

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred House Bill No. 1118, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1           Page 1, delete lines 16 through 17, begin a new paragraph and  
2           insert:
- 3           "SECTION 3. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA  
4           CODE AS A NEW SECTION TO READ AS FOLLOWS  
5           [EFFECTIVE JULY 1, 2008]: **Sec. 18.5. (a) "Grocery store" means**  
6           **a store or part of a store that is known generally as:**
- 7                 **(1) a supermarket, grocery store, or delicatessen and is**  
8                 **primarily engaged in the retail sale of a general food line,**  
9                 **which may include:**
- 10                 **(A) canned and frozen foods;**  
11                 **(B) fresh fruits and vegetables; and**  
12                 **(C) fresh and prepared meats, fish, and poultry;**
- 13                 **(2) subject to subsection (b), a convenience store or food mart**  
14                 **and is primarily engaged in:**
- 15                 **(A) the retail sale of a line of goods that may include milk,**  
16                 **bread, soda, and snacks; or**  
17                 **(B) the retail sale of automotive fuels and the retail sale of**  
18                 **a line of goods that may include milk, bread, soda, and**  
19                 **snacks;**
- 20                 **(3) a warehouse club, superstore, supercenter, or general**

- 1           **merchandise store and is primarily engaged in the retail sale**  
 2           **of a general line of groceries or gourmet foods in combination**  
 3           **with general lines of new merchandise, which may include**  
 4           **apparel, furniture, and appliances; or**  
 5           **(4) a specialty or gourmet food store primarily engaged in the**  
 6           **retail sale of miscellaneous specialty foods not for immediate**  
 7           **consumption and not made on the premises, not including:**  
 8               **(A) meat, fish, and seafood;**  
 9               **(B) fruits and vegetables;**  
 10              **(C) confections, nuts, and popcorn; and**  
 11              **(D) baked goods.**
- 12           **(b) The term includes a convenience store or food mart as**  
 13           **described in subsection (a)(2) only if the sale of alcoholic beverages**  
 14           **on the premises of the convenient store or food mart represents a**  
 15           **percentage of annual gross sales of twenty-five percent (25%) or**  
 16           **less of all items sold on the premises, excluding gasoline and**  
 17           **automotive oil products.**
- 18           **(c) The term does not include an establishment known generally**  
 19           **as a gas station that is primarily engaged in:**  
 20               **(1) the retail sale of automotive fuels, which may include**  
 21               **diesel fuel, gasohol, or gasoline; or**  
 22               **(2) the retail sale of automotive fuels, which may include**  
 23               **diesel fuel, gasohol, or gasoline and activities that may include**  
 24               **providing repair service, selling automotive oils, replacement**  
 25               **parts, and accessories, or providing food services."**
- 26           Delete page 2.
- 27           Page 3, delete lines 1 through 11.
- 28           Page 5, delete lines 2 through 6.
- 29           Page 6, delete lines 27 through 42.
- 30           Delete pages 7 through 10.
- 31           Page 11, delete lines 1 through 36.
- 32           Page 19, line 21, after "store" insert "**that is generally known as a**  
 33           **convenience store or food mart as described in**  
 34           **IC 7.1-1-3-18.5(a)(2)**".
- 35           Page 19, line 26, delete "store;" and insert "**store that is generally**  
 36           **known as a convenience store or food mart as described in**  
 37           **IC 7.1-1-3-18.5(a)(2);"**.
- 38           Page 21, line 19, delete "(1/2)" and insert "(1/2)".

1 Page 22, delete lines 8 through 19.

2 Page 23, delete lines 24 through 42, begin a new paragraph and  
3 insert:

4 "SECTION 36. IC 7.1-3-17.5-6, AS AMENDED BY P.L.233-2007,  
5 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2008]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of a  
7 gaming site permit may, subject to the approval of the commission,  
8 provide alcoholic beverages to guests without charge at an event on the  
9 licensed premises if all the following requirements are met:

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

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

13 ~~(3)~~ **(1)** Each alcoholic beverage dispensed to a guest:

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

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

18 ~~(4)~~ **(2)** At the conclusion of the event, all alcoholic beverages  
19 recorded on the cash register tape are paid by the holder of the  
20 gaming site permit.

