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# SENATE BILL No. 112

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-3; IC 7.1-5-9.

**Synopsis:** Alcoholic beverage wholesalers. Allows a person to wholesale beer, wine, and liquor. (Current law allows a person to wholesale only wine and beer or wine and liquor.) Allows a wine wholesaler that also holds a liquor wholesaler's permit to sell more than 1,000,000 gallons of flavored malt beverage during a calendar year. Repeals a provision that prohibits the alcohol and tobacco commission from issuing a beer wholesaler's permit to a person who holds both a wine wholesaler's permit and a liquor wholesaler's permit.

**Effective:** July 1, 2011.

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### Merritt

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January 5, 2011, read first time and referred to Committee on Public Policy.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 112

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 7.1-3-13-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The commission  
3 may issue a wine wholesaler's permit to sell wine, or wine and brandy,  
4 at wholesale to a person who:

- 5 (1) ~~notwithstanding IC 7.1-5-9-4,~~ holds a beer wholesaler's  
6 permit;
- 7 (2) holds a liquor wholesaler's permit; ~~or~~
- 8 **(3) holds a beer wholesaler's permit and a liquor wholesaler's**  
9 **permit; or**
- 10 ~~(3)~~ **(4)** does not hold an alcoholic beverage wholesaler's permit,  
11 but meets the qualifications to hold either a beer or a liquor  
12 wholesaler's permit.

13 (b) The holder of a wine wholesaler's permit under subsection  
14 (a)(1), ~~or~~ (a)(2), **or (a)(3):**

- 15 (1) is considered the same as a person who holds a wine  
16 wholesaler's permit under subsection ~~(a)(3)~~ **(a)(4)** for purposes of  
17 conducting activities and operations under the wine wholesaler's



1 permit; and  
 2 (2) may operate the beer or liquor wholesale business  
 3 independently of the wine wholesale business.  
 4 SECTION 2. IC 7.1-3-13-3, AS AMENDED BY P.L.165-2006,  
 5 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2011]: Sec. 3. (a) The holder of a wine wholesaler's permit  
 7 may purchase, import, and transport wine, brandy, or flavored malt  
 8 beverage from the primary source of supply. A wine wholesaler may  
 9 export and transport wine, brandy, or flavored malt beverage by the  
 10 bottle, barrel, cask, or other container, to points outside Indiana. A  
 11 wine wholesaler is entitled to sell, furnish, and deliver wine or flavored  
 12 malt beverage from inventory that has been located on the wholesaler's  
 13 premises before the time of invoicing and delivery to a wine  
 14 wholesaler, a wine retailer, a supplemental caterer, a temporary wine  
 15 permittee, and a wine dealer, but not at retail. A wine wholesaler may  
 16 sell, furnish, and deliver brandy from inventory that has been located  
 17 on the wholesaler's premises before the time of invoicing and delivery,  
 18 but not at retail, only to a person who holds a liquor retailer's permit,  
 19 a supplemental caterer's permit, or a liquor dealer's permit. A holder of  
 20 a wine wholesaler's permit may sell wine to the wine wholesaler's bona  
 21 fide regular employees.  
 22 (b) As used in this section, "brandy" means:  
 23 (1) any alcoholic distillate described in 27 CFR 5.22(d) as in  
 24 effect on January 1, 1983; or  
 25 (2) a beverage product that:  
 26 (A) is prepared from a liquid described in subdivision (1);  
 27 (B) is classified as a cordial or liqueur as defined in 27 CFR  
 28 5.22(h) as in effect on January 1, 1997; and  
 29 (C) meets the following requirements:  
 30 (i) At least sixty-six and two-thirds percent (66 2/3%) of the  
 31 product's alcohol content is composed of a substance  
 32 described in subdivision (1).  
 33 (ii) The product's label makes no reference to any distilled  
 34 spirit other than brandy.  
 35 (iii) The product's alcohol content is not less than sixteen  
 36 percent (16%) by volume or thirty-two (32) degrees proof.  
 37 (iv) The product contains dairy cream.  
 38 (v) The product's sugar, dextrose, or levulose content is at  
 39 least twenty percent (20%) of the product's weight.  
 40 (vi) The product contains caramel coloring.  
 41 (c) Nothing in this section allows a wine wholesaler to sell, give,  
 42 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless

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1 the wine wholesaler also holds a beer wholesaler's permit under  
2 IC 7.1-3-3-1.

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

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

9 SECTION 3. IC 7.1-5-9-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) This ~~section~~  
11 **subsection** applies to a brewer that manufactures more than twenty  
12 thousand (20,000) barrels of beer in a calendar year. ~~(b)~~ It is unlawful  
13 for the holder of a brewer's ~~or beer wholesaler's~~ permit to have an  
14 interest in a liquor permit of any type under this title.

15 **(b) It is unlawful for the holder of a beer wholesaler's permit to**  
16 **have an interest in a liquor permit other than a liquor wholesaler's**  
17 **permit.**

18 SECTION 4. IC 7.1-5-9-4 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. Except as provided  
20 in IC 7.1-3-3-4, an applicant for a beer wholesaler's permit shall have  
21 no interest in the following:

- 22 (1) A permit to manufacture or to sell at retail alcoholic beverages  
23 of any kind.
- 24 (2) Any other permit to wholesale ~~alcoholic beverages:~~ **beer.**
- 25 (3) Through stock ownership or otherwise, a partnership, limited  
26 liability company, or corporation that holds ~~(A)~~ a permit to  
27 manufacture or to sell at retail alcoholic beverages of any kind. ~~or~~  
28 ~~(B) any other permit to wholesale alcoholic beverages of any~~  
29 ~~kind:~~

30 SECTION 5. IC 7.1-5-9-6 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. ~~Liquor Permittee's~~  
32 ~~Interests Limited:~~ It is unlawful for the holder of a distiller's, rectifier's,  
33 or liquor wholesaler's permit to have an interest in a beer permit ~~of any~~  
34 ~~type under this title:~~ **other than a beer wholesaler's permit.**

35 SECTION 6. IC 7.1-5-9-16 IS ADDED TO THE INDIANA CODE  
36 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
37 1, 2011]: **Sec. 16. A wholesaler of alcoholic beverages may hold**  
38 **permits to wholesale beer, wine, and liquor.**

39 SECTION 7. IC 7.1-3-3-19 IS REPEALED [EFFECTIVE JULY 1,  
40 2011].

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