



March 29, 2013

ENGROSSED HOUSE BILL No. 1262

DIGEST OF HB 1262 (Updated March 28, 2013 9:05 am - DI 110)

Citations Affected: IC 7.1-3; noncode.

Synopsis: Alcohol server online and self-study training. Allows the alcohol and tobacco server commission (ATC) to approve an alcohol server program established by a third party that provides both online and self-study courses and establishes requirements for both courses. Allows an individual to take an alcohol server self-study course only if, under circumstances determined by the ATC, the individual is unable to take any other approved server training. Requires a person taking a test in a self-study course to appear at a test site in person and provide verification of the person's identity. Requires a program provider to provide to the ATC: (1) a monthly report regarding participants that have taken alcohol server courses and received server certificates; and (2) a self-generated program audit to the ATC every January 2. Allows the ATC to perform onsite audits of the program provider or require onsite audits. Establishes an application fee of \$45 for a trainer certificate. Allows the ATC to refuse to issue a trainer certificate to an applicant who has been convicted of a felony if less than two years have elapsed from the date the applicant was discharged from probation, imprisonment, or parole, whichever date is latest, to the date the applicant applied for the trainer certificate. Allows a server program provider to charge a fee of not more than \$30 for participation in the program.

Effective: Upon passage; July 1, 2013.

Davis, Austin

(SENATE SPONSORS — ALTING, RANDOLPH)

January 14, 2013, read first time and referred to Committee on Public Policy.
January 23, 2013, reported — Do Pass.
January 28, 2013, read second time, ordered engrossed. Engrossed.
January 29, 2013, read third time, passed. Yeas 96, nays 1.

SENATE ACTION

March 25, 2013, read first time and referred to Committee on Public Policy.
March 28, 2013, amended, reported favorably — Do Pass.

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March 29, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1262

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 7.1-3-1.5-4.6, AS AMENDED BY P.L.94-2008,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 4.6. **Except as provided in section 10 of this**
4 **chapter**, the commission shall issue a trainer certificate to an applicant
5 who:
6 (1) files the application;
7 **(2) pays an application fee of forty-five dollars (\$45); and**
8 **(3) pays the any other** fees established by the commission under
9 section 5 of this chapter;
10 ~~(2)~~ **(4)** completes a program established or approved under
11 section 5.5 of this chapter; and
12 ~~(3)~~ **(5)** meets the requirements under this chapter and rules
13 adopted by the commission.
14 SECTION 2. IC 7.1-3-1.5-6, AS AMENDED BY P.L.94-2008,
15 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 6. (a) The commission shall:
17 (1) establish a server program; ~~and~~

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1 (2) approve a server program established by a third party that
 2 meets the requirements of this chapter; **and**
 3 **(3) approve a server program established by a third party**
 4 **that meets the requirements of this chapter and IC 7.1-3-1.6;**
 5 that is designed to educate alcohol servers on the selling, serving, and
 6 consumption of alcoholic beverages.

7 (b) A server program established or approved under subsection (a)
 8 must include the following:

9 (1) Training **provided** by:

10 (A) an instructor who ~~(A)~~ has knowledge in the subject areas
 11 described in this section and ~~(B)~~ is a certified trainer under
 12 this chapter; **or**

13 **(B) an online or self-study course under IC 7.1-3-1.6.**

14 (2) Information on specific subject areas as required by the
 15 commission.

16 (3) A minimum of at least two (2) hours of training to complete
 17 the program.

18 (4) Information on:

19 (A) state laws and rules regarding the sale and service of
 20 alcoholic beverages;

21 (B) the classification of alcohol as a depressant and the effect
 22 of alcohol on the human body, particularly on the ability to
 23 drive a motor vehicle;

24 (C) the effects of alcohol:

25 (i) when taken with commonly used prescription and
 26 nonprescription drugs; and

27 (ii) on human behavior;

28 (D) methods of:

29 (i) identifying and refusing to serve or sell alcoholic
 30 beverages to an underage or intoxicated person; and

31 (ii) handling situations involving an underage or intoxicated
 32 person;

33 (E) methods for properly and effectively:

34 (i) checking the identification of an individual;

35 (ii) identifying an illegal identification of an individual; and

36 (iii) handling situations involving individuals who have
 37 provided illegal identification;

38 (F) security and law enforcement issues regarding the sale and
 39 service of alcoholic beverages; and

