

---

---

# HOUSE BILL No. 1115

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-1-3; IC 7.1-3; IC 7.1-5-9-12.

**Synopsis:** Alcoholic beverages. Allows an affiliate of a wholesaler that holds a carrier's alcoholic permit to provide logistic services that involve providing, documenting and coordinating delivery, transporting, preparing an order for, storing, or warehousing alcoholic beverages of any type. Prohibits a carrier holding a carrier's alcoholic permit from providing logistic services unless the carrier: (1) enters into a written agreement with the wholesaler that is requesting the logistic services; and (2) charges a commercially reasonable fee. Requires a carrier who provides logistic services to provide annually to the alcohol and tobacco commission a: (1) copy of all the written agreements with a wholesaler; and (2) report from a certified public accountant regarding payment for the logistic services. Prohibits a carrier's alcoholic permit under which logistic services are provided from being transferred. Prohibits employees of a carrier providing logistic services from providing any post delivery merchandising, sales, or other services to an alcoholic beverage retailer or dealer permittee.

**Effective:** July 1, 2013.

---

---

### Davis

---

---

January 8, 2013, read first time and referred to Committee on Public Policy.

---

---

C  
o  
p  
y



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.

C  
o  
p  
y

## HOUSE BILL No. 1115



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 7.1-1-3-3.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]: **Sec. 3.5. "Affiliate" means a person that directly, or**
- 4 **indirectly through one (1) or more intermediaries, controls, is**
- 5 **controlled by, or is under common control with a specified person.**
- 6 SECTION 2. IC 7.1-1-3-22.5 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2013]: **Sec. 22.5. (a) "Logistic services"**
- 9 **means:**
- 10 **(1) providing;**
- 11 **(2) documenting and coordinating delivery of;**
- 12 **(3) transporting;**
- 13 **(4) preparing an order for;**
- 14 **(5) storing; or**
- 15 **(6) warehousing;**
- 16 **alcoholic beverages.**
- 17 **(b) The term does not include soliciting orders for alcoholic**



1 **beverages.**

2 SECTION 3. IC 7.1-3-3-5, AS AMENDED BY P.L.94-2008,  
3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2013]: Sec. 5. (a) The holder of a beer wholesaler's permit  
5 may purchase and import from the primary source of supply, possess,  
6 and sell at wholesale, beer and flavored malt beverages manufactured  
7 within or without this state.

8 (b) A beer wholesaler permittee may possess, transport, sell, and  
9 deliver beer to:

- 10 (1) another beer wholesaler authorized by the brewer to sell the  
11 brand purchased;  
12 (2) an employee; or  
13 (3) a holder of a beer retailer's permit, beer dealer's permit,  
14 temporary beer permit, dining car permit, boat permit, airplane  
15 permit, or supplemental caterer's permit;

16 located within this state. **Except as provided in subsection (g),**  
17 **IC 7.1-3-8-3, or IC 7.1-3-13-3,** the sale, transportation, and delivery  
18 of beer shall be made only from inventory that has been located on the  
19 wholesaler's premises before the time of invoicing and delivery.

20 (c) The beer wholesaler's bona fide regular employees may purchase  
21 beer from the wholesaler in:

- 22 (1) bottles, cans, or any other type of permissible containers in an  
23 amount not to exceed forty-eight (48) pints; or  
24 (2) one (1) keg;  
25 at any one (1) time.

26 (d) The importation, transportation, possession, sale, and delivery  
27 of beer shall be subject to the rules of the commission and subject to  
28 the same restrictions provided in this title for a person holding a  
29 brewer's permit.

30 (e) The holder of a beer wholesaler's permit may purchase, import,  
31 possess, transport, sell, and deliver any commodity listed in  
32 IC 7.1-3-10-5, unless prohibited by this title. However, a beer  
33 wholesaler may deliver flavored malt beverages only to the holder of  
34 one (1) of the following permits:

- 35 (1) A beer wholesaler or wine wholesaler permit, if the wholesaler  
36 is authorized by the primary source of supply to sell the brand of  
37 flavored malt beverage purchased.  
38 (2) A wine retailer's permit, wine dealer's permit, temporary wine  
39 permit, dining car wine permit, boat permit, airplane permit, or  
40 supplemental caterer's permit.

