



Reprinted  
February 2, 2010

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## SENATE BILL No. 119

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DIGEST OF SB 119 (Updated February 1, 2010 3:10 pm - DI 110)

**Citations Affected:** IC 7.1-3; IC 7.1-5.

**Synopsis:** Alcoholic beverage sales. Allows the holder of a retailer's permit to sell alcoholic beverages on Sunday from 7 a.m. until 3 a.m. the following day. (Under current law, the holder of a retailer permit may sell alcoholic beverages on Sunday from 10 a.m. until 12:30 a.m. the following day). Makes it a Class B misdemeanor for an alcoholic beverage permittee or permittee's employee or agent to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person alcoholic beverages for carryout without first requiring the person to produce proof that the person is at least 21 years of age by: (1) a driver's license; (2) a government issued identification card; or (3) a government issued document; that bears the person's photograph and birth date. Provides that it is a defense in a criminal or administrative proceeding that the individual to whom the alcoholic beverages were sold appeared to be at least 50 years of age. Requires a permittee who sells alcoholic beverages for carryout to post a sign that informs consumers that state law requires a purchaser to produce identification to purchase alcoholic beverages for carryout. Provides that, in a criminal prosecution or proceeding before the alcohol and tobacco commission, it is a defense to a charge of unlawfully furnishing alcohol to a minor that the purchaser produced a government issued document bearing the purchaser's photograph and showing the purchaser to be at least 21 years of age.

**Effective:** Upon passage; July 1, 2010.

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### Alting, Merritt

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January 5, 2010, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.  
January 28, 2010, reported favorably — Do Pass.  
February 1, 2010, read second time, amended, ordered engrossed.

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SB 119—LS 6410/DI 87+



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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## SENATE BILL No. 119

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

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

1 SECTION 1. IC 7.1-3-1-14, AS AMENDED BY P.L.165-2006,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate  
4 permittee, unless otherwise specifically provided in this title, to sell  
5 alcoholic beverages each day Monday through Saturday from 7 a.m.,  
6 prevailing local time, until 3 a.m., prevailing local time, the following  
7 day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local  
8 time, and not be resumed until the following Monday at 7 a.m.,  
9 prevailing local time.

10 (b) It is lawful for the holder of a retailer's permit to sell the  
11 appropriate alcoholic beverages for consumption on the licensed  
12 premises only on Sunday from ~~10 a.m.~~, **7 a.m.**, prevailing local time,  
13 until ~~12:30 a.m.~~, **3 a.m.**, prevailing local time, the following day.

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

17 (1) are described in section 25(a) of this chapter;

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

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

11 ~~(e) Notwithstanding subsection (b); if December 31 (New Year's~~  
 12 ~~Eve) is on a Sunday; it is lawful for the holder of a retailer's permit to~~  
 13 ~~sell the appropriate alcoholic beverages on Sunday, December 31, from~~  
 14 ~~10 a.m., prevailing local time; until 3 a.m., prevailing local time; the~~  
 15 ~~following day.~~

16 SECTION 2. IC 7.1-5-7-5.1 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.1. (a) A permittee in  
 18 a criminal prosecution or in a proceeding before the commission or a  
 19 local board based upon a charge of unlawfully furnishing an alcoholic  
 20 beverage to a minor may offer either or both of the following proofs as  
 21 a defense or defenses to the prosecution or proceeding:

- 22 (1) That:
- 23 (A) the purchaser:
    - 24 (i) falsely represented the purchaser's age in a written
    - 25 statement, such as that prescribed by subsection (b),
    - 26 supported by two (2) forms of identification showing the
    - 27 purchaser to be at least twenty-one (21) years of age;
    - 28 (ii) produced a driver's license bearing the purchaser's
    - 29 photograph; ~~or~~
    - 30 (iii) produced a photographic identification card, issued
    - 31 under IC 9-24-16-1 or a similar card, issued under the laws
    - 32 of another state or the federal government, showing that the
    - 33 purchaser was of legal age to make the purchase; **or**
    - 34 **(iv) produced a government issued document bearing the**
    - 35 **purchaser's photograph and showing the purchaser to be**
    - 36 **at least twenty-one (21) years of age;**
  - 37 (B) the appearance of the purchaser was such that an ordinary
  - 38 prudent person would believe the purchaser to be of legal age
  - 39 to make the purchase; and
  - 40 (C) the sale was made in good faith based upon the reasonable
  - 41 belief that the purchaser was actually of legal age to make the
  - 42 purchase.

