Reprinted
January 25, 2008

HOUSE BILL No. 1118

DIGEST OF HB 1118 (Updated January 24, 2008 3:31 pm - DI 14)

Citations Affected: IC 4-33; IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-4; IC 7.1-5; IC 9-21; IC 34-30; IC 35-46; noncode.

Synopsis: Alcoholic beverages. Defines "grocery store" for purposes of the law concerning alcohol and tobacco. Allows the alcohol and tobacco commission (commission) to renew or transfer ownership of a beer dealer's permit for a beer dealer who: (1) held a permit before July 1, 2008; and (2) has retail property that does not qualify for a permit as a grocery store. Provides that for an establishment to receive a permit as a grocery store, the establishment's sale of alcohol must represent 25% or less of the annual gross sales of all items sold on the premises excluding gasoline and oil products. Requires the commission to: (1) conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed; and (2) provide notice of a pending investigation at least 15 days before the investigation. (Current law requires 30 days.) Allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Changes the quota provision for liquor dealers and beer dealers. Provides that after July 1, 2008, the alcohol and tobacco commission may issue not more than five one, two, or 3-way permits to restaurants in economic development areas in most cities and towns. Provides for auctioning of the permits and for renewals. Provides that if the 2010 decennial census authorizes additional permits, the three-way permits issued under this subsection must be subtracted from any additional three-way permits. Provides for graduated civil penalties against a permittee for repeat violations of furnishing alcohol to a minor on the licensed premises and for the

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Effective: July 1, 2008.

Van Haaften, Bell

January 8, 2008, read first time and referred to Committee on Public Policy.
January 17, 2008, amended, reported — Do Pass.
January 24, 2008, read second time, amended, ordered engrossed.

C o p y

collected penalties to be deposited in the enforcement and administration fund. Provides that civil penalties for violations of tobacco laws concerning sales to minors are the same as penalties for selling alcohol to minors. Requires a member of a local alcoholic beverage board (local board) to complete a training program to educate the member on alcoholic beverage law and the operation of the local board and the commission. Requires a local board member to be removed if the member does not complete the training within six months after the member is appointed. Provides that members appointed before January 1, 2009, have until July 1, 2009, to receive training. Requires a local board to 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. Allows a local board to give greater weight to oral comments provided by a person who owns or operates a business, owns real property, or resides within 1,000 feet of the requested location of an alcoholic beverage permit. Requires a liquor dealer (other than a package liquor store) to display liquor in a clearly separated area that prohibits the presence of a minor unless the minor is accompanied by a parent or guardian. Changes the notice requirements for new permits and permit transfers. Removes the limits on the number of guests and duration of an event where an excursion and adjacent landsite permit holder provides alcoholic beverages to guests without charge. Allows a local board to appoint at least one attorney to assist the local board in fulfilling its duties. Requires the commission to give notice: (1) by mail to the local board if an objection has been filed and of the date of any appeal hearing set by the commission; and (2) by publication of the date of any appeal hearing set by the commission. Allows a small brewery to sell and deliver beer to a consumer. Removes a provision that allows a large brewery to sell and deliver beer to a consumer. Prohibits a beer wholesaler from selling beer to a consumer other than an employee. Allows liquor retailers and liquor dealers to provide six ounce samples of flavored malt beverages and hard cider. Allows a liquor wholesaler to sell liquor in an amount not to exceed 18 liters to an employee of the liquor wholesaler. Establishes requirements for a wine wholesaler to resell wine purchased at an estate sale. Provides a wholesaler with immunity from product liability for wine that was purchased at an estate sale. Makes it a Class D felony for a wholesaler to sell an unauthorized brand of alcoholic beverages and allows an injured permittee to bring a civil action against the wholesaler. Prohibits a permittee from knowingly or intentionally coercing another permittee to enter into an agreement or take an action that violates the alcoholic beverage statutes and rules. (Current law prohibits only a primary source of supply or a beer wholesaler from coercing a beer wholesaler.) Provides that if a beer wholesaler's warehouse is transferred, the warehouse does not have to be transferred to a location within an incorporated area. Requires criteria, established jointly by the Indiana department of transportation and the office of tourism development, for tourist attraction signage to include a category for a tourist attraction that is a small brewery. Requires alcoholic beverage sales in a drug store or grocery store to be rung up by a sales clerk who: (1) has an employee permit; (2) has alcohol server training; and (3) is at least 19 years of age. Prohibits a proprietor of a package liquor store, drug store, or grocery store from allowing any person who is not a sales clerk from ringing up an alcoholic beverage sale. Allows the sale of alcoholic beverages on New Year's day for off premises consumption. Provides that an airline employee does not have to obtain an employee permit to sell alcoholic beverages. Allows an outdoor place of public entertainment used primarily in connection with live music concerts to allow a person to enter its establishment with alcoholic beverages and consume the alcoholic beverages on the premises. Provides that the commission has certain powers regarding enforcement of the tobacco

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C o p y

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laws. Removes a provision that enforcement officers of the commission must be employed so that not more than ½ are members of the same political party. Allows the commission to approve trainer programs (to educate individuals on training alcohol servers) by third parties that meet certain requirements. Requires a grocery store that holds a permit to report annually to the commission the amount of the permit holder's establishment's annual gross sales of food. Requires the commission to notify the local board, upon request, as to whether the grocery store meets the local board's established amount. Changes: (1) the term of an employee's permit from two to three years; and (2) the fee to correspond with the term change. Increases the penalty for furnishing an alcoholic beverage to a minor to: (1) a Class B misdemeanor for the first offense; (2) a Class A misdemeanor for a subsequent offense; and (3) a Class D felony if the illegal furnishing of the alcoholic beverage results in serious bodily injury to or the death of any person. Provides that a violation occurs if a person recklessly, knowingly, or intentionally furnishes an alcoholic beverage to a minor. (Current law provides that a violation occurs if a person recklessly furnishes an alcoholic beverage to a minor.) Makes conforming changes.

C o p y

Reprinted
January 25, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1118

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:

SECTION 1. IC 4-33-19-6, AS ADDED BY P.L.227-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The division shall, on behalf of the department of state revenue or the alcohol and tobacco commission, conduct a license revocation action against a licensed entity for any revocation action authorized by any of the following statutes:

(1) IC 6-2.5-8-7(g).

(2) ~~IC 7.1-3-18.5-5(c).~~ **IC 7.1-3-18.5.**

(3) IC 7.1-3-23-2(b).

(4) IC 7.1-3-23-5 with respect to a violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

SECTION 2. IC 7.1-1-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. "Applicant", for purposes of IC 7.1-3-18.5, means a person who applies for a tobacco sales certificate.**

SECTION 3. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 18.5. (a) "Grocery store" means a store or part of a store that meets the following requirements:**

(1) The establishment is known generally as:

(A) a supermarket, grocery store, or delicatessen, and is primarily engaged in the retail sale of a general food line, which may include:

(i) canned and frozen foods;

(ii) fresh fruits and vegetables; and

(iii) fresh and prepared meats, fish, and poultry;

(B) a convenience store or food mart and is primarily engaged in:

(i) the retail sale of a line of goods that may include milk, bread, soda, and snacks; or

(ii) the retail sale of automotive fuels and the retail sale of a line of goods that may include milk, bread, soda, and snacks;

(C) a warehouse club, superstore, supercenter, or general merchandise store and is primarily engaged in the retail sale of a general line of groceries or gourmet foods in combination with general lines of new merchandise, which may include apparel, furniture, and appliances; or

(D) a specialty or gourmet food store primarily engaged in the retail sale of miscellaneous specialty foods not for immediate consumption and not made on the premises, not including:

(i) meat, fish, and seafood;

(ii) fruits and vegetables;

(iii) confections, nuts, and popcorn; and

(iv) baked goods.

