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**TITLE 905 ALCOHOL AND TOBACCO COMMISSION**

**Proposed Rule**  
LSA Document #09-198

DIGEST

Amends [905 IAC 1-12.5-1](#) through [905 IAC 1-12.5-5](#) and adds [905 IAC 1-12.5-6](#) through [905 IAC 1-12.5-13](#), concerning server training as required by [IC 7.1-3-1.5-16](#), to provide for the Alcohol and Tobacco Commission to approve server training programs that are designed to educate alcohol servers on the selling, serving, and consumption of alcoholic beverages. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[905 IAC 1-12.5-1](#); [905 IAC 1-12.5-2](#); [905 IAC 1-12.5-3](#); [905 IAC 1-12.5-4](#); [905 IAC 1-12.5-5](#); [905 IAC 1-12.5-6](#); [905 IAC 1-12.5-7](#); [905 IAC 1-12.5-8](#); [905 IAC 1-12.5-9](#); [905 IAC 1-12.5-10](#); [905 IAC 1-12.5-11](#); [905 IAC 1-12.5-12](#); [905 IAC 1-12.5-13](#)

SECTION 1. [905 IAC 1-12.5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-1](#) Definitions**

**Authority:** [IC 7.1-2-3-7](#)

**Affected:** [IC 7.1-3-1.5](#); [IC 7.1-3-18-9](#); [IC 7.1-5-7-13](#)

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Approved trainer" refers to a person who:

- (1) demonstrates thorough knowledge of the curriculum;
- (2) demonstrates the ability to instruct others; and
- (3) is approved by the Indiana alcoholic beverage commission.

(c) "Employee" refers to a person who sells, dispenses, or provides alcoholic beverages, either by the drink or for carry-out.

(d) "Server training program" refers to a program given by an Indiana alcoholic beverage commission approved trainer to employees with regard to:

- (1) recognizing an intoxicated patron;
- (2) recognizing a minor;
- (3) recognizing false identification;
- (4) dealing with a belligerent person; and
- (5) providing an alternative to an alcoholic beverage.

(b) "Certified training program" means the following:

- (1) A server program.
- (2) A trainer program.

(c) "In-house training provider" refers to a third party that has been approved by the commission to conduct a server program for its employees only.

(d) "Master certified trainer" refers to designated employees of the commission that are responsible for trainer certification.

(e) "Program director" means the person responsible for implementing and maintaining certified training programs on behalf of a training provider or in-house training provider.

(f) "Refresher server program" means a course designed to update server certificate holders on the:

- (1) selling;
- (2) serving; and
- (3) consumption;

of alcoholic beverages as mandated by [IC 7.1-3-1.5-13\(a\)\(2\)](#).

(g) "Refresher trainer program" means a course designed to update trainer certificate holders on the:

- (1) selling;
- (2) serving; and
- (3) consumption;

of alcoholic beverages as mandated by [IC 7.1-3-1.5-9](#).

(h) "Restricted alcohol server" means a person at least nineteen (19) years of age but less than twenty-one (21) years of age who complies with the provisions of [IC 7.1-5-7-13\(3\)](#).

(i) "Training provider" refers to a third party described in [IC 7.1-3-1.5-5.5](#) that has been approved by the commission to conduct:

- (1) a trainer program;
- (2) a server program; or
- (3) both a trainer program and a server program.

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-1](#); filed Dec 18, 2000, 9:52 a.m.: 24 IR 1354; readopted filed Sep 18, 2007, 3:42 p.m.: [20071010-IR-905070191RFA](#))*

SECTION 2. [905 IAC 1-12.5-2](#) IS AMENDED TO READ AS FOLLOWS:

#### [905 IAC 1-12.5-2](#) Authority of the commission

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-1.5](#); [IC 7.1-3-18-9](#)

Sec. 2. The Indiana alcoholic beverage commission may **do the following**:

- (1) **Conduct certified training programs.**
- (2) **Designate master certified trainers.**
- (3) **Certify a trainer program conducted by a training provider.**
- (4) **Certify a server training program presented to conducted by a permittee: training provider or an in-house training provider.**
- (5) **Audit certified training programs to ensure compliance with [IC 7.1-3-1.5](#) and this rule.**
- (6) **Provide an approved format for conducting certified training programs.**

