
SENATE BILL No. 566

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-2; IC 7.1-3.

Synopsis: Regulation of alcohol. Makes the member of a local alcohol board who represents and is designated by the alcohol and tobacco commission (commission) an ex officio nonvoting member of the board. Allows a local alcohol board meeting to be a continued from day to day or adjourned until a later meeting of the local board. (Current law allows a meeting to be continued from day to day or adjourned until a later meeting in the discretion of the designated representative of the commission.) Requires local boards to ensure that applications for permits are heard and resolved in a timely fashion. Changes quorum and voting requirements for local alcohol boards. Requires that, if a local alcohol board does not have a quorum at a meeting in which the board is to consider contested permits, the meeting must be rescheduled to include consideration of the contested permits at another board meeting. Provides that the population of a consolidated city is the population of the county minus excluded cities for alcoholic beverage quota requirements. Requires that every permit for each category of permit granted in incorporated and unincorporated areas, except for the permits issued in excluded cities, of a consolidated city must be counted as a permit subject to the quota requirements applicable to the category of permit. Requires the commission to count all issued beer dealer permits, regardless of whether a beer dealer permit is issued singly or in combination with a liquor permit, as a beer dealer permit subject to the quota requirements. Makes certain requirements for proprietors of restaurants and new restaurants apply to restaurants in incorporated areas. (Under current law, the requirements apply only to restaurants outside of the corporate limits
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Effective: July 1, 2013.

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January 14, 2013, read first time and referred to Committee on Public Policy.



Digest Continued

of incorporated cities or towns.) Requires the commission to post information concerning a continued meeting of a local board on the commission's Internet web site. Requires an applicant for an alcoholic beverage permit to provide notice of a hearing concerning a new permit or transfer of a permit to certain state legislators or, if the applicant's property is located in a consolidated city, the legislative body of the city.

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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. 566



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 7.1-2-3-35 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 35. If the commission receives a notice described in**
4 **IC 7.1-2-4-15(d) from a local board, the commission shall post the**
5 **information concerning the continued meeting on the commission's**
6 **Internet web site, including the following:**
7 (1) **The local board to which the notice applies.**
8 (2) **The date of the initial meeting of the local board.**
9 (3) **A statement that the meeting has been continued.**
10 (4) **The date on which the meeting will resume.**
11 (5) **The matters that will be discussed on the date the meeting**
12 **resumes.**
13 SECTION 2. IC 7.1-2-4-6 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6. Appointments. (a)**
15 **A local board shall be composed of three (3) appointed members and**



1 one (1) designated member.
 2 **(b) The three (3) appointed members shall be appointed as**
 3 **follows:**
 4 **(1)** One (1) of the appointed members shall be appointed by the
 5 board of county commissioners of the county in which the board
 6 is to perform its duties.
 7 **(2)** One (1) of the appointed members shall be appointed by the
 8 county council of the county in which the board is to perform its
 9 duties.
 10 **(3)** One (1) of the appointed members shall be appointed by the
 11 mayor of the city within the county having the largest population.
 12 **(c)** The designated member of the board:
 13 **(1)** shall represent the commission and shall be designated by the
 14 commission; **and**
 15 **(2) is an ex officio nonvoting member of the board.**
 16 SECTION 3. IC 7.1-2-4-15 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. ~~Meetings.~~ **(a)**
 18 Meetings of the local board shall be held in the office of the clerk of the
 19 circuit court, or at another place provided by the board of county
 20 commissioners. It shall be the duty of a member to attend the meetings
 21 of ~~his~~ **the member's** board and to discharge the duties of ~~his~~ **the**
 22 ~~member's~~ **member's** office.
 23 **(b)** Any member of a local board may administer oaths.
 24 **(c)** A meeting of a local board called for the purpose of a public
 25 investigation of an application for a permit may be:
 26 **(1)** continued from day to day; or
 27 **(2)** adjourned until a later meeting of the local board. ~~in the~~
 28 ~~discretion of the designated representative of the commission.~~
 29 **However, a local board shall ensure that an application for a**
 30 **permit is heard and resolved in a timely fashion.**
 31 **(d)** If the local board continues a meeting as described in
 32 subsection (c)(1), the local board shall provide the commission with
 33 the following information:
 34 **(1) The date of the initial meeting of the local board.**
 35 **(2) A statement that the meeting has been continued.**
 36 **(3) The date on which the meeting will resume.**
 37 **(4) The matters that will be discussed on the date that the**
 38 **meeting resumes.**
 39 SECTION 4. IC 7.1-2-4-16 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. ~~Quorum and~~
 41 ~~Voting.~~ ~~Three (3)~~ **Two (2)** members of a local board shall constitute a
 42 quorum for the transaction of business. A local board may take action