(2) The sale of alcohol on the premises represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises excluding gasoline and oil products.

(b) The term does not include an establishment known generally as a gas station that is primarily engaged in:

(1) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline; or

(2) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline and activities that may include providing repair service, selling automotive oils, replacement parts, and accessories, or providing food services.

SECTION 4. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA

C o p y

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 40.5. "Sales clerk" means a person who:**

(1) rings up; or

(2) otherwise records;

an alcoholic beverage sale in the course of the person's employment in a dealer establishment.

SECTION 5. IC 7.1-1-3-47.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 47.7. "Tobacco retailer" means a person issued a tobacco sales certificate under IC 7.1-3-18.5.**

SECTION 6. IC 7.1-2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The commission may employ qualified individuals to serve as enforcement officers of the commission.

~~(b) Enforcement officers shall be employed so that not more than one-half (1/2) the number of enforcement officers are members of the same political party.~~

~~(c)~~ **(b)** The superintendent of the enforcement officers must have had at least ten (10) years experience as an active law enforcement officer, at least five (5) years of which must have been in a management capacity.

~~(d)~~ **(c)** The commission shall issue to an enforcement officer a certificate of employment under the seal of the commission. The courts of this state shall take judicial notice of a certificate of employment.

SECTION 7. IC 7.1-2-3-10, AS AMENDED BY P.L.227-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The commission shall have the power to investigate the violation of a provision of this title and of the rules and regulations of the commission and to report its findings to the prosecuting attorney or the grand jury of the county in which the violation occurred, or to the attorney general.

(b) The commission shall enter a memorandum of understanding with the Indiana gaming commission authorizing the commission's unlawful gaming enforcement division to conduct revocation actions resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 as authorized by the following statutes:

(1) ~~IC 7.1-3-18.5-5(c).~~ **IC 7.1-3-18.5.**

(2) IC 7.1-3-23-2(b).

(3) IC 7.1-3-23-5.

(c) A memorandum of understanding entered into under this section must comply with the requirements of IC 4-33-19-8.

C o p y

(d) The memorandum of understanding required by this section must be entered into before January 1, 2008.

SECTION 8. IC 7.1-2-4-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13.5. (a) This section does not apply to a designated member of the local board who is an employee or officer of the commission.**

(b) A local board member shall complete a training program conducted by the commission. A local board member may not be required to take a test or an examination or pay a fee in order to complete the training program.

(c) The training program must include training on all the following subjects:

(1) An overview of Indiana alcoholic beverage law and enforcement.

(2) Duties and responsibilities of the board concerning new permit applications, permit transfers, and renewal of existing permits.

(3) The open door law (IC 5-14-1.5) and the public records law (IC 5-14-3).

(4) Notice and hearing requirements.

(5) The process for appeal of an adverse decision of the board.

(6) Any other subject determined by the commission.

(d) A local board member must complete the training program not more than one hundred eighty (180) days after the member is appointed to the board. A local board member who does not complete the training program within the time allowed by this subsection shall be removed from the board under section 21 of this chapter.

SECTION 9. IC 7.1-2-4-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 22. (a) 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.**

(b) A local board may give greater weight to oral comments provided by a person who:

(1) owns or operates a business that is located; or

(2) owns real property or resides;

not more than one thousand (1,000) feet from the location for

C o p y

which a permit is requested.

SECTION 10. IC 7.1-2-4-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23. The local board may appoint at least one (1) attorney to advise the local board and to assist the local board in fulfilling the local board's duties under this title.**

SECTION 11. IC 7.1-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A judge of any court may issue a warrant to search a house or other place for alcohol, an alcoholic liquid or substance, a still, a distilling apparatus, **a tobacco product,** or another article that is being possessed, kept, sold, bartered, given away, used, or transported in violation of this title.

SECTION 12. IC 7.1-2-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~Disposition of Articles Pending Judgment.~~ An alcoholic beverage **or a tobacco product** 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 13. IC 7.1-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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 **or a tobacco product** may be placed, or which is used in connection with it, or a vehicle or conveyance in which an alcoholic beverage **or a tobacco product** is being transported or which is used for the transportation of an alcoholic beverage **or a tobacco product,** 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 14. IC 7.1-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. ~~Certain Property Rights Prohibited.~~ A person shall have no property right of any kind in alcohol, an alcoholic beverage, ~~or~~ **a** malt article, **or a 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

C o p y

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 **or tobacco product** 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 15. IC 7.1-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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 a tobacco product.**

SECTION 16. IC 7.1-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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, **or tobacco products** 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,~~ **sections 5 through 7 of this chapter** are hereby declared forfeited to the state and shall be seized.

SECTION 17. IC 7.1-3-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. (a) ~~This section applies only in a county having a consolidated city.~~ **As used in this section, "authority" refers to the following:**

(1) In a consolidated city, the department of metropolitan development.

(2) In a municipality (as defined in IC 36-1-2-11) or a county not having a consolidated city, the plan commission that has jurisdiction in the municipality or county.

(3) In a municipality (as defined in IC 36-1-2-11) or county that is not within the jurisdiction of a plan commission:

(A) the municipal department designated by the executive of the municipality; or

(B) the county department designated by the executive of the county.

(b) As used in this section, "contiguous property owner" refers to a

C o p y

property owner who has real property that is geographically adjacent to or in contact with any point on the border of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(c) As used in this section, "neighboring property owner" means:

(1) a contiguous property owner; or

(2) a property owner who has real property that:

(A) is geographically adjacent to or in contact with any point on the border of the property of a contiguous property owner; and

(B) some portion of which is within five hundred (500) feet of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(d) As used in this section, "principal owner" means any person or entity holding at least a fifteen percent (15%) interest in the business for which a permit is sought to sell alcoholic beverages.

(e) As used in this section, "property owner" means any person whose name and address appears in the county assessor's real property tax assessment records as a person responsible for the payment of property taxes on a parcel of real property.

(f) Except as provided in section 28(d) of this chapter, subsection (g) applies to a location in the consolidated city only if:

(1) the application is for a liquor dealer's permit for a location within the boundaries of the special fire service district, as determined in conformity with IC 7.1-3-22-8; or

(2) the local alcoholic beverage board requires the applicant to comply with subsection (g).

(g) In addition to the notice required by section 5 of this chapter, the applicant for a new permit, or a transfer of a permit to sell alcoholic beverages of any type or at any location must, at least fifteen (15) days before the date of the local alcoholic beverage board hearing, mail notice of the hearing at the applicant's expense to the following:

(1) Each neighboring property owner.

(2) The ~~department of metropolitan development of the consolidated city;~~ **authority.**

(3) The following entities that have registered with the ~~department of metropolitan development of the consolidated city:~~ **authority:**

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

C o p y

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

(h) The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.

(2) A statement that the applicant has filed an application with the alcohol and tobacco commission for the sale of alcoholic beverages.

(3) The specific address where alcoholic beverages are asked to be sold.

(4) The type of alcoholic beverage permit applied for.

(5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.

(6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(i) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application. The affidavit must list the names and addresses of the individuals or other entities to which notice was mailed by the applicant.

(j) In addition to the information required by subsection (i), the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) **This subdivision applies only to an authority referred to in subsection (a)(1) or (a)(2).** Verification from the ~~department of metropolitan development of the consolidated city~~ **authority** that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

(k) Subsection (j)(1) does not apply to a permit holder that received and held a permit before September 1, 1987.