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1 (2) That the permittee or his the permittee's agent had taken all  
2 reasonable precautions in instructing his the permittee's  
3 employees, in hiring his the permittee's employees, and in  
4 supervising them as to sale of alcoholic beverages to minors.

5 (b) The following written statement is sufficient for the purposes of  
6 subsection (a)(1)(A)(i):

7 REPRESENTATION AND STATEMENT  
8 OF AGE  
9 FOR PURCHASE OF ALCOHOLIC  
10 BEVERAGES

11 I understand that misrepresentation of age to induce the sale,  
12 service, or delivery of alcoholic beverages to me is cause for my arrest  
13 and prosecution, which can result in punishment as follows:

- 14 (1) Possible payment of a fine of up to \$500.
- 15 (2) Possible imprisonment for up to 60 days.
- 16 (3) Possible loss or deferment of driver's license privileges for up  
17 to one year.
- 18 (4) Possible requirement to participate in an alcohol education or  
19 treatment program.

20 Knowing the possible penalties for misstatement, I hereby represent  
21 and state, for the purpose of inducing \_\_\_\_\_

(Name of licensee)

22 to sell, serve, or deliver alcoholic beverages to me, that I was born:

23 \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and am \_\_\_\_ years of age.

24 (Month) (Day) (Year)

25 Date \_\_\_\_\_

Signed \_\_\_\_\_

26 Address \_\_\_\_\_

27 Other Identification \_\_\_\_\_

Signature of person \_\_\_\_\_

28 Presented: \_\_\_\_\_

who witnessed completion \_\_\_\_\_

29 Nonphoto driver's  
30 license: (number & state)

of this statement  
by patron: \_\_\_\_\_

31 Social Security Number \_\_\_\_\_

32 Other \_\_\_\_\_

33  
34 SECTION 3. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE  
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
36 1, 2010]: **Sec. 23. (a) It is a Class B misdemeanor for a permittee or  
37 an employee or agent of a permittee to recklessly, knowingly, or  
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1 intentionally sell, barter, exchange, provide, or furnish another  
 2 person an alcoholic beverage for consumption off the licensed  
 3 premises without first requiring the person to produce:  
 4 (1) a driver's license;  
 5 (2) an identification card issued under IC 9-24-16-1 or a  
 6 similar card issued under the laws of another state or the  
 7 federal government; or  
 8 (3) a government issued document;  
 9 bearing the person's photograph and birth date showing that the  
 10 person is at least twenty-one (21) years of age.  
 11 (b) In a criminal or administrative proceeding, it is a defense to  
 12 a charge under this section that the individual to whom the  
 13 permittee or employee or agent of the permittee sold, bartered,  
 14 exchanged, provided, or furnished alcoholic beverages for  
 15 consumption off the licensed premises was or reasonably appeared  
 16 to be more than fifty (50) years of age.  
 17 (c) A permittee who sells alcoholic beverages for consumption  
 18 off the licensed premises shall post on the permittee's premises, in  
 19 a location plainly visible to consumers, a sign:  
 20 (1) that is at least eight and one-half (8 1/2) inches by eleven  
 21 (11) inches; and  
 22 (2) that sets forth the following language in at least 20 point  
 23 type: STATE LAW REQUIRES IDENTIFICATION FOR  
 24 SALES OF ALCOHOLIC BEVERAGES FOR CARRYOUT.  
 25 (d) The commission may charge a fee for a sign that meets the  
 26 requirements of subsection (c) and that is prepared by the  
 27 commission. However, the fee charged for a sign under this  
 28 subsection may not exceed the cost of preparing the sign.  
 29 SECTION 2. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 119, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 119 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 119 be amended to read as follows:

