the applicant that the applicant consents for the duration of the certificate term (if the commission issues the certificate to the applicant) to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of the applicant's retail premises and vehicles to determine whether the applicant is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a certificate or the certificate's use by an applicant or the applicant's agents.**

SECTION 23. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: ~~Sec. 1. Clubs: General Requirements:~~ **(a)** In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

- ~~(a)~~ **(1)** It shall have been organized in good faith under authority of law.
- ~~(b)~~ **(2)** It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit

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1 is filed.

2 ~~(c)~~ **(3)** It shall have maintained, in good faith, a membership roll

3 for the three (3) year period.

4 ~~(d)~~ **(4)** It shall have a paid-up membership of more than fifty (50)

5 members at the time the application is filed.

6 ~~(e)~~ **(5)** It shall be the owner, lessee, or occupant of an

7 establishment operated solely for objects of a national, social,

8 patriotic, political, or athletic nature, or the like.

9 ~~(f)~~ **(6)** It shall not be operated for pecuniary gain.

10 ~~(g)~~ **(7)** The property and the advantages of the organization shall

11 belong to its members. ~~and~~

12 ~~(h)~~ **(8)** It shall maintain an establishment provided with special

13 space and ~~accommodations~~ **accommodations** where, in

14 consideration of payment, food, with or without lodging, is

15 habitually served.

16 **(b) An association or a corporation located within a**

17 **consolidated city is considered a club if the association or**

18 **corporation:**

19 **(1) has held an annual bingo license issued by the state for at**

20 **least ten (10) consecutive years;**

21 **(2) has been in existence in Indiana for at least twenty-five**

22 **(25) years;**

23 **(3) does not allow a person less than eighteen (18) years of age**

24 **to be a member, guest, worker, or operator; and**

25 **(4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and**

26 **(a)(8).**

27 SECTION 24. IC 7.1-3-20-16, AS AMENDED BY P.L.155-2005,

28 SECTION 1, AS AMENDED BY P.L.214-2005, SECTION 48, AND

29 AS AMENDED BY P.L.224-2005, SECTION 16, IS CORRECTED

30 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

31 2006]: Sec. 16. (a) A permit that is authorized by this section may be

32 issued without regard to the quota provisions of IC 7.1-3-22.

33 (b) The commission may issue a three-way permit to sell alcoholic

34 beverages for on-premises consumption only to an applicant who is the

35 proprietor, as owner or lessee, or both, of a restaurant facility in the

36 passenger terminal complex of a publicly owned airport which is

37 served by a scheduled commercial passenger airline certified to

38 enplane and deplane passengers on a scheduled basis by a federal

39 aviation agency. A permit issued under this subsection shall not be

40 transferred to a location off the airport premises.

41 (c) The commission may issue a three-way, two-way, or one-way

42 permit to sell alcoholic beverages for on-premises consumption only to

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1 an applicant who is the proprietor, as owner or lessee, or both, of a
2 restaurant within a redevelopment project consisting of a building or
3 group of buildings that:

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

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

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

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

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

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

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

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

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

40 (g) *After June 30, 2005, the commission may issue not more than*
41 *ten (10) new three-way, two-way, or one-way permits to sell alcoholic*
42 *beverages for on-premises consumption to applicants, each of whom*

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1 must be the proprietor, as owner or lessee, or both, of a restaurant
2 located within a district, or not more than five hundred (500) feet from
3 a district, that meets the following requirements:

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

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

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

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

12 The legislative body of the municipality in which the district is located
13 shall recommend to the commission sites that are eligible to be permit
14 premises. The commission shall consider, but is not required to follow,
15 the municipal legislative body's recommendation in issuing a permit
16 under this subsection. An applicant is not eligible for a permit if, less
17 than two (2) years before the date of the application, the applicant sold
18 a retailer's permit that was subject to IC 7.1-3-22 and that was for
19 premises located within the district described in this section or within
20 five hundred (500) feet of the district. A permit issued under this
21 subsection shall not be transferred. The cost of an initial permit issued
22 under this subsection is six thousand dollars (\$6,000).

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

27 (1) a town with a population of more than twenty thousand
28 (20,000); or

29 (2) a city with a population of more than twenty-seven thousand
30 (27,000) but less than twenty-seven thousand four hundred
31 (27,400);

32 located in a county having a population of more than ninety thousand
33 (90,000) but less than one hundred thousand (100,000). The
34 commission may issue not more than five (5) licenses under this section
35 to premises within a municipality described in subdivision (1) and not
36 more than five (5) licenses to premises within a municipality described
37 in subdivision (2). The commission shall conduct an auction of the
38 permits under IC 7.1-3-22-9, except that the auction may be conducted
39 at any time as determined by the commission. Notwithstanding any
40 other law, the minimum bid for an initial license under this subsection
41 is thirty-five thousand dollars (\$35,000), and the renewal fee for a
42 license under this subsection is one thousand three hundred fifty

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1 dollars (\$1,350). Before the district expires, a permit issued under this
2 subsection may not be transferred. After the district expires, a permit
3 issued under this subsection may be renewed, and the ownership of the
4 permit may be transferred, but the permit may not be transferred from
5 the permit premises.