(l) Notwithstanding subsection (f)(1), an applicant seeking a transfer

C o p y

of a permit from a permit holder to a new permit holder when the new permit holder does not intend to change the nature of the business operated under the permit may apply to the local board for a waiver of the notice requirement in subsection (g). The local board may consider any information the local board considers relevant in making a determination to approve or deny the waiver request. The local board must approve or deny a waiver request at the first regularly scheduled meeting that occurs at least fifteen (15) days after the local board receives the waiver request from the applicant.

SECTION 18. IC 7.1-3-1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.6. ~~(a) This section applies only in a county having a consolidated city.~~

~~(b)~~ **(a)** This section applies only to an application for the renewal of a permit to sell alcoholic beverages.

~~(c)~~ **(b)** The definitions set forth in section 5.5 of this chapter apply to this section.

~~(d)~~ **(c)** The renewal of a permit is subject to IC 7.1-3-19-9.5.

~~(e)~~ **(d)** Except as provided in section 28(d) of this chapter, subsections ~~(f)~~ **(e)** and ~~(g)~~ **(f)** apply to a location ~~in the consolidated city~~ only if the application is for a liquor dealer's permit.

~~(f)~~ **(e)** Notwithstanding subsection ~~(d),~~ **(c),** if:

(1) an applicant has been cited for a violation of law or a rule of the commission; or

(2) the local alcoholic beverage board has received at least five (5) written complaints against the applicant alleging a violation of law or a rule of the commission;

then upon direction of the local board, the applicant shall, at least fifteen (15) days before the date of the local alcoholic beverage board hearing, mail notice of the hearing at the applicant's expense as provided in subsection ~~(g).~~ **(f).**

~~(g)~~ **(f)** The applicant shall mail the notice required under subsection ~~(f)~~ **(e)** to the following:

(1) Each neighboring property owner.

(2) The ~~department of metropolitan development of the consolidated city.~~ **authority (as defined in section 5.5 of this chapter).**

(3) The following entities that have registered with the ~~department of metropolitan development of the consolidated city.~~ **authority (as defined in section 5.5 of this chapter):**

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the

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property line of the applicant's property.

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

~~(h)~~ **(g)** The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.

(2) A statement that the applicant has filed an application with the alcohol and tobacco commission for the sale of alcoholic beverages.

(3) The specific address where alcoholic beverages are asked to be sold.

(4) The type of alcoholic beverage permit applied for.

(5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.

(6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

~~(i)~~ **(h)** The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application. The affidavit must list the names and addresses of the persons to whom notice was mailed by the applicant.

~~(j)~~ **(i)** In addition to the information required by subsection ~~(i),~~ **(h),** the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) **This subdivision applies only to an authority referred to in section 5.5(a)(1) or 5.5(a)(2) of this chapter.** Verification from the ~~department of metropolitan development of the consolidated city~~ **authority** that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

~~(k)~~ **(j)** Subsection ~~(j)(1)~~ **(i)(1)** does not apply to a permit holder that received and held a permit before September 1, 1987.

C o p y

SECTION 19. IC 7.1-3-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. (a) This section applies to the initial issuance, transfer of location, or transfer of ownership of the following:

(1) Any form of retailer's permit issued under this title.

(2) Any form of dealer's permit issued under this title.

(b) To qualify for approval of an application, an applicant must show proof to the commission that the applicant has provided notice concerning the application in conformity with this section.

(c) Except as provided in subsection (d), the applicant shall post a sign for the period, in the location, and in the form specified in the rules adopted by the commission to indicate to the public that the applicant is seeking the issuance of a retailer's or dealer's permit. The rules adopted by the commission must require that:

(1) the wording on the sign be in a sufficiently large type size; and

(2) the sign be posted in a sufficient manner in a window or another area;

so that the sign is visible from the largest public thoroughfare or the nearest public thoroughfare in the vicinity of the applicant's location. The commission may require an applicant to use a sign prepared by the commission. The commission may charge a fee for a sign prepared by the commission that does not exceed the cost of the sign.

(d) ~~This subsection applies to a county having a consolidated city.~~ If the application is for a permit other than a liquor dealer's permit, the applicant may:

(1) post notice of the application as set forth in subsection (c); or

(2) mail notice in accordance with:

(A) section 5.5 of this chapter if the application is for a new permit or transfer of a permit; or

(B) section 5.6 of this chapter if the application is for renewal of a permit.

SECTION 20. IC 7.1-3-1.5-2, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "dealer permittee" means a person who holds a ~~liquor~~ dealer permit. ~~under IC 7.1-3-10 for a package liquor store.~~

SECTION 21. IC 7.1-3-1.5-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.3. As used in this chapter, "server program" refers to a program designed to educate an alcohol server on the:**

(1) selling;

C o p y

(2) serving; and

(3) consumption;

of alcoholic beverages.

SECTION 22. IC 7.1-3-1.5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.5. As used in this chapter, "trainer program" refers to a program designed to educate an individual on the training of alcohol servers on the:**

(1) selling;

(2) serving; and

(3) consumption;

of alcoholic beverages.

SECTION 23. IC 7.1-3-1.5-4.6, AS ADDED BY P.L.165-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:

(1) files the application and pays the fees established by the commission under section 5 of this chapter;

(2) completes a program established or approved under section ~~6~~ **5.5** of this chapter; and

(3) meets the requirements under this chapter and rules adopted by the commission.

SECTION 24. IC 7.1-3-1.5-4.8, AS ADDED BY P.L.165-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.8. A certified trainer may train

~~(1)~~ alcohol servers ~~and~~

~~(2) individuals who plan to become certified trainers,~~

on the selling, serving, and consumption of alcoholic beverages.

SECTION 25. IC 7.1-3-1.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. (a) Subject to subsection (b), the commission may approve a trainer program by a third party that is designed to educate individuals on the training of alcohol servers on the selling, serving, and consumption of alcoholic beverages.**

(b) The commission may not approve a trainer program by a third party that holds or has an interest in any of the following permits:

(1) A primary source of supply permit.

(2) A beer, wine, or liquor wholesaler's permit.

(3) A beer, wine, or liquor retailer's permit.

(4) A beer, wine, or liquor dealer's permit.

C o p y

(c) In approving a trainer program under this section, the commission may consider the following factors:

(1) The needs of applicants.

(2) The geographical distribution of the third parties' locations in Indiana.

(3) The adequacy of the facilities where the trainer program will be conducted.

SECTION 26. IC 7.1-3-1.5-6, AS AMENDED BY P.L.165-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The commission shall:

(1) establish a **server** program; and

(2) approve a **server** program established by a third party that meets the requirements of this chapter;

that is designed to educate alcohol servers ~~and individuals who plan to become certified trainers~~ on the selling, serving, and consumption of alcoholic beverages.

(b) A **server** program established or approved under subsection (a) must include the following:

(1) Training by an instructor who:

(A) has knowledge in the subject areas described in this section; and

(B) is a certified trainer under this chapter.

(2) Information on specific subject areas as required by the commission.

(3) A minimum of at least two (2) hours of training to complete the program.

(4) Information on:

(A) state laws and rules regarding the sale and service of alcoholic beverages;

(B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;

(C) the effects of alcohol:

(i) when taken with commonly used prescription and nonprescription drugs; and

(ii) on human behavior;

(D) methods of:

(i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and

(ii) handling situations involving an underage or intoxicated person;

(E) methods for properly and effectively:

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(i) checking the identification of an individual;
(ii) identifying an illegal identification of an individual; and
(iii) handling situations involving individuals who have provided illegal identification;
(F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and
(G) recognizing certain behavior to assess the amount of alcohol an individual:
(i) has consumed; and
(ii) may safely consume.
(5) One (1) or both of the following:
(A) A written test.
(B) An oral test.