21 ~~(5)~~ **(3)** All records of the alcoholic beverage sales, including the  
22 cash register tape, shall be maintained by the holder of the gaming  
23 site permit for not less than two (2) years.

24 ~~(6)~~ **(4)** The holder of the gaming site permit complies with the  
25 rules of the commission."

26 Delete pages 24 through 25.

27 Page 26, delete lines 1 through 35, begin a new paragraph and  
28 insert:

29 "SECTION 37. IC 7.1-3-18.5-2, AS AMENDED BY P.L.224-2005,  
30 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2008]: Sec. 2. (a) A person who desires a certificate must  
32 provide the following to the commission:

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

35 (2) **Except as provided in section 6(c) of this chapter**, a fee of  
36 two hundred dollars (\$200).

37 **(3) The name under which the applicant transacts or intends**  
38 **to transact business.**

1           **(4) The address of the applicant's principal place of business**  
 2           **or headquarters, if any.**

3           **(5) The statement required under section 2.6 of this chapter.**

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

6           **(c) A certificate holder shall conspicuously display the holder's**  
 7 **certificate on the holder's premises where the tobacco products are**  
 8 **sold or distributed.**

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

12           **(e) A certificate may be issued only to a person who meets the**  
 13 **following requirements:**

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

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

17           ~~(f)~~ **(f) The fees collected under this section shall be deposited in the**  
 18 **enforcement and administration fund under IC 7.1-4-10."**

19           Page 27, line 1, delete "and".

20           Page 27, line 2, delete "vehicles".

21           Page 27, delete lines 6 through 42, begin a new paragraph and  
 22 insert:

23           "SECTION 39. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007,  
 24 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2008]: Sec. 5. (a) Subject to subsection (b), the commission  
 26 may suspend the certificate of a person who fails to pay a civil penalty  
 27 imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5,  
 28 or IC 35-46-1-11.7.

29           (b) Before enforcing the imposition of a civil penalty or suspending  
 30 or revoking a certificate under this chapter, the commission shall  
 31 provide written notice of the alleged violation to the certificate holder  
 32 and conduct a hearing. The commission shall provide written notice of  
 33 the civil penalty or suspension **or revocation of a certificate** to the  
 34 certificate holder.

35           (c) Subject to subsection (b), the commission shall revoke the  
 36 certificate of a person upon a finding by a preponderance of the  
 37 evidence that the person:

38           **(1) has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4;**

1           **(2) has committed habitual illegal sale of tobacco as**  
 2           **established under IC 35-46-1-10.2(h); or**

3           **(3) has committed habitual illegal entrance by a minor as**  
 4           **established under IC 35-46-1-11.7(f).**

5           SECTION 40. IC 7.1-3-18.5-6 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If a certificate  
 7           has:

8                 (1) expired; or

9                 (2) been suspended;

10           the commission may not reinstate or renew the certificate until all civil  
 11           penalties imposed against the certificate holder for violating  
 12           IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7  
 13           have been paid.

14                 (b) The failure to pay a civil penalty described in subsection (a) is  
 15           a Class B infraction.

16                 **(c) If a certificate has been revoked, the commission may not**  
 17           **reinstate or renew the certificate for at least one hundred eighty**  
 18           **(180) days after the date of revocation. The commission may**  
 19           **reinstate or renew the certificate only upon a reasonable showing**  
 20           **by the applicant that the applicant shall:**

21                         **(1) exercise due diligence in the sale of tobacco products on**  
 22                         **the applicant's premises where the tobacco products are sold**  
 23                         **or distributed; and**

24                         **(2) properly supervise and train the applicant's employees or**  
 25                         **agents in the handling and sale of tobacco products.**

26           **If a certificate is reinstated or renewed, the applicant of the**  
 27           **certificate shall pay an application fee of one thousand dollars**  
 28           **(\$1,000).**

29                 ~~(c)~~ **(d)** Notwithstanding IC 34-28-5-5(c), civil penalties collected  
 30           under this section must be deposited in the youth tobacco education  
 31           and enforcement fund established under IC 7.1-6-2-6."