40 (G) recognizing certain behavior to assess the amount of
 41 alcohol an individual:

42 (i) has consumed; and

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1 (ii) may safely consume.
 2 (5) One (1) or both of the following:
 3 (A) A written test.
 4 (B) An oral test.
 5 **(c) A provider of a server program may charge a fee of not more**
 6 **than thirty dollars (\$30) for participation by an individual in a**
 7 **server program established or approved under subsection (a).**
 8 SECTION 3. IC 7.1-3-1.5-10, AS ADDED BY P.L.161-2005,
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2013]: Sec. 10. (a) **The commission may refuse to issue a**
 11 **trainer certificate under this chapter to an applicant who has been**
 12 **convicted of a felony if less than two (2) years have elapsed from**
 13 **the date the applicant was discharged from probation,**
 14 **imprisonment, or parole, whichever discharge date is latest, to the**
 15 **date the applicant applies for the trainer certificate.**
 16 (b) The commission may:
 17 (1) refuse to:
 18 (A) **issue a certificate under this chapter; or**
 19 (B) renew or restore a certificate issued under this chapter; or
 20 (2) suspend or revoke a certificate issued under this chapter;
 21 if the ~~board~~ **commission** determines that the applicant or certificate
 22 holder has not complied with this chapter.
 23 ~~(b)~~ (c) The commission may fine a certificate holder for the
 24 violation of a:
 25 (1) provision of this chapter; or
 26 (2) rule adopted by the commission under this chapter.
 27 The commission may fine a certificate holder for each day the violation
 28 continues if the violation is of a continuing nature.
 29 SECTION 4. IC 7.1-3-1.5-12, AS AMENDED BY P.L.94-2008,
 30 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 12. (a) **In the case of a program approved**
 32 **under IC 7.1-3-1.6, this section applies only to an individual**
 33 **providing the assistance described in IC 7.1-3-1.6-6(6).**
 34 (b) A person who trains alcohol servers without a trainer certificate
 35 under this chapter commits a Class B infraction.
 36 SECTION 5. IC 7.1-3-1.6 IS ADDED TO THE INDIANA CODE
 37 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]:
 39 **Chapter 1.6. Online and Self-Study Server Courses**
 40 **Sec. 1. The definitions in IC 7.1-3-1.5 apply to this chapter.**
 41 **Sec. 2. As used in this chapter, "online course" means a course**
 42 **of instruction:**

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- 1 (1) designed to educate an alcohol server in the selling,
- 2 serving, and consumption of alcoholic beverages; and
- 3 (2) that is provided by computer or connection to the Internet.
- 4 Sec. 3. As used in this chapter, "participant" means a person
- 5 who participates in an alcohol server program.
- 6 Sec. 4. As used in this chapter, "self-study course" means a
- 7 course of instruction:
- 8 (1) designed to educate an alcohol server in the selling,
- 9 serving, and consumption of alcoholic beverages; and
- 10 (2) that is provided through printed materials.
- 11 The term does not include an online course.
- 12 Sec. 5. A server program under this chapter must include:
- 13 (1) an online course; and
- 14 (2) a self-study course;
- 15 approved by the commission.
- 16 Sec. 6. A server program under this chapter must meet the
- 17 following requirements:
- 18 (1) Be one (1) or both of the following:
- 19 (A) A nationally recognized program that is approved by
- 20 the commission.
- 21 (B) A program developed by and offered through the
- 22 commission.
- 23 (2) Require verification of a participant's identity. In the case
- 24 of an online course, verification may be through the use of a
- 25 username and password, or by any other equally effective
- 26 means.
- 27 (3) Provide a test consisting of at least forty (40) questions.
- 28 (4) Require a grade of at least seventy-five percent (75%) on
- 29 the test to pass the course and receive a server certificate.
- 30 (5) Require completion of the course before a test may be
- 31 taken.
- 32 (6) Provide participants with access to an individual with a
- 33 trainer certificate to answer questions about the course
- 34 content.
- 35 (7) Randomly generate combinations of test questions on a
- 36 regularly scheduled basis.
- 37 (8) Use scenario-based training to enhance decision making.
- 38 (9) Comply with the requirements of IC 7.1-3-1.5-6(b).
- 39 (10) Comply with any other requirements of the commission.
- 40 Sec. 7. An online course must meet the following requirements:
- 41 (1) Provide a process for participants to securely log in to the
- 42 course.