SECTION 27. IC 7.1-3-1.5-12, AS AMENDED BY P.L.165-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who trains

~~(1)~~ alcohol servers ~~or~~

~~(2) individuals who plan to become certified trainers;~~

without a trainer certificate under this chapter commits a Class B infraction.

SECTION 28. IC 7.1-3-1.5-13, AS AMENDED BY P.L.165-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a **server** program **or a trainer program** established or approved under section **5.5 or** 6 of this chapter not later than one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;
(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the **server** program subject areas described in section 6 of this chapter **or subject areas of a trainer program** every three (3) years after the date the alcohol server completes a **server** program **or a trainer program;** and
(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a **server** program **or a trainer program** established or approved under section **5.5 or** 6 of this chapter:

(1) not later than one hundred twenty (120) days after the date:

C o p y

(A) the dealer permittee is issued a permit described in section 2 of this chapter; or

(B) the retailer permittee is issued a permit described in section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a **server** program **or a trainer program.**

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the requirements under subsections (a) and (b).

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

SECTION 29. IC 7.1-3-1.5-14, AS ADDED BY P.L.165-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A **server** program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the **server** program.

SECTION 30. IC 7.1-3-1.5-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14.5. A trainer program established or approved under section 5.5 of this chapter must provide a trainer certificate to an individual who successfully completes the program.**

SECTION 31. IC 7.1-3-1.5-15, AS ADDED BY P.L.165-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The commission may attend and observe training by a certified trainer under a **server** program established or approved under section 6 of this chapter at any time.

SECTION 32. IC 7.1-3-1.5-15.5. IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.5. The commission may attend and observe training under a trainer program established or approved under section 5.5 of this chapter at any time.**

SECTION 33. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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 the following:

C o p y

(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 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.
(H) Sell and deliver beer to a consumer at the permit premises of the brewer or at the residence of the consumer. The delivery to a consumer may 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.
(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).

C o p y

~~(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.

SECTION 34. IC 7.1-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The premises to be used as a warehouse by an applicant shall be described in the application for the permit. The commission shall not issue a beer wholesaler's permit to an applicant for any other warehouse or premises than that described in the application. The commission shall issue only one (1) beer wholesaler's permit to an applicant, but a permittee may be permitted to transfer ~~his~~ **the permittee's** warehouse to another location within the county **that is not required to be within the corporate limits of an incorporated city or town,** upon application to, and approval of, the commission.

(b) As used in this subsection, "immediate relative" means the father, the mother, a brother, a sister, a son, or a daughter of a wholesaler permittee. Notwithstanding subsection (a), the commission, upon the death or legally adjudged mental incapacitation of a wholesaler permittee, may allow the transfer of the wholesaler permit only to an immediate relative of the wholesaler permittee who concurrently holds a majority share in a valid wholesaler permit.

SECTION 35. IC 7.1-3-3-5, AS AMENDED BY P.L.224-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess,

C o p y

and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

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

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) ~~a consumer;~~ **an employee;** or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit;

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

(c) ~~Delivery of beer to a consumer shall be made in barrels only with the exception of~~ The beer wholesaler's bona fide regular employees ~~who~~ may purchase beer from the wholesaler in:

(1) bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints; **or**

(2) one (1) keg;

at any one (1) time.

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

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

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

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

(f) A beer wholesaler may:

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

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

(3) receive a fee from an out-of-state brewer for the services

C o p y

described in subdivisions (1) through (2).

SECTION 36. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) Notwithstanding IC 7.1-1-3-18.5, 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, 2008; and

(2) has a premises that does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.

(b) The commission may transfer ownership of a beer dealer's permit under this section only to an applicant who is the proprietor of:

(1) a drug store;

(2) a grocery store; or

(3) a package liquor store.

SECTION 37. IC 7.1-3-5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5. (a) As used in this section, "annual gross sales of food" refers to annual gross sales of food for human consumption that are exempt from the state gross retail tax.**

(b) The holder of a permit issued to a grocery store shall report annually to the commission the amount of the permit holder's establishment's annual gross sales of food.

(c) An applicant who:

(1) is applying for a beer dealer's permit; and

(2) is the proprietor of a grocery store;

shall report to the commission the amount of the applicant's establishment's annual gross sales of food.

(d) The information provided to the commission under subsections (b) and (c) regarding the amount of annual gross sales of food is confidential information and may not be disclosed to the public under IC 5-14-3. However, the commission may disclose the information:

(1) to the department of state revenue to verify the accuracy of the amount of annual gross sales of food reported to the commission under subsections (b) and (c); and

(2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross sales discovered by the department of state revenue.

(e) The department of state revenue shall verify the accuracy of the reports provided to the commission under this section. The

C o p y

department of state revenue shall report to the commission any discrepancy that the department discovers between:

(1) the amount of annual gross sales of food that the permit holder has reported to the department; and

(2) the amount of annual gross sales of food that the permit holder has reported to the commission.

(f) Notwithstanding IC 6-8.1-7-1 or any other law, in fulfilling its obligations under this section, the department of state revenue may provide to the commission confidential information. The commission shall maintain the confidentiality of information provided by the department of state revenue under this section. However, the commission may disclose the information in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy discovered by the department of state revenue under subsection (e).

SECTION 38. IC 7.1-3-8-3, AS AMENDED BY P.L.224-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

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

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

(1) liquor retailer's permit;

(2) supplemental caterer's permit;

(3) liquor dealer's permit; or

(4) liquor wholesaler's permit.

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

(d) A liquor wholesaler's bona fide regular employees may purchase liquor from the wholesaler in an amount not to exceed eighteen (18) liters.

SECTION 39. IC 7.1-3-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A liquor retailer may allow customers to sample the following:

(1) Beer.

C o p y

(2) Wines.
(3) Liquors.
(4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
(5) Flavored malt beverages.
(6) Hard cider.
(b) Sampling is permitted only:
(1) on the liquor retailer's permit premises; and
(2) during the permittee's regular business hours.
(c) A liquor retailer may not charge for the samples provided to customers.
(d) Sample size of wines may not exceed one (1) ounce.
(e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:
(1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per day.
(2) Sample size of liqueurs or cordials may not exceed one-half (½) ounce.
(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
(f) A sample size of beer, **flavored malt beverage, or hard cider** may not exceed six (6) ounces.
SECTION 40. IC 7.1-3-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:
(1) Beer.
(2) Wines.
(3) Liquors.
(4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
(5) Flavored malt beverages.
(6) Hard cider.
(b) Sampling is permitted:
(1) only on the package liquor store permit premises; and
(2) only during the store's regular business hours.
(c) No charge may be made for the samples provided to the customers.
(d) Sample size of wines may not exceed one (1) ounce.
(e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:
(1) A proprietor may allow a customer to sample not more than a

C o p y

combined total of two (2) liquor, liqueur, or cordial samples per day.

(2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) **A** sample size of beer, **flavored malt beverage, or hard cider** may not exceed six (6) ounces.

SECTION 41. IC 7.1-3-10-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. (a) This section does not apply to a package liquor store.**

(b) Beginning July 1, 2008, a holder of a liquor dealer permit shall display liquor for sale in a clearly separated area that prohibits 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 commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 42. IC 7.1-3-13-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) A wine wholesaler may sell wine purchased from an estate sale only if the following requirements are met:**

(1) The primary source of the wine sold at auction:

(A) is authorized to sell wine in Indiana on the date the wine is resold by the wholesaler;

(B) is given notice of the purchase by the wine wholesaler; and

(C) authorizes the wine wholesaler to resell the wine purchased.