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-2](#); filed Dec 18, 2000, 9:52 a.m.: 24 IR 1354; readopted filed Sep 18, 2007, 3:42 p.m.: [20071010-IR-905070191RFA](#))*

SECTION 3. [905 IAC 1-12.5-3](#) IS AMENDED TO READ AS FOLLOWS:

#### [905 IAC 1-12.5-3](#) Training provider scope

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-1.5-13](#); [IC 7.1-3-18-9](#)

Sec. 3. (a) A server training program is given to an employee and includes, but is not limited to, the following:

- (1) Recognizing false identification.
- (2) Recognizing an intoxicated person.
- (3) Criminal and civil liability.
- (4) Tobacco laws.
- (5) Selling alcoholic beverages responsibly.

provider may conduct trainer programs if certified under section 2(3) of this rule.

**(b) A training provider may conduct server programs if certified under section 2(4) of this rule.**

**(c) A training provider shall do the following:**

**(1) Designate a program director.**

**(2) Retain certified trainers that may conduct classes:**

**(A) in Spanish; and**

**(B) for the hearing impaired.**

**(3) Submit to the commission for approval all training and certification materials prior to use.**

**(4) Upon successful completion of a server program, issue an approved certificate that is valid for three (3) years from the date of issuance in accordance with [IC 7.1-3-1.5-13\(a\)\(2\)](#), except for retailer and dealer permittees described in [IC 7.1-3-1.5-13\(b\)\(2\)](#) who will be issued certificates that are valid for five (5) years.**

**(5) Only conduct server programs at locations approved by the commission.**

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-3](#); filed Dec 18, 2000, 9:52 a.m.: 24 IR 1354; readopted filed Sep 18, 2007, 3:42 p.m.: [20071010-IR-905070191RFA](#))*

SECTION 4. [905 IAC 1-12.5-4](#) IS AMENDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-4](#) In-house training provider scope**

**Authority: [IC 7.1-2-3-7](#)**

**Affected: [IC 7.1-3-1.5-13](#); [IC 7.1-3-18-9](#)**

~~Sec. 4. (a) To qualify as a certified server training program, the following criteria must be met:~~

~~(1) The training must include either a video, display cards, overheads, or slides.~~

~~(2) The training must provide for questions from the students.~~

~~(3) The training must include handouts that the employees are allowed to keep.~~

~~(4) The training must include an examination that covers the following topics:~~

~~(A) Monitoring a patron's behavior.~~

~~(B) Recognizing an intoxicated patron.~~

~~(C) Recognizing an underage patron.~~

~~(D) Checking identification.~~

~~(E) Recognizing false or altered identification.~~

~~(F) Providing alternatives to alcoholic beverages.~~

~~(G) Problem solving in dealing with intoxicated or belligerent patrons.~~

~~(H) Indiana law and rules pertaining to alcoholic beverages.~~

~~(5) Successful completion of an examination that covers all topic areas in section 3 of this rule and is quantifiable.~~

~~(b) An applicant must apply on a form prescribed by the Indiana alcoholic beverage commission and present his or her program to a representative of the Indiana alcoholic beverage commission.~~

~~(c) The Indiana alcoholic beverage commission must approve any changes in the certified server training program, including changes in trainers.~~

~~(d) Nothing in this rule prohibits an employee from taking a noncertified server training program.~~

~~(e) All training and certification records shall be subject to review and inspection by the Indiana alcoholic beverage commission.~~

**(a) An in-house training provider may conduct server programs.**

**(b) An in-house training provider shall do the following:**

**(1) Designate a program director.**

**(2) Submit to the commission for approval all training and certification materials prior to use.**

**(3) Only conduct server programs at locations approved by the commission.**

**(4) Upon successful completion of a server program, issue an approved certificate that is valid for three (3) years from the date of issuance in accordance with [IC 7.1-3-1.5-13\(a\)\(2\)](#), except for retailer and dealer permittees described in [IC 7.1-3-1.5-13\(b\)\(2\)](#) who will be issued certificates that are valid for five (5) years.**

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-4](#); filed Dec 18, 2000, 9:52 a.m.: 24 IR 1354; readopted filed Sep 18, 2007, 3:42 p.m.: [20071010-IR-905070191RFA](#))*

SECTION 5. [905 IAC 1-12.5-5](#) IS AMENDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-5](#) Program director criteria**

