SENATE BILL No. 15

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, 2013.

Boots, Banks

January 7, 2013, read first time and referred to Committee on Public Policy.

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Introduced

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.

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SENATE BILL No. 15

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:

SECTION 1. IC 7.1-3-26-6, AS ADDED BY P.L.165-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. A seller may sell and ship wine directly only to a consumer who meets all of the following requirements:

(1) The consumer is at least twenty-one (21) years of age.

(2) The consumer has an Indiana address.

(3) The consumer intends to use wine purchased under this chapter for personal use only and not for resale or other commercial purposes.

~~(4) Except as provided in subdivision (5), the consumer has provided to the seller in one (1) initial face-to-face transaction at the seller's place of business appearing on the seller's application for a direct wine seller's permit or any locations authorized by IC 7.1-3-12-5 all the following:~~

~~(A) Name, telephone number, Indiana address, or consumer's Indiana business address.~~

~~(B) Proof of age by a state issued driver's license or state~~

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

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

~~(5) If:~~

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

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

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

SECTION 2. IC 7.1-3-26-9, AS AMENDED BY P.L.186-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. A direct wine seller's permit entitles a seller to sell and ship wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

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

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

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

(A) The consumer's name.

(B) A valid delivery address and telephone number.

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

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(D) A verified statement, made under penalties for perjury, that the consumer satisfies the requirements of section 6(1) through 6(3) of this chapter.

(2) The direct wine seller meets the following requirements:

(A) Maintains for two (2) years all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall:

(i) make the records available to the commission during the direct wine seller's regular business hours; or

(ii) at the direction of the commission, deliver copies to the commission.

(B) Stamps, prints, or labels on the outside of the shipping container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY.".

(C) Causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.

(D) Directs the carrier to verify that the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

(G) Ships to a consumer in Indiana only wine manufactured, produced, or bottled by the applicant.

SECTION 3. IC 7.1-3-26-11 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 11. A consumer shall provide a direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, Indiana address, telephone number, and other information required by the commission.~~

SECTION 4. IC 7.1-3-26-15, AS ADDED BY P.L.165-2006, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) Except as provided in subsections (b) and (c), a seller who violates this chapter commits a Class A infraction.

(b) ~~Except as provided in subsection (d),~~ A seller who:

(1) knowingly or intentionally violates this chapter; and

(2) has one (1) prior unrelated conviction or judgment for an infraction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the

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

(c) ~~Except as provided in subsection (d),~~ A seller who:

(1) knowingly or intentionally violates this chapter; and

(2) has at least two (2) prior unrelated convictions or judgments for infractions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction;

commits a Class D felony.

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

SECTION 5. IC 7.1-3-26-16, AS AMENDED BY P.L.1-2007, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. If a direct wine seller is charged under section 15 of this chapter with selling to a consumer who does not meet the requirements of section 6 of this chapter, it is a defense to the charge if the direct wine seller ~~obtained from the consumer the verified statement required under section 6(4)(C) or 6(5)(A) of this chapter and produces a copy of the verified statement.~~ **received a verified statement from the consumer in accordance with section 9(1)(D) of this chapter.**

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