

# HOUSE BILL No. 1355

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-3; IC 7.1-4; IC 7.1-5; IC 9-21-4-5.

**Synopsis:** Small breweries. Provides that for a brewer manufacturing not more than 30,000 barrels of beer in a calendar year to sell and deliver beer to a retailer or a dealer, any barrels sold and shipped outside Indiana are excluded from the 30,000 barrel limit. Provides that certain powers and duties of a brewer are limited to those brewers that manufacture not more than 60,000 barrels of beer in a calendar year.

**Effective:** July 1, 2012.

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**Sullivan, Candelaria Reardon, Clere**

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January 11, 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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# HOUSE BILL No. 1355



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 7.1-3-2-2, AS AMENDED BY P.L.186-2011,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 2. (a) ~~Except as provided in subsection (b)~~; The
- 4 commission may issue a brewer's permit only to:
  - 5 (1) an individual;
  - 6 (2) a partnership, all the partners of which are bona fide residents
  - 7 of Indiana;
  - 8 (3) a limited liability company, all the members of which are bona
  - 9 fide residents of Indiana; or
  - 10 (4) a corporation organized and existing under the laws of Indiana
  - 11 and having authority under its charter to manufacture or sell beer.
- 12 (b) The commission may issue a brewer's permit to a brewer for a
- 13 brewery that manufactures not more than ~~thirty six~~ thousand ~~(30,000)~~
- 14 **(60,000)** barrels of beer in a calendar year. **The commission may issue**
- 15 **a permit under this subsection only** to:
  - 16 (1) an individual;
  - 17 (2) a partnership organized and existing under the laws of



1 Indiana;

2 (3) a limited liability company organized and existing under the  
3 laws of Indiana; or

4 (4) a corporation organized and existing under the laws of  
5 Indiana.

6 SECTION 2. IC 7.1-3-2-7, AS AMENDED BY P.L.186-2011,  
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2012]: Sec. 7. The holder of a brewer's permit or an  
9 out-of-state brewer holding either a primary source of supply permit or  
10 an out-of-state brewer's permit may do the following:

11 (1) Manufacture beer.

12 (2) Place beer in containers or bottles.

13 (3) Transport beer.

14 (4) Sell and deliver beer to a person holding a beer wholesaler's  
15 permit issued under IC 7.1-3-3.

16 (5) If the brewer's brewery manufactures not more than thirty  
17 thousand (30,000) barrels of beer in a calendar year, ~~do the~~  
18 ~~following:~~ ~~(A)~~ sell and deliver beer to a person holding a retailer  
19 or a dealer permit under this title. **For purposes of this**  
20 **subdivision, the amount of beer sold or shipped outside**  
21 **Indiana is not included in determining the thirty thousand**  
22 **(30,000) barrel limit.**

23 **(6) If the brewer's brewery manufactures not more than sixty**  
24 **thousand (60,000) barrels of beer in a calendar year, may do**  
25 **the following:**

26 ~~(B)~~ **(A)** Be the proprietor of a restaurant.

27 ~~(C)~~ **(B)** Hold a beer retailer's permit, a wine retailer's permit,  
28 or a liquor retailer's permit for a restaurant established under  
29 clause (B).

30 ~~(D)~~ **(C)** Transfer beer directly from the brewery to the  
31 restaurant by means of:

32 (i) bulk containers; or

33 (ii) a continuous flow system.

34 ~~(E)~~ **(D)** Install a window between the brewery and an adjacent  
35 restaurant that allows the public and the permittee to view both  
36 premises.

37 ~~(F)~~ **(E)** Install a doorway or other opening between the  
38 brewery and an adjacent restaurant that provides the public  
39 and the permittee with access to both premises.

40 ~~(G)~~ **(F)** Sell the brewery's beer by the glass for consumption on  
41 the premises. Brewers permitted to sell beer by the glass under  
42 this clause must furnish the minimum food requirements