6 **(i) After June 30, 2006, the commission may issue not more than**
7 **three (3) new three-way, two-way, or one-way permits to sell**
8 **alcoholic beverages for on-premises consumption to applicants,**
9 **each of whom must be the proprietor, as owner or lessee, or both,**
10 **of a restaurant located within a district, or not more than five**
11 **hundred (500) feet from a district, that meets all of the following**
12 **requirements:**

- 13 **(1) The district is within an economic development area, an**
14 **area needing redevelopment, or a redevelopment district as**
15 **established under IC 36-7-14.**
- 16 **(2) A unit of the National Park Service is partially located**
17 **within the district.**
- 18 **(3) A international deep water seaport is located within the**
19 **district.**

20 **The legislative body of the municipality in which the district is**
21 **located shall recommend to the commission sites that are eligible**
22 **to be permit premises. The commission shall consider, but is not**
23 **required to follow, the municipal legislative body's**
24 **recommendation in issuing a permit under this subsection. An**
25 **applicant is not eligible for a permit under this subsection if, less**
26 **than two (2) years before the date of the application, the applicant**
27 **sold a retailers' permit that was subject to IC 7.1-3-22 and that was**
28 **for premises located within the district described in this subsection**
29 **or within five hundred (500) feet of the district. A permit issued**
30 **under this subsection may not be transferred. If the commission**
31 **issues ten (10) new permits under this subsection, and a permit**
32 **issued under this subsection is later revoked or is not renewed, the**
33 **commission may issue another new permit, as long as the total**
34 **number of active permits issued under this subsection does not**
35 **exceed ten (10) at any time. The cost of an initial permit issued**
36 **under this section is six thousand dollars (\$6,000).**

37 SECTION 25. IC 7.1-3-21-14 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair:~~
39 **(a) The commission shall not issue a permit for the sale of alcoholic**
40 **beverages on the Indiana state fair grounds to the Indiana state fair**
41 **commission. during the period of the Indiana State Fair.**

42 **(b) The holder of a permit under this section:**

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- 1 (1) is entitled to sell alcoholic beverages by the glass on the
- 2 state fair grounds to consumers;
- 3 (2) is entitled to grant multiple vendors of the state fair
- 4 commission separate permits at different locations on the
- 5 state fair grounds to sell alcoholic beverages by the glass
- 6 under the permit;
- 7 (3) is entitled to receive the permit directly from the
- 8 commission without local board approval;
- 9 (4) is not subject to quota restrictions under IC 7.1-3-22-3;
- 10 and
- 11 (5) is entitled to allow a minor to be present in the places on
- 12 the state fair grounds where alcoholic beverages are sold.

13 (c) The holder of a permit under this section must comply with
 14 the following requirements:

- 15 (1) File a floor plan of the premises where alcoholic beverages
- 16 will be served and consumed.
- 17 (2) Provide that service of alcoholic beverages may be
- 18 performed only by servers certified under IC 7.1-3-1.5.
- 19 (3) Allow sales during the times prescribed under
- 20 IC 7.1-3-1-14.
- 21 (4) Prohibit sales prohibited under IC 7.1-5-10-1 and
- 22 IC 7.1-5-10-17.
- 23 (5) Operate under rules adopted by the commission to protect
- 24 the public interest under IC 7.1-1-1.

25 SECTION 26. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2006]: Sec. 16. The commission shall conduct random
 28 unannounced inspections at locations where alcoholic beverages
 29 are sold or distributed to ensure compliance with this title. Only
 30 the commission, an Indiana law enforcement agency, the office of
 31 the sheriff of a county, or an organized police department of a
 32 municipal corporation may conduct the random unannounced
 33 inspections. These entities may use retired or off-duty law
 34 enforcement officers to conduct inspections under this section.

35 SECTION 27. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 17. (a) Notwithstanding any other law, an
 38 enforcement officer vested with full police powers and duties may
 39 engage a person who is:

- 40 (1) at least eighteen (18) years of age; and
- 41 (2) less than twenty-one (21) years of age;
- 42 to receive or purchase alcoholic beverages as part of an

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1 enforcement action under this article.

2 (b) The initial or contemporaneous receipt or purchase of an
3 alcoholic beverage under this section by a person described in
4 subsection (a) must:

5 (1) occur under the direction of an enforcement officer vested
6 with full police powers and duties; and

7 (2) be a part of the enforcement action.

8 SECTION 28. IC 7.1-5-10-12 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. ~~Credit Sales~~
10 ~~Prohibited:~~ (a) This section does not apply to a permittee that sells
11 or offers to sell an alcoholic beverage to an individual who does not
12 hold a permit under this title.

13 (b) It is unlawful for a permittee to sell, offer to sell, purchase or
14 receive, an alcoholic beverage for anything other than cash. A
15 permittee who extends credit in violation of this section shall have no
16 right of action on the claim.

17 (c) This section ~~shall~~ **does** not prohibit:

18 (1) a permittee from crediting to a purchaser the actual price
19 charged for a package or an original container returned by the
20 original purchaser as a credit on a sale;

21 (2) ~~This section shall not prohibit~~ a permittee from refunding to
22 a purchaser the amount paid by the purchaser for a container, or
23 as a deposit on a container, if it is returned to the permittee;

24 (3) ~~This section shall not prohibit~~ a manufacturer from extending
25 usual and customary credit for alcoholic beverages sold to a
26 customer who maintains a place of business outside this state
27 when the alcoholic beverages are actually shipped to a point
28 outside this state; or

29 (4) ~~This section shall not prohibit~~ a distiller or a liquor or wine
30 wholesaler from extending credit on liquor, flavored malt
31 beverages, and wine sold to a permittee for a period of fifteen (15)
32 days from the date of invoice, date of invoice included. However,
33 if the fifteen (15) day period passes without payment in full, the
34 wholesaler shall sell to that permittee on a cash on delivery basis
35 only.

36 SECTION 29. IC 7.1-5-10-23 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) It is unlawful for a person
39 who is the proprietor of a package liquor store, drug store, or
40 grocery store to allow a purchaser of alcoholic beverages, or any
41 other person who is not a sales clerk, to ring up or otherwise
42 record an alcoholic beverage sale.