41 (f) A beer wholesaler may:

- 42 (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9

C  
O  
P  
Y



1 and deliver the stored beer to another beer wholesaler that the  
2 out-of-state brewer authorizes to sell the beer;

3 (2) perform all necessary accounting and auditing functions  
4 associated with the services described in subdivision (1); and

5 (3) receive a fee from an out-of-state brewer for the services  
6 described in subdivisions (1) through (2).

7 **(g) An affiliate of a beer wholesaler that holds a carrier's  
8 alcoholic permit under IC 7.1-3-18-1 may provide logistic services  
9 to one (1) or more of the following:**

10 **(1) The holder of a beer wholesaler's permit.**

11 **(2) The holder of a wine wholesaler's permit.**

12 **(3) The holder of a liquor wholesaler's permit.**

13 SECTION 4. IC 7.1-3-8-3, AS AMENDED BY P.L.94-2008,  
14 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2013]: Sec. 3. (a) The holder of a liquor wholesaler's permit  
16 shall be entitled to sell liquor at wholesale.

17 (b) A liquor wholesaler shall be entitled to purchase liquor within  
18 this state from a person who holds a distiller's permit, a rectifier's  
19 permit, or a liquor wholesaler's permit. A liquor wholesaler also may  
20 purchase liquor outside this state from the primary source of supply  
21 and, from that source, may transport and import liquor into this state.

22 (c) A liquor wholesaler may sell, transport, and deliver liquor only  
23 to a person who, under this title, holds a:

24 (1) liquor retailer's permit;

25 (2) supplemental caterer's permit;

26 (3) liquor dealer's permit; or

27 (4) liquor wholesaler's permit.

28 **Except as provided in subsection (e), IC 7.1-3-3-5, or IC 7.1-3-13-3,**  
29 **the sale, transportation, and delivery of liquor shall be made only from**  
30 **inventory that has been located on the wholesaler's premises before the**  
31 **time of invoicing and delivery, and only in permissible containers and**  
32 **is subject to the rules of the commission fixing the quantity which may**  
33 **be sold or delivered at any one (1) time.**

34 (d) A liquor wholesaler's bona fide regular employees may purchase  
35 liquor from the wholesaler in an amount not to exceed eighteen (18)  
36 liters.

37 **(e) An affiliate of a liquor wholesaler that holds a carrier's  
38 alcoholic permit under IC 7.1-3-18-1 may provide logistic services  
39 to one (1) or more of the following:**

40 **(1) The holder of a beer wholesaler's permit.**

41 **(2) The holder of a wine wholesaler's permit.**

42 **(3) The holder of a liquor wholesaler's permit.**

C  
o  
p  
y



1 SECTION 5. IC 7.1-3-13-3, AS AMENDED BY P.L.165-2006,  
 2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2013]: Sec. 3. (a) The holder of a wine wholesaler's permit  
 4 may purchase, import, and transport wine, brandy, or flavored malt  
 5 beverage from the primary source of supply. A wine wholesaler may  
 6 export and transport wine, brandy, or flavored malt beverage by the  
 7 bottle, barrel, cask, or other container, to points outside Indiana. A  
 8 wine wholesaler is entitled to sell, furnish, and deliver wine or flavored  
 9 malt beverage from inventory that has been located on the wholesaler's  
 10 premises before the time of invoicing and delivery to a wine  
 11 wholesaler, a wine retailer, a supplemental caterer, a temporary wine  
 12 permittee, and a wine dealer, but not at retail. A wine wholesaler may  
 13 sell, furnish, and deliver brandy from inventory that has been located  
 14 on the wholesaler's premises before the time of invoicing and delivery,  
 15 but not at retail, only to a person who holds a liquor retailer's permit,  
 16 a supplemental caterer's permit, or a liquor dealer's permit. A holder of  
 17 a wine wholesaler's permit may sell wine to the wine wholesaler's bona  
 18 fide regular employees.