**Authority: [IC 7.1-2-3-7](#)**

**Affected: [IC 7.1-3-18-9](#)**

~~Sec. 5. (a) The commission shall create a seal that may be sold at cost to a certified trainer program and assign an approved trainer number accordingly.~~

~~(b) Upon successful completion of the server training program, the approved trainer shall be allowed to stamp the back of an employee's permit indicating the date of the program, the trainer's name, and the trainer's number.~~

~~(c) An approved trainer shall keep records of all training conducted on a form approved by the Indiana alcoholic beverage commission and report the training on a regular basis or as requested.~~

~~(d) The Indiana alcoholic beverage commission prosecutor may take into consideration the successful completion of a certified training program when prosecuting an employer or employee for a violation of an Indiana alcoholic beverage commission law or rule.~~

**A program director shall do the following:**

**(1) Obtain a trainer certificate from a master certified trainer.**

**(2) Maintain certification by attending refresher trainer programs conducted by a master certified trainer.**

**(3) Supervise certified trainers.**

**(4) Conduct refresher trainer programs approved by the commission for certified trainers.**

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-5](#); filed Dec 18, 2000, 9:52 a.m.: 24 IR 1355; readopted filed Sep 18, 2007, 3:42 p.m.: [20071010-IR-905070191RFA](#))*

SECTION 6. [905 IAC 1-12.5-6](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-6](#) Certified trainer criteria**

**Authority: [IC 7.1-2-3-7](#)**

**Affected: [IC 7.1-3-18-9](#)**

**Sec. 6. (a) Prior to acting as a certified trainer, a person shall:**

**(1) have prior experience in conducting educational or training classes;**

**(2) be employed or retained by a training provider or in-house training provider; and**

**(3) hold a certified trainer certificate.**

**(b) A certified trainer shall do the following:**

**(1) Conduct certified training programs as follows:**

**(A) In a format approved by the commission.**

**(B) Using materials provided by the commission.**

**(2) Maintain the following:**

- (A) Control while conducting a class.
- (B) Issued materials and equipment.
- (C) A professional appearance and demeanor while conducting a class.
- (3) Not issue a trainer certificate to a person that has not successfully completed the trainer program.
- (4) Not issue a server certificate to a person that has not successfully completed the server program.
- (5) Not provide training and testing materials to a person that is not in attendance at a class.
- (6) Not allow admission to a person, or allow continued attendance to a class if that person is as follows:
  - (A) Tardy.
  - (B) Creating a disruption during the class.
  - (C) Cheating.
  - (D) Under the influence of alcoholic beverages or drugs during the class.
  - (E) Not registered to attend or is there without permission of the:
    - (i) training provider; or
    - (ii) commission.

(Alcohol and Tobacco Commission; [905 IAC 1-12.5-6](#))

SECTION 7. [905 IAC 1-12.5-7](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-7](#) Alcohol server criteria**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-1.5-13](#); [IC 7.1-3-18-9](#)

**Sec. 7. (a) An alcohol server:**

(1) who is at least twenty-one (21) years of age shall complete a commission conducted server program within:

- (A) one hundred twenty (120) days of initial employment as an alcohol server; or
- (B) ninety (90) days of the issuance of their server permit;

whichever comes first;

(2) who:

- (A) is at least twenty-one (21) years of age; and
- (B) has previously completed a server program, prior to acting in the capacity of an alcohol server; shall complete a refresher server program if their previous server certificate has expired;

(3) who is nineteen (19) years of age or twenty (20) years of age, prior to acting in the capacity of an alcohol server, shall:

- (A) complete a server program; and
- (B) submit their original server certificate to the commission as part of their application for a restricted server permit;

(4) shall provide an unaltered, legible copy of their valid server certificate to their employer; and

(5) must meet all the requirements of, and pay all fees due, to:

- (A) the training provider;
- (B) the in-house training provider;
- (C) both the training provider and the in-house training provider; or
- (D) the commission;

prior to being issued a server certificate.

(b) A retailer or dealer permittee as described in [IC 7.1-3-1.5](#) shall do the following:

(1) Complete a server program as required by [IC 7.1-3-1.5-13](#).

(2) Meet all requirements of and pay all fees due:

- (A) the training provider;
- (B) the in-house training provider;
- (C) both the training provider and the in-house training provider; or
- (D) the commission;

prior to being issued a server certificate.