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1 **(b) It is unlawful for a purchaser of alcoholic beverages, or any**
 2 **other person who is not a sales clerk, to ring up or otherwise**
 3 **record an alcoholic beverage sale in a:**

4 **(1) drug store;**

5 **(2) grocery store; or**

6 **(3) package liquor store.**

7 SECTION 30. IC 24-3-2-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Unless the context
 9 in this chapter requires otherwise, the term:

10 (a) "Cigarette" shall mean and include any roll for smoking made
 11 wholly or in part of tobacco, irrespective of size or shape and
 12 irrespective of tobacco being flavored, adulterated, or mixed with any
 13 other ingredient, where such roll has a wrapper or cover made of paper
 14 or any other material; provided the definition in this paragraph shall not
 15 be construed to include cigars.

16 (b) "Person" or the term "company", used in this chapter
 17 interchangeably, means and includes any individual, assignee, receiver,
 18 commissioner, fiduciary, trustee, executor, administrator, institution,
 19 bank, consignee, firm, partnership, limited liability company, joint
 20 vendor, pool, syndicate, bureau, association, cooperative association,
 21 society, club, fraternity, sorority, lodge, corporation, municipal
 22 corporation, or other political subdivision of the state engaged in
 23 private or proprietary activities or business, estate, trust, or any other
 24 group or combination acting as a unit, and the plural as well as the
 25 singular number, unless the intention to give a more limited meaning
 26 is disclosed by the context.

27 (c) "Distributor" shall mean and include every person who sells,
 28 barter, exchanges, or distributes cigarettes in the state of Indiana to
 29 retail dealers for the purpose of resale, or who purchases for resale
 30 cigarettes from a manufacturer of cigarettes or from a wholesaler,
 31 jobber, or distributor outside the state of Indiana who is not a
 32 distributor holding a registration certificate issued under the provisions
 33 of IC 6-7-1.

34 (d) "Retailer" shall mean every person, other than a distributor, who
 35 purchases, sells, offers for sale, or distributes cigarettes to consumers
 36 or to any person for any purpose other than resale, irrespective of
 37 quantity or amount or the number of sales.

38 (e) "Sell at retail", "sale at retail", and "retail sales" shall mean and
 39 include any transfer of title to cigarettes for a valuable consideration
 40 made in the ordinary course of trade or usual conduct of the seller's
 41 business to the purchaser for consummation or use.

42 (f) "Sell at wholesale", "sale at wholesale", and "wholesale sales"

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1 shall mean and include any transfer of title to cigarettes for a valuable
2 consideration made in the ordinary course of trade or usual conduct of
3 a distributor's business.

4 (g) "Basic cost of cigarettes" shall mean the invoice cost of
5 cigarettes to the retailer or distributor, as the case may be, or the
6 replacement cost of cigarettes to the retailer or distributor, as the case
7 may be, within thirty (30) days prior to the date of sale, in the quantity
8 last purchased, whichever is the lower, less all trade discounts and
9 customary discounts for cash, plus the cost at full face value of any
10 stamps which may be required by IC 6-7-1, if not included by the
11 manufacturer in his selling price to the distributor.

12 (h) "Department" shall mean the alcohol and tobacco commission
13 or its duly authorized assistants and employees.

14 (i) "Cost to the retailer" shall mean the basic cost of cigarettes to the
15 retailer, plus the cost of doing business by the retailer as evidenced by
16 the standards and methods of accounting regularly employed by him in
17 his allocation of overhead costs and expenses paid or incurred and must
18 include without limitation labor (including salaries of executives and
19 officers), rent, depreciation, selling costs, maintenance of equipment,
20 delivery costs, all types of licenses, taxes, insurance, and advertising;
21 however, any retailer who, in connection with the retailer's purchase,
22 receives not only the discounts ordinarily allowed upon purchases by
23 a retailer, but also, in whole or in part, discounts ordinarily allowed on
24 purchases by a distributor shall, in determining costs to the retailer
25 pursuant to this section, add the cost to the distributor, as defined in
26 paragraph (j), to the basic cost of cigarettes to said retailer as well as
27 the cost of doing business by the retailer. ~~In the absence of proof of a~~
28 ~~lesser or higher cost of doing business by the retailer making the sale;~~
29 The cost of doing business by the retailer shall be presumed to be eight
30 percent (8%) of the basic cost of cigarettes to the retailer. ~~In the~~
31 ~~absence of proof of a lesser or higher cost of doing business;~~ The cost
32 of doing business by the retailer, who in connection with the retailer's
33 purchase receives not only the discounts ordinarily allowed upon
34 purchases by a retailer, but also, in whole or in part, the discounts
35 ordinarily allowed upon purchases by a distributor, shall be presumed
36 to be eight percent (8%) of the sum of the basic cost of cigarettes plus
37 the cost of doing business by the distributor.

38 (j) "Cost to the distributor" shall mean the basic cost of cigarettes to
39 the distributor, plus the ~~cost of doing business by the distributor as~~
40 ~~evidenced by the standards and methods of accounting regularly~~
41 ~~employed by him in his allocation of overhead costs and expenses, paid~~
42 ~~or incurred, and must include without limitation labor costs (including~~

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1 salaries of executives and officers); rent; depreciation; selling costs;
2 maintenance of equipment; delivery costs; all types of licenses; taxes;
3 insurance; and advertising. In the absence of proof of a lesser or higher
4 cost of doing business by the distributor making the sale; the cost of
5 doing business by the wholesaler, **which** shall be presumed to be four
6 percent (4%) of the basic cost of cigarettes to the distributor, plus
7 cartage to the retail outlet, if performed or paid for by the distributor,
8 which cartage cost, in the absence of proof of a lesser or higher cost,
9 shall be deemed to be one-half of one percent (0.5%) of the basic cost
10 of cigarettes to the distributor.