(2) The seller of wine at auction is a bona fide estate of an Indiana decedent.

(3) Each wine bottle is affixed with a sticker indicating that the wine was purchased from an estate.

(b) The notice given to the primary source under subsection (a)(1) must include the following information:

(1) The name of the seller.

(2) The amount of the product purchased and the sale price at auction.

(3) The vintage of the wine purchased.

(c) A wholesaler is not liable for product liability for wine that

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the wholesaler sells from an estate auction purchase.

SECTION 43. IC 7.1-3-17.5-1, AS AMENDED BY P.L.233-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The commission may issue a gaming site permit to a person who has been issued:

(1) a riverboat owner's license under IC 4-33-6;

(2) an operating agent contract under IC 4-33-6.5; or

(3) a gambling game license under IC 4-35;

to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) A permit issued under this chapter **to a person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6)** may be used:

(1) on the riverboat; and

(2) in a restaurant owned by the person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6) if the restaurant is located on property adjacent to the property used by the riverboat for docking purposes.

(c) A permit issued under this chapter to a person who has been issued a gambling game license under IC 4-35 may be used at a slot machine facility licensed under IC 4-35.

SECTION 44. IC 7.1-3-17.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of an excursion and adjacent landsite permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

~~(1) The event is attended by not more than six hundred fifty (650) guests.~~

~~(2) The event is not more than six (6) hours in duration.~~

~~(3)~~ **(1)** Each alcoholic beverage dispensed to a guest:

(A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and

(B) is entered into a cash register as a sale and at the same price that is charged to the general public.

~~(4)~~ **(2)** At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the excursion and adjacent landsite permit.

~~(5)~~ **(3)** All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the

C o p y

excursion and adjacent landsite permit for not less than two (2) years.

~~(6)~~ **(4)** The holder of the excursion and adjacent landsite permit complies with the rules of the commission.

SECTION 45. IC 7.1-3-18-9, AS AMENDED BY P.L.165-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) **Except as provided in subsection (j),** the commission may issue an employee's permit to a person who desires to act as:

(1) a **sales** clerk in a ~~package liquor store;~~ **dealer establishment;**

(2) an employee who serves wine at a farm winery; or

(3) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~

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

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

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

(1) the sole proprietor;

(2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;

(3) a member of a limited liability company that owns the business establishment; or

(4) a stockholder in a corporation that owns the business establishment;

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

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

(f) The commission may not issue an employee's permit to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

C o p y

(g) The commission may not issue an employee's permit to an applicant who has two (2) unrelated convictions for operating while intoxicated 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.

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:

(1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or

(2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);

the commission may grant or deny the issuance of a permit.

(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 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 dining car, boat, or airline employees.

SECTION 46. IC 7.1-3-18.5-2, AS AMENDED BY P.L.224-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

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

(1) An application that meets the requirements of this chapter.

(2) A fee of two hundred dollars ($200).

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

(c) The fees collected under this section shall be deposited in the

C o p y

enforcement and administration fund under IC 7.1-4-10.

SECTION 47. IC 7.1-3-18.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. (a) In order to be issued a certificate, a person must file an application with the commission on a form provided by the commission. The application must satisfy the following requirements:**

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

(2) The application must include the name under which the applicant transacts or intends to transact business.

(3) The application must include the address of the applicant's principal place of business.

(4) If the applicant is a firm, an association, or a partnership, the application must set forth the names and addresses of the persons constituting the firm, association, or partnership.

(5) If the applicant is a corporation, the application must include the names and addresses of the principal officers of the corporation.

(6) If the applicant is a limited liability company, the names and addresses of the managers of the limited liability company.

(7) The application must be signed and verified by oath or affirmation. If the applicant is a corporation, partnership, limited partnership, or limited liability company, a duly authorized agent, partner, or officer shall sign the application and submit written evidence of authority to do so.

(8) The application must include the statement required under section 2.6 of this chapter.

(9) The application must include any other information required by the commission.

(b) Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.

SECTION 48. IC 7.1-3-18.5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.6. 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**

C o p y

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 the applicant or the applicant's agents.

SECTION 49. 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, 2008]: **Sec. 3.5. (a) A certificate may be issued only to a person who meets the following requirements:**

(1) If the person is an individual, the person must be at least eighteen (18) years of age.

(2) The person must be authorized to do business in Indiana.

(b) The commission may refuse to issue a certificate to any person who has been previously issued a certificate that has been revoked.

(c) A certificate is not assignable and is valid only for the person in whose name it is issued and for the place designated in the certificate.

(d) The failure of a tobacco retailer to conspicuously display the tobacco retailer's certificate in accordance with the rules of the commission is grounds for the issuance of a fine or the suspension or revocation of the certificate.

SECTION 50. IC 7.1-3-18.5-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.6. (a) In order to renew a certificate, a tobacco retailer must file an application for renewal every three (3) years and pay the certificate fees in accordance with IC 7.1-3-18.5-2.**

(b) A renewal certificate may be denied on the same grounds and in the same manner as an original certificate.

SECTION 51. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.~~

~~(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.~~

~~(c) Subject to subsection (b), the~~ **The** commission shall revoke the

C o p y

certificate of a person upon a finding by a preponderance of the evidence that the person has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

SECTION 52. IC 7.1-3-18.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. The place or premises for which the certificate is issued is subject to inspection and search without a warrant by the commission and by enforcement officers to determine compliance with IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any of the provisions under this chapter.**

SECTION 53. IC 7.1-3-18.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. An officer who makes an arrest for a violation of this title shall seize the evidence of the commission of the violation, including any vehicle, automobile, boat, air or water craft, or other conveyance in which tobacco or tobacco products are kept, possessed, or transported contrary to law, or contrary to a rule of the commission. The articles and vehicles mentioned in this section are hereby declared forfeited to the state and shall be seized.**

SECTION 54. IC 7.1-3-18.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. The commission may mitigate civil penalties imposed against a tobacco retailer for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any of the provisions of this chapter if a tobacco retailer provides a training program for the tobacco retailer's employees that includes at least the following topics:**

(1) Laws governing the sale of tobacco products.

(2) Methods of recognizing and handling customers who are less than eighteen (18) years of age.

(3) Procedures for proper examination of identification cards to verify that customers are under eighteen (18) years of age.

(4) The use of an age audit identification function on electronic point of sale equipment, if available.

SECTION 55. IC 7.1-3-18.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11. A tobacco retailer shall exercise due diligence in the management and supervision of its premises and in the supervision and training of its employees or agents. Proof that employees or agents of the tobacco retailer,**

C o p y

while in the scope of their employment, committed at least three (3) violations relating to IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7, or any of the provisions of this chapter during a six (6) month period shall be prima facie evidence of a lack of due diligence by the tobacco retailer in the management and supervision of its premises and in the supervision and training of its employees or agents.

SECTION 56. IC 7.1-3-18.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. (a) The commission may assess and accept a civil penalty of up to one thousand dollars ($1,000) against a tobacco retailer for each violation.**

(b) The commission may suspend or revoke the certificate upon sufficient proof that the tobacco retailer or its employee or agent has violated or is currently violating any of the provisions of IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any provisions of this chapter.

(c) If a tobacco retailer is cited for an infraction for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any provisions of this chapter, the commission may prepare and serve upon the tobacco retailer by first class mail or by personal service at the tobacco retailer's place of business, set forth on the certificate, a notice of violation setting forth the facts and circumstances of the violation and summoning the tobacco retailer to appear before the commission and show cause why the certificate should not be suspended or revoked or why the commission should not assess an administrative fine against the tobacco retailer.