32           Page 28 delete lines 1 through 21.

33           Page 28, line 22, delete "IC 7.1-3-18.5-10" and insert "IC  
 34           7.1-3-18.5-8".

35           Page 28, line 24, delete "10." and insert "8."

36           Page 28, line 25, delete "tobacco retailer" and insert "**certificate**  
 37           **holder**".

38           Page 28, line 27, delete "tobacco retailer" and insert "**certificate**

1 **holder".**

2 Page 28, line 28, delete "tobacco retailer's" and insert "**certificate**  
3 **holder's**".

4 Page 28, delete lines 35 through 42, begin a new paragraph and  
5 insert:

6 "SECTION 42. IC 7.1-3-18.5-9 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
8 [EFFECTIVE JULY 1, 2008]: **Sec. 9. A certificate holder shall**  
9 **exercise due diligence in the supervision and training of the**  
10 **certificate holder's employees or agents in the handling and sale of**  
11 **tobacco products on the holder's retail premises. Proof that**  
12 **employees or agents of the certificate holder, while in the scope of**  
13 **their employment, committed at least six (6) violations relating to**  
14 **IC 35-46-1-10.2(a) in any one hundred eighty (180) day period shall**  
15 **be prima facie evidence of a lack of due diligence by the certificate**  
16 **holder in the supervision and training of the certificate holder's**  
17 **employees or agents.**

18 SECTION 43. IC 7.1-3-18.5-10 IS ADDED TO THE INDIANA  
19 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
20 [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) If a certificate holder fails**  
21 **to attend or participate in a hearing without good cause, the**  
22 **hearing judge may recommend to the commission that the**  
23 **commission suspend or revoke the certificate holder's certificate or**  
24 **impose a fine on the certificate holder of up to one thousand dollars**  
25 **(\$1,000).**

26 **(b) A hearing judge may grant a continuance of a hearing upon**  
27 **written motion showing good cause for the continuance."**

28 Delete page 29.

29 Page 30, delete lines 1 through 38.

30 Page 31, delete lines 26 through 42, begin a new paragraph and  
31 insert:

32 "SECTION 46. IC 7.1-3-22-4 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. ~~Dealers' Permits~~**  
34 **Limited: (a) The commission may grant: ~~only~~**

35 **(1) one (1) beer dealer's permit ~~and in an incorporated city or~~**  
36 **town that has a population of less than fifteen thousand one**  
37 **(15,001) for each two thousand two hundred fifty (2,250)**  
38 **persons, or fraction thereof, within the incorporated city or**

- 1 town;
- 2 (2) in an incorporated city or town that has a population of
- 3 more than fifteen thousand (15,000) but less than eighty
- 4 thousand (80,000):
- 5 (A) one (1) beer dealer's permit for each three thousand
- 6 five hundred (3,500) persons, or a fraction thereof; or
- 7 (B) seven (7) beer dealer's permits;
- 8 whichever is greater, within the incorporated city or town;
- 9 and
- 10 (3) in an incorporated city or town that has a population of at
- 11 least eighty thousand (80,000):
- 12 (A) one (1) beer dealer's permit for each six thousand
- 13 (6,000) persons, or a fraction thereof; or
- 14 (B) twenty-three (23) beer dealer's permits;
- 15 whichever is greater, within the incorporated city or town.
- 16 (b) The commission may grant:
- 17 (1) one (1) liquor dealer's permit in an incorporated city or town
- 18 or ~~unincorporated town~~ that has a population of less than
- 19 fifteen thousand one (15,001) for each ~~one two thousand five~~
- 20 ~~hundred (1,500)~~ two hundred fifty (2,250) persons, or fraction
- 21 thereof, within the incorporated city or town; or ~~unincorporated~~
- 22 ~~town;~~
- 23 (2) in an incorporated city or town that has a population of
- 24 more than fifteen thousand (15,000) but less than eighty
- 25 thousand (80,000):
- 26 (A) one (1) liquor dealer's permit for each three thousand
- 27 five hundred (3,500) persons, or a fraction thereof; or
- 28 (B) seven (7) liquor dealer's permits;
- 29 whichever is greater, within the incorporated city or town;
- 30 and
- 31 (3) in an incorporated city or town that has a population of at
- 32 least eighty thousand (80,000):
- 33 (A) one (1) liquor dealer's permit for each six thousand
- 34 (6,000) persons, or a fraction thereof; or
- 35 (B) twenty-three (23) liquor dealer's permits;
- 36 whichever is greater, within the incorporated city or town.
- 37 (c) The commission may grant only one (1) beer dealer's permit
- 38 and one (1) liquor dealer's permit in an area in the county outside