11 (k) "Registration certificate" refers to the registration certificate
12 issued to cigarette distributors by the department of state revenue under
13 IC 6-7-1-16.

14 SECTION 31. IC 24-3-2-3 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) It is a Class A
16 infraction for a retailer or distributor ~~with intent to injure competitors~~
17 ~~or destroy or substantially lessen competition~~; to offer to sell or sell at
18 retail or wholesale cigarettes at less than the cost to him. The
19 ~~department may do either of the following if a retailer or a~~
20 ~~distributor violates this subsection:~~

21 **(1) Revoke or suspend the:**

22 **(A)** registration certificate held by ~~such a~~ the distributor under
23 IC 6-7-1; ~~may be revoked, by the department or~~

24 **(B) tobacco certificate held by the retailer;**

25 for the balance of the term ~~thereof~~: **of the certificate.**

26 **(2) Impose a civil penalty under IC 7.1-3-18.5.**

27 (b) Evidence of offering to sell or sale of cigarettes by any retailer
28 or distributor at less than the cost to him is prima facie evidence of
29 intent to injure competitors and to destroy or substantially lessen
30 competition.

31 (c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of
32 this section shall be deposited in the enforcement and administration
33 fund established under IC 7.1-4-10-1.

34 SECTION 32. IC 24-3-2-13 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The department
36 may adopt rules for the enforcement of this chapter. ~~and the department~~
37 ~~is empowered to and may undertake a cost survey, as provided for in~~
38 ~~section 11 of this chapter.~~ The department may, in accordance with
39 IC 4-21.5-3, suspend or revoke any registration certificate issued by it
40 to a distributor under IC 6-7-1 for failure of any registrant to comply
41 with this chapter or any rule adopted under this chapter.

42 (b) All the powers vested in the department by IC 6-7-1 **and**

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1 **IC 7.1-3-18.5-3.5** shall be available to the department in the
2 enforcement of this chapter.

3 SECTION 33. IC 35-46-1-10.1 IS ADDED TO THE INDIANA
4 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
5 [EFFECTIVE JULY 1, 2006]: **Sec. 10.1. (a) A licensed premises (as**
6 **defined in IC 7.1-1-3-20) that furnishes an alcoholic beverage to a**
7 **person less than twenty-one (21) years of age commits a Class C**
8 **infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for**
9 **an infraction committed under this section must be imposed as**
10 **follows:**

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

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

19 (3) If the licensed premises at that specific business location
20 has had two (2) citations or summonses issued for a violation
21 of this section in the previous ninety (90) days, a civil penalty
22 of two hundred fifty dollars (\$250).

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

27 A licensed premises may not be issued a citation or summons for
28 a violation of this section more than once every twenty-four (24)
29 hours.

30 (b) The defenses set forth in IC 7.1-5-7-5.1 are available to a
31 seller in an action under this section.

32 (c) Unless a person buys or receives an alcoholic beverage under
33 the direction of a law enforcement officer as part of an
34 enforcement action, a licensed premises that sells alcoholic
35 beverages is not liable for a violation of this section unless the
36 person less than twenty-one (21) years of age who bought or
37 received the alcoholic beverage is charged for violating
38 IC 7.1-5-7-7.

39 (d) A person who violates subsection (a) at least six (6) times in
40 any six (6) month period commits habitual illegal sale of an
41 alcoholic beverage, a Class B infraction.

42 SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE

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1 JULY 1, 2006]; IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5;
2 IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7;
3 IC 24-3-2-7; IC 24-3-2-11.

4 SECTION 35. [EFFECTIVE JULY 1, 2006] **Notwithstanding**
5 **IC 7.1-1-3-18.5, as added by this act, the commission may renew or**
6 **transfer ownership of a beer dealer's permit for a beer dealer who:**

- 7 (1) held a permit before July 1, 2006; and
8 (2) does not qualify for a permit as a grocery store under the
9 definition established by IC 7.1-1-3-18.5, as added by this act.

10 SECTION 36. [EFFECTIVE JULY 1, 2006] (a) **As used in this**
11 **SECTION, "committee" refers to the interim study committee on**
12 **alcoholic beverage issues established by this SECTION.**

13 (b) **There is established the interim study committee on**
14 **alcoholic beverage issues.**

15 (c) **The committee shall study the alcoholic beverage statutes in**
16 **IC 7.1 and make recommendations to the legislative council**
17 **concerning the revision of the alcoholic beverage statutes. The**
18 **committee shall consider the following:**

- 19 (1) **Simplifying the alcoholic beverage statutes by resolving**
20 **any inconsistencies in the statutes.**
21 (2) **Recodifying the alcoholic beverage statutes.**
22 (3) **Defining "grocery store", "convenience store", and**
23 **"specialty beverage and food store".**
24 (4) **Requiring separate areas for the display and sale of**
25 **alcoholic beverages in retail stores (other than package liquor**
26 **stores).**
27 (5) **Studying any other issue concerning alcoholic beverages**
28 **the committee chooses to consider.**

29 (d) **The committee shall operate under the policies governing**
30 **study committees adopted by the legislative council.**

31 (e) **The affirmative votes of a majority of the members**
32 **appointed to the committee are required for the committee to take**
33 **action on any measure, including final reports.**

34 (f) **Before December 1, 2006, the committee shall issue a final**
35 **report to the legislative council containing the findings and**
36 **recommendations of the committee.**

37 (g) **This SECTION expires January 1, 2007.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1250, 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 7.1-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction:~~ (a) This title is an exercise of the police powers of the state.

