

IC 7.1-1-3

Chapter 3. Definitions of General Applicability

IC 7.1-1-3-1

Generally

Sec. 1. Generally. The definitions contained in this chapter shall be applied throughout this title unless the context clearly requires otherwise.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-2

Accommodations

Sec. 2. Accommodations. The term "accommodations" means the seating capacity for the serving of food in a room in which alcoholic beverages are sold. It does not mean any accommodation or seating capacity in the sleeping quarters in a hotel.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-3

Adulterated alcoholic beverage

Sec. 3. Adulterated Alcoholic Beverage. The term "adulterated alcoholic beverage" means:

(a) An alcoholic beverage that contains an ingredient prohibited by law or by a rule or regulation of the commission;

(b) An alcoholic beverage possessed, kept or offered for sale, or sold, which does not correspond substantially to the analysis, brand, or formula which has been registered with the commission; or,

(c) An alcoholic beverage whose analysis or formula is required to be registered with the commission and is not registered.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-4

Alcohol

Sec. 4. Alcohol. The term "alcohol" means the compound C_2H_5OH , known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-5

Alcoholic beverage

Sec. 5. The term "alcoholic beverage" means a liquid or solid that:

(1) is, or contains, one-half percent (0.5%) or more alcohol by volume;

(2) is fit for human consumption; and

(3) is reasonably likely, or intended, to be used as a beverage.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.78-1986, SEC.1.

IC 7.1-1-3-5.5

Applicant

Sec. 5.5. "Applicant", for purposes of IC 7.1-3-18.5, means a person who applies for a tobacco sales certificate.

As added by P.L.94-2008, SEC.2.

IC 7.1-1-3-6

Beer

Sec. 6. Beer. The term "beer" means an alcoholic beverage obtained by the fermentation of an infusion or decoction of barley malt or other cereal and hops in water.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-7

Bona fide evidence of majority or identity

Sec. 7. Bona Fide Evidence of Majority or Identity. The term "bona fide evidence of majority or identity" means a document, including, but not limited to, a license or permit to operate a motor vehicle, a Selective Service registration certificate, or an United States Armed Forces identification card, but excluding a voter's registration card, issued by the federal or state governments or one (1) of their political subdivisions.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-8

Carrier

Sec. 8. Carrier. The term "carrier" means:

(a) A common carrier, whether licensed under the laws of this state or not;

(b) A person as a proprietor who operates a transportation facility when regularly or casually operating intrastate state or from another state into this state; or,

(c) A person who carries alcoholic beverages for hire or as a free accommodation for a consignor or consignee and who has no permit under this title authorizing him to sell, furnish, give away, manufacture, or rectify alcoholic beverages.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-8.5

Certificate

Sec. 8.5. "Certificate" means a tobacco sales certificate for purposes of IC 7.1-3-18.5.

As added by P.L.250-2003, SEC.3.

IC 7.1-1-3-9

Chairman

Sec. 9. Chairman. The term "chairman" means the presiding officer of the commission who is appointed by the governor pursuant to IC 1971, 7.1-2-1-5.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-9.5

Hard cider

Sec. 9.5. The term "hard cider" means an alcoholic beverage that:
(1) is made from the normal alcoholic fermentation of the juice of sound, ripe apples; and
(2) contains at least one-half of one percent (0.5%) of alcohol by volume and not more than seven percent (7%) of alcohol by volume.

The term includes flavored, sparkling, or carbonated cider and cider made from condensed apple.

As added by P.L.119-1998, SEC.21.

IC 7.1-1-3-10**Club**

Sec. 10. Club. The term "club" means an association or corporation which meets the requirements provided in IC 1971, 7.1-3-20-1.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-11**Commercially**

Sec. 11. Commercially. The term "commercially" means the manufacturing, bottling, selling, bartering, transporting, delivering, furnishing, or possessing of alcohol or alcoholic beverages elsewhere than in one's own residence.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-12**Commission**

Sec. 12. The term "commission" means the alcohol and tobacco commission created by this title.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.15.

