

IC 7.1-3-21

Chapter 21. Restrictions on Issuance of Permits

IC 7.1-3-21-0.1

Certain amendments to chapter do not affect residency requirement for beer wholesaler contracts entered into before July 1, 2004

Sec. 0.1. Notwithstanding the amendments made to sections 3, 5, 5.2, and 5.4 of this chapter by P.L.72-2004, the residency requirement of five (5) years for beer wholesalers under sections 3, 5, 5.2, and 5.4 of this chapter (as those provisions existed on June 30, 2004) shall remain in effect for all contracts entered into before July 1, 2004, under which a permit is to be transferred from an Indiana resident to a person who was not an Indiana resident at the time of execution of the contract.

As added by P.L.220-2011, SEC.174.

IC 7.1-3-21-1

Premises outside corporate limits

Sec. 1. Premises Outside Corporate Limits. The commission shall not issue a permit in respect to premises situated outside the corporate limits of an incorporated city or town except as otherwise specifically provided in this article.

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

IC 7.1-3-21-2

Repealed

(Repealed by P.L.100-1983, SEC.8.)

IC 7.1-3-21-3

Residency requirements

Sec. 3. The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of Indiana for five (5) years immediately preceding the date of the application for a permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.8; P.L.72-2004, SEC.12; P.L.165-2006, SEC.28.

IC 7.1-3-21-4

Partnership; qualifications of members

Sec. 4. The commission shall not issue:

- (1) a liquor wholesaler's permit; or
- (2) an alcoholic beverage retailer's or dealer's permit;

of any type to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.51-1994,

SEC.10; P.L.105-1995, SEC.5; P.L.165-2006, SEC.29.

IC 7.1-3-21-5

Corporations; officer and stockholder qualifications

Sec. 5. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.12; P.L.72-2004, SEC.13; P.L.165-2006, SEC.30.

IC 7.1-3-21-5.2

Limited partnerships; qualifications of persons having partnership interest

Sec. 5.2. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

As added by P.L.51-1994, SEC.11. Amended by P.L.72-1996, SEC.13; P.L.72-2004, SEC.14; P.L.165-2006, SEC.31.

IC 7.1-3-21-5.4

Limited liability companies; manager and member qualifications

Sec. 5.4. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of

the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

As added by P.L.51-1994, SEC.12. Amended by P.L.72-1996, SEC.14; P.L.72-2004, SEC.15; P.L.165-2006, SEC.32.

IC 7.1-3-21-6

Exceptions for retail and dealer partnerships, corporations, limited partnerships, and limited liability companies

Sec. 6. (a) The provisions of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail and dealer partnerships, corporations, limited partnerships, and limited liability companies shall not apply to the issuance of:

- (1) a dining car permit;
- (2) a boat permit;
- (3) a drug store permit;
- (4) a grocery store permit;
- (5) a hotel permit;
- (6) an airplane permit;
- (7) a gaming site permit;
- (8) a horse track permit;
- (9) a satellite facility permit; or
- (10) a retail permit to an establishment:
 - (A) that is sufficiently served by adequate law enforcement at its permit location; and
 - (B) whose annual gross food sales at the permit location:
 - (i) exceed one hundred thousand dollars (\$100,000); or
 - (ii) in the case of a new application and as proved by the applicant to the local board and the commission, will exceed two hundred thousand dollars (\$200,000) by the end of the two (2) year period from the date of the issuance of the permit.

(b) The commission shall not issue a permit listed in subsection (a) to a foreign:

- (1) corporation;
- (2) limited partnership; or
- (3) limited liability company;

that is not duly qualified to do business in Indiana.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.6; P.L.15-1994, SEC.9; P.L.2-1995, SEC.39; P.L.71-1996, SEC.4; P.L.233-2007, SEC.31.

IC 7.1-3-21-7

Restaurant corporations; exception

Sec. 7. Restaurant Corporations: Exception. The provisions of IC 1971, 7.1-3-21-5, shall not apply to the common stock ownership of a corporation holding a restaurant permit and having less than sixty per cent (60%) resident ownership prior to March 14, 1963.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-8**Disclosure of interested parties**

Sec. 8. The commission shall not issue an alcoholic beverage permit of any type to a person unless that person has on file with the commission a verified list containing the name and address of each person who is, or will be, financially or beneficially interested in the permit and the business conducted, or to be conducted, under it. At all times, a change in the list shall be filed by the applicant or permittee with the commission within ten (10) days of the date when the change became effective. The lists, together with any changes, shall be kept on file in the office of the commission and they shall be open to public inspection.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.38.

IC 7.1-3-21-9**Public officers**

Sec. 9. The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a person who holds an elective or appointive public office which has the responsibility of enforcing the state laws regulating the sale of alcoholic beverage. The commission may issue an alcoholic beverage wholesaler's permit of any type to a person who holds any other appointive or elective public office.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.104-1989, SEC.1.