1       **an incorporated city or town for each two thousand five hundred**  
2       **(2,500) persons, or fraction thereof, within the area in a county**  
3       **outside an incorporated city or town.**

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

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

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

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

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

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

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

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

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

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

36               **(1) investigate the desirability of the permit by considering:**

37                       **(A) whether there is a need for the services at the**  
38                       **requested location of the dealer permit;**

- 1           **(B) the desire of the neighborhood or the community to**
- 2           **receive the services;**
- 3           **(C) the impact of the services on other businesses in the**
- 4           **neighborhood or community; and**
- 5           **(D) the impact of the services on the neighborhood or**
- 6           **community; and**
- 7           **(2) consider the increase or decrease in population in the**
- 8           **incorporated city or town since the last decennial census."**

9           Delete pages 32 through 37.

10          Page 38, delete line 1.

11          Page 38, line 13, after "(a)" insert "**This section does not apply to**

12 **product management (as described in 905 IAC 1-5.2-15) by a**

13 **permittee.**

14          **(b)".**

15          Page 38, line 19, delete "(b)" and insert "(c)".

16          Page 38, delete lines 23 through 42, begin a new paragraph and

17 insert:

18          "SECTION 49. IC 7.1-5-7-1 IS AMENDED TO READ AS

19 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) It is a ~~Class C~~

20 ~~infraction~~ **Class C misdemeanor** for a minor to **knowingly or**

21 **intentionally** make a false statement of the minor's age or to present or

22 offer false or fraudulent evidence of majority or identity to a permittee

23 for the purpose of ordering, purchasing, attempting to purchase, or

24 otherwise procuring or attempting to procure an alcoholic beverage.

25          (b) In addition to the penalty under subsection (a), a minor who:

26           (1) uses a false or altered driver's license or the driver's license of

27 another person as evidence of majority under this section; or

28           (2) is convicted of purchasing or procuring an alcoholic beverage

29 with or without using a false or altered driver's license;

30 shall have the minor's driver's license suspended for up to one (1) year

31 in accordance with IC 9-24-18-8 and IC 9-30-4-9.

32          (c) Upon entering a judgment **of conviction** for the ~~infraction~~

33 **misdemeanor** under this section, the court shall forward a copy of the

34 judgment to the bureau of motor vehicles for the purpose of complying

35 with subsection (b)."

36          Page 39, delete lines 20 through 42, begin a new paragraph and

37 insert:

38          "SECTION 51. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005,

1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2008]: Sec. 13. Section 12 of this chapter does not prohibit the  
3 following:

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

- 9 (A) selling;
- 10 (B) furnishing, other than serving;
- 11 (C) consuming; or
- 12 (D) otherwise dealing in;

13 alcoholic beverages.

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

17 (3) A person **who is** at least nineteen (19) years of age but less  
18 than twenty-one (21) years of age ~~who:~~ **and (A) who** has  
19 successfully completed an alcohol server training program  
20 certified under IC 7.1-3-1.5 ~~and (B) serves from serving~~  
21 alcoholic beverages in a dining area or family room of a  
22 restaurant or hotel:

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

25 (ii) ~~(B)~~ **(B)** under the supervision of a person who:

- 26 (i) is at least twenty-one (21) years of age;
- 27 (ii) is present at the restaurant or hotel; and
- 28 (iii) has successfully completed an alcohol server training  
29 program certified under IC 7.1-3-1.5 by the commission.