19 **(b) An affiliate of a wine wholesaler that holds a carrier's**  
 20 **alcoholic permit under IC 7.1-3-18-1 may provide logistic services**  
 21 **to one (1) or more of the following:**

22 **(1) The holder of a beer wholesaler's permit.**

23 **(2) The holder of a wine wholesaler's permit.**

24 **(3) The holder of a liquor wholesaler's permit.**

25 ~~(b)~~ **(c)** As used in this section, "brandy" means:

26 (1) any alcoholic distillate described in 27 CFR 5.22(d) as in  
 27 effect on January 1, 1983; or

28 (2) a beverage product that:

29 (A) is prepared from a liquid described in subdivision (1);

30 (B) is classified as a cordial or liqueur as defined in 27 CFR  
 31 5.22(h) as in effect on January 1, 1997; and

32 (C) meets the following requirements:

33 (i) At least sixty-six and two-thirds percent (66 2/3%) of the  
 34 product's alcohol content is composed of a substance  
 35 described in subdivision (1).

36 (ii) The product's label makes no reference to any distilled  
 37 spirit other than brandy.

38 (iii) The product's alcohol content is not less than sixteen  
 39 percent (16%) by volume or thirty-two (32) degrees proof.

40 (iv) The product contains dairy cream.

41 (v) The product's sugar, dextrose, or levulose content is at  
 42 least twenty percent (20%) of the product's weight.

C  
o  
p  
y



1 (vi) The product contains caramel coloring.  
 2 ~~(e)~~ **(d)** Nothing in this section allows a wine wholesaler to sell, give,  
 3 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless  
 4 the wine wholesaler also holds a beer wholesaler's permit under  
 5 IC 7.1-3-3-1.

6 ~~(d)~~ **(e)** A wine wholesaler that also holds a liquor wholesaler's  
 7 permit under IC 7.1-3-8 may not:

- 8 (1) hold a beer wholesaler's permit under IC 7.1-3-3;  
 9 (2) possess, sell, or transport beer; or  
 10 (3) sell more than one million (1,000,000) gallons of flavored  
 11 malt beverage during a calendar year.

12 SECTION 6. IC 7.1-3-18-3.5 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. (a) A carrier holding a  
 15 carrier's alcoholic permit under section 1 of this chapter may  
 16 provide logistic services to wholesalers only if the carrier:**

- 17 **(1) enters into a written agreement to provide logistic services  
 18 with the wholesaler; and  
 19 (2) charges a commercially reasonable fee for the logistic  
 20 services provided.**

21 **(b) A carrier that holds a carrier's alcoholic permit and  
 22 provides logistic services to a wholesaler shall provide the  
 23 following to the commission annually:**

- 24 **(1) A copy of all written agreements entered into between the  
 25 carrier and the wholesaler.  
 26 (2) A report of a certified public accountant based on an  
 27 examination that was conducted in accordance with  
 28 attestation standards established by the American Institute of  
 29 Certified Public Accountants that expresses an opinion as to  
 30 whether:**

- 31 **(A) the carrier has received from the wholesaler only the  
 32 amount of compensation provided for in the written  
 33 agreement with the wholesaler; and  
 34 (B) any wholesaler with which the carrier is affiliated has  
 35 received any compensation for the logistic services  
 36 provided by the carrier.**

37 **(c) The carrier's alcoholic permit of a carrier that provides  
 38 logistic services as provided in this section may not be transferred.**

39 **(d) The employees of a carrier who provide logistic services may  
 40 not provide any post delivery merchandising, sales, or other  
 41 services to an alcoholic beverage retailer or dealer permittee.**

42 SECTION 7. IC 7.1-5-9-12 IS AMENDED TO READ AS

C  
O  
P  
Y



1       FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. ~~Use of Another's~~  
2       ~~Warehouse Prohibited.~~ **Except as provided under IC 7.1-3-3-5,**  
3       **IC 7.1-3-8-3, or IC 7.1-3-13-3,** it is unlawful for a holder of a brewer's  
4       permit, beer or liquor wholesaler's permit, or a beer or liquor retailer's  
5       permit, to own, operate, maintain on ~~his~~ **the permittee's** own account,  
6       patronize, use, or employ a warehouse, storage, or depot, owned or  
7       operated by another person for the storage or keeping of an alcoholic  
8       beverage except at the plant or premises which is covered by ~~his~~ **the**  
9       **permittee's** permit.

C  
o  
p  
y

