



March 22, 2013

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**ENGROSSED**  
**SENATE BILL No. 173**

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DIGEST OF SB 173 (Updated March 20, 2013 4:40 pm - DI 14)

**Citations Affected:** IC 7.1-3.

**Synopsis:** Lakefront development project alcohol permit. Lakefront development project alcohol permit. Allows the alcohol and tobacco commission to issue up to six three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant in a municipal lakefront development project area located in Whiting. Requires: (1) the commission to conduct an auction of the permits; and (2) the minimum bid for an initial permit to be \$10,000.

**Effective:** July 1, 2013.

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**Charbonneau, Alting, Randolph,  
Landske, Tallian**

(HOUSE SPONSORS — DAVIS, LAWSON L)

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January 7, 2013, read first time and referred to Committee on Public Policy.  
January 31, 2013, amended, reported favorably — Do Pass.  
February 4, 2013, read second time, ordered engrossed. Engrossed.  
February 5, 2013, read third time, passed. Yeas 41, nays 8.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Public Policy.  
March 21, 2013, amended, reported — Do Pass.

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ES 173—LS 6384/DI 110+



March 22, 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 SENATE BILL No. 173

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 7.1-3-20-16, AS AMENDED BY P.L.119-2012,  
2 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 16. (a) A permit that is authorized by this section  
4 may be issued without regard to the quota provisions of IC 7.1-3-22.

5 (b) The commission may issue a three-way permit to sell alcoholic  
6 beverages for on-premises consumption only to an applicant who is the  
7 proprietor, as owner or lessee, or both, of a restaurant facility in the  
8 passenger terminal complex of a publicly owned airport. A permit  
9 issued under this subsection shall not be transferred to a location off  
10 the airport premises.

11 (c) The commission may issue a three-way, two-way, or one-way  
12 permit to sell alcoholic beverages for on-premises consumption only to  
13 an applicant who is the proprietor, as owner or lessee, or both, of a  
14 restaurant within a redevelopment project consisting of a building or  
15 group of buildings that:

- 16 (1) was formerly used as part of a union railway station;  
17 (2) has been listed in or is within a district that has been listed in

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1 the federal National Register of Historic Places maintained  
 2 pursuant to the National Historic Preservation Act of 1966, as  
 3 amended; and  
 4 (3) has been redeveloped or renovated, with the redevelopment or  
 5 renovation being funded in part with grants from the federal,  
 6 state, or local government.

7 A permit issued under this subsection shall not be transferred to a  
 8 location outside of the redevelopment project.

9 (d) The commission may issue a three-way, two-way, or one-way  
 10 permit to sell alcoholic beverages for on-premises consumption only to  
 11 an applicant who is the proprietor, as owner or lessee, or both, of a  
 12 restaurant:

- 13 (1) on land; or
  - 14 (2) in a historic river vessel;
- 15 within a municipal riverfront development project funded in part with  
 16 state and city money. A permit issued under this subsection may not be  
 17 transferred.

18 (e) The commission may issue a three-way, two-way, or one-way  
 19 permit to sell alcoholic beverages for on-premises consumption only to  
 20 an applicant who is the proprietor, as owner or lessee, or both, of a  
 21 restaurant within a renovation project consisting of a building that:

- 22 (1) was formerly used as part of a passenger and freight railway  
 23 station; and
- 24 (2) was built before 1900.

25 The permit authorized by this subsection may be issued without regard  
 26 to the proximity provisions of IC 7.1-3-21-11.

27 (f) The commission may issue a three-way permit for the sale of  
 28 alcoholic beverages for on-premises consumption at a cultural center  
 29 for the visual and performing arts to the following:

- 30 (1) A town that:
  - 31 (A) is located in a county having a population of more than
  - 32 four hundred thousand (400,000) but less than seven hundred
  - 33 thousand (700,000); and
  - 34 (B) has a population of more than twenty thousand (20,000)
  - 35 but less than twenty-three thousand seven hundred (23,700).
- 36 (2) A city that has an indoor theater as described in section 26 of  
 37 this chapter.