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

33 Page 40, delete lines 1 through 10.

34 Page 43, delete lines 7 through 42, begin a new paragraph and  
35 insert:

36 "SECTION 59. IC 9-21-4-5, AS AMENDED BY P.L.30-2007,  
37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), a

1 person may not place or maintain upon a highway a traffic sign or  
 2 signal bearing commercial advertising. A public authority may not  
 3 permit the placement of a traffic sign or signal that bears a commercial  
 4 message.

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

- 9 (1) Limited tourist attraction signage.
- 10 (2) Business signs on specific information panels on the interstate  
 11 system of highways and other freeways.

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

15 (c) Criteria established under subsection (b) for tourist attraction  
 16 signage must include a category for a tourist attraction that:

- 17 (1) is a trademarked destination brand; and
- 18 (2) encompasses buildings, structures, sites, or other facilities that  
 19 are:
  - 20 (A) listed on the National Register of Historic Places  
 21 established under 16 U.S.C. 470 et seq.; or
  - 22 (B) listed on the register of Indiana historic sites and historic  
 23 structures established under IC 14-21-1;

24 regardless of the distance of the tourist attraction from the highway on  
 25 which the tourist attraction signage is placed.

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

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

- 31 (1) is visible from a highway; and
- 32 (2) may be mistaken for or confused with a traffic control device  
 33 or for an authorized warning device on an emergency vehicle.

34 ~~(e)~~ (f) This section does not prohibit the erection, upon private  
 35 property adjacent to highways, of signs giving useful directional  
 36 information and of a type that cannot be mistaken for official signs.".

37 Page 44, delete lines 1 through 2.

38 Page 44, delete lines 7 through 42, begin a new paragraph and

1 insert:

2 "SECTION 61. IC 35-46-1-10.1 IS ADDED TO THE INDIANA  
3 CODE AS A NEW SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. (a) If a permit holder or an**  
5 **agent or employee of a permit holder violates IC 7.1-5-7-8 on the**  
6 **licensed premises, in addition to any other penalty, a civil judgment**  
7 **may be imposed against the permit holder as follows:**

8 (1) **If the licensed premises at that specific business location**  
9 **has not been issued a citation or summons for a violation of**  
10 **IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a**  
11 **civil penalty of up to two hundred dollars (\$200).**

12 (2) **If the licensed premises at that specific business location**  
13 **has had one (1) citation or summons for a violation of**  
14 **IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a**  
15 **civil penalty of up to four hundred dollars (\$400).**

16 (3) **If the licensed premises at that specific business location**  
17 **has had two (2) citations or summonses for a violation of**  
18 **IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a**  
19 **civil penalty of up to seven hundred dollars (\$700).**

20 (4) **If the licensed premises at that specific business location**  
21 **has had three (3) or more citations or summonses for a**  
22 **violation of IC 7.1-5-7-8 in the previous one hundred eighty**  
23 **(180) days, a civil penalty of up to one thousand dollars**  
24 **(\$1,000).**

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

27 (c) **Unless a person less than twenty-one (21) years of age buys**  
28 **or receives an alcoholic beverage under the direction of a law**  
29 **enforcement officer as part of an enforcement action, a permit**  
30 **holder that sells alcoholic beverages is not liable under this section**  
31 **unless the person less than twenty-one (21) years of age who**  
32 **bought or received the alcoholic beverage is charged for violating**  
33 **IC 7.1-5-7-7.**

34 (d) **All civil penalties collected under this section shall be**  
35 **deposited in the alcohol and tobacco commission's enforcement**  
36 **and administration fund under IC 7.1-4-10.**

37 SECTION 62. IC 35-46-1-10.2 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.2. (a) A retail**

1 establishment that sells or distributes tobacco to a person less than  
 2 eighteen (18) years of age commits a Class C infraction. For a sale to  
 3 take place under this section, the buyer must pay the retail  
 4 establishment for the tobacco product. Notwithstanding  
 5 IC 34-28-5-4(c), a civil judgment for an infraction committed under  
 6 this section must be imposed as follows:

7 (1) If the retail establishment at that specific business location has  
 8 not been issued a citation or summons for a violation of this  
 9 section in the previous ~~ninety (90)~~ **one hundred eighty (180)**  
 10 days, a civil penalty of ~~fifty dollars (\$50)~~ **up to two hundred**  
 11 **dollars (\$200)**.