SECTION 57. IC 7.1-3-18.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) The notice of violation shall state, in reasonable detail, the following:**

(1) The tobacco retailer's name and principal place of business as set forth on the certificate.

(2) The name, official title, and mailing address of the commission's prosecutor and a telephone number through which the commission's prosecutor may be contacted.

(3) The official file or other reference number, the name of the proceeding, and a general description of the subject matter.

(4) A statement of the time, place, and nature of the hearing.

(5) A statement of the legal authority and jurisdiction under which the hearing is to be held.

C o p y

(6) The name, official title, and mailing address of the hearing judge and a telephone number through which information concerning hearing schedules and procedures may be obtained.

(7) A brief statement of the facts and issues involved, to the extent known to the hearing judge.

(8) A statement that a tobacco retailer's failure to attend or participate in a prehearing conference, hearing, or other later stage of the proceeding may result in suspension or revocation of the certificate.

(b) The notice may include any other matters the hearing judge considers desirable to expedite the proceedings.

(c) The hearing judge may grant a continuance of the hearing upon written motion showing good cause for a continuance.

SECTION 58. IC 7.1-3-18.5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. (a) The hearing judge shall give all parties full opportunity to file pleadings, motions, and objections and submit offers of settlement by the date of the prehearing conference.**

(b) At appropriate stages of a proceeding, the hearing judge may give all parties full opportunity to file briefs, proposed findings of fact, and proposed orders.

(c) A party shall serve copies of a filed document on all parties.

(d) The filing of a document with the commission is complete on the earlier of the following:

(1) The date on which the document is delivered to the commission.

(2) The date of the postmark on the envelope containing the document if the document is mailed with correct postage to the commission by certified mail.

SECTION 59. IC 7.1-3-18.5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. If a tobacco retailer fails to attend or participate in a hearing, the hearing judge may recommend to the commission that the commission suspend or revoke the tobacco retailer's certificate or impose a fine on the tobacco retailer.**

SECTION 60. IC 7.1-3-19-5, AS AMENDED BY P.L.224-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The commission shall cause one (1) notice of the pending investigation to be published in a newspaper in accordance

C o p y

with the provisions of IC 7.1-3-1-18. The publication of the notice shall be at least ~~thirty (30)~~ **fifteen (15)** days before the investigation.

SECTION 61. IC 7.1-3-19-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 11.5. (a) As used in this section, "applicant" or "application" means an applicant or an application for:**

(1) a new permit; or

(2) the transfer or renewal of an existing permit.

(b) This section applies if a permit applicant or a person who remonstrates at a local board hearing against the approval of the application files with the commission:

(1) an objection to the commission's action on the application; and

(2) a request for an appeal hearing before the commission.

(c) The commission shall do the following:

(1) Provide notice to the local board, by first class mail, of the date of an appeal hearing set by the commission. Notice under this subdivision must be provided not later than ten (10) days before the date of the hearing.

(2) Publish notice in the city, town, or county where the proposed permit premises is located of the date of an appeal hearing set by the commission. Notice under this subdivision must be published not later than ten (10) days before the date of the hearing.

SECTION 62. IC 7.1-3-20-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.9. As used in section 16(j) of this chapter, "tavern" means a permit premises:**

(1) that meets the definition of restaurant set forth in IC 7.1-3-20-9 but is used primarily for the serving of alcoholic beverages by the drink to the general public; and

(2) where food service is secondary to the primary use described in subdivision (1):

(A) in the amount of sales; and

(B) in the size of the service area where minors are not permitted.

SECTION 63. IC 7.1-3-20-16, AS AMENDED BY P.L.165-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: 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

C o p y

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

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

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

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

C o p y

for the visual and performing arts to a town that:

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

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) 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).

(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

C o p y

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 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 five (5) 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) An international deep water seaport is located within the district.

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 five (5) 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 five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

(j) This subsection does not apply to a city with a population of more than forty-six thousand five hundred (46,500) and less than

C o p y

fifty thousand (50,000) that has the St. Joseph River running through it and is traversed by the Indiana toll road. After July 1, 2008, the commission may issue not more than five (5) one, two, or three-way permits 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 as established by resolution of a city or town. The resolution must include findings that the economic development area is:

(1) in an area needing retail redevelopment;

(2) in the process of being redeveloped or renovated to include restaurants areas; or

(3) in an area being funded in part with grants or investments by a unit of government;

and that the local economic development goals will be substantially enhanced by additional permits. The resolution must stipulate the boundaries of the economic development area and the number of permits that the commission may issue. A fully executed copy of the resolution must be filed with the commission. A permit issued under this subsection may not be issued to a tavern, as defined in section 15.9 of this chapter, or transferred to a location outside the economic development area. If the commission issues 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 permits issued under this subsection does not exceed a total of five (5) for the city or town. If the city or town adopts more than one (1) ordinance creating an economic development area under IC 36-7-14, the city or town may stipulate that the five (5) permits may be divided among the economic development areas. An applicant for a permit under this subsection shall place the permit into use within twelve (12) months or the permit shall be subject to administrative revocation by the commission. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, including IC 7.1-1-3-16.5(2), the minimum bid for a permit under this subsection is seventy-five thousand dollars ($75,000), and the renewal fee for a permit under this subsection is two thousand dollars ($2,000). If after the 2010 decennial census and each decennial census thereafter, the city or town is authorized by the quota provisions of IC 7.1-3-22 to receive additional three-way permits, any three-way permits issued under

C o p y

this subsection must be subtracted from the additional three-way permits that the city or town may be authorized to receive under the quota provisions of IC 7.1-3-22.

SECTION 64. IC 7.1-3-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. ~~Dealers' Permits Limited.~~ **(a)** The commission may grant: ~~only~~

(1) one (1) beer dealer's permit ~~and~~ **in an incorporated city or town that has a population of less than fifteen thousand one (15,001) for each two thousand five hundred (2,500) persons, or fraction thereof, within the incorporated city or town;**

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) beer dealer's permit for each four thousand (4,000) persons, or a fraction thereof; or

(B) six (6) beer dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) beer dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

(B) twenty (20) beer dealer's permits;

whichever is greater, within the incorporated city or town.

(b) The commission may grant:

(1) one (1) liquor dealer's permit in an incorporated city **or** town ~~or unincorporated town~~ **that has a population of less than fifteen thousand one (15,001)** for each ~~one~~ **two** thousand five hundred ~~(1,500)~~ **(2,500)** persons, or fraction thereof, within the incorporated city **or** town; ~~or unincorporated town,~~

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each four thousand (4,000) persons, or a fraction thereof; or

(B) six (6) liquor dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

C o p y

(B) twenty (20) liquor dealer's permits;

whichever is greater, within the incorporated city or town.

(c) The commission may grant only one (1) beer dealer's permit and one (1) liquor dealer's permit in an area in the county outside an incorporated city or town for each four thousand (4,000) persons, or fraction thereof, within the area in a county outside an incorporated city or town.

(d) Notwithstanding subsections (a), (b), and (c), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer that:

(1) held a permit before July 1, 2008; and

(2) does not qualify for a permit under the quota restrictions set forth in subsection (a), (b), or (c).

(e) Notwithstanding subsection (a) or (c) and subject to subsection (g), the commission may grant not more than two (2) new beer dealer's permits or five percent (5%) of the total beer dealer permits established under the quota restrictions set forth in subsection (a) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (a).

(2) An area in a county outside an incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (c).

(f) Notwithstanding subsection (b) or (c) and subject to subsection (g), the commission may grant not more than two (2) new liquor dealer's permits or five percent (5%) of the total liquor dealer permits established under the quota restrictions set forth in subsection (b) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (b).

(2) An area in a county outside an incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (c).