IC 7.1-1-3-13**Container**

Sec. 13. Container. The term "container" means a receptacle in which an alcoholic beverage is immediately contained and with which the alcoholic beverage contained in it is in immediate contact.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-13.5**Conviction for operating while intoxicated**

Sec. 13.5. "Conviction for operating while intoxicated" means a conviction (as defined in IC 9-13-2-38):

(1) in Indiana for:

(A) an alcohol related or drug related crime under Acts 1939, c.48, s.52, as amended, IC 9-4-1-54 (repealed September 1, 1983), IC 9-11-2 (repealed July 1, 1991), or IC 14-1-5 (repealed July 1, 1995); or

(B) a crime under IC 9-30-5-1 through IC 9-30-5-9 or

IC 14-15-8; or
(2) in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a crime described in IC 9-30-5-1 through IC 9-30-5-9 or IC 14-15-8-8.

As added by P.L.204-2001, SEC.16.

IC 7.1-1-3-14

Denatured alcohol

Sec. 14. Denatured Alcohol. The term "denatured alcohol" means alcohol to which has been added a substance or ingredient for the purpose of producing a compound or mixture which is unlikely to be used as a beverage and which is unfit for human consumption. Denatured alcohol is to be considered a form of industrial alcohol. *(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.2-1995, SEC.37.*

IC 7.1-1-3-14.5

Department

Sec. 14.5. Department. The term "department" means the Indiana Department of State Revenue. *(Formerly: Acts 1973, P.L.56, SEC.1.)*

IC 7.1-1-3-15

Drug store

Sec. 15. Drug Store. The term "drug store" means a retail business establishment in which medicines and miscellaneous articles are sold. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

IC 7.1-1-3-16

Enforcement officer

Sec. 16. Enforcement Officer. The term "enforcement officer" means a person employed by the commission to perform duties pursuant to IC 1971, 7.1-2. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

IC 7.1-1-3-16.5

Entertainment complex

Sec. 16.5. The term "entertainment complex" means a premises that:

- (1) is a site for the performance of musical, theatrical, or other entertainment;
- (2) if located in a county containing a consolidated city:
 - (A) includes an area where at least two thousand (2,000) individuals may be seated at one (1) time in permanent seating; and
 - (B) is located in a facility that is:
 - (i) on the National Register of Historic Places; or
 - (ii) located within the boundaries of a historic district that

is established by ordinance under IC 36-7-11-7; and
(3) if located in a county other than a county containing a consolidated city, includes an area where at least twelve thousand (12,000) individuals may be seated at one (1) time in permanent seating.

As added by P.L.71-1996, SEC.1.

IC 7.1-1-3-16.7

Flavored malt beverage

Sec. 16.7. The term "flavored malt beverage" means an alcoholic beverage that has all of the following attributes:

(1) The alcoholic beverage is made from a malt beverage base that is flavored with aromatic essences or other flavorings in quantities and proportions that result in a product that possesses a character and flavor distinctive from the malt beverage base and is distinguishable from other malt beverages.

(2) The label, packaging, container, and any advertising or depiction of the alcoholic beverage disseminated, broadcast, or available in Indiana do not contain any of the following words, or a derivative, version, or non-English translation of the following words:

- (A) Beer.
- (B) Lager.
- (C) Pilsner.
- (D) Stout.
- (E) Porter.
- (F) Ale.
- (G) Cider.
- (H) Framboise.
- (I) Lambic.
- (J) Draft.
- (K) Liquor.
- (L) Bitter.
- (M) Brew.

However, the label and packaging may contain in only one (1) location the words "flavored beer" placed adjacent to each other in type not to exceed two (2) millimeters in height.

(3) The alcoholic beverage is not distributed in aluminum or other metal containers.

(4) The alcoholic beverage creates no foam that gives the appearance of beer when the alcoholic beverage is poured from its container.

As added by P.L.72-1996, SEC.1.

