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# HOUSE BILL No. 1491

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Alcoholic beverage wholesalers. Allows the alcohol and tobacco commission to issue a liquor wholesaler's permit to a person who, at the time the person applies for the liquor wholesaler's permit: (1) has been the holder of a beer wholesaler's permit for at least five years; and (2) is the holder of a wine wholesaler's permit.

**Effective:** July 1, 2011.

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### Messmer, Eberhart, Pelath

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January 20, 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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## HOUSE BILL No. 1491



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 7.1-3-3-19 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19. The commission  
3 may not issue a beer wholesaler's permit to a person who holds a wine  
4 wholesaler's permit and a liquor wholesaler's permit. **However, the**  
5 **commission may issue a liquor wholesaler's permit to the holder of**  
6 **a beer wholesaler's permit and a wine wholesaler's permit under**  
7 **IC 7.1-3-8-4.**

8 SECTION 2. IC 7.1-3-8-4 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2011]: Sec. 4. **The commission may issue a liquor wholesaler's**  
11 **permit to a person who, at the time the person applies for the**  
12 **liquor wholesaler's permit:**

13 (1) **has been the holder of a beer wholesaler's permit for at**  
14 **least five (5) years; and**

15 (2) **is the holder of a wine wholesaler's permit.**

16 SECTION 3. IC 7.1-3-13-1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The commission



1 may issue a wine wholesaler's permit to sell wine, or wine and brandy,  
2 at wholesale to a person who:

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

9 (b) The holder of a wine wholesaler's permit under subsection (a)(1)  
10 or (a)(2):

- 11 (1) is considered the same as a person who holds a wine
- 12 wholesaler's permit under subsection (a)(3) for purposes of
- 13 conducting activities and operations under the wine wholesaler's
- 14 permit; and
- 15 (2) may operate the beer or liquor wholesale business
- 16 independently of the wine wholesale business.

17 SECTION 4. IC 7.1-3-13-3, AS AMENDED BY P.L.165-2006,  
18 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2011]: Sec. 3. (a) The holder of a wine wholesaler's permit  
20 may purchase, import, and transport wine, brandy, or flavored malt  
21 beverage from the primary source of supply. A wine wholesaler may  
22 export and transport wine, brandy, or flavored malt beverage by the  
23 bottle, barrel, cask, or other container, to points outside Indiana. A  
24 wine wholesaler is entitled to sell, furnish, and deliver wine or flavored  
25 malt beverage from inventory that has been located on the wholesaler's  
26 premises before the time of invoicing and delivery to a wine  
27 wholesaler, a wine retailer, a supplemental caterer, a temporary wine  
28 permittee, and a wine dealer, but not at retail. A wine wholesaler may  
29 sell, furnish, and deliver brandy from inventory that has been located  
30 on the wholesaler's premises before the time of invoicing and delivery,  
31 but not at retail, only to a person who holds a liquor retailer's permit,  
32 a supplemental caterer's permit, or a liquor dealer's permit. A holder of  
33 a wine wholesaler's permit may sell wine to the wine wholesaler's bona  
34 fide regular employees.

- 35 (b) As used in this section, "brandy" means:
- 36 (1) any alcoholic distillate described in 27 CFR 5.22(d) as in
- 37 effect on January 1, 1983; or
- 38 (2) a beverage product that:
- 39 (A) is prepared from a liquid described in subdivision (1);
- 40 (B) is classified as a cordial or liqueur as defined in 27 CFR
- 41 5.22(h) as in effect on January 1, 1997; and
- 42 (C) meets the following requirements:

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- 1 (i) At least sixty-six and two-thirds percent (66 2/3%) of the
- 2 product's alcohol content is composed of a substance
- 3 described in subdivision (1).
- 4 (ii) The product's label makes no reference to any distilled
- 5 spirit other than brandy.
- 6 (iii) The product's alcohol content is not less than sixteen
- 7 percent (16%) by volume or thirty-two (32) degrees proof.
- 8 (iv) The product contains dairy cream.
- 9 (v) The product's sugar, dextrose, or levulose content is at
- 10 least twenty percent (20%) of the product's weight.
- 11 (vi) The product contains caramel coloring.

12 (c) Nothing in this section allows a wine wholesaler to sell, give,  
 13 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless  
 14 the wine wholesaler also holds a beer wholesaler's permit under  
 15 IC 7.1-3-3-1.

16 (d) A wine wholesaler that:  
 17 (1) also holds a liquor wholesaler's permit under IC 7.1-3-8; and  
 18 (2) **does not also hold a beer wholesaler's permit;**  
 19 may not ~~(1) hold a beer wholesaler's permit under IC 7.1-3-3; (2)~~  
 20 ~~possess, sell, or transport beer; or (3) sell more than one million~~  
 21 ~~(1,000,000) gallons of flavored malt beverage during a calendar year.~~

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

28 **(b) It is unlawful for the holder of a beer wholesaler's permit to**  
 29 **have an interest in a liquor permit other than a liquor wholesaler's**  
 30 **permit under IC 7.1-3-8-4.**

31 SECTION 6. IC 7.1-5-9-4 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Except as  
 33 provided in IC 7.1-3-3-4, an applicant for a beer wholesaler's permit  
 34 shall have no interest in the following:

- 35 (1) A permit to manufacture or to sell at retail alcoholic beverages
- 36 of any kind.
- 37 (2) Any other permit to wholesale alcoholic beverages.
- 38 (3) Through stock ownership or otherwise, a partnership, limited
- 39 liability company, or corporation that holds:
  - 40 (A) a permit to manufacture or to sell at retail alcoholic
  - 41 beverages of any kind; or
  - 42 (B) any other permit to wholesale alcoholic beverages of any

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kind.

**(b) This section does not prohibit the holder of a beer wholesaler's permit and a wine wholesaler's permit from having an interest in a liquor wholesaler's permit under IC 7.1-3-8-4.**

SECTION 7. IC 7.1-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. ~~Liquor Permittee's Interests Limited:~~ It is unlawful for the holder of a distiller's, rectifier's, or liquor wholesaler's permit to have an interest in a beer permit ~~of any type under this title:~~ **other than a beer wholesaler's permit under IC 7.1-3-8-4.**

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