38 (g) The commission may issue not more than ten (10) new  
 39 three-way, two-way, or one-way permits to sell alcoholic beverages for  
 40 on-premises consumption to applicants, each of whom must be the  
 41 proprietor, as owner or lessee, or both, of a restaurant located within a  
 42 district, or not more than seven hundred (700) feet from a district, that

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- 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 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 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 forty-four thousand five hundred (44,500) but less than forty-five thousand (45,000);

located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000). 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

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1 expires, a permit issued under this subsection may not be transferred.  
 2 After the district expires, a permit issued under this subsection may be  
 3 renewed, and the ownership of the permit may be transferred, but the  
 4 permit may not be transferred from the permit premises.

5 (i) After June 30, 2006, the commission may issue not more than  
 6 five (5) new three-way, two-way, or one-way permits to sell alcoholic  
 7 beverages for on-premises consumption to applicants, each of whom  
 8 must be the proprietor, as owner or lessee, or both, of a restaurant  
 9 located within a district, or not more than five hundred (500) feet from  
 10 a district, that meets all of the following requirements:

11 (1) The district is within an economic development area, an area  
 12 needing redevelopment, or a redevelopment district as established  
 13 under IC 36-7-14.

14 (2) A unit of the National Park Service is partially located within  
 15 the district.

16 (3) An international deep water seaport is located within the  
 17 district.

18 An applicant is not eligible for a permit under this subsection if, less  
 19 than two (2) years before the date of the application, the applicant sold  
 20 a retailers' permit that was subject to IC 7.1-3-22 and that was for  
 21 premises located within the district described in this subsection or  
 22 within five hundred (500) feet of the district. A permit issued under this  
 23 subsection may not be transferred. If the commission issues five (5)  
 24 new permits under this subsection, and a permit issued under this  
 25 subsection is later revoked or is not renewed, the commission may  
 26 issue another new permit, as long as the total number of active permits  
 27 issued under this subsection does not exceed five (5) at any time. The  
 28 commission shall conduct an auction of the permits under  
 29 IC 7.1-3-22-9, except that the auction may be conducted at any time as  
 30 determined by the commission.

31 **(j) Subject to section 16.2 of this chapter, the commission may**  
 32 **issue not more than six (6) new three-way, two-way, or one-way**  
 33 **permits to sell alcoholic beverages for on-premises consumption**  
 34 **only to an applicant who is the proprietor, as owner or lessee, or**  
 35 **both, of a restaurant on land within a municipal lakefront**  
 36 **development project funded in part with state, local, and federal**  
 37 **money. A permit issued under this subsection may not be**  
 38 **transferred. If the commission issues six (6) new permits under this**  
 39 **subsection, and a permit issued under this subsection is later**  
 40 **revoked or is not renewed, the commission may issue another new**  
 41 **permit, as long as the total number of active permits issued under**  
 42 **this subsection does not exceed six (6) at any time. The commission**



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1 shall conduct an auction of the permits under IC 7.1-3-22-9, except  
 2 that the auction may be conducted at any time as determined by  
 3 the commission. Notwithstanding any other law, the minimum bid  
 4 for an initial permit under this subsection is ten thousand dollars  
 5 (\$10,000).

6 SECTION 2. IC 7.1-3-20-16.2 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2013]: **Sec. 16.2. (a) This section applies to a**  
 9 **municipal lakefront development project authorized under section**  
 10 **16(j) of this chapter.**

11 (b) In order to qualify for a permit, an applicant must  
 12 demonstrate that the municipal lakefront development project area  
 13 where the permit is to be located meets the following criteria:

14 (1) The municipal lakefront development project area must be  
 15 located in a city (as defined in IC 36-1-2-3).

16 (2) All of the following must be located within the corporate  
 17 boundaries of the city described in subdivision (1):

18 (A) A city park.

19 (B) A baseball stadium.

20 (C) An oil refinery.

21 (3) The project boundaries must border on Lake Michigan.

22 (4) The proposed permit premises may not be located more  
 23 than:

24 (A) one thousand five hundred (1,500) feet; or

25 (B) three (3) city blocks;

26 from Lake Michigan, whichever is greater. However, if the  
 27 area adjacent to Lake Michigan is incapable of being  
 28 developed because the area is in a floodplain, or for any other  
 29 reason that prevents the area from being developed, the  
 30 distances described in clauses (A) and (B) are measured from  
 31 the city blocks located nearest to Lake Michigan that are  
 32 capable of being developed.

