

IC 7.1-2-3

Chapter 3. Powers and Duties

IC 7.1-2-3-1

Duties of chairman

Sec. 1. Duties of Chairman. The chairman shall be the presiding officer at the meetings of the commission. The chairman, together with the executive secretary, shall prepare, certify and authenticate all proceedings, minutes, records, rules and regulations of the commission. The chairman also shall perform all other duties as imposed by this title.

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

IC 7.1-2-3-2

Power to organize

Sec. 2. Power to Organize. The commission shall have the power to organize its work and carry on the functions of the commission and to enforce and administer the provisions of this title and the rules and regulations of the commission.

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

IC 7.1-2-3-3

Forms

Sec. 3. Forms. The commission, in accordance with IC 5-15-5.1, shall have the power to prescribe the forms for all applications, permits, licenses, and other documents and records used in the administration of this title.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.40, SEC.18.

IC 7.1-2-3-4

General powers of commission

Sec. 4. General Powers of Commission. The commission shall have the power:

- (a) to hold hearings before the commission or its representative;
- (b) to take testimony and receive evidence;
- (c) to conduct inquiries with or without hearings;
- (d) to receive reports of investigators or other governmental officers and employees;
- (e) to administer oaths;
- (f) to subpoena witnesses and to compel them to appear and testify;
- (g) to issue and enforce subpoenas duces tecum;
- (h) to take or institute proceedings to enforce subpoenas, the rules and regulations, orders, or requirements of the commission or its representative;
- (i) to fix the compensation paid to witnesses appearing before the commission;
- (j) to establish and use a seal of the commission;
- (k) to certify copies of records of the commission or any other

document or record on file with the commission;
(l) to fix the form, mode, manner, time, and number of times for the posting or publication of any required notices if not otherwise provided in this title;
(m) to issue letters of extension as authorized by IC 7.1-3-1-3.1; and
(n) to hold permits on deposit as authorized by IC 7.1-3-1-3.5.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.2.

IC 7.1-2-3-4.5

Limitations upon commission powers

Sec. 4.5. The commission and the chairman may exercise only those express powers enumerated in this title; however, this section does not limit the powers granted to the commission by section 31 of this chapter.

As added by Acts 1982, P.L.69, SEC.3.

IC 7.1-2-3-5

Enforcement of subpoena

Sec. 5. Enforcement of Subpoena. The commission shall have the authority to petition the circuit or superior court of the county in which the hearing or investigation is being held to compel obedience to the lawful requirements of its subpoena under this title.

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

IC 7.1-2-3-6

Rule making

Sec. 6. Rule Making. The rules and regulations of the commission shall be made, promulgated, filed and published pursuant to the provisions of IC 1971, 4-22-2, as amended.

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

IC 7.1-2-3-7

Rules and regulations

Sec. 7. Rules and Regulations. The commission shall have the power to promulgate rules and regulations governing:

(a) The conduct of the meetings and business of the commission;
(b) The conduct of hearings before any of the commission's representatives;

(c) The conduct of the business of a permittee authorized or governed by the provisions of this title;

(d) The enforcement of the provisions of this title and of the rules and regulations of the commission;

(e) The standards of purity and methods of manufacturing used in the production of alcohol and alcoholic beverages;

(f) The prevention of misbranding or adulteration of alcohol or alcoholic beverages; and,

(g) The prevention of fraud, evasion, trickery, or deceit in the manufacture, labeling, importation, advertisement, transportation, or

sale of alcohol or alcoholic beverages, or the evasion of other laws of Indiana relating to alcohol or alcoholic beverages.

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

IC 7.1-2-3-8

Conformance to United States law

Sec. 8. Conformance to United States Law. The commission shall have the power to conform, to adapt, or to coordinate, to the extent the commission deems proper, the practices, methods, standards, and rules and regulations governing the traffic in alcohol and alcoholic beverages, with the practices, methods, standards and rules and regulations established by an officer or agency of the United States government.

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

IC 7.1-2-3-9

Permits

Sec. 9. Permits. The commission shall have the discretionary authority to issue, deny, suspend, revoke, or not renew all permits authorized by this title, unless the exercise of discretion or authority is limited by applicable provisions of this title.