IC 7.1-1-3-17

Fraternal club

Sec. 17. Fraternal Club. The term "fraternal club" means an association or corporation which meets the requirements provided in IC 1971, 7.1-3.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-18

Gallon

Sec. 18. Gallon. The term "gallon" means a liquid measure containing two hundred thirty-one (231) cubic inches.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-18.5

Grocery store

Sec. 18.5. (a) "Grocery store" means a store or part of a store that is known generally as:

(1) a supermarket, grocery store, or delicatessen and is primarily engaged in the retail sale of a general food line, which may include:

- (A) canned and frozen foods;
- (B) fresh fruits and vegetables; and
- (C) fresh and prepared meats, fish, and poultry;

(2) subject to subsection (b), a convenience store or food mart and is primarily engaged in:

- (A) the retail sale of a line of goods that may include milk, bread, soda, and snacks; or
- (B) the retail sale of automotive fuels and the retail sale of a line of goods that may include milk, bread, soda, and snacks;

(3) a warehouse club, superstore, supercenter, or general merchandise store and is primarily engaged in the retail sale of a general line of groceries or gourmet foods in combination with general lines of new merchandise, which may include apparel, furniture, and appliances; or

(4) a specialty or gourmet food store primarily engaged in the retail sale of miscellaneous specialty foods not for immediate consumption and not made on the premises, not including:

- (A) meat, fish, and seafood;
- (B) fruits and vegetables;
- (C) confections, nuts, and popcorn; and
- (D) baked goods.

(b) The term includes a convenience store or food mart as described in subsection (a)(2) only if the sale of alcoholic beverages on the premises of the convenient store or food mart represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises, excluding gasoline and automotive oil products.

(c) The term does not include an establishment known generally as a gas station that is primarily engaged in:

- (1) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline; or
- (2) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline and activities that may include providing repair service, selling automotive oils, replacement parts, and accessories, or providing food services.

As added by P.L.94-2008, SEC.3.

IC 7.1-1-3-19

Hotel

Sec. 19. The term "hotel" means an establishment which meets the requirements provided in IC 7.1-3-20-18.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.79-1986, SEC.1.

IC 7.1-1-3-19.5

Internet company

Sec. 19.5. "Internet company" means a person that:

- (1) has the permits required under this title for the person to conduct business in Indiana;
- (2) does business in more than one (1) state or country; and
- (3) solicits orders for the sale of alcoholic beverages to a person in Indiana through the Internet.

As added by P.L.204-2001, SEC.17.

IC 7.1-1-3-20

Licensed premises

Sec. 20. Licensed Premises. The term "licensed premises" means a building, or part of a building, in which alcoholic beverages are authorized by a permit to be kept, manufactured, or sold. The term does not mean the residential portion of a building in which alcoholic beverages are not kept, manufactured, sold, furnished, or given away under the permit, nor does it mean a separate room furnished a guest as sleeping quarters in a club or hotel.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-20.5

Limited liability company

Sec. 20.5. The term "limited liability company" has the meaning set forth in IC 23-18-1-11.

As added by P.L.51-1994, SEC.1.

IC 7.1-1-3-20.7

Limited partnership

Sec. 20.7. The term "limited partnership" has the meaning set forth in IC 23-16-1-9.

As added by P.L.105-1995, SEC.1.

IC 7.1-1-3-21

Liquor

Sec. 21. Liquor. The term "liquor" means an alcoholic beverage containing alcohol obtained by distillation. The term also means a wine that contains twenty-one per cent (21%), or more, of alcohol reckoned by volume. However, the term does not include industrial alcohol.

(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.2.)

IC 7.1-1-3-22

Local board

Sec. 22. Local Board. The term "local board" means a local alcoholic beverage board of a county created pursuant to the provisions of IC 1971, 7.1-2-4.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-23**Malt articles**

Sec. 23. Malt Articles. The term "malt articles" means malt, malt syrup, malt extract, liquid malt, or wort, and their containers.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-24**Member of a club**

Sec. 24. Member of a Club. The term "member of a club" means a person who meets the requirements provided in IC 1971, 7.1-3-20-6.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-25**Minor**

Sec. 25. Minor. The term "minor" means a person less than twenty-one (21) years of age.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-26**Misbranded alcoholic beverage**

Sec. 26. Misbranded Alcoholic Beverage. The term "misbranded alcoholic beverage" means:

(a) An alcoholic beverage that is not plainly labeled, marked, or otherwise designated in compliance with the rules and regulations of the commission; or,

(b) An alcoholic beverage sold or offered for sale under an unregistered brand, copyright, or label, or under a false or pretended brand or label.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-26.3**Motor vehicle**

Sec. 26.3. (a) "Motor vehicle" means a vehicle that is self-propelled.