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- 1 (2) Automatically log out participants after twenty (20)
 2 minutes of inactivity and allow participants to resume the
 3 course at the same point where they stopped.
- 4 (3) Provide intuitive:
 5 (A) user navigation through the course; and
 6 (B) user interface with the course.
- 7 (4) Use linear navigation that requires the completion of a
 8 module before the course proceeds to the next module.
- 9 (5) Use an interactive course design.
- 10 (6) Provide participants with adequate access to a help desk
 11 to resolve technical issues without delaying the flow of
 12 instruction.
- 13 (7) Provide that the course web site may not allow
 14 advertisements to appear on the course web site while the
 15 participant is receiving instruction, and provide that
 16 advertisements that appear on the web site when the
 17 participant is not receiving instruction follow generally
 18 accepted marketing practices.
- 19 **Sec. 8. (a) Unless an individual satisfies the eligibility**
 20 **requirements established by the commission under subsection (b)**
 21 **for participation in a self-study course, an individual may receive**
 22 **a server certificate only by successfully completing:**
- 23 (1) a program established or approved by the commission
 24 under IC 7.1-3-1.5-6(a)(1) or IC 7.1-3-1.5-6(a)(2); or
 25 (2) an online course under this chapter.
- 26 (b) The commission shall adopt eligibility requirements and an
 27 approval process for an individual to participate in a self-study
 28 course. In determining eligibility, the commission may consider:
 29 (1) an individual's limited access to a computer;
 30 (2) any physical disabilities affecting an individual's ability to
 31 participate in an online course; and
 32 (3) any other relevant circumstances considered by the
 33 commission.
- 34 (c) The commission shall establish standards for printed
 35 self-study course materials, including the following:
 36 (1) Use of good quality, full color photographs and limited
 37 illustrations to depict job tasks from the participant's point of
 38 view.
 39 (2) Use of visual clues to focus participants on critical
 40 concepts.
 41 (3) Use of activities that provide participants with an
 42 opportunity to practice concepts.

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1 **(4) Course materials of durable material and binding.**

2 **(d) The text of the self-study course materials and tests must be**
 3 **written in clear and understandable language.**

4 **Sec. 9. A self-study course may not provide a test that is**
 5 **self-administered by the participant. A self-study course test must**
 6 **meet the following requirements:**

7 **(1) The participant must appear in person at a location to take**
 8 **the test.**

9 **(2) The participant's identity must be sufficiently verified.**

10 **(3) Any other requirements established by the commission.**

11 **Sec. 10. A provider of a server program under this chapter shall**
 12 **submit a report every month to the commission or upon the**
 13 **commission's request. The report must provide the following**
 14 **information regarding each participant in the program during the**
 15 **previous month:**

16 **(1) The participant's full name.**

17 **(2) The participant's date of birth.**

18 **(3) The certificate number or system generated number**
 19 **providing a unique identification of the participant.**

20 **(4) Whether the course taken by the participant was an online**
 21 **course or self-study course.**

22 **(5) The following information regarding the test taken by the**
 23 **participant:**

24 **(A) The date of the test.**

25 **(B) The location of the test site if the test was administered**
 26 **as part of a self-study course.**

27 **(C) The participant's score, reported as a percentage.**

28 **(D) Whether the participant passed or failed the exam.**

29 **Sec. 11. (a) A provider of a server program under this chapter**
 30 **shall provide the commission with a self-generated program audit**
 31 **on January 2 of each year.**

32 **(b) The self-generated program audit must include the following**
 33 **information for the previous calendar year:**

34 **(1) An overview of the program provider, including how long**
 35 **the program provider has been in existence and offered**
 36 **alcohol server programs for certification in Indiana.**

37 **(2) The following:**

38 **(A) A copy of the job task analysis for the job of alcohol**
 39 **server.**

40 **(B) The knowledge, skills, and abilities that are defined for**
 41 **the job of alcohol server.**