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

IC 7.1-2-3-9.1

Registry of permits

Sec. 9.1. (a) The commission shall prepare and maintain, available for public inspection, a registry of all retailer and dealer permits (including supplemental permits) issued by it, categorized by type of permit and by the type of establishment to which it is issued. The registry of permits shall:

- (1) be subdivided on a county by county basis, and further subdivided by city, town, and unincorporated area;
- (2) contain the number of permits authorized by the quota, and the number of permits currently issued;
- (3) contain the name of the owner of the permit, the address of the licensed premises, the assumed business name under which the business is conducted, and, if a corporation, the names of the president and secretary; and
- (4) be made current annually, to indicate by specific notation any new permits that were issued or any existing permits that were transferred in any manner within the prior year.

(b) The commission shall distribute one (1) complete copy of the registry of permits for that particular county to each county clerk, at no cost to the county clerk, each time the registry is made current. The county clerk shall immediately notify the county treasurer that the registry has been received and make the registry available for copying by the county treasurer. Each county clerk shall maintain a copy of the registry of permits available for public inspection in the county clerk's office during normal business hours.

(c) The commission shall provide for the sale of the registry of

permits to the public on a cost basis, both as a complete statewide registry and as a countywide registry.

As added by Acts 1982, P.L.69, SEC.4. Amended by P.L.85-1985, SEC.1; P.L.106-1995, SEC.3.

IC 7.1-2-3-10

Investigations; memorandum of understanding

Sec. 10. (a) The commission shall have the power to investigate the violation of a provision of this title and of the rules and regulations of the commission and to report its findings to the prosecuting attorney or the grand jury of the county in which the violation occurred, or to the attorney general.

(b) The commission shall enter a memorandum of understanding with the Indiana gaming commission authorizing the commission's unlawful gaming enforcement division to conduct revocation actions resulting from suspected violations of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 as authorized by the following statutes:

(1) IC 7.1-3-18.5.

(2) IC 7.1-3-23-2(b).

(3) IC 7.1-3-23-5.

(c) A memorandum of understanding entered into under this section must comply with the requirements of IC 4-33-19-8.

(d) The memorandum of understanding required by this section must be entered into before January 1, 2008.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.227-2007, SEC.60; P.L.94-2008, SEC.5.

IC 7.1-2-3-11

Emergencies

Sec. 11. Emergencies. The commission shall have the power to prohibit the sale, transportation or movement of alcoholic beverages when, in the judgment of the commission, it is necessary during a time of public emergency, civil disturbance, riot, or epidemic. The prohibition may be imposed without prior notice or advertisement and may be continued in force as long as the need continues.

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

IC 7.1-2-3-12

Searches and seizures

Sec. 12. Searches and Seizures. (a) The commission shall have the power to examine, inspect and search a licensed premises or a vehicle where alcohol, alcoholic beverages, or malt articles are kept, manufactured or sold.

(b) The commission shall have the power to seize alcohol, alcoholic beverages, malt articles, or any other personal property when the seizure is lawful under the provisions of this title.

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

IC 7.1-2-3-13

Prevention of subterfuge

Sec. 13. Prevention of Subterfuge. The commission shall have the power to prevent a part of the premises connected with, or in any way used in connection with, a licensed premises from being used as a subterfuge or means of evading the provisions of this title or of the rules and regulations of the commission.

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

IC 7.1-2-3-14

Standards of sanitation

Sec. 14. The commission shall have the power to set standards of cleanliness and sanitation for a licensed premises and for the apparatus, equipment, utensils, accessories, articles, and fixtures used or employed in the licensed premises. The commission shall have the power to require the aid of the state department of health, any local board of health, and any health officer in this state to fix and enforce these standards.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.2-1992, SEC.74.

IC 7.1-2-3-15

Destruction of personal property

Sec. 15. Destruction of Personal Property. The commission shall have the power to require the destruction or removal of bottles, whether empty or not, cases, containers, apparatus, or devices, used or likely to be used, in evading, violating, or preventing the enforcement of the provisions of this title or of the rules and regulations of the commission.

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

IC 7.1-2-3-16

Regulation of advertising

Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs, displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

- (1) is published at least once a week;
- (2) regularly publishes information of current news interest to the community; and
- (3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for a retail or dealer permittee an illuminated advertising sign in a manner that violates the trade practice restrictions of the commission or this title. It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. Unless otherwise stated, when a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.

