

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 2011 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1054

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 7.1-3-2-2, AS AMENDED BY P.L.186-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) ~~Except as provided in subsection (b)~~, The commission may issue a brewer's permit **for a brewery that manufactures more than thirty thousand (30,000) barrels of beer in a calendar year for sale or distribution within Indiana. The commission may issue a permit under this subsection** only to:

- (1) an individual;
- (2) a partnership, all the partners of which are bona fide residents of Indiana;
- (3) a limited liability company, all the members of which are bona fide residents of Indiana; or
- (4) a corporation organized and existing under the laws of Indiana and having authority under its charter to manufacture or sell beer.

The permit does not limit the number of barrels of beer in a calendar year that the brewer may manufacture for sale or distribution outside Indiana.

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana. The commission may issue a permit under this subsection** only to:

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- (1) an individual;
- (2) a partnership organized and existing under the laws of Indiana;
- (3) a limited liability company organized and existing under the laws of Indiana; or
- (4) a corporation organized and existing under the laws of Indiana.

The permit does not limit the number of barrels of beer in a calendar year that the brewer may manufacture for sale or distribution outside Indiana.

SECTION 2. IC 7.1-3-2-7, AS AMENDED BY P.L.186-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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:

- (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 thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana, the permit holder may** 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

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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.

(I) Sell the brewery's beer as authorized by this section for carryout on Sunday in a quantity at any one (1) time of not more than five hundred seventy-six (576) ounces. A brewer's beer may be sold under this clause ~~only at the any~~ address for which the **brewer holds a** brewer's permit ~~was~~ issued under this chapter **if the address is located within the same city boundaries in which the beer was manufactured.**

(6) If the brewer's brewery manufactures more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana, the permit holder may** 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 thirty thousand (30,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

(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.

(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.

(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 3. IC 7.1-3-20-16, AS AMENDED BY P.L.10-2010, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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.



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(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. 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 for the visual and performing arts to a town that: **the following:**

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(1) A town that:

(A) 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

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

(2) A city that has an indoor theater as described in section 26 of this chapter.

(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)~~ **seven hundred (700)** 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)~~ **seven hundred (700)** feet of the district. A permit issued under this subsection shall not be transferred. **The total number of active permits issued under this subsection may not exceed ten (10) at any time.** 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

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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 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

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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.

SECTION 4. IC 7.1-3-22-1, AS AMENDED BY P.L.186-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This section applies to a brewer that manufactures more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana.**

(b) The commission may issue and have outstanding only one (1) brewer's permit for each unit of population of this state of one hundred and seventy-five thousand (175,000) or major fraction thereof. The commission, however, shall not issue more than four (4) brewer's permits in the same congressional district.

SECTION 5. IC 7.1-3-23-23, AS AMENDED BY P.L.186-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) This section applies to a brewer that manufactures more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana.**

(b) The commission shall revoke the permit of a brewer or beer wholesaler who holds an interest in another permit in violation of IC 7.1-5-9-3.

SECTION 6. IC 7.1-4-4.1-14, AS AMENDED BY P.L.186-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) This section applies to the following permits:

- (1) Brewer's permit for the manufacture of more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana.**
- (2) Distiller's permit.
- (3) Malt manufacturer's permit.
- (4) Rectifier's permit.
- (5) Vintner's permit.
- (6) Wine bottler's permit.

(b) A permit fee of two thousand dollars (\$2,000) is annually imposed for the issuance of each permit described in subsection (a).

SECTION 7. IC 7.1-4-4.1-16, AS AMENDED BY P.L.186-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 16. The annual fee for a brewer's permit for the manufacture of not more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana** is five hundred dollars (\$500).

SECTION 8. IC 7.1-5-9-3, AS AMENDED BY P.L.186-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) This section applies to a brewer that manufactures more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana**.

(b) It is unlawful for the holder of a brewer's or beer wholesaler's permit to have an interest in a liquor permit of any type under this title.

SECTION 9. IC 7.1-5-9-10, AS AMENDED BY P.L.186-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than thirty thousand (30,000) barrels of beer in a calendar year **for sale or distribution within Indiana**.

SECTION 10. IC 14-18-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) As used in this section, "inn" means a public facility that has the following:

- (1) At least twenty (20) rooms for the accommodation of overnight guests.
- (2) A dining room that offers table service for at least forty (40) individuals at one (1) time during normal dining hours.

(b) A lease and contract authorized by this chapter must include in its terms the following provisions and conditions:

- (1) The legal description of the leasehold. A survey for the description is not required.
- (2) The term of the lease. The term may not exceed forty (40) years with two (2) additional options to renew of thirty (30) years each.
- (3) Provision for the submission of complete plans and specifications to the department for review and written approval before beginning any construction.
- (4) The manner of payment of rental.
- (5) The facilities provided will be available to the public without discrimination and at charges designed to make the facilities

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available to a maximum number of the citizens of Indiana.

(6) That the rates and fees charged for goods and services on the leased area will be in accord with those charged at similar developments in the area.

(7) The disposition of the leasehold and improvements at the termination of the lease.

(8) **Except as provided in subsection (e)**, if the lease and contract concerns state owned land under the management and control of the department, including state parks, a prohibition on the sale or public display of alcoholic beverages on the premises.

~~(9) If the lease and contract concerns federally owned land under the control and management of the department, the~~

(c) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of an inn if:

~~(A) for consumption on the licensed premises and~~

~~(B) if~~

(1) the lease and contract concerns federally owned land under the control and management of the department; and

(2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(d) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a public golf course if:

(1) the lease and contract concerns federally owned land that is:

(A) under the control and management of the department; and

(B) located on Brookville Reservoir; and

(2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(e) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a pavilion located within Indiana Dunes State Park if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(f) The retail sale of alcoholic beverages on licensed premises described in subsections (c), (d), and (e) is subject to any other applicable alcoholic beverage provisions under the Indiana Code and any rule adopted to implement any other applicable alcoholic beverage provisions under the Indiana Code.

~~(e)~~ **(g) A lease and contract may prescribe other terms and**

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conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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