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- 1 prescribed by the commission.
- 2 ~~(H)~~ **(G)** Sell and deliver beer to a consumer at the permit
- 3 premises of the brewer or at the residence of the consumer.
- 4 The delivery to a consumer may be made only in a quantity at
- 5 any one (1) time of not more than one-half (1/2) barrel, but the
- 6 beer may be contained in bottles or other permissible
- 7 containers.
- 8 ~~(H)~~ **(H)** Sell the brewery's beer as authorized by this section for
- 9 carryout on Sunday in a quantity at any one (1) time of not
- 10 more than five hundred seventy-six (576) ounces. A brewer's
- 11 beer may be sold under this clause only at the address for
- 12 which the brewer's permit was issued under this chapter.
- 13 ~~(7)~~ **(7)** If the brewer's brewery manufactures more than thirty
- 14 thousand (30,000) barrels of beer in a calendar year, own a
- 15 portion of the corporate stock of another brewery that:
- 16 (A) is located in the same county as the brewer's brewery;
- 17 (B) manufactures less than thirty thousand (30,000) barrels of
- 18 beer in a calendar year; and
- 19 (C) is the proprietor of a restaurant that operates under
- 20 subdivision (5).
- 21 ~~(7)~~ **(8)** Provide complimentary samples of beer that are:
- 22 (A) produced by the brewer; and
- 23 (B) offered to consumers for consumption on the brewer's
- 24 premises.
- 25 ~~(8)~~ **(9)** Own a portion of the corporate stock of a sports
- 26 corporation that:
- 27 (A) manages a minor league baseball stadium located in the
- 28 same county as the brewer's brewery; and
- 29 (B) holds a beer retailer's permit, a wine retailer's permit, or a
- 30 liquor retailer's permit for a restaurant located in that stadium.
- 31 ~~(9)~~ **(10)** For beer described in IC 7.1-1-2-3(a)(4):
- 32 (A) may allow transportation to and consumption of the beer
- 33 on the licensed premises; and
- 34 (B) may not sell, offer to sell, or allow sale of the beer on the
- 35 licensed premises.
- 36 SECTION 3. IC 7.1-3-22-1, AS AMENDED BY P.L.186-2011,
- 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2012]: Sec. 1. (a) This section applies to a brewer that
- 39 manufactures more than ~~thirty~~ **sixty** thousand ~~(30,000)~~ **(60,000)** barrels
- 40 of beer in a calendar year.
- 41 (b) The commission may issue and have outstanding only one (1)
- 42 brewer's permit for each unit of population of this state of one hundred

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1 and seventy-five thousand (175,000) or major fraction thereof. The  
 2 commission, however, shall not issue more than four (4) brewer's  
 3 permits in the same congressional district.

4 SECTION 4. IC 7.1-3-23-23, AS AMENDED BY P.L.186-2011,  
 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2012]: Sec. 23. (a) This section applies to a brewer that  
 7 manufactures more than ~~thirty~~ **sixty** thousand (~~30,000~~) **(60,000)** barrels  
 8 of beer in a calendar year.

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

12 SECTION 5. IC 7.1-4-3-4, AS AMENDED BY P.L.64-2011,  
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2012]: Sec. 4. (a) This section does not apply to the following:

15 (1) The necessary refilling of a container by a person holding a  
 16 permit that authorizes the person to manufacture, rectify, or bottle  
 17 liquor.

18 (2) An establishment where alcoholic beverages are sold that is  
 19 owned, in whole or part, by an entity that holds a brewer's permit  
 20 for a brewery described under ~~IC 7.1-3-2-7(5)~~: **IC 7.1-3-2-7**.

21 (3) An establishment where alcoholic beverages are sold that is  
 22 owned, in whole or part, by a statewide trade organization  
 23 consisting of members, each of whom hold a brewer's permit for  
 24 a brewery described under ~~IC 7.1-3-2-7(5)~~: **IC 7.1-3-2-7**.

25 (b) It is unlawful for a person to:

26 (1) refill a bottle or container, in whole or in part, with an  
 27 alcoholic beverage; or

28 (2) knowingly possess a bottle or container that has been refilled,  
 29 in whole or in part, with an alcoholic beverage;

30 after the container of liquor has been emptied in whole or in part.

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

35 (1) Brewer's permit for the manufacture of more than ~~thirty~~ **sixty**  
 36 thousand (~~30,000~~) **(60,000)** barrels of beer in a calendar year.

37 (2) Distiller's permit.

38 (3) Malt manufacturer's permit.

39 (4) Rectifier's permit.

40 (5) Vintner's permit.

41 (6) Wine bottler's permit.