(g) The commission may not prohibit the advertisement of:

- (1) alcoholic beverages; or
- (2) a place where alcoholic beverages may be obtained;

in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.57, SEC.1; Acts 1975, P.L.70, SEC.1.) As amended by P.L.98-1983, SEC.1; P.L.57-1984, SEC.2; P.L.165-2006, SEC.2.

IC 7.1-2-3-16.5

"Facility"

Sec. 16.5. (a) As used in this section, "facility" includes the following:

- (1) A facility to which IC 7.1-3-1-25(a) applies.
- (2) A tract that contains a premises that is described in IC 7.1-3-1-14(c)(2).
- (3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.
- (4) A riverboat or racetrack to which IC 7.1-3-17.5 applies.
- (5) A tract that contains an entertainment complex.

(b) As used in this section, "tract" has the meaning set forth in IC 6-1.1-1-22.5.

(c) A facility may advertise alcoholic beverages:

- (1) in the facility's interior; or
- (2) on the facility's exterior.

(d) The commission may not exercise the prohibition power

contained in section 16(a) of this chapter on advertising by a brewer, distiller, rectifier, or vintner in or on a facility.

(e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may provide advertising to a permittee that is a brewer, distiller, rectifier, or vintner in exchange for compensation from that permittee.

As added by P.L. 52-1992, SEC.2. Amended by P.L. 106-1995, SEC.2; P.L. 71-1996, SEC.2; P.L. 72-2004, SEC.3; P.L. 15-2011, SEC.10.

IC 7.1-2-3-17

Registration requirements

Sec. 17. Registration Requirements. The commission shall have the power to require the registration of all brands, formulas, analyses, labels, and trademarks used, or proposed to be used, in selling or advertising alcoholic beverages. The commission shall not have the power to require the disclosure of formulas that are verified trade secrets.

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

IC 7.1-2-3-18

Regulation of transportation and containers

Sec. 18. Regulation of Transportation and Containers. The commission shall have the power to regulate the modes and methods of dealing in, and the transportation of, alcoholic beverages. The commission also shall have the power to regulate the types of containers in which alcoholic beverages may be lawfully transported and delivered.

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

IC 7.1-2-3-19

Regulation of records

Sec. 19. Regulation of Records. The commission shall have the power to:

(a) Prescribe the manner and methods by which all records relating to alcoholic beverages are kept and preserved;

(b) Inspect all records relating to alcoholic beverages; and,

(c) Require true copies of any record to be made and furnished to the commission.

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

IC 7.1-2-3-20

Regulation of sales

Sec. 20. The commission shall have the power to prohibit or regulate, by rule or regulation, the sale of alcoholic beverages within this state when the sale is being carried on in violation of IC 24-3-1 (repealed).

(Formerly: Acts 1973, P.L. 55, SEC.1.) As amended by P.L. 1-2010, SEC.38.

IC 7.1-2-3-21

Regulation of local boards

Sec. 21. Regulation of Local Boards. The commission shall have the power to prescribe the procedure to be observed by local alcoholic beverage boards and for investigations before these boards. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

IC 7.1-2-3-22**Regulation of business relationships**

Sec. 22. Regulation of Business Relationships. The commission shall have the power to ascertain the business relationships, including non-alcoholic beverage business relationships, between permittees under this title. The commission shall have the power to regulate or prohibit a practice, relationship, or dealing by or between permittees, which in the judgment of the commission is inimical to or a violation of a provision of this title or of a rule or regulation of the commission. The commission may take action in these matters by rule or regulation or by individual order upon hearing after five (5) days notice to the effected permittee.

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

IC 7.1-2-3-23**Repealed**

(Repealed by Acts 1973, P.L.58, SEC.2.)

IC 7.1-2-3-24**Disclosures concerning transportation**

Sec. 24. Disclosures Re Transportation. The commission may require that, prior to the importation or transportation of an alcoholic beverage into this state by an authorized permittee, he shall submit written, verified, information concerning the proposed importation or transportation and execute and file any documents required. The commission shall have the power also to inspect the shipments in transit and the vehicle used in the importation or transportation.