12 (2) If the retail establishment at that specific business location has  
 13 had one (1) citation or summons issued for a violation of this  
 14 section in the previous ~~ninety (90)~~ **one hundred eighty (180)**  
 15 days, a civil penalty of ~~one hundred dollars (\$100)~~ **up to four**  
 16 **hundred dollars (\$400)**.

17 (3) If the retail establishment at that specific business location has  
 18 had two (2) citations or summonses issued for a violation of this  
 19 section in the previous ~~ninety (90)~~ **one hundred eighty (180)**  
 20 days, a civil penalty of ~~two hundred fifty dollars (\$250)~~ **up to**  
 21 **seven hundred dollars (\$700)**.

22 (4) If the retail establishment at that specific business location has  
 23 had three (3) or more citations or summonses issued for a  
 24 violation of this section in the previous ~~ninety (90)~~ **one hundred**  
 25 **eighty (180)** days, a civil penalty of ~~five hundred dollars (\$500)~~  
 26 **up to one thousand dollars (\$1,000)**.

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

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

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

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

38 (2) The buyer or recipient produced a photographic identification

1 card issued under IC 9-24-16-1 or a similar card issued under the  
 2 laws of another state or the federal government showing that the  
 3 purchaser or recipient was of legal age to make the purchase.  
 4 (3) The appearance of the purchaser or recipient was such that an  
 5 ordinary prudent person would believe that the purchaser or  
 6 recipient was not less than the age that complies with regulations  
 7 promulgated by the federal Food and Drug Administration.  
 8 (d) It is a defense that the accused retail establishment sold or  
 9 delivered the tobacco to a person who acted in the ordinary course of  
 10 employment or a business concerning tobacco:  
 11 (1) agriculture;  
 12 (2) processing;  
 13 (3) transporting;  
 14 (4) wholesaling; or  
 15 (5) retailing.  
 16 (e) As used in this section, "distribute" means to give tobacco to  
 17 another person as a means of promoting, advertising, or marketing the  
 18 tobacco to the general public.  
 19 (f) Unless a person buys or receives tobacco under the direction of  
 20 a law enforcement officer as part of an enforcement action, a retail  
 21 establishment that sells or distributes tobacco is not liable for a  
 22 violation of this section unless the person less than eighteen (18) years  
 23 of age who bought or received the tobacco is issued a citation or  
 24 summons under section 10.5 of this chapter.  
 25 (g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under  
 26 this section must be deposited in the Richard D. Doyle youth tobacco  
 27 education and enforcement fund (IC 7.1-6-2-6).  
 28 (h) A person who violates subsection (a) at least six (6) times in any  
 29 ~~six (6) month~~ **one hundred eighty (180) day** period commits habitual  
 30 illegal sale of tobacco, a Class B infraction.  
 31 SECTION 63. IC 35-46-1-11 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A tobacco  
 33 vending machine that is located in a public place must bear ~~a~~ **the**  
 34 **following** conspicuous ~~notice:~~ **notices:**  
 35 (1) **A notice:**  
 36 **(A)** that reads as follows, with the capitalization indicated: "If  
 37 you are under 18 years of age, YOU ARE FORBIDDEN by  
 38 Indiana law to buy tobacco from this machine."; or

1           ~~(2)~~ **(B)** that:  
 2           ~~(A)~~ **(i)** conveys a message substantially similar to the  
 3           message described in ~~subdivision (1)~~; **clause (A)**; and  
 4           ~~(B)~~ **(ii)** is formatted with words and in a form authorized  
 5           under the rules adopted by the alcohol and tobacco  
 6           commission.

7           **(2) A notice that reads as follows, "Smoking by Pregnant  
 8           Women May Result in Fetal Injury, Premature Birth, and  
 9           Low Birth Weight."**

10          (b) A person who owns or has control over a tobacco vending  
 11          machine in a public place and who:

12           (1) fails to post ~~the~~ a notice required by subsection (a) on ~~his~~ **the**  
 13           vending machine; or

14           (2) fails to replace ~~the~~ a notice within one (1) month after it is  
 15           removed or defaced;

16          commits a Class C infraction.

