
SENATE BILL No. 149

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-26.

Synopsis: Direct wine sales. Removes requirements that before a direct wine seller may sell to a consumer: (1) the consumer must provide information in one face-to-face transaction at the seller's place of business; or (2) under certain circumstances, the consumer must provide a verified statement that the consumer is at least 21 years of age, and the seller must provide the name and address of the consumer to the alcohol and tobacco commission. Allows a direct wine seller to sell and ship wine directly to a consumer if the consumer provides: (1) the consumer's name; (2) a valid delivery address and telephone number; (3) proof of age by a state issued driver's license or state issued identification card showing the consumer to be at least 21 years of age; and (4) a verified statement that the consumer satisfies certain requirements. Repeals a provision that requires a consumer to provide certain information to a direct wine seller.

Effective: July 1, 2012.

Boots

January 4, 2012, read first time and referred to Committee on Public Policy.

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Second Regular Session 117th General Assembly (2012)

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.

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SENATE BILL No. 149



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 7.1-3-26-6, AS ADDED BY P.L.165-2006,
- 2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 6. A seller may sell and ship wine directly only to
- 4 a consumer who meets all of the following requirements:
- 5 (1) The consumer is at least twenty-one (21) years of age.
- 6 (2) The consumer has an Indiana address.
- 7 (3) The consumer intends to use wine purchased under this
- 8 chapter for personal use only and not for resale or other
- 9 commercial purposes.
- 10 (4) Except as provided in subdivision (5), the consumer has
- 11 provided to the seller in one (1) initial face-to-face transaction at
- 12 the seller's place of business appearing on the seller's application
- 13 for a direct wine seller's permit or any locations authorized by
- 14 IC 7.1-3-12-5 all the following:
- 15 (A) Name, telephone number, Indiana address, or consumer's
- 16 Indiana business address.
- 17 (B) Proof of age by a state issued driver's license or state



1 issued identification card showing the consumer to be at least
2 twenty-one (21) years of age.

3 (C) A verified statement, made under penalties for perjury,
4 that the consumer satisfies the requirements of subdivisions
5 (1) through (3):

6 (5) If:

7 (A) before April 1, 2006, the consumer has engaged in a
8 transaction with a seller in which the seller sold wine to the
9 consumer and, after April 1, 2006, but before December 31,
10 2006, the consumer provides the seller with a verified
11 statement, made under penalties for perjury, that the consumer
12 is at least twenty-one (21) years of age; and

13 (B) the seller provides the name and Indiana address of the
14 consumer to the commission before January 15, 2007;

15 the seller may sell directly to the consumer in accordance with
16 this chapter.

17 SECTION 2. IC 7.1-3-26-9, AS AMENDED BY P.L.186-2011,
18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2012]: Sec. 9. A direct wine seller's permit entitles a seller to
20 sell and ship wine to a consumer by receiving and filling orders that the
21 consumer transmits by electronic or other means if all of the following
22 conditions are satisfied before the sale or by the times set forth as
23 follows:

24 (1) The consumer provides the direct wine seller with the
25 following:

26 (A) The verification required by section 6(4) of this chapter in
27 an initial face-to-face transaction.

28 (B) Notwithstanding clause (A), if the consumer provided the
29 information specified in section 6(5)(A) of this chapter after
30 April 1, 2006, but before December 31, 2006, and the seller
31 provides the name and Indiana address of the consumer under
32 section 6(5)(B) of this chapter to the commission before
33 January 15, 2007, the consumer is not required to comply with
34 section 6(4) of this chapter.

35 (A) The consumer's name.

36 (B) A valid delivery address and telephone number.

37 (C) Proof of age by a state issued driver's license or state
38 issued identification card showing the consumer to be at
39 least twenty-one (21) years of age. The proof under this
40 clause may be evidenced in person, by a photocopy or
41 facsimile copy that is mailed or electronically transmitted,
42 or by a computer scanned, electronically transmitted copy.