(b) The classifications and differentiations made in this title are real and are actually and substantially related to the accomplishment of the purposes of this title.

(c) The provisions of this title shall be ~~liberally construed so as to effectuate the purposes of this title:~~ **strictly construed. The words used in this title shall be interpreted according to their literal meanings.**

(d) **In accordance with IC 1-1-1-8, if any provision of this title is held to be invalid or unconstitutional, it is the intention of the state that the remaining provisions of this title shall be construed to:**

- (1) **further limit rather than expand commerce in alcoholic beverages; and**
- (2) **maintain a transparent and accountable three (3) tier system of alcoholic beverage distribution by a person with a substantial presence in Indiana."**

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 17.

Page 2, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 Monday at 7 a.m., prevailing local time.

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

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(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.

(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Saturday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, January 1 from the time provided in subsection (b) until 3 a.m. the following day.

SECTION 4. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).
- (4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
- (6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

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(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that

(1) has a population of:

(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or

(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and

(2) owns a golf course

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for

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and secures the necessary permits required by this title.

(f) A city that:

- (1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and
- (2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

- (1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
- (3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).
- (4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).
- (5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

- (1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or
- (2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 5. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs,

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displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

- (1) is published at least once a week;
- (2) regularly publishes information of current news interest to the community; and
- (3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title.** It is ~~unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection.~~

(g) The commission may not prohibit the advertisement of:

- (1) alcoholic beverages; or
- (2) a place where alcoholic beverages may be obtained;

in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the

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commission.

SECTION 6. IC 7.1-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application:~~ The commission may issue a brewer's permit to a person who desires to commercially manufacture beer **in Indiana.**

SECTION 7. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership ~~all the partners of which are bona fide residents of Indiana;~~ **domiciled in or admitted to do business in Indiana;**
- (3) a limited liability company ~~all the members of which are bona fide residents of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana. ~~and having authority under its charter to manufacture or sell beer.~~

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana;
- (3) a limited liability company ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana.

SECTION 8. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do **only** the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:
 - (A) Sell and deliver beer to a person holding a retailer or a

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dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

- (i) bulk containers; or
- (ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

~~(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel; but the beer may be contained in bottles or other permissible containers.~~

~~(8) (7) Provide complimentary samples of beer that are:~~

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

~~(9) (8) Own a portion of the corporate stock of a sports corporation that:~~

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

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~~(10)~~ **(9)** For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 9. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer permit must have at least one (1) employee who:**

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18-9.

(b) Beginning January 1, 2007, a holder of a beer dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 10. IC 7.1-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. Persons Eligible for Permits.** The commission may issue a temporary beer permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c), (h), and (m)~~ and the residency requirements provided in ~~IC 1971, 7.1-3-21-3, IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and IC 7.1-3-4-2(a)(13)~~ shall not apply to an applicant for a temporary beer permit.

SECTION 11. IC 7.1-3-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply to a package liquor store.**

(b) Beginning January 1, 2007, and except as provided in subsection (c), a holder of a liquor dealer permit must display liquor for sale in a clearly designated area that forbids the presence of a minor unless the minor is accompanied by a parent or guardian who is at least twenty-one (21) years of age. Other alcoholic beverages may be displayed in a designated area where liquor is displayed under this subsection.

(c) The holder of a liquor dealer permit is not required to comply with subsection (b) if the holder of the liquor dealer permit:

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- (1) displays liquor in an area that does not exceed twenty-five (25) linear feet; and**
- (2) uses at least one (1) of the following security measures:**
 - (A) The liquor is displayed behind a retail counter or in a locked display case.**
 - (B) Each bottle of liquor for sale on the licensed premises has a security cap.**
 - (C) The liquor is displayed adjacent to a pharmacy counter.**
- (d) Liquor may not be displayed within thirty (30) feet of a public entrance of a licensed premises.**
- (e) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 12. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply to a package liquor store.**

- (b) A holder of a liquor dealer permit must have at least one (1) employee who:**
 - (1) works on the licensed premises; and**
 - (2) holds an employee's permit under IC 7.1-3-18.**
- (c) Beginning January 1, 2007, a holder of a liquor dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**
- (d) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 13. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a wine dealer permit must have at least one (1) employee who:**

- (1) works on the licensed premises; and**
- (2) holds an employee's permit under IC 7.1-3-18.**
- (b) Beginning January 1, 2007, a holder of a wine dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**
- (c) The commission may adopt rules under IC 4-22-2 to implement this section."**

Delete pages 3 through 4.

Page 5, delete lines 1 through 3.

Page 5, line 39, strike "An applicant is not entitled to" and insert

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"The commission may not issue".

Page 5, line 39, strike "if:".

Page 5, line 40, strike "(1) the" and insert **"to an"**.

Page 5, line 40, after "applicant" insert **"while the applicant"**.

Page 5, run in lines 39 through 40.

Page 5, line 42, after "parole" delete ";" and insert ".".

Page 6, line 1, strike "(2) the", begin a new paragraph and insert:

"(g) The commission may not issue an employee's permit to an".

Page 6, line 1, after "applicant" insert **"who"**.

Page 6, line 1, strike "more than one (1) but less than three (3)" and insert **"two (2)"**.

Page 6, line 2, strike "and less".

Page 6, strike lines 3 through 4.

Page 6, line 5, strike "intoxicated, including any term of probation or parole; or" and insert **"if:**

(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and

(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit."

Page 6, line 6, strike "(3) the", begin a new paragraph and insert:

"(h) If an".

Page 6, line 6, after "applicant" insert **"for an employee's permit"**.

Page 6, line 7, delete "intoxicated." and insert "intoxicated, **and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit."**

Page 6, line 8, strike "(g)" and insert **"(i)"**.