(g) To grant additional permits under subsection (e) or (f), the commission shall:

(1) investigate the desirability of the permit by considering the factors listed in IC 7.1-3-19-10.5(b); and

(2) consider the increase or decrease in population in the

C o p y

incorporated city or town since the last decennial census.

SECTION 65. IC 7.1-4-4.1-3, AS AMENDED BY P.L.224-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The following ~~biennial~~ license fee is imposed for an employee's permit:

(1) Fifteen dollars ($15) if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) ~~Thirty dollars ($30)~~ **Forty-five dollars ($45)** if subdivision (1) does not apply.

The term of a ~~biennial~~ employee's license is ~~two (2)~~ **three (3)** years.

SECTION 66. IC 7.1-5-5-9, AS AMENDED BY P.L.224-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a)** It is unlawful for a ~~beer wholesaler or a primary source of supply to.~~ **permittee to knowingly or intentionally** ~~(1)~~ coerce, or attempt to coerce, or persuade ~~a beer wholesaler~~ **another permittee** to enter into an agreement, or to take an action, which ~~will~~ **would** violate ~~or tend to violate,~~ a provision of this title or of the rules and regulations of the commission. ~~or~~

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

SECTION 67. IC 7.1-5-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) It is unlawful for a person to act ~~as a clerk in a package liquor store, or as a bartender, waiter, waitress, or manager for a retailer permittee~~ **in a position that is listed in IC 7.1-3-18-9(a)** unless that person has applied for and been issued ~~the appropriate~~ **an employee's** permit. ~~This section does not apply to dining car or boat employees or to a person described in IC 7.1-3-18-9(d).~~

(b) It is a defense to a charge under this section if, within thirty (30) days after being cited by the commission, the person who was cited produces evidence that the appropriate permit was issued by the commission on the date of the citation.

(c) It is a defense to a charge under this section for a new applicant for a permit if, within thirty (30) days after being cited by the commission, the new applicant who was cited produces a receipt for a cashier's check or money order showing that an application for the appropriate permit was applied for on the date of the citation.

(d) It is a defense to a charge under this section that the person:

(1) acted as a dining car, a boat, or an airline employee; or

(2) is a person described in IC 7.1-3-18-9(d).

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SECTION 68. IC 7.1-5-7-8, AS AMENDED BY P.L.2-2007, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) It is a ~~Class C~~ **Class B** misdemeanor for a person to recklessly, **knowingly, or intentionally** sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor.

(b) However, the offense described in subsection (a) is:

(1) a Class A misdemeanor if the person has a prior unrelated conviction under this section; and

(2) a Class D felony if the consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.

~~(b)~~ **(c)** This section shall not be construed to impose civil liability upon any postsecondary educational institution, including public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barters, exchanges, provides, or furnishes an alcoholic beverage to a minor.

SECTION 69. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

(2) A person at least ~~eighteen (18)~~ **nineteen (19)** years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment**.**

(3) A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:

(A) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5; and

(B) serves alcoholic beverages in a dining area or family room of a restaurant or hotel:

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(i) in the course of a person's employment as a waiter, waitress, or server; and

(ii) under the supervision of a person who is at least twenty-one (21) years of age, is present at the restaurant or hotel, and has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

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

SECTION 70. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **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 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 71. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **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.

SECTION 72. IC 7.1-5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) It is unlawful for a person who owns or operates a private or public restaurant or place of public or private entertainment to permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the

C o p y

provisions of this section shall not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track that is used primarily in the sport of auto racing.

(3) An outdoor place of public entertainment that:

(A) has an area of at least four (4) acres and not more than six (6) acres;

(B) is located within one (1) mile of the White River;

(C) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(D) is used primarily in connection with live music concerts.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

SECTION 73. IC 7.1-5-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a track that is used primarily in the sport of auto racing.

(c) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

~~(c)~~ **(d)** It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 74. IC 7.1-5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. ~~Taking Liquor Into Restaurant Prohibited.~~ **(a)** It is a Class C misdemeanor for a person to

C o p y

knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

(b) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

SECTION 75. IC 7.1-5-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~Sale to Non-Permittee Prohibited.~~ It is unlawful for the holder of a brewer's, distiller's, rectifier's, or a wholesaler's permit of any type to sell an alcoholic beverage to a person who does not hold an appropriate permit under this title. However, this section shall not apply to the sale of an alcoholic beverage to a consumer **or employee** as expressly authorized in this title.

SECTION 76. IC 7.1-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as provided in subsection (d), it is unlawful to sell alcoholic beverages at the following times:

(1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.

(3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.

(4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the

C o p y

business carried on the premises, as at a hotel or restaurant, permits.

~~(c) It is unlawful to sell alcoholic beverages on New Years Day for off-premises consumption.~~

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

SECTION 77. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23. (a) A wholesaler permittee who knowingly or intentionally sells a brand of alcoholic beverages that the wholesaler permittee has not been authorized to sell by the brand's primary source of supply commits a Class D felony.**

(b) A permittee who is injured as a result of a violation of this section has a private right of action to bring a civil action to recover compensatory damages against the wholesaler permittee who violates this section.

SECTION 78. IC 9-21-4-5, AS AMENDED BY P.L.229-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), a person may not place or maintain upon a highway a traffic sign or signal bearing commercial advertising. A public authority may not permit the placement of a traffic sign or signal that bears a commercial message.

(b) Under criteria to be jointly established by the Indiana department of transportation and the office of tourism development, the Indiana department of transportation may authorize the posting of any of the following:

(1) Limited tourist attraction signage.

(2) Business signs on specific information panels on the interstate system of highways and other freeways.

All costs of manufacturing, installation, and maintenance to the Indiana department of transportation for a business sign posted under this subsection shall be paid by the business.

(c) Criteria established under subsection (b) for tourist attraction signage must include a category for a tourist attraction that is an establishment licensed under IC 7.1-3-2-7(5).

~~(c)~~ **(d)** A person may not place, maintain, or display a flashing, a rotating, or an alternating light, beacon, or other lighted device that:

(1) is visible from a highway; and

(2) may be mistaken for or confused with a traffic control device or for an authorized warning device on an emergency vehicle.

~~(d)~~ **(e)** This section does not prohibit the erection, upon private

C o p y

property adjacent to highways, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

SECTION 79. IC 34-30-2-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19.5. IC 7.1-3-13-3.5 (Concerning wine purchased at an estate sale and resold by a wine wholesaler).**

SECTION 80. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. (a) If a permit holder or an agent or employee of a permit holder violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed against the permit holder as follows:**

(1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of IC 7.1-5-7-8 in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).

(2) If the licensed premises at that specific business location has had one (1) citation or summons for a violation of IC 7.1-5-7-8 in the previous ninety (90) days, a civil penalty of five hundred dollars ($500).

(3) If the licensed premises at that specific business location has had two (2) citations or summonses for a violation of IC 7.1-5-7-8 in the previous ninety (90) days, a civil penalty of one thousand dollars ($1,000).

(4) If the licensed premises at that specific business location has had three (3) or more citations or summonses for a violation of IC 7.1-5-7-8 in the previous ninety (90) days, a civil penalty of two thousand dollars ($2,000).

A permit holder may not be issued a citation or summons under this section more than once for every twenty-four (24) hour period.

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

(c) Unless a person less than twenty-one (21) years of age buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a permit holder that sells alcoholic beverages is not liable under 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) All civil penalties collected under this section shall be deposited in the alcohol and tobacco commission's enforcement and administration fund under IC 7.1-4-10.