(3) Retain the original copy of their server certificate.

(4) Obtain legible copies of their employees' server certificates.

(5) Maintain records of employment dates of alcohol servers.

(6) Provide server certificates and employment records immediately upon the request of any enforcement officer as defined by [IC 7.1](#).

(7) Not allow any person to act in the capacity of an alcohol server on their permit premises if that person does not hold a valid server certificate, with the exception of alcohol servers described in subsection (a)(1) during the initial one hundred twenty (120) days of employment or ninety (90) days after the issuance of their server permit, whichever comes first.

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-7](#))*

SECTION 8. [905 IAC 1-12.5-8](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-8](#) Certified trainer scope**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

**Sec. 8. A certified trainer may conduct a:**

- (1) trainer program or a server program at a training provider; or
- (2) server program at an in-house training provider.

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-8](#))*

SECTION 9. [905 IAC 1-12.5-9](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-9](#) Trainer program scope**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

**Sec. 9. (a) A trainer program must incorporate curriculum provided by the commission in the format provided by the commission.**

**(b) A trainer program shall:**

- (1) be conducted at a location agreed upon by the commission;
- (2) be in a format approved by the commission;
- (3) apply adult learning principles;
- (4) require for successful completion that the participant receive a passing grade on a written test or an oral test, or both, in a format approved by the commission; and
- (5) not be in a format that consists of primarily:
  - (A) Internet;
  - (B) online;
  - (C) videotape;
  - (D) audiotape;
  - (E) video feed; or
  - (F) mail order;training.

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-9](#))*

SECTION 10. [905 IAC 1-12.5-10](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-10](#) Server program scope**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

**Sec. 10. (a) A server program must incorporate curriculum provided by the commission in the format**

provided by the commission.

(b) A server program shall:

- (1) be instructed by a server trainer under the supervision of a program director;
- (2) be conducted at a location agreed upon by the commission;
- (3) be in a format approved by the commission;
- (4) apply adult learning principles;
- (5) require for successful completion that the participant receive a passing grade on a written test or an oral test, or both, in a format approved by the commission;
- (6) be available for audit by the commission; and
- (7) not be in a format that consists of primarily:
  - (A) Internet;
  - (B) online;
  - (C) videotape;
  - (D) audiotape;
  - (E) video feed; or
  - (F) mail order;training.

(Alcohol and Tobacco Commission; [905 IAC 1-12.5-10](#))

SECTION 11. [905 IAC 1-12.5-11](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-11](#) Trainer program criteria**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

Sec. 11. A trainer program shall meet the following criteria:

- (1) The training must provide for questions from the students.
- (2) The training must include handouts that the attendees are allowed to keep.
- (3) The training must include an examination that covers all topics in the scope of a trainer program as outlined in section 9 of this rule.

(Alcohol and Tobacco Commission; [905 IAC 1-12.5-11](#))

SECTION 12. [905 IAC 1-12.5-12](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-12](#) Server program criteria**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

Sec. 12. A server program shall meet the following criteria:

- (1) The training must provide for questions from the students.
- (2) The training must include handouts that the attendees are allowed to keep.
- (3) The training must include an examination that covers all topics in the scope of a server program as outlined in section 10 of this rule.

(Alcohol and Tobacco Commission; [905 IAC 1-12.5-12](#))

SECTION 13. [905 IAC 1-12.5-13](#) IS ADDED TO READ AS FOLLOWS:

**[905 IAC 1-12.5-13](#) Certified trainer responsibilities**

Authority: [IC 7.1-2-3-7](#)

Affected: [IC 7.1-3-18-9](#)

**Sec. 13. (a) The commission shall do the following:**

- (1) Create a seal that may be sold at cost to a certified trainer.**
- (2) Assign an approved trainer number accordingly.**

**(b) Upon successful completion of the server program, the certified trainer shall affix the seal to the certified training certificate indicating the following:**

- (1) The date of the program.**
- (2) The trainer's name.**
- (3) The trainer's number.**

**(c) A certified trainer shall do the following:**

- (1) Keep records of all training conducted.**
- (2) Report the training as requested by the commission.**

*(Alcohol and Tobacco Commission; [905 IAC 1-12.5-13](#))*

[Notice of Public Hearing](#)

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