33 (5) The permit premises are located within:

34 (A) an economic development area, a redevelopment  
 35 project area, an urban renewal area, or a redevelopment  
 36 area established under IC 36-7-14, IC 36-7-14.5, or  
 37 IC 36-7-15.1;

38 (B) an economic development project district under  
 39 IC 36-7-15.2 or IC 36-7-26; or

40 (C) a community revitalization enhancement district  
 41 designated under IC 36-7-13-12.1.

42 (6) The project must be funded in part with state, local, and

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- 1 federal money.
- 2 (7) The boundaries of the municipal lakefront development
- 3 project must be designated by ordinance or resolution by the
- 4 legislative body (as defined in IC 36-1-2-9) of the city in which
- 5 the project is located.
- 6 (c) Proof of compliance with subsection (b) must consist of the
- 7 following documentation, which is required at the time the permit
- 8 application is filed with the commission:
- 9 (1) A detailed map showing:
  - 10 (A) definite boundaries of the entire municipal lakefront
  - 11 development project; and
  - 12 (B) the location of the proposed permit within the project.
- 13 (2) A copy of the local ordinance or resolution of the local
- 14 governing body authorizing the municipal lakefront
- 15 development project.
- 16 (3) Detailed information concerning the expenditures of state,
- 17 local, and federal funds on the municipal lakefront
- 18 development project.
- 19 (d) A permit may not be issued if the proposed permit premises
- 20 is the location of an existing three-way permit subject to
- 21 IC 7.1-3-22-3.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 173, 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:

Page 4, line 38, after "with" insert "**state, local, and**".

Page 5, line 37, after "with" insert "**state, local, and**".

Page 6, line 16, after "(B)" insert "**state, local, and**".

and when so amended that said bill do pass.

(Reference is to SB 173 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 173, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 31, delete "16.1" and insert "**16.2**".

Page 4, line 32, delete "a" and insert "**not more than six (6) new**".

Page 4, line 32, delete "permit" and insert "**permits**".

Page 4, line 34, delete ":".

Page 4, line 35, delete "(1)".

Page 4, line 35, delete "; or".

Page 4, delete line 36.

Page 4, run in lines 34 through 37.

Page 4, line 39, after "transferred." insert "**If the commission issues six (6) 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 six (6) 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. Notwithstanding any other law, the minimum bid for an initial permit under this subsection is ten thousand dollars (\$10,000).**".

Page 4, delete lines 40 through 42, begin a new paragraph and

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insert:

"SECTION 2. IC 7.1-3-20-16.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 16.2. (a) This section applies to a municipal lakefront development project authorized under section 16(j) of this chapter.**

**(b) In order to qualify for a permit, an applicant must demonstrate that the municipal lakefront development project area where the permit is to be located meets the following criteria:**

**(1) The municipal lakefront development project area must be located in a city (as defined in IC 36-1-2-3).**

**(2) All of the following must be located within the corporate boundaries of the city described in subdivision (1):**

**(A) A city park.**

**(B) A baseball stadium.**

**(C) An oil refinery.**

**(3) The project boundaries must border on Lake Michigan.**

**(4) The proposed permit premises may not be located more than:**

**(A) one thousand five hundred (1,500) feet; or**

**(B) three (3) city blocks;**

**from Lake Michigan, whichever is greater. However, if the area adjacent to Lake Michigan is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to Lake Michigan that are capable of being developed.**

**(5) The permit premises are located within:**

**(A) an economic development area, a redevelopment project area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1;**

**(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; or**

**(C) a community revitalization enhancement district designated under IC 36-7-13-12.1.**

**(6) The project must be funded in part with state, local, and federal money.**

**(7) The boundaries of the municipal lakefront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9) of the city in which**

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the project is located.

**(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:**

**(1) A detailed map showing:**

**(A) definite boundaries of the entire municipal lakefront development project; and**

**(B) the location of the proposed permit within the project.**

**(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal lakefront development project.**

**(3) Detailed information concerning the expenditures of state, local, and federal funds on the municipal lakefront development project.**

**(d) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3."**

Delete pages 5 through 7.

and when so amended that said bill do pass.

(Reference is to SB 173 as printed February 1, 2013.)

DAVIS, Chair

Committee Vote: yeas 12, nays 1.

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