C o p y

SECTION 81. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. 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 retail establishment 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).~~ **two hundred fifty dollars ($250).**

(2) If the retail establishment 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).~~ **five hundred dollars ($500).**

(3) If the retail establishment 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).~~ **one thousand dollars ($1,000).**

(4) If the retail establishment 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).~~ **two thousand dollars ($2,000).**

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or

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recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 82. IC 7.1-3-1-5.3 IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 83. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding IC 7.1-2-4-13.5, as added by this act, a member of a local board appointed before January 1, 2009, shall complete the training required under IC 7.1-2-4-13.5, as added by this act, not later than July 1, 2009.**

(b) The alcohol and tobacco commission shall begin providing a training program under IC 7.1-2-4-13.5, as added by this act, for members of local boards not later that January 1, 2009.

(c) This SECTION expires July 2, 2009.

SECTION 84. [EFFECTIVE JULY 1, 2008] **IC 7.1-5-7-8, as amended by this act, and IC 7.1-5-10-23, as added by this act, apply only to offenses committed after June 30, 2008.**

SECTION 85. [EFFECTIVE JULY 1, 2008] **The intent and purpose of IC 7.1-5-8-4, IC 7.1-5-8-5, IC 7.1-5-8-6, all as amended by this act, is the promotion of performing arts in Indiana.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1118, 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 4-33-19-6, AS ADDED BY P.L.227-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008] : Sec. 6. The division shall, on behalf of the department of state revenue or the alcohol and tobacco commission, conduct a license revocation action against a licensed entity for any revocation action authorized by any of the following statutes:

(1) IC 6-2.5-8-7(g).

(2) ~~IC 7.1-3-18.5-5(e).~~ **IC 7.1-3-18.5.**

(3) IC 7.1-3-23-2(b).

(4) IC 7.1-3-23-5 with respect to a violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.".

Page 2, line 19, delete "The establishment meets the requirements, if any," and insert: "**The sale of alcohol on the premises represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises excluding gasoline and oil products.**".

Page 2, delete lines 20 through 22.

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 7.1-2-3-10, AS AMENDED BY P.L.227-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The commission shall have the power to investigate the violation of a provision of this title and of the rules and regulations of the commission and to report its findings to the prosecuting attorney or the grand jury of the county in which the violation occurred, or to the attorney general.

(b) The commission shall enter a memorandum of understanding with the Indiana gaming commission authorizing the commission's unlawful gaming enforcement division to conduct revocation actions resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 as authorized by the following statutes:

(1) ~~IC 7.1-3-18.5-5(e).~~ **IC 7.1-3-18.5.**

(2) IC 7.1-3-23-2(b).

(3) IC 7.1-3-23-5.

(c) A memorandum of understanding entered into under this section must comply with the requirements of IC 4-33-19-8.

C o p y

(d) The memorandum of understanding required by this section must be entered into before January 1, 2008.".

Page 19, line 2, delete "may:" and insert "**may disclose the information:**

(1) to the department of state revenue to verify the accuracy of the amount of annual gross sales of food reported to the commission under subsections (b) and (c); and

(2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross sales discovered by the department of state revenue.".

Page 19, delete lines 3 through 12.

Page 19, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 38. IC 7.1-3-8-3, AS AMENDED BY P.L.224-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

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

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

(1) liquor retailer's permit;

(2) supplemental caterer's permit;

(3) liquor dealer's permit; or

(4) liquor wholesaler's permit.

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

(d) A liquor wholesaler's bona fide regular employees may purchase liquor from the wholesaler in an amount not to exceed eighteen (18) liters.".

Page 26, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 51. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5,~~

C o p y

~~or IC 35-46-1-11.7.~~

~~(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.~~

~~(c) Subject to subsection (b), the~~ **The** commission shall revoke the certificate of a person upon a finding by a preponderance of the evidence that the person has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.".

Page 29, delete lines 21 through 42.

Page 30, delete lines 1 through 11.

Page 30, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 62. IC 7.1-3-20-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15.9. As used in section 16(j) of this chapter, "tavern" means a permit premises:**

(1) that meets the definition of restaurant set forth in IC 7.1-3-20-9 but is used primarily for the serving of alcoholic beverages by the drink to the general public; and

(2) where food service is secondary to the primary use described in subdivision (1):

(A) in the amount of sales; and

(B) in the size of the service area where minors are not permitted.

SECTION 63. IC 7.1-3-20-16, AS AMENDED BY P.L.165-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

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

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

C o p y

(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 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:

C o p y

(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).

(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 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

C o p y

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 five (5) 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) An international deep water seaport is located within the district.

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 five (5) 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 five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

(j) After July 1, 2008, the commission may issue not more than five (5) one, two, or three-way permits 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 as determined by resolution of a city or town. The resolution must include findings that the economic development area is:

(1) in an area needing retail redevelopment;

(2) in the process of being redeveloped or renovated to include restaurants areas; or

(3) in an area being funded in part with grants or investments by a unit of government;

and that the local economic development goals will be substantially enhanced by additional permits. The resolution must stipulate the

C o p y

boundaries of the economic development area and the number of permits that the commission may issue. A fully executed copy of the resolution must be filed with the commission. A permit issued under this subsection may not be issued to a tavern, as defined in section 15.9 of this chapter, or transferred to a location outside the economic development area. If the commission issues 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 permits issued under this subsection does not exceed five (5) at any time. An applicant for a permit under this subsection shall place the permit into use within twelve (12) months or the permit shall be subject to administrative revocation by the commission. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for a permit under this subsection is seventy-five thousand dollars ($75,000), and the renewal fee for a permit under this subsection is two thousand dollars ($2,000). If after the 2010 decennial census the city or town is authorized by the quota provisions of IC 7.1-3-22 to receive additional three-way permits, any three-way permits issued under this subsection must be subtracted from the additional three-way permits that the city or town may be authorized to receive under the quota provisions of IC 7.1-3-22.".

Page 37, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 75. IC 7.1-5-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~Sale to Non-Permittee Prohibited.~~ It is unlawful for the holder of a brewer's, distiller's, rectifier's, or a wholesaler's permit of any type to sell an alcoholic beverage to a person who does not hold an appropriate permit under this title. However, this section shall not apply to the sale of an alcoholic beverage to a consumer **or employee** as expressly authorized in this title.".

Page 39, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 81. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

C o p y

(1) If the retail establishment 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).~~ **two hundred fifty dollars ($250).**

(2) If the retail establishment 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).~~ **five hundred dollars ($500).**

(3) If the retail establishment 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).~~ **one thousand dollars ($1,000).**

(4) If the retail establishment 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).~~ **two thousand dollars ($2,000).**

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

C o p y

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1118 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 9, nays 3.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1118 be amended to read as follows:

Page 34, line 41, after "(j)" insert "**This subsection does not apply to a city with a population of more than forty-six thousand five hundred (46,500) and less than fifty thousand (50,000) that has the St. Joseph River running through it and is traversed by the Indiana toll road.**".

(Reference is to HB 1118 as printed January 18, 2008.)

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C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1118 be amended to read as follows:

Page 35, line 3, after "area" insert "**under IC 36-7-14**".

Page 35, line 3, delete "determined" and insert "**established**".

Page 35, line 22, after "exceed" insert "**a total of**".

Page 35, line 22, delete "at any time" and insert "**for the city or town**. **If the city or town adopts more than one (1) ordinance creating an economic development area under IC 36-7-14, the city or town may stipulate that the five (5) permits may be divided among the economic development areas.**".

Page 35, line 28, after "law," insert "**including IC 7.1-1-3-16.5(2),**".

Page 35, line 31, after "census" insert "**and each decennial census thereafter,**".

(Reference is to HB 1118 as printed January 18, 2008.)

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