42 (b) A permit fee of two thousand dollars (\$2,000) is annually

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1 imposed for the issuance of each permit described in subsection (a).  
 2 SECTION 7. IC 7.1-4-4.1-16, AS AMENDED BY P.L.186-2011,  
 3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2012]: Sec. 16. The annual fee for a brewer's permit for the  
 5 manufacture of not more than ~~thirty sixty~~ thousand (~~30,000~~) **(60,000)**  
 6 barrels of beer in a calendar year is five hundred dollars (\$500).  
 7 SECTION 8. IC 7.1-5-3-1, AS AMENDED BY P.L.64-2011,  
 8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2012]: Sec. 1. (a) This section does not apply to the following:  
 10 (1) An establishment where alcoholic beverages are sold that is  
 11 owned, in whole or part, by an entity that holds a brewer's permit  
 12 for a brewery described under ~~IC 7.1-3-2-7(5)~~: **IC 7.1-3-2-7**.  
 13 (2) An establishment where alcoholic beverages are sold that is  
 14 owned, in whole or part, by a statewide trade organization  
 15 consisting of members, each of whom hold a brewer's permit for  
 16 a brewery described under ~~IC 7.1-3-2-7(5)~~: **IC 7.1-3-2-7**.  
 17 (b) It is unlawful to sell beer in this state at retail in a bottle, can, or  
 18 other container, unless the bottle, can, or other container was packaged  
 19 and sealed by the brewer at the brewer's bottling house contiguous or  
 20 adjacent to the brewery in which the beer was produced.  
 21 SECTION 9. IC 7.1-5-9-3, AS AMENDED BY P.L.186-2011,  
 22 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2012]: Sec. 3. (a) This section applies to a brewer that  
 24 manufactures more than ~~thirty sixty~~ thousand (~~30,000~~) **(60,000)** barrels  
 25 of beer in a calendar year.  
 26 (b) It is unlawful for the holder of a brewer's or beer wholesaler's  
 27 permit to have an interest in a liquor permit of any type under this title.  
 28 SECTION 10. IC 7.1-5-9-10, AS AMENDED BY P.L.186-2011,  
 29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2012]: Sec. 10. (a) Except as provided in subsection (b), it is  
 31 unlawful for a holder of a retailer's permit of any type to acquire, hold,  
 32 own, or possess an interest of any type in a manufacturer's or  
 33 wholesaler's permit of any type.  
 34 (b) It is lawful for a holder of a retailer's permit of any type to  
 35 acquire, hold, own, or possess an interest of any type in a brewer's  
 36 permit for a brewery that manufactures not more than ~~thirty sixty~~  
 37 thousand (~~30,000~~) **(60,000)** barrels of beer in a calendar year.  
 38 SECTION 11. IC 9-21-4-5 IS AMENDED TO READ AS  
 39 FOLLOWS: Sec. 5. (a) Except as provided in subsection (b), a person  
 40 may not place or maintain upon a highway a traffic sign or signal  
 41 bearing commercial advertising. A public authority may not permit the  
 42 placement of a traffic sign or signal that bears a commercial message.

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1 (b) Under criteria to be jointly established by the Indiana  
 2 department of transportation and the office of tourism development, the  
 3 Indiana department of transportation may authorize the posting of any  
 4 of the following:

5 (1) Limited tourist attraction signage.

6 (2) Business signs on specific information panels on the interstate  
 7 system of highways and other freeways.

8 All costs of manufacturing, installation, and maintenance to the Indiana  
 9 department of transportation for a business sign posted under this  
 10 subsection shall be paid by the business.

11 (c) Criteria established under subsection (b) for tourist attraction  
 12 signage must include a category for a tourist attraction that:

13 (1) is a trademarked destination brand; and

14 (2) encompasses buildings, structures, sites, or other facilities that  
 15 are:

16 (A) listed on the National Register of Historic Places  
 17 established under 16 U.S.C. 470 et seq.; or

18 (B) listed on the register of Indiana historic sites and historic  
 19 structures established under IC 14-21-1;

20 regardless of the distance of the tourist attraction from the highway on  
 21 which the tourist attraction signage is placed.

22 (d) Criteria established under subsection (b) for tourist attraction  
 23 signage must include a category for a tourist attraction that is an  
 24 establishment licensed under ~~IC 7.1-3-2-7(5)~~ **IC 7.1-3-2-7**.

25 (e) A person may not place, maintain, or display a flashing, a  
 26 rotating, or an alternating light, beacon, or other lighted device that:

27 (1) is visible from a highway; and

28 (2) may be mistaken for or confused with a traffic control device  
 29 or for an authorized warning device on an emergency vehicle.

30 (f) This section does not prohibit the erection, upon private property  
 31 adjacent to highways, of signs giving useful directional information and  
 32 of a type that cannot be mistaken for official signs.

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