(b) The term does not include a motorized bicycle (as defined in IC 9-13-2-109).

As added by P.L.106-1995, SEC.1.

IC 7.1-1-3-26.5**Nonalcoholic malt beverage**

Sec. 26.5. The term "nonalcoholic malt beverage" means a liquid that:

(1) is fit for human consumption;

- (2) is reasonably likely or is intended to be used as a beverage;
- (3) is produced:
 - (A) in a manner similar to beer; and
 - (B) from ingredients similar to beer; and
- (4) contains less than one-half percent (0.5%) alcohol by volume.

As added by P.L.52-1992, SEC.1.

IC 7.1-1-3-27

One-way permit

Sec. 27. One-Way Permit. The term "one-way permit" means a beer retailer's permit issued to a permittee.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-28

Package liquor store

Sec. 28. Package Liquor Store. The term "package liquor store" means a place or establishment that meets the requirements provided in IC 1971, 7.1-3-10, and whose exclusive business is the retail sale of alcoholic beverages and commodities that are permissible under this title for use or consumption only off the licensed premises.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-28.5

Partnership

Sec. 28.5. The term "partnership" has the meaning set forth in IC 23-4-1-6.

As added by P.L.51-1994, SEC.2. Amended by P.L.105-1995, SEC.2.

IC 7.1-1-3-29

Permit

Sec. 29. Permit. The term "permit" means a written authorization issued by the commission entitling its holder to manufacture, rectify, distribute, transport, sell, or otherwise deal in alcoholic beverages, all as provided in this title.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-30

Permittee

Sec. 30. Permittee. The term "permittee" means:

(a) A person who is the holder of a valid permit under this title; and,

(b) Also includes an agent, servant, or employee of, or other person acting on behalf of, a permittee, whenever a permittee is prohibited from doing a certain act under this title.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-31

Person

Sec. 31. The term "person" includes:

- (1) a natural individual;
- (2) a firm;
- (3) a corporation;
- (4) a partnership;
- (5) a limited partnership;
- (6) a limited liability company;
- (7) an incorporated or unincorporated association; or
- (8) other legal entity;

whether acting by themselves or by a servant, an agent, or an employee.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.105-1995, SEC.3.

IC 7.1-1-3-32

Pint

Sec. 32. Pint. The term "pint" means a liquid measure equal to one-eighth (1/8) of a gallon.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-32.5

Primary source of supply

Sec. 32.5. The term "primary source of supply" means, in regard to the alcoholic beverage being sold to a wholesaler:

- (1) a distiller of the alcoholic beverage;
- (2) a producer of the alcoholic beverage;
- (3) a vintner of the alcoholic beverage;
- (4) a rectifier of the alcoholic beverage;
- (5) an importer into the United States of the alcoholic beverage;
- (6) an owner of the alcoholic beverage at the time it becomes a marketable product;
- (7) a bottler of the alcoholic beverage;
- (8) a brewer of the alcoholic beverage; or
- (9) an agent specifically authorized to make sales to an Indiana wholesaler by a person listed in subdivisions (1) through (8).

As added by P.L.57-1984, SEC.1.

IC 7.1-1-3-33

Public nuisance

Sec. 33. Public Nuisance. The term "public nuisance" means an act, practice, place, or thing prohibited by IC 1971, 7.1-2-6.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-34

Quart

Sec. 34. Quart. The term "quart" means a liquid measure equal to one-fourth (1/4) of a gallon.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-35

Rectifier

Sec. 35. Rectifier. The term "rectifier" means a person who colors, flavors, or otherwise processes already existing alcoholic beverages by distillation, blending, percolating, or other process.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-36

Rectify

Sec. 36. Rectify. The term "rectify" means and includes the processes used by a rectifier in the rectification of alcoholic beverages.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-37