17          (c) An establishment selling tobacco at retail shall post and maintain  
 18          in a conspicuous place, ~~a sign~~, **at the point of sale, the following:**

19           **(1) Signs** printed in letters at least one-half (1/2) inch high,  
 20           reading as follows:

21           **(A)** "The sale of tobacco to persons under 18 years of age is  
 22           forbidden by Indiana law."

23           **(B)** "**Smoking by Pregnant Women May Result in Fetal  
 24           Injury, Premature Birth, and Low Birth Weight."**

25           **(2) A sign printed in letters and numbers at least one-half  
 26           (1/2) inch high that displays a toll free phone number that  
 27           provides assistance to callers in quitting smoking, as  
 28           determined by the state department of health.**

29          (d) A person who:

30           (1) owns or has control over an establishment selling tobacco at  
 31           retail; and

32           (2) fails to post and maintain the sign required by subsection (c);  
 33          commits a Class C infraction.

34          SECTION 64. IC 35-46-1-11.7 IS AMENDED TO READ AS  
 35          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11.7. (a) A retail  
 36          establishment that has as its primary purpose the sale of tobacco  
 37          products may not allow an individual who is less than eighteen (18)  
 38          years of age to enter the retail establishment.

1 (b) An individual who is less than eighteen (18) years of age may  
2 not enter a retail establishment described in subsection (a).

3 (c) A retail establishment described in subsection (a) must  
4 conspicuously post on all entrances to the retail establishment a sign in  
5 boldface type that states "NOTICE: It is unlawful for a person less than  
6 18 years old to enter this store."

7 (d) A person who violates this section commits a Class C infraction.  
8 Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction  
9 committed under this section must be imposed as follows:

10 (1) If the person has not been cited for a violation of this section  
11 in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil  
12 penalty of ~~fifty dollars (\$50)~~ **up to two hundred dollars (\$200)**.

13 (2) If the person has had one (1) violation in the previous ~~ninety~~  
14 ~~(90)~~ **one hundred eighty (180)** days, a civil penalty of ~~one~~  
15 ~~hundred dollars (\$100)~~ **up to four hundred dollars (\$400)**.

16 (3) If the person has had two (2) violations in the previous ~~ninety~~  
17 ~~(90)~~ **one hundred eighty (180)** days, a civil penalty of ~~two~~  
18 ~~hundred fifty dollars (\$250)~~ **up to seven hundred dollars**  
19 **(\$700)**.

20 (4) If the person has had three (3) or more violations in the  
21 previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil  
22 penalty of ~~five hundred dollars (\$500)~~ **up to one thousand**  
23 **dollars (\$1,000)**.

24 A person may not be cited more than once every twenty-four (24)  
25 hours.

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

29 **(f) A person who violates subsection (a) at least six (6) times in**  
30 **any one hundred eighty (180) day period commits habitual illegal**  
31 **entrance by a minor, a Class B infraction."**

32 Delete page 45.

33 Page 46, delete lines 1 through 27.

34 Page 46, line 38, delete "and IC 7.1-5-10-23, as added by this act,  
35 apply" and insert "**applies**".

36 Page 46, after line 42, begin a new paragraph and insert:

37 "SECTION 68. [EFFECTIVE UPON PASSAGE] **(a) As used in**  
38 **this SECTION, "committee" refers to the interim study committee**