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1 only upon the affirmative votes of at least ~~three (3)~~ **two (2)** of its
 2 members. **If a local board does not have a quorum at a meeting in**
 3 **which the board is to consider contested permits, the meeting must**
 4 **be rescheduled to include consideration of the contested permits at**
 5 **another meeting of the local board.**

6 SECTION 5. IC 7.1-3-1-5.2 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2013]: **Sec. 5.2. In addition to the notice requirements under**
 9 **sections 5 and 5.5 of this chapter, the applicant for a new permit or**
 10 **a transfer of a permit to sell alcoholic beverages of any type shall,**
 11 **at least fifteen (15) days before the date of the local alcoholic**
 12 **beverage board hearing, provide notice, by electronic mail,**
 13 **telephone, or facsimile, of the hearing at the applicant's expense to**
 14 **the following:**

15 (1) **Any state legislator who represents the district in which**
 16 **the property for which the applicant is requesting a permit is**
 17 **located.**

18 (2) **If the applicant's property is located in a consolidated city,**
 19 **the members of the legislative body of the city.**

20 SECTION 6. IC 7.1-3-1-5.5, AS AMENDED BY P.L.10-2010,
 21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2013]: **Sec. 5.5. (a) This section applies only in a county**
 23 **having a consolidated city.**

24 (b) As used in this section, "contiguous property owner" refers to a
 25 property owner who has real property that is geographically adjacent
 26 to or in contact with any point on the border of the property of a person
 27 who seeks a permit to sell alcoholic beverages for consumption on the
 28 licensed premises.

29 (c) As used in this section, "neighboring property owner" means:

30 (1) a contiguous property owner; or

31 (2) a property owner who has real property that:

32 (A) is geographically adjacent to or in contact with any point
 33 on the border of the property of a contiguous property owner;
 34 and

35 (B) some portion of which is within five hundred (500) feet of
 36 the property of a person who seeks a permit to sell alcoholic
 37 beverages for consumption on the licensed premises.

38 (d) As used in this section, "principal owner" means any person or
 39 entity holding at least a fifteen percent (15%) interest in the business
 40 for which a permit is sought to sell alcoholic beverages.

41 (e) As used in this section, "property owner" means any person
 42 whose name and address appears in the county assessor's real property

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1 tax assessment records as a person responsible for the payment of
2 property taxes on a parcel of real property.

3 (f) Except as provided in section 28(d) of this chapter, subsection
4 (g) applies to a location in the consolidated city only if:

5 (1) the application is for a liquor dealer's permit for a location
6 within ~~the boundaries of the special fire service district, as~~
7 ~~determined in conformity with IC 7.1-3-22-8; the county but not~~
8 **located in an excluded city (as described in IC 36-3-1-7);** or

9 (2) the local alcoholic beverage board requires the applicant to
10 comply with subsection (g).

11 (g) In addition to the notice required by section 5 of this chapter, the
12 applicant for a new permit, or a transfer of a permit to sell alcoholic
13 beverages of any type or at any location must, at least fifteen (15) days
14 before the date of the local alcoholic beverage board hearing, mail
15 notice of the hearing at the applicant's expense to the following:

16 (1) Each neighboring property owner.

17 (2) The department of metropolitan development of the
18 consolidated city.