Residence

Sec. 37. Residence. The term "residence" means:

(a) The premises in which a person resides and includes the aggregation of the rooms inhabited by him, including the cellar and basement under them; and,

(b) Also means a room equipped for sleeping or a suite located in a hotel when actually occupied by a traveler, or by a person as his bona fide residence.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-38

Residential district

Sec. 38. Residential District. The term "residential district" means an area composed of all territory within a radius of five hundred (500) feet of the premises described in the application for a permit being considered and in which area seventy-five percent (75%) or more of the territory in use is used for residential purposes as opposed to commercial, business or manufacturing purposes. Territory in use in the area does not include territory which consists in or is devoted to a street, alley, vacant lot, park, parkway, church, school, religious institution, other not-for-profit institution, lake, river, or other body of water.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-39

Resort hotel

Sec. 39. Resort Hotel. The term "resort hotel" means an establishment which meets the requirements provided in IC 1971, 7.1-3-20-21.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-40

Restaurant

Sec. 40. Restaurant. The term "restaurant" means an establishment which meets the requirements provided in IC 1971, 7.1-3-20-9.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-41

Salesman

Sec. 41. Salesman. The term "salesman" means:

(a) A person who procures, or seeks to procure an order or contract for the sale, or for the delivery, or for the transportation of alcoholic beverages; and,

(b) Also means a person who is engaged in promoting the sale of alcoholic beverages, or in promoting the business of a person engaged in the alcoholic beverage trade in any manner, whether the seller resides within this state and sells to buyers either within or without this state, or whether the seller resides without this state and sells for delivery to buyers within this state.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-42

Service bar

Sec. 42. Service Bar. The term "service bar" means a counter over which alcoholic beverages are served and which is used only by the employees of the establishment in which it is located in the course of their employment.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-43

Setup

Sec. 43. Setup. The term "setup" means a glass, container, ice, water or mixer, served to a patron for the purpose of being used or consumed with an alcoholic beverage brought upon the licensed premises by the patron.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-44

Farm winery

Sec. 44. The term "farm winery" means a commercial winemaking establishment that produces wine and meets the requirements of IC 7.1-3-12-4.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.201-1999, SEC.1; P.L.165-2006, SEC.1.

IC 7.1-1-3-45

Special disqualifications

Sec. 45. Special Disqualifications. The term "special disqualifications" means those impediments provided in IC 1971, 7.1-3-4-2, which prevent the issuance of certain permits to a person who possesses one (1) of them.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-46

Table wine

Sec. 46. Table Wine. The term "table wine" means wine that is produced without rectification or fortification and whose alcoholic

content does not exceed fourteen percent (14%).
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-47

Three-way permit

Sec. 47. Three-Way Permit. The term "three-way permit" means the combination of a beer retailer's permit, a liquor retailer's permit, and a wine retailer's permit issued to a permittee.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-47.5

Tobacco product

Sec. 47.5. "Tobacco product" has the meaning set forth in IC 7.1-6-1-3.
As added by P.L.250-2003, SEC.4.

IC 7.1-1-3-48

Two-way permit

Sec. 48. Two-Way Permit. The term "two-way permit" means the combination of a beer retailer's permit and a wine retailer's permit issued to a permittee.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-1-3-49

Wine

Sec. 49. The term "wine" means an alcoholic beverage obtained by the fermentation of the natural sugar content of fruit, fruit juice, or other agricultural products containing sugar, including necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, and also the alcoholic fortification of the beverage. The term includes hard cider, except for alcoholic beverage tax purposes. The term does not mean an alcoholic beverage that contains twenty-one percent (21%), or more, of absolute alcohol reckoned by volume.
(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.3.) As amended by P.L.119-1998, SEC.22.

IC 7.1-1-3-50

Wood alcohol

Sec. 50. Wood Alcohol. The term "wood alcohol" means the compound CH₃OH, also known as methanol, from whatever source or by whatever process produced. The term also means wood alcohol that has been redistilled and which is likely or intended to be used as a beverage.
(Formerly: Acts 1973, P.L.55, SEC.1.)