42 **(3) Information regarding the job task analysis under**

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- 1 subdivision (2), including the following:
- 2 (A) An overview of the process used to conduct the job task
- 3 analysis, including:
- 4 (i) timelines;
- 5 (ii) data collection formats; and
- 6 (iii) procedures.
- 7 (B) Credentials and demographic information of all
- 8 individuals involved in the job task analysis.
- 9 (4) An overview of the process of creating the course tests.
- 10 (5) A description of the rotation of test questions.
- 11 (6) An enumeration of each of the following with respect to
- 12 the provider's program:
- 13 (A) The number of each type of course taken by
- 14 participants for certification in Indiana.
- 15 (B) The number of tests taken for certification in Indiana.
- 16 (C) The number of tests under clause (B) that had a
- 17 passing grade or a failing grade.
- 18 (7) The program pass rate for certification in Indiana.
- 19 (8) The number of Indiana server certificates issued by the
- 20 provider.
- 21 **Sec. 12. A provider of a server program under this chapter must**
- 22 **be willing to accept onsite audits by the commission and perform**
- 23 **onsite audits as the commission considers necessary. An onsite**
- 24 **audit may review the following:**
- 25 (1) The self-generated program audit described in section 11
- 26 of this chapter.
- 27 (2) The number of Indiana server certificates that have been
- 28 issued by the program provider.
- 29 (3) The measures taken by the program provider for the
- 30 protection of test questions.
- 31 (4) The procedures of the program provider for scoring tests.
- 32 (5) The size of the item bank from which the test questions are
- 33 taken.
- 34 (6) The methodology used to translate the course and test into
- 35 multiple languages and the qualifications of the individuals
- 36 performing the translation.
- 37 (7) The integrity of the course data generated and stored by
- 38 the program provider.
- 39 (8) The program provider's data handling, reporting, and
- 40 archiving capacities, policies, and procedures.
- 41 (9) The availability and credentials of individuals providing
- 42 qualified assistance to participants who have questions

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1 **regarding course content and instructional materials.**
2 **(10) The program provider's policies and procedures for**
3 **addressing participants' questions.**
4 **(11) The program provider's procedures to ensure that**
5 **participants are not discriminated against due to age, sex,**
6 **race, religion, ethnic origin, disability, or marital status.**
7 **SECTION 6. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1262, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DAVIS, Chair

Committee Vote: yeas 13, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-1.5-4.6, AS AMENDED BY P.L.94-2008, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.6. **Except as provided in section 10 of this chapter**, the commission shall issue a trainer certificate to an applicant who:

- (1) files the application;
- (2) pays an application fee of forty-five dollars (\$45); and**
- (3) pays the any other** fees established by the commission under section 5 of this chapter;
- ~~(2)~~ **(4)** completes a program established or approved under section 5.5 of this chapter; and
- ~~(3)~~ **(5)** meets the requirements under this chapter and rules adopted by the commission."

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"(c) A provider of a server program may charge a fee of not more than thirty dollars (\$30) for participation by an individual in a server program established or approved under subsection (a).

SECTION 3. IC 7.1-3-1.5-10, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) **The commission may refuse to issue a trainer certificate under this chapter to an applicant who has been**

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convicted of a felony if less than two (2) years have elapsed from the date the applicant was discharged from probation, imprisonment, or parole, whichever discharge date is latest, to the date the applicant applies for the trainer certificate.

(b) The commission may:

(1) refuse to:

(A) issue a certificate under this chapter; or

(B) renew or restore a certificate issued under this chapter; or

(2) suspend or revoke a certificate issued under this chapter;

if the ~~board~~ **commission** determines that the applicant or certificate holder has not complied with this chapter.

~~(b)~~ (c) The commission may fine a certificate holder for the violation of a:

(1) provision of this chapter; or

(2) rule adopted by the commission under this chapter.

The commission may fine a certificate holder for each day the violation continues if the violation is of a continuing nature."

Page 2, line 38, delete "IC 7.1-3-1.6-7(6)." and insert "**IC 7.1-3-1.6-6(6).**"

Page 3, line 23, delete "Be a nationally recognized program." and insert "**Be one (1) or both of the following:**

(A) **A nationally recognized program that is approved by the commission.**

(B) **A program developed by and offered through the commission.**"

Page 4, line 37, delete "quality" and insert "**quality,**".

Page 5, line 3, delete "self study" and insert "**self-study**".

Page 5, line 30, delete "The program provider" and insert "**A provider of a server program under this chapter**".

Page 6, line 11, delete "following:" and insert "**following with respect to the provider's program:**".

Page 6, line 18, delete "issued." and insert "**issued by the provider.**".

Page 6, line 19, delete "The program provider" and insert "**A provider of a server program under this chapter**".

Page 7, after line 4, begin a new paragraph and insert:

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"SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1262 as printed January 24, 2013.)

ALTING, Chairperson

Committee Vote: Yeas 10, Nays 0.

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