February 1, 2013

SENATE BILL No. 173

DIGEST OF SB 173 (Updated January 31, 2013 9:02 am - DI 110)

Citations Affected: IC 7.1-3.

Synopsis: Lakefront development project alcohol permit. Allows the alcohol and tobacco commission to issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant on land or in a historic lake vessel within a municipal lakefront development project funded in part with state, local, and federal money. Requires the boundaries of the lakefront development project to border on Lake Michigan. Specifies the criteria that an applicant must demonstrate in applying for a special permit in a municipal lakefront development project. Makes a technical correction.

Effective: July 1, 2013.

Charbonneau, Alting, Randolph,
Landske

January 7, 2013, read first time and referred to Committee on Public Policy.
January 31, 2013, amended, reported favorably — Do Pass.

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February 1, 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.

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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:

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

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

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

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in

the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

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

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

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

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

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

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

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

(1) A town that:

(A) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(B) has a population of more than twenty thousand (20,000) but less than twenty-three thousand seven hundred (23,700).

(2) A city that has an indoor theater as described in section 26 of this chapter.

(g) The commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a 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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expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

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

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

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

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

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) 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 five (5) 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.

(j) Subject to section 16.1 of this chapter, the commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic lake vessel;

within a municipal lakefront development project funded in part with state, local, and federal money. A permit issued under this subsection may not be transferred.

SECTION 2. IC 7.1-3-20-16.1, AS AMENDED BY P.L.2-2007, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16.1. (a) This section applies to **the**

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following:

(1) A municipal riverfront development project ~~authorized under~~ **described in** section 16(d) of this chapter.

(2) A municipal lakefront development project described in section 16(j) of this chapter.

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

(1) The project boundaries must border:

(A) on at least one (1) side of a river, **for a riverfront development project area; or**

(B) on Lake Michigan, for a lakefront development project area.

(2) 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 the river, **for a municipal riverfront development project area, or Lake Michigan, for a municipal lakefront development project area,** whichever is greater. However, if the area adjacent to the river **or 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 the river **or Lake Michigan** that are capable of being developed.

(3) 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.

(4) The **municipal riverfront development** project must be funded in part with state and city money. **The municipal lakefront development project must be funded in part with state, local, and federal money.**

(5) The boundaries of the municipal riverfront development project **or municipal lakefront development project** must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) 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 riverfront development project **or 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 riverfront development project **or municipal lakefront development project.**

(3) Detailed information concerning the expenditures of:

(A) state and city funds on the municipal riverfront development project; **or**

(B) state, local, and federal funds on the municipal lakefront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and:

(A) section 16(d) of this chapter are satisfied, **for a municipal riverfront development project; and**

(B) section 16(j) of this chapter are satisfied, for a municipal lakefront development project.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, **for a municipal riverfront development project area, and Lake Michigan, for a municipal lakefront development project area,** whichever is greater. However, if the area adjacent to the river **or 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 the river **or Lake Michigan** that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

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(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution.

(e) 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.

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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.

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