Page 2, after line 14, begin a new paragraph and insert:

"SECTION 2. IC 7.1-5-7-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.1. (a) A permittee in a criminal prosecution or in a proceeding before the commission or a local board based upon a charge of unlawfully furnishing an alcoholic beverage to a minor may offer either or both of the following proofs as a defense or defenses to the prosecution or proceeding:

(1) That:

(A) the purchaser:

(i) falsely represented the purchaser's age in a written statement, such as that prescribed by subsection (b), supported by two (2) forms of identification showing the purchaser to be at least twenty-one (21) years of age;

(ii) produced a driver's license bearing the purchaser's photograph; **or**

(iii) 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 was of legal age to make the purchase; **or**

**(iv) produced a government issued document bearing the purchaser's photograph and showing the purchaser to be at least twenty-one (21) years of age;**

(B) the appearance of the purchaser was such that an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and



(C) the sale was made in good faith based upon the reasonable belief that the purchaser was actually of legal age to make the purchase.

(2) That the permittee or his the permittee's agent had taken all reasonable precautions in instructing his the permittee's employees, in hiring his the permittee's employees, and in supervising them as to sale of alcoholic beverages to minors.

(b) The following written statement is sufficient for the purposes of subsection (a)(1)(A)(i):

REPRESENTATION AND STATEMENT  
OF AGE  
FOR PURCHASE OF ALCOHOLIC  
BEVERAGES

I understand that misrepresentation of age to induce the sale, service, or delivery of alcoholic beverages to me is cause for my arrest and prosecution, which can result in punishment as follows:

- (1) Possible payment of a fine of up to \$500.
- (2) Possible imprisonment for up to 60 days.
- (3) Possible loss or deferment of driver's license privileges for up to one year.
- (4) Possible requirement to participate in an alcohol education or treatment program.

Knowing the possible penalties for misstatement, I hereby represent and state, for the purpose of inducing \_\_\_\_\_

(Name of licensee)

to sell, serve, or deliver alcoholic beverages to me, that I was born:

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and am \_\_\_\_\_ years of age.

(Month) (Day) (Year)

Date \_\_\_\_\_

Signed \_\_\_\_\_

Address \_\_\_\_\_

Other Identification Presented:  
Nonphoto driver's license: (number & state)

Signature of person who witnessed completion of this statement by patron:

Social Security Number \_\_\_\_\_

Other \_\_\_\_\_

SECTION 3. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 23. (a) It is a Class B misdemeanor for a permittee or an employee or agent of a permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce:**

- (1) a driver's license;**
- (2) an identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government; or**
- (3) a government issued document;**

**bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.**

**(b) In a criminal or administrative proceeding, it is a defense to a charge under this section that the individual to whom the permittee or employee or agent of the permittee sold, bartered, exchanged, provided, or furnished alcoholic beverages for consumption off the licensed premises was or reasonably appeared to be more than fifty (50) years of age.**

**(c) A permittee who sells alcoholic beverages for consumption off the licensed premises shall post on the permittee's premises, in a location plainly visible to consumers, a sign:**

- (1) that is at least eight and one-half (8 1/2) inches by eleven (11) inches; and**
- (2) that sets forth the following language in at least 20 point type: STATE LAW REQUIRES IDENTIFICATION FOR SALES OF ALCOHOLIC BEVERAGES FOR CARRYOUT.**

**(d) The commission may charge a fee for a sign that meets the requirements of subsection (c) and that is prepared by the commission. However, the fee charged for a sign under this subsection may not exceed the cost of preparing the sign."**

(Reference is to SB 119 as printed January 29, 2010.)

ALTING

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SENATE MOTION

Madam President: I move that Senate Bill 119 be amended to read as follows:

Page 1, line 3, delete "JULY 1, 2010" and insert "UPON PASSAGE".

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Page 2, after line 14, begin a new paragraph and insert:  
"SECTION 2. An emergency is declared for this act."

(Reference is to SB 119 as printed January 29, 2010.)

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