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- 1 **(D) A verified statement, made under penalties for perjury,**
 2 **that the consumer satisfies the requirements of section 6(1)**
 3 **through section 6(3) of this chapter.**
- 4 (2) The direct wine seller meets the following requirements:
- 5 (A) Maintains for two (2) years all records of wine sales made
 6 under this chapter. If the records are requested by the
 7 commission, a direct wine seller shall:
- 8 (i) make the records available to the commission during the
 9 direct wine seller's regular business hours; or
 10 (ii) at the direction of the commission, deliver copies to the
 11 commission.
- 12 (B) Stamps, prints, or labels on the outside of the shipping
 13 container the following: "CONTAINS WINE. SIGNATURE
 14 OF PERSON AGE 21 OR OLDER REQUIRED FOR
 15 DELIVERY."
- 16 (C) Causes the wine to be delivered by the holder of a valid
 17 carrier's alcoholic beverage permit under IC 7.1-3-18.
- 18 (D) Directs the carrier to verify that the individual personally
 19 receiving the wine shipment is at least twenty-one (21) years
 20 of age.
- 21 (E) Does not ship to any consumer more than two hundred
 22 sixteen (216) liters of wine in any calendar year.
- 23 (F) Remits to the department of state revenue monthly all
 24 Indiana excise, sales, and use taxes on the shipments made
 25 into Indiana by the direct wine seller during the previous
 26 month.
- 27 (G) Ships to a consumer in Indiana only wine manufactured,
 28 produced, or bottled by the applicant.
- 29 SECTION 3. IC 7.1-3-26-11 IS REPEALED [EFFECTIVE JULY
 30 1, 2012]. ~~Sec. 11: A consumer shall provide a direct wine seller with~~
 31 ~~information the direct wine seller reasonably requires, including the~~
 32 ~~consumer's name, Indiana address, telephone number, and other~~
 33 ~~information required by the commission.~~
- 34 SECTION 4. IC 7.1-3-26-15, AS ADDED BY P.L.165-2006,
 35 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2012]: Sec. 15. (a) Except as provided in subsections (b) and
 37 (c), a seller who violates this chapter commits a Class A infraction.
- 38 (b) ~~Except as provided in subsection (d)~~; A seller who:
 39 (1) knowingly or intentionally violates this chapter; and
 40 (2) has one (1) prior unrelated conviction or judgment for an
 41 infraction under this section for an act or omission that occurred
 42 not more than ten (10) years before the act or omission that is the

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1 basis for the most recent conviction or judgment for an infraction;
2 commits a Class A misdemeanor.

3 (c) ~~Except as provided in subsection (d)~~; A seller who:
4 (1) knowingly or intentionally violates this chapter; and
5 (2) has at least two (2) prior unrelated convictions or judgments
6 for infractions under this section for acts or omissions that
7 occurred not more than ten (10) years before the act or omission
8 that is the basis for the most recent conviction or judgment for an
9 infraction;
10 commits a Class D felony.

11 (d) ~~A person who violates section 6(5) of this chapter commits a~~
12 ~~Class A infraction. The commission may consider an infraction~~
13 ~~committed under this subsection in its determination of whether to~~
14 ~~renew a seller's permit.~~

15 SECTION 5. IC 7.1-3-26-16, AS AMENDED BY P.L.1-2007,
16 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2012]: Sec. 16. If a direct wine seller is charged under section
18 15 of this chapter with selling to a consumer who does not meet the
19 requirements of section 6 of this chapter, it is a defense to the charge
20 if the direct wine seller ~~obtained from the consumer the verified~~
21 ~~statement required under section 6(4)(C) or 6(5)(A) of this chapter and~~
22 ~~produces a copy of the verified statement.~~ **received a verified**
23 **statement from the consumer in accordance with section 9(1)(D) of**
24 **this chapter.**

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