

IC 6-9-40

Chapter 40. Steuben County Food and Beverage Tax

IC 6-9-40-1**Application**

Sec. 1. This chapter applies to Steuben County.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-2**Definitions**

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-3**Food and beverage tax authorized**

Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on transactions described in section 4 of this chapter.

(b) If the fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-4**Taxable transactions**

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant,

including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-5

Tax rate

Sec. 5. The county food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-6

Liability; collection

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-7

Distribution of food and beverage tax revenues

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state. The county auditor shall, at least monthly, make a distribution of fifty percent (50%) of the amount received from the treasurer of state in the immediately preceding thirty (30) days to the city of Angola. The remainder of the distribution shall be retained for use by the county.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-8

Food and beverage tax receipts fund

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a county described in section 1 of this chapter, the fiscal officer of a political subdivision receiving a distribution under this chapter shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of a political subdivision receiving a distribution under this chapter shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-9

Permissible uses of money in a food and beverage tax receipts fund; bonding authority

Sec. 9. (a) Except as provided in subsection (b), money in the fund established under section 8 of this chapter shall be used by a political subdivision receiving a distribution under this chapter only for the following purposes:

(1) Construction, extension, or completion of sewerlines, waterlines, streets, curbs, sidewalks, bridges, roads, highways, alleys, public ways, parking facilities, lighting, electric signals, information and high technology infrastructure (as defined in IC 5-28-9-4), and any other infrastructure improvements.

(2) Engineering, legal, and other consulting or advisory services, plans, specifications, surveys, cost estimates, and other costs or expenses necessary or incident to activities described in subdivision (1).

(3) Park and recreation purposes, including the purchase of land for park and recreation purposes.

(4) Police and law enforcement purposes, firefighting and fire prevention purposes, emergency medical services and ambulance services, and other public safety purposes.

(b) The fiscal body of a political subdivision receiving a distribution under this chapter may pledge money in the political subdivision's fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the political subdivision to provide the infrastructure improvements described in subsection (a).

(c) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

As added by P.L.96-2008, SEC.3. Amended by P.L.1-2009, SEC.61.

IC 6-9-40-10

Covenants

Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

As added by P.L.96-2008, SEC.3.

IC 6-9-40-11

Legislative findings

Sec. 11. The general assembly finds that Steuben County and the city of Angola face unique challenges because of their fluctuating population and that the challenges may be addressed through the

provisions of this chapter.
As added by P.L.96-2008, SEC.3.