Page 6, line 12, strike "becomes ineligible for the issuance of an".

Page 6, line 13, strike "employee's permit under subsection (f)." and insert **"is convicted of operating while intoxicated after the issuance of the permit."**

Page 6, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 15. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs: General Requirements:~~ (a) In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

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~~(a)~~ (1) It shall have been organized in good faith under authority of law.

~~(b)~~ (2) It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed.

~~(c)~~ (3) It shall have maintained, in good faith, a membership roll for the three (3) year period.

~~(d)~~ (4) It shall have a paid-up membership of more than fifty (50) members at the time the application is filed.

~~(e)~~ (5) It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like.

~~(f)~~ (6) It shall not be operated for pecuniary gain.

~~(g)~~ (7) The property and the advantages of the organization shall belong to its members. ~~and~~

~~(h)~~ (8) It shall maintain an establishment provided with special space and ~~accommodations~~ **accommodations** where, in consideration of payment, food, with or without lodging, is habitually served.

(b) An association or a corporation located within a consolidated city is considered a club if the association or corporation:

(1) has held an annual bingo license issued by the state for at least ten (10) consecutive years;

(2) has been in existence in Indiana for at least twenty-five (25) years;

(3) does not allow a person less than eighteen (18) years of age to be a member, guest, worker, or operator; and

(4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and (a)(8).

SECTION 16. IC 7.1-3-20-16, AS AMENDED BY P.L.155-2005, SECTION 1, AS AMENDED BY P.L.214-2005, SECTION 48, AND AS AMENDED BY P.L.224-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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

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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 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

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less than twenty-three thousand (23,000).

(g) 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 shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was 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. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

~~(g)~~ (h) 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 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

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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.

(i) After June 30, 2006, 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 all of the following requirements:

- (1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.**
- (2) A unit of the National Park Service is partially located within the district.**
- (3) A international deep water seaport is located within the district.**

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues ten (10) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed ten (10) at any time. The cost of an initial permit issued under this section is six thousand dollars (\$6,000).

SECTION 17. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. Indiana State Fair:

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(a) The commission shall ~~not~~ issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds **to the Indiana state fair commission.** ~~during the period of the Indiana State Fair.~~

(b) **The holder of a permit under this section:**

- (1) **is entitled to sell alcoholic beverages by the glass on the state fair grounds to consumers;**
- (2) **is entitled to grant multiple vendors of the state fair commission separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;**
- (3) **is entitled to receive the permit directly from the commission without local board approval;**
- (4) **is not subject to quota restrictions under IC 7.1-3-22-3; and**
- (5) **is entitled to allow a minor to be present in the places on the state fair grounds where alcoholic beverages are sold.**

(c) **The holder of a permit under this section must comply with the following requirements:**

- (1) **File a floor plan of the premises where alcoholic beverages will be served and consumed.**
- (2) **Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.**
- (3) **Allow sales during the times prescribed under IC 7.1-3-1-14.**
- (4) **Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.**
- (5) **Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1."**

Page 7, delete lines 1 through 9, begin a new paragraph and insert: "SECTION 18. IC 7.1-5-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. ~~Credit Sales Prohibited.~~ **(a) This section does not apply to a permittee that sells or offers to sell an alcoholic beverage to an individual who does not hold a permit under this title.**

(b) It is unlawful for a permittee to sell, offer to sell, purchase or receive, an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(c) This section ~~shall~~ **does** not prohibit:

- (1) a permittee from crediting to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale;

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(2) ~~This section shall not prohibit~~ a permittee from refunding to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee;

(3) ~~This section shall not prohibit~~ a manufacturer from extending usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state; **or**

(4) ~~This section shall not prohibit~~ a distiller or a liquor or wine wholesaler from extending credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only."

Page 7, delete lines 23 through 28, begin a new paragraph and insert:

"SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5; IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1250 as introduced.)

STUTZMAN, Chair

Committee Vote: yeas 7, nays 2.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 18. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department**

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of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off-duty law enforcement officers to conduct inspections under this section.

SECTION 20. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:**

- (1) at least eighteen (18) years of age; and**
- (2) less than twenty-one (21) years of age;**

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

- (1) occur under the direction of an enforcement officer vested with full police powers and duties; and**
- (2) be a part of the enforcement action."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

MESSER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 1, line 7, after "title" insert "**and rules adopted under this title**".

Page 1, line 9, after "title" insert "**and in rules adopted under this title**".

Page 2, line 38, delete "Saturday," and insert "**Sunday**".

Page 2, line 38, delete "supplemental".

Page 2, line 40, delete "January 1" and insert "**December 31**".

Page 15, line 23, delete "ten (10)" and insert "**three (3)**".

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 6, line 13, reset in roman "It is".

Page 6, reset in roman lines 14 through 17.

(Reference is to HB 1250 as printed January 26, 2005.)

WHETSTONE

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 1, line 7, after "title" insert "**and rules adopted under this title**".

Page 1, line 9, after "title" insert "**and rules adopted under this title**".

Page 2, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 3. IC 7.1-2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~Disposition of Articles Pending Judgment.~~ An alcoholic beverage **or tobacco** seized pursuant to this chapter and any other article which may be found on the searched premises and taken under the warrant shall not be taken from the custody of the person who served the warrant by a writ of replevin or other process while the proceedings provided in this chapter are pending. A final judgment of conviction in that proceeding shall be a bar in all cases to an action for recovery of the thing seized or the value of it or damages alleged to have arisen by reason of the seizing and detention of it.