19 (3) The following entities that have registered with the
20 department of metropolitan development of the consolidated city:

21 (A) The principal, headmaster, or other primary administrator
22 of each public, private, or parochial elementary or secondary
23 school located less than one thousand (1,000) feet from the
24 property line of the applicant's property.

25 (B) Each church that is located less than one thousand (1,000)
26 feet from the property line of the applicant's property.

27 (C) Each neighborhood association that represents the area in
28 which the applicant's property is located.

29 (h) The notice that the applicant mails must provide the following
30 information:

31 (1) The name and address of the applicant, or if the applicant is
32 a corporation, a club, an association, or an organization, the name
33 and address of the applicant's president, secretary, and principal
34 owners who will be responsible to the public for the sale of
35 alcoholic beverages.

36 (2) A statement that the applicant has filed an application with the
37 alcohol and tobacco commission for the sale of alcoholic
38 beverages.

39 (3) The specific address where alcoholic beverages are asked to
40 be sold.

41 (4) The type of alcoholic beverage permit applied for.

42 (5) The date, time, and location of the public hearing before the

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1 local alcoholic beverage board regarding the application.
 2 (6) That if there is a desire to remonstrate against the application,
 3 the recipient of the notice may attend this public hearing.
 4 (i) The applicant shall furnish evidence of the applicant's
 5 compliance with this section by filing an affidavit with the local
 6 alcoholic beverage board at the public hearing on the application. The
 7 affidavit must list the names and addresses of the individuals or other
 8 entities to which notice was mailed by the applicant.
 9 (j) In addition to the information required by subsection (i), the
 10 applicant shall file with the local alcoholic beverage board at the public
 11 hearing the following information:
 12 (1) Verification from a department of the consolidated city
 13 designated by ordinance that the applicant is in compliance with
 14 zoning requirements for the premises to be licensed.
 15 (2) Verification from the department of state revenue that the
 16 applicant does not have any outstanding income tax, excise tax,
 17 or sales tax liabilities.
 18 (3) Verification from the county treasurer that the applicant does
 19 not have any outstanding property tax liability.
 20 (k) Subsection (j)(1) does not apply to a permit holder that received
 21 and held a permit before September 1, 1987.
 22 (l) Notwithstanding subsection (f)(1), an applicant seeking a transfer
 23 of a permit from a permit holder to a new permit holder when the new
 24 permit holder does not intend to change the nature of the business
 25 operated under the permit may apply to the local board for a waiver of
 26 the notice requirement in subsection (g). The local board may consider
 27 any information the local board considers relevant in making a
 28 determination to approve or deny the waiver request. The local board
 29 must approve or deny a waiver request at the first regularly scheduled
 30 meeting that occurs at least fifteen (15) days after the local board
 31 receives the waiver request from the applicant.
 32 SECTION 7. IC 7.1-3-20-10 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. ~~Restaurants Within~~
 34 ~~Corporate Limits. Subject to sections 12 and 13 of this chapter~~, the
 35 commission may issue the appropriate permit upon the application of
 36 a restaurant if the premises to be licensed are situated within the
 37 corporate limits of a city or town.
 38 SECTION 8. IC 7.1-3-20-12, AS AMENDED BY P.L.224-2005,
 39 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2013]: Sec. 12. The commission may issue a three-way permit
 41 for the sale of alcoholic beverages to the proprietor of a restaurant
 42 ~~which is located outside the corporate limits of an incorporated city or~~

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- 1 ~~town~~ if the restaurant meets the additional requirements:
- 2 (1) It shall be a table service restaurant in which a patron is seated
- 3 at a table and is served by a waiter or waitress and the food served
- 4 is predominantly consumed on the premises.
- 5 (2) It shall be sufficiently served by adequate law enforcement at
- 6 its premises.
- 7 (3) If it does business during seven (7) or more months of each
- 8 year, it shall have had an annual gross food sales of at least one
- 9 hundred thousand dollars (\$100,000) for the three (3) years
- 10 immediately preceding its application for a permit unless the
- 11 permittee is the proprietor of a recreational facility such as a golf
- 12 course, bowling center, or similar facility that has the recreational
- 13 activity and not the sale of food and beverages as the principal
- 14 purpose or function of the person's business.
- 15 (4) If it does business during six (6) or fewer months of each year,
- 16 it shall have had average monthly gross food sales of at least eight
- 17 thousand five hundred dollars (\$8,500) for each month it did
- 18 business for the three (3) years immediately preceding its
- 19 application for a permit.