IC 7.1-3-21-10**Location of premises; disclosure**

Sec. 10. (a) An application for a permit for premises situated within a distance of two hundred (200) feet from an elementary or secondary school or church must disclose this fact.

(b) The local board shall state, if required by the commission, in the questionnaire its opinion as to the propriety of granting the particular application.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.52-1994, SEC.6.

IC 7.1-3-21-11**Premises near wall of school or church**

Revisor's Note: The version of IC 7.1-3-21-11 appearing in the 2004 Edition of the Indiana Code was printed incorrectly. Use the following version of IC 7.1-3-21-11.

Sec. 11. (a) As used in this section, "wall" means a wall of a

building. The term does not include a boundary wall.

(b) Except as provided in subsection (c), the commission shall not issue a permit for a premises if a wall of the premises is situated within two hundred (200) feet from a wall of a school or church, if no permit has been issued for the premises under the provisions of Acts 1933, Chapter 80.

(c) This section does not apply to premises if:

(1) the premises of a grocery store or drug store if:

(A) a wall of the premises is situated within two hundred (200) feet from a wall of a church or school;

(B) the commission receives the written statement of the authorized representative of the church or school stating expressly that the church or school does not object to the issuance of the permit for the premises; and

(C) the commission determines that the church or school does not object to the issuance of the permit for the premises; or

(2) a church or school that applies for a temporary beer or wine permit.

(d) The commission shall base its determination under subsection (c)(1)(C) solely on the written statement of the authorized representative of the church or school.

(e) If the commission does not receive the written statement of the authorized representative of the church or school, the premises of the grocery store or drug store may not obtain the waiver allowed under this subsection.

(f) If the commission determines that the church or school does not object, this section and IC 7.1-3-21-10 do not apply to the permit premises of the grocery store or drug store on a subsequent renewal or transfer of ownership.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.77-1997, SEC.1; P.L.204-2001, SEC.39.

IC 7.1-3-21-12

Wagering occupational tax stamp

Sec. 12. Wagering Occupational Tax Stamp. The commission shall not issue a permit to sell alcoholic beverages at retail to a person who holds, owns, or possesses a wagering occupational tax stamp issued by the United States internal revenue authorities.

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

IC 7.1-3-21-13

4-H club exhibits

Sec. 13. 4-H Club Exhibits. The commission shall not issue a temporary beer permit to a person for the express purpose of selling beer at a place where an organized 4-H club association has an exhibit.

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

IC 7.1-3-21-14

Indiana state fair commission permit to sell alcoholic beverages on state fair grounds; permitted activities; requirements

Sec. 14. (a) The commission shall issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds to the Indiana state fair commission.

(b) The holder of a permit under this section is:

- (1) entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;
- (2) entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
- (3) entitled to receive the permit directly from the commission without local board approval;
- (4) not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) entitled to allow a minor to be present in the places where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.165-2006, SEC.33.

**IC 7.1-3-21-15 Version a
Delinquency in payment of taxes**

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

- (1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 and the innkeeper's tax under IC 6-9 that are due currently;
- (2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 for the assessment periods during which the transferor held the permit; or
- (3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

(1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 that were delinquent have been paid.

(2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 have been paid for the assessment periods during which the transferor held the permit.

(3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's delinquent tax liability has been satisfied, including any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the person seeks the permit.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission shall allow the applicant to certify, under the penalties for perjury, that the applicant is not delinquent in filing returns or remitting taxes.

As added by P.L.57-1984, SEC.11. Amended by P.L.23-1986, SEC.15; P.L.6-1987, SEC.15; P.L.332-1989(ss), SEC.40; P.L.64-1990, SEC.5; P.L.106-1995, SEC.15; P.L.224-2005, SEC.17.

IC 7.1-3-21-15 Version b

Delinquency in payment of taxes

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

(1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 and the innkeeper's tax under IC 6-9 that are due currently;

(2) is seeking a transfer and the applicant has not paid all the

property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 for the assessment periods during which the transferor held the permit; or

(3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

(1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 that were delinquent have been paid.

(2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 have been paid for the assessment periods during which the transferor held the permit.

(3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's tax warrant has been satisfied, including any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the person seeks the permit.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1), tax warrant, or taxes imposed by IC 6-1.1.

As added by P.L.57-1984, SEC.11. Amended by P.L.23-1986, SEC.15; P.L.6-1987, SEC.15; P.L.332-1989(ss), SEC.40; P.L.64-1990, SEC.5; P.L.106-1995, SEC.15; P.L.224-2005, SEC.17; P.L.172-2011, SEC.112.