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

IC 7.1-2-3-25**Military bases**

Sec. 25. Military Bases. The commission may authorize the sale of an alcoholic beverage to an officer, or other person legally entitled to purchase it, and the delivery of it to that person on a military reservation or other reservation within this state which is under the authority of the United States government and if the sale and delivery is otherwise lawful.

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

IC 7.1-2-3-26**Duty concerning franchise agreements**

Sec. 26. Duty Re Franchise Agreements. The commission shall investigate a violation of a provision of IC 1971, 7.1-3-3-17 and 7.1-5-5-9, and shall have the power to enforce conformance with a

provision of an injunction issued under the authority of these sections.

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

IC 7.1-2-3-27

Duty to report illegal influence

Sec. 27. Duty to Report Illegal Influence. It is the duty of an officer or employee of the state or of one (1) of its political subdivisions or municipal corporations solicited in violation of the provisions of IC 1971, 7.1-5-5-1, to report that fact to the commission.

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

IC 7.1-2-3-28

Repealed

(Repealed by Acts 1978, P.L.6, SEC.36.)

IC 7.1-2-3-29

Delegation of powers and duties

Sec. 29. Delegation of Powers and Duties. The commission, unless otherwise specifically provided, may delegate the powers and duties conferred on it in this title to responsible employees of the commission, but the commission shall maintain final responsibility.

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

IC 7.1-2-3-30

Limitation of liability

Sec. 30. Limitation of Liability. The members of the commission, their officers and employees shall be exempt from civil liability for an act or omission done under the authority, or the color of authority, conferred by this title or by a rule, regulation, or order of the commission. However, they shall be liable to the State of Indiana for their acts and omissions.

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

IC 7.1-2-3-31

Implied powers

Sec. 31. Implied Powers. The commission and the chairman shall have, in addition to the express powers enumerated in this title, the authority to exercise all powers necessary and proper to carry out the policies of this title and to promote efficient administration by the commission.

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

IC 7.1-2-3-32

Group purchasing agreements; rules

Sec. 32. (a) The commission, by rule, may provide procedures whereby two (2) or more retailers and dealers may enter into a formal group purchasing agreement for the purpose of purchasing alcoholic beverages from permittees authorized to sell alcoholic beverages to

them.

(b) If the commission exercises the power granted in subsection (a), the rule shall make provisions for at least the following:

- (1) the formal requirements of a group purchasing agreement;
- (2) the vesting of title to the alcoholic beverages purchased under a group purchasing agreement;
- (3) the transportation by retailers and dealers of the alcoholic beverages purchased under a group purchasing agreement;
- (4) the purchase and transportation of alcoholic beverages by retailers and dealers, whether they are parties to a group purchasing agreement or not, as a result of a service interruption or other emergency; and
- (5) the filing requirements of a group purchasing agreement or any amendments or additions thereto.

As added by P.L.85-1985, SEC.2.

IC 7.1-2-3-33

Investigations and penalties for violations of statutes relating to tobacco

Sec. 33. The commission is authorized to:

- (1) investigate a violation of; and
- (2) enforce a penalty for a violation of;

IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

As added by P.L.177-1999, SEC.5. Amended by P.L.250-2003, SEC.5.

IC 7.1-2-3-34

Report on direct shipment of wine to consumers

Sec. 34. (a) The commission shall submit a report, not later than November 1, 2011, to the general assembly concerning the viability and efficacy of instituting a policy to permit the direct shipment of wine to consumers in Indiana. The report must be in an electronic format under IC 5-14-6.

(b) The report under subsection (a) must include the following:

- (1) An evaluation of the best practices of each state, including the District of Columbia, that allows direct wine shipment.
- (2) An evaluation of related fiscal, tax, and other public policy and regulatory issues related to direct wine shipment.
- (3) A determination regarding:
 - (A) the best practices for preventing access by minors to wine shipped directly to consumers;
 - (B) any significant increase or decrease in access to or demand for wine by minors that has been documented as related to direct wine shipment laws;
 - (C) the best practices for collecting tax revenues on wine;
 - (D) the benefits and costs of direct wine shipment to consumers; and
 - (E) the effect of direct wine shipment laws on in-state wineries, alcoholic beverage licensees, and other local businesses.

(c) This section expires July 1, 2012.
As added by P.L.186-2011, SEC.1.