20 SECTION 9. IC 7.1-3-20-13 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) The commission
 22 may issue a three-way permit to the proprietor of a new restaurant
 23 ~~which is located outside the corporate limits of an incorporated city or~~
 24 ~~town~~ for the sale of alcoholic beverages if:

- 25 (1) the applicant proves to the local board and the commission
- 26 that a projection of ~~his~~ **the applicant's** experience had for the first
- 27 ninety (90) days of gross food sales at the location will exceed not
- 28 less than two hundred thousand dollars (\$200,000) in gross food
- 29 sales by the end of two (2) years from the date of ~~his~~ **the**
- 30 **applicant's** application; and
- 31 (2) the restaurant meets the additional requirements provided in
- 32 section 12 of this chapter, other than the gross food sales
- 33 requirement.

34 (b) Notwithstanding subsection (a), the gross food sales requirement
 35 under this section for an applicant who plans to do business during six
 36 (6) or fewer months of each year is an average of at least eight
 37 thousand five hundred dollars (\$8,500) per month for each full month
 38 that the applicant plans to do business.

39 (c) Notwithstanding subsections (a) and (b), the commission may
 40 issue a permit for a new restaurant to sell alcoholic beverages at the
 41 time of its opening if the applicant for this permit first executes a
 42 verified certification to the commission stating that the anticipated

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1 gross food sales are expected to exceed two hundred thousand dollars
 2 (\$200,000) during the first two (2) years of operation. Not more than
 3 one hundred twenty (120) days after the opening of the new restaurant,
 4 the applicant shall furnish to the commission a financial statement
 5 showing the dollar amount of food sales made during the first ninety
 6 (90) days of operation. The commission may require this financial
 7 statement to be audited by a certified public accountant. If the food
 8 sales shown on the financial statement do not meet the standards set
 9 forth in subsection (a), the commission may revoke the permit.

10 SECTION 10. IC 7.1-3-22-8 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. **(a)** In making quota
 12 determinations under this article, the population of a consolidated city
 13 is the population of its fire special service district, except to the extent
 14 that the case of *Indiana Alcoholic Beverage Commission v. Baker*
 15 (1972), 153 Ind.App. 118, 286 N.E.2d 174, has determined otherwise.
 16 However, the number of liquor dealer's permits issued to proprietors of
 17 package liquor stores located in the fire special service district may not
 18 exceed the number issued as of January 1, 1977. For purposes of this
 19 article relating to the permissible geographic location of package liquor
 20 store dealer permit holders, the area of a consolidated city is the area
 21 of the entire county: **the entire county minus the population of the**
 22 **excluded cities (as described in IC 36-3-1-7).**

23 **(b) In complying with quota requirements for any type of**
 24 **alcoholic beverage permit for a consolidated city, every permit for**
 25 **each category of permit granted in incorporated and**
 26 **unincorporated areas, except for the permits issued in excluded**
 27 **cities (as described in IC 36-3-1-7) of the consolidated city, must be**
 28 **counted as a permit subject to the quota requirements applicable**
 29 **for the category of permit, including a brewer's permit, wholesaler**
 30 **permit, retailer permit, liquor dealer permit, or beer dealer permit.**

31 SECTION 11. IC 7.1-3-22-11 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2013]: **Sec. 11. The commission shall count**
 34 **all beer dealer permits issued under this article, regardless of**
 35 **whether a beer dealer permit is issued singly or in combination**
 36 **with a liquor permit, as a beer dealer permit subject to the quota**
 37 **requirements under section 4 of this chapter.**

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