SECTION 4. IC 7.1-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. ~~Property Rights Limited.~~ All rights of any kind in an alcoholic beverage **or a tobacco product** of any type, or in a container for an alcoholic beverage, or in an article, apparatus, package, fixture or utensil in which an alcoholic beverage may be placed, or which is used in connection with it, or a vehicle or conveyance in which an alcoholic beverage is being transported or which is used for the transportation of an alcoholic

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beverage, shall at all times and under all circumstances by whomsoever held, owned, or possessed, be deemed qualified by the right of the state, the commission, and the chairman, to administer, execute and enforce the provisions of this title.

SECTION 5. IC 7.1-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. ~~Certain Property Rights Prohibited.~~ A person shall have no property right of any kind in alcohol, an alcoholic beverage, or malt article, **or tobacco product** had, kept, transported, or possessed contrary to law, or in or to a receptacle or container of any kind in which these liquids and articles may be found, or in an unlawful or prohibited receptacle or container, or in a receptacle or container which does not conform to or which is being used contrary to or which is not kept in conformity to a rule or regulation of the commission, or which is being used to contain an alcoholic beverage upon which a tax is due and unpaid, or an adulterated or misbranded alcoholic beverage, or which is being used in an unlawful practice, or a practice contrary to a rule or regulation of the commission.

SECTION 6. IC 7.1-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. ~~Illegal Transportation: Property Rights Limited.~~ A person who is interested in illegal transportation, or who has knowledge of it, shall have no right, title, or interest in or to a conveyance of any kind used for the illegal transportation of alcohol, alcoholic beverages, ~~or~~ malt articles, **or tobacco.**

SECTION 7. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~Forfeiture to State.~~ An officer who makes an arrest for a violation of the provisions of this title shall seize the evidence of the commission of that violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which alcohol, alcoholic beverages or malt articles are kept, possessed or transported contrary to law, or contrary to a rule or regulation of the commission. The articles and vehicles mentioned in this section and in ~~IC 1971, 7.1-2-5-5, 7.1-2-5-7, IC 7.1-2-5-5 through~~ **IC 7.1-2-5-7**, are hereby declared forfeited to the state and shall be seized."

Page 12, between lines 6 and 7, begin a new paragraph and insert:
"SECTION 20. IC 7.1-3-18.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. An application for a tobacco certificate must contain the express statement of the applicant that the applicant consents for the duration of the certificate term (if**

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the commission issues the certificate to the applicant) to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of the applicant's retail premises and vehicles to determine whether the applicant is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a certificate or the certificate's use by an applicant or the applicant's agents."

Page 17, between lines 39 and 40, begin a new paragraph and insert:
"SECTION 25. IC 24-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Unless the context in this chapter requires otherwise, the term:

(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material; provided the definition in this paragraph shall not be construed to include cigars.

(b) "Person" or the term "company", used in this chapter interchangeably, means and includes any individual, assignee, receiver, commissioner, fiduciary, trustee, executor, administrator, institution, bank, consignee, firm, partnership, limited liability company, joint vendor, pool, syndicate, bureau, association, cooperative association, society, club, fraternity, sorority, lodge, corporation, municipal corporation, or other political subdivision of the state engaged in private or proprietary activities or business, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(c) "Distributor" shall mean and include every person who sells, barter, exchanges, or distributes cigarettes in the state of Indiana to retail dealers for the purpose of resale, or who purchases for resale cigarettes from a manufacturer of cigarettes or from a wholesaler, jobber, or distributor outside the state of Indiana who is not a distributor holding a registration certificate issued under the provisions of IC 6-7-1.

(d) "Retailer" shall mean every person, other than a distributor, who purchases, sells, offers for sale, or distributes cigarettes to consumers or to any person for any purpose other than resale, irrespective of quantity or amount or the number of sales.

(e) "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of the seller's

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business to the purchaser for consummation or use.

(f) "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of a distributor's business.

(g) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or distributor, as the case may be, or the replacement cost of cigarettes to the retailer or distributor, as the case may be, within thirty (30) days prior to the date of sale, in the quantity last purchased, whichever is the lower, less all trade discounts and customary discounts for cash, plus the cost at full face value of any stamps which may be required by IC 6-7-1, if not included by the manufacturer in his selling price to the distributor.

(h) "Department" shall mean the alcohol and tobacco commission or its duly authorized assistants and employees.

(i) "Cost to the retailer" shall mean the basic cost of cigarettes to the retailer, plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses paid or incurred and must include without limitation labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising; however, any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, discounts ordinarily allowed on purchases by a distributor shall, in determining costs to the retailer pursuant to this section, add the cost to the distributor, as defined in paragraph (j), to the basic cost of cigarettes to said retailer as well as the cost of doing business by the retailer. ~~In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale;~~ The cost of doing business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer. ~~In the absence of proof of a lesser or higher cost of doing business;~~ The cost of doing business by the retailer, who in connection with the retailer's purchase receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, the discounts ordinarily allowed upon purchases by a distributor, shall be presumed to be eight percent (8%) of the sum of the basic cost of cigarettes plus the cost of doing business by the distributor.

(j) "Cost to the distributor" shall mean the basic cost of cigarettes to the distributor, plus the ~~cost of doing business by the distributor as evidenced by the standards and methods of accounting regularly~~

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employed by him in his allocation of overhead costs and expenses, paid or incurred; and must include without limitation labor costs (including salaries of executives and officers); rent; depreciation; selling costs; maintenance of equipment; delivery costs; all types of licenses; taxes; insurance; and advertising. In the absence of proof of a lesser or higher cost of doing business by the distributor making the sale; the cost of doing business by the wholesaler, **which** shall be presumed to be four percent (4%) of the basic cost of cigarettes to the distributor, plus cartage to the retail outlet, if performed or paid for by the distributor, which cartage cost, in the absence of proof of a lesser or higher cost, shall be deemed to be one-half of one percent (0.5%) of the basic cost of cigarettes to the distributor.