- 1       **on alcoholic beverage issues established by this SECTION.**
- 2       **(b) There is established an interim study committee on alcoholic**  
3       **beverage issues.**
- 4       **(c) The committee shall study and make recommendations to the**  
5       **legislative council concerning the following:**
- 6               **(1) Alcohol server training and employee permits for sales**  
7               **clerks in dealer establishments.**
- 8               **(2) Additional one, two, or three-way permits for restaurants**  
9               **in economic development areas.**
- 10              **(3) Displaying alcoholic beverages in separate areas in dealer**  
11              **establishments.**
- 12              **(4) The historic origins of Indiana alcoholic beverage laws and**  
13              **the Twenty-first Amendment to the Constitution of the United**  
14              **States and its place and purpose in the twenty-first century.**
- 15       **(d) The committee shall operate under the policies governing**  
16       **study committees adopted by the legislative council.**
- 17       **(e) The affirmative votes of a majority of the members**  
18       **appointed to the committee are required for the committee to take**  
19       **action on any measure, including final reports.**
- 20       **(f) Before November 1, 2009, the committee shall issue a final**  
21       **report to the legislative council containing the findings and**  
22       **recommendations of the committee.**
- 23       **(g) This SECTION expires December 31, 2010.**
- 24       SECTION 69. P.L.165-2006, SECTION 42, IS AMENDED TO  
25       READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: SECTION 42. (a)  
26       As used in this SECTION, "alcohol server" has the meaning set forth  
27       in IC 7.1-3-1.5-1.
- 28       (b) As used in this SECTION, "certified trainer" has the meaning set  
29       forth in IC 7.1-3-1.5-1.3, as added by this act.
- 30       (c) As used in this SECTION, "commission" refers to the alcohol  
31       and tobacco commission established by IC 7.1-2-1-1.
- 32       (d) As used in this SECTION, "dealer permittee" has the meaning  
33       set forth in IC 7.1-3-1.5-2.
- 34       (e) As used in this SECTION, "retailer permittee" has the meaning  
35       set forth in IC 7.1-3-1.5-4.
- 36       (f) As used in this SECTION, "trainer certificate" has the meaning  
37       set forth in IC 7.1-3-1.5-4.4, as added by this act.
- 38       (g) Notwithstanding IC 7.1-3-1.5-12, a person who is training

1 alcohol servers or individuals who plan to become certified trainers  
 2 before July 1, 2006, may continue to train alcohol servers or  
 3 individuals who plan to become certified trainers without a certificate  
 4 issued under IC 7.1-3-1.5 pending the processing of an application for  
 5 a trainer certificate under this SECTION.

6 (h) The person described in subsection (g) may submit to the  
 7 commission an application for a trainer certificate under IC 7.1-3-1.5.  
 8 To be entitled to continue training without a trainer certificate under  
 9 subsection (g), the person must submit the application before March 1,  
 10 2007.

11 (i) The person described in subsection (g) shall cease training  
 12 alcohol servers and individuals who plan to become certified trainers  
 13 if:

- 14 (1) the person fails to submit an application within the time  
 15 allowed under subsection (h); or
- 16 (2) the commission notifies the person that the commission has  
 17 rejected the application submitted by the person under this  
 18 SECTION.

19 (j) Notwithstanding IC 7.1-3-1.5-13:

- 20 (1) a retailer permittee or dealer permittee who is operating an  
 21 establishment where alcoholic beverages are served or sold must  
 22 ensure that each alcohol server completes a program established  
 23 or approved under IC 7.1-3-1.5-6, as amended by this act, not  
 24 later than:

25 (A) ~~January 1, 2009~~; **January 1, 2010**; or

26 (B) one hundred twenty (120) days after the date the alcohol  
 27 server begins employment at the establishment;

28 whichever is later; and

- 29 (2) a retailer permittee, a dealer permittee, or a management  
 30 representative of a retailer or dealer permittee must complete a  
 31 program established or approved under IC 7.1-3-1.5-6, as  
 32 amended by this act, not later than:

33 (A) ~~January 1, 2009~~; **January 1, 2010**; or

34 (B) one hundred twenty (120) days after the date the retailer  
 35 permittee or dealer permittee is issued a retailer permit or  
 36 dealer permit under IC 7.1-3;

37 whichever is later.

38 (k) This SECTION expires December 31, 2010.

1           SECTION 70. [EFFECTIVE JULY 1, 2008] **IC 7.1-5-7-1, as**  
2           **amended by this act, applies to crimes committed after June 30,**  
3           **2008.**

4           SECTION 71. **An emergency is declared for this act."**

5           Re-number all SECTIONS consecutively.

(Reference is to HB 1118 as reprinted January 25, 2008.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 1.

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**Riegsecker**

**Chairperson**