(k) "Registration certificate" refers to the registration certificate issued to cigarette distributors by the department of state revenue under IC 6-7-1-16.

SECTION 26. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) It is a Class A infraction for a retailer or distributor ~~with intent to injure competitors or destroy or substantially lessen competition~~, to offer to sell or sell at retail or wholesale cigarettes at less than the cost to him. **The department may do either of the following if a retailer or a distributor violates this subsection:**

(1) Revoke or suspend the:

(A) registration certificate held by ~~such a~~ **the** distributor under IC 6-7-1; ~~may be revoked; by the department or~~

(B) ~~tobacco certificate held by the retailer;~~
for the balance of the term ~~thereof.~~ **of the certificate.**

(2) Impose a civil penalty under IC 7.1-3-18.5.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 27. IC 24-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The department may adopt rules for the enforcement of this chapter. ~~and the department is empowered to and may undertake a cost survey; as provided for in section 11 of this chapter.~~ The department may, in accordance with IC 4-21.5-3, suspend or revoke any registration certificate issued by it to a distributor under IC 6-7-1 for failure of any registrant to comply

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with this chapter or any rule adopted under this chapter.

(b) All the powers vested in the department by IC 6-7-1 and IC 7.1-3-18.5-3.5 shall be available to the department in the enforcement of this chapter."

Page 17, line 42, after "IC 7.1-3-21-7" delete "." and insert "; IC 24-3-2-7; IC 24-3-2-11."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

WHETSTONE

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

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

"SECTION 2. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18.5. (a) "Grocery store" means a store or a part of a store that:**

- (1) has the primary North American Industry Classification System (NAICS) classification 445110 or 452910; and
- (2) is primarily engaged in the retail sale of a general food line, which may include:
 - (A) canned and frozen foods;
 - (B) dry goods, including tea, coffee, sugar, and flour;
 - (C) fresh fruits and vegetables; and
 - (D) fresh and prepared meats.

(b) The term does not include a store that has less than two hundred fifty thousand dollars (\$250,000) in annual gross sales of food, excluding the following:

- (1) Candy, confectionaries, and chewing gum.
- (2) Alcoholic beverages.
- (3) Cocktail mixers.
- (4) Soft drinks, sodas, and other similar beverages.
- (5) Medicines, tonics, vitamins, and other dietary supplements.
- (6) Water (except natural spring water), mineral water, carbonated water, and ice.
- (7) Pet food.

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(8) Food furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant.

(9) Meals served by a retail merchant off the merchant's premises.

(10) Food sold by a retail merchant who ordinarily bags, wraps, or packages the food for immediate consumption on or near the merchant's premises, including food sold on a "take out" or "to go" basis.

(11) Food sold through a vending machine.

(12) Tobacco products."

Page 17, after line 42, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2006] Notwithstanding IC 7.1-1-3-18.5, as added by this act, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:

(1) held a permit before July 1, 2006; and

(2) does not qualify for a permit as a grocery store under the definition established by IC 7.1-1-3-18.5, as added by this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

ORENTLICHER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 7.1-2-4-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. A local board shall allow all individuals attending a public local board meeting or hearing to make oral comments at the meeting or hearing regarding the subject of the meeting or hearing. However, a local board may set a reasonable limit on the amount of time allowed to each individual to provide oral comment."



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Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

CROOKS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be amended to read as follows:

Page 17, after line 42, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE JULY 1, 2006] (a) **As used in this SECTION, "committee" refers to the interim study committee on alcoholic beverage issues established by this SECTION.**

(b) **There is established the interim study committee on alcoholic beverage issues.**

(c) **The committee shall study the alcoholic beverage statutes in IC 7.1 and make recommendations to the legislative council concerning the revision of the alcoholic beverage statutes. The committee shall consider the following:**

- (1) **Simplifying the alcoholic beverage statutes by resolving any inconsistencies in the statutes.**
- (2) **Recodifying the alcoholic beverage statutes.**
- (3) **Defining "grocery store", "convenience store", and "specialty beverage and food store".**
- (4) **Requiring separate areas for the display and sale of alcoholic beverages in retail stores (other than package liquor stores).**
- (5) **Studying any other issue concerning alcoholic beverages the committee chooses to consider.**

(d) **The committee shall operate under the policies governing study committees adopted by the legislative council.**

(e) **The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.**

(f) **Before December 1, 2006, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.**

(g) **This SECTION expires January 1, 2007."**

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Renumber all SECTIONS consecutively.

(Reference is to HB 1250, Printer's Error, as printed January 26, 2006.)

AUSTIN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1250 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 24, between lines 2 and 3, begin a new paragraph and insert: "SECTION 33. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10.1. (a) A licensed premises (as defined in IC 7.1-1-3-20) that furnishes an alcoholic beverage to a person less than twenty-one (21) years of age commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the licensed premises at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the licensed premises at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the licensed premises at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A licensed premises may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours.

(b) The defenses set forth in IC 7.1-5-7-5.1 are available to a seller in an action under this section.



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(c) Unless a person buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a licensed premises that sells alcoholic beverages is not liable for a violation of this section unless the person less than twenty-one (21) years of age who bought or received the alcoholic beverage is charged for violating IC 7.1-5-7-7.

(d) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of an alcoholic beverage, a Class B infraction."

Renumber all SECTIONS consecutively.

(Reference is to HB 1250 as reprinted January 31, 2006.)

MESSER

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1250, begs leave to report that said bill has been amended as directed.

MESSER

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