

IC 7.1-3-22

Chapter 22. Quotas on Issuance of Permits

IC 7.1-3-22-1

Brewers' permits limited

Sec. 1. (a) This section applies to a brewer that manufactures more than thirty thousand (30,000) barrels of beer in a calendar year.

(b) The commission may issue and have outstanding only one (1) brewer's permit for each unit of population of this state of one hundred and seventy-five thousand (175,000) or major fraction thereof. The commission, however, shall not issue more than four (4) brewer's permits in the same congressional district.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.88-1993, SEC.3; P.L.186-2011, SEC.6.

IC 7.1-3-22-2

Beer wholesalers' permits limited

Sec. 2. Beer Wholesalers' Permits Limited. The commission may issue only one (1) beer wholesaler's permit in each county in this state. The commission may issue additional beer wholesaler's permits on the basis of one (1) additional permit for each thirty-five thousand (35,000) unit of population, or fraction thereof, in a county whose population exceeds thirty-five thousand (35,000). This section shall not affect the right of renewal, or successive renewals, of a permit in a county in which the quota is now exceeded.

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

IC 7.1-3-22-3

Retailers' permits limited

Sec. 3. (a) The commission may grant only one (1) three-way permit, one (1) two-way permit, and one (1) one-way permit in an incorporated city or town or in an unincorporated town for each one thousand five hundred (1,500) persons, or fraction thereof, residing within the incorporated city or town or the unincorporated town. The commission shall include liquor retailer permits issued to clubs, but not those issued to fraternal clubs, in its quota computation when it is considering an application for a new liquor retailer's permit.

(b) This subsection applies when a city or town annexes into the city or town unincorporated territory where a retailer's permit has been granted before the annexation. The commission may only reclassify a retailer's permit for a premises in the former unincorporated territory as a permit for a premises in an incorporated city or town if the permittee has actually conducted a business of selling alcoholic beverages to customers for consumption on the licensed premises for two (2) consecutive years. The period of two (2) consecutive years may begin to run either before or after the annexation occurs. However, the following apply when a person applies for a retailer's permit after notice of an annexation hearing is made under IC 36-4-3-2.1 and before the annexation occurs:

(1) The commission may grant the permit.

- (2) The commission may not reclassify the permit as a permit for a premises in an incorporated city or town.
 - (3) The permit may be transferred to another person.
 - (4) The permit may not be transferred to another location.
- (Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.245-2001, SEC.1.*

IC 7.1-3-22-4

Dealers' permits limited

Sec. 4. (a) The commission may grant:

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

- (A) one (1) beer dealer's permit for each two thousand (2,000) persons, or a fraction thereof; or
- (B) two (2) beer dealer's permits;

whichever is greater, within the incorporated city or town;

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

- (A) one (1) beer dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or
- (B) eight (8) beer dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

- (A) one (1) beer dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or
- (B) twenty-three (23) beer dealer's permits;

whichever is greater, within the incorporated city or town.

(b) The commission may grant:

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

- (A) one (1) liquor dealer's permit for each two thousand (2,000) persons, or a fraction thereof; or
- (B) two (2) liquor dealer's permit;

whichever is greater, within the incorporated city or town;

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

- (A) one (1) liquor dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or
- (B) eight (8) liquor dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

- (A) one (1) liquor dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or
- (B) twenty-three (23) liquor dealer's permits;

whichever is greater, within the incorporated city or town.

(c) The commission may grant in an area in the county outside an

incorporated city or town:

(1) one (1) beer dealer's permit for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2) beer dealer's permits, whichever is greater; and

(2) one (1) liquor dealer's permits for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2) liquor dealer's permits, whichever is greater;

within the area in a county outside an incorporated city or town.

(d) Notwithstanding subsections (a), (b), and (c), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer that:

(1) held a permit before July 1, 2008; and

(2) does not qualify for a permit under the quota restrictions set forth in subsection (a), (b), or (c).

(e) Notwithstanding subsection (a) or (c), the commission may grant not more than two (2) new beer dealer's permits or five percent (5%) of the total beer dealer permits established under the quota restrictions set forth in subsection (a) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (a).

(2) An area in a county outside an incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (c).

(f) Notwithstanding subsection (b) or (c), the commission may grant not more than two (2) new liquor dealer's permits or five percent (5%) of the total liquor dealer permits established under the quota restrictions set forth in subsection (b) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (b).

(2) An area in a county outside an incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (c).

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.94-2008, SEC.46.

IC 7.1-3-22-5

Package liquor store dealer's permit; renewal

Sec. 5. (a) The commission may issue only one (1) package liquor store dealer's permit in an incorporated city or town for each eight thousand (8,000) persons, or fraction thereof, within the incorporated city or town.

(b) Notwithstanding subsection (a), the commission may renew a package liquor store dealer's permit for an applicant who:

(1) held a permit before July 1, 1997; and

(2) does not qualify for a permit under the quota requirements of subsection (a).

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.74-1997, SEC.2.

IC 7.1-3-22-6

Hotels excluded from quota

Sec. 6. Hotels Excluded from Quota. A three-way permit, heretofore or hereafter, issued to a permittee whose licensed premises consist of a hotel and which premises are located within an incorporated city or town, shall not be included in the quota of three-way permits that may be issued lawfully to premises located within one (1) incorporated city, town, or unincorporated town.

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

IC 7.1-3-22-7

Existing permits unaffected

Sec. 7. Existing Permits Unaffected. The provisions of IC 1971, 7.1-3-22-3–7.1-3-22-5, shall apply only to applications for new permits and they shall not affect existing permits and transfers of them, whether from person to person or location to location, nor shall they effect any of the limitations, rights and privileges reserved to package liquor store dealers, or special types or kinds of retailer's permits, nor the restrictions on the issuance of permits to premises situated outside an incorporated city or town.

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

IC 7.1-3-22-8

Quota determination; restrictions; permissible geographic location

Sec. 8. In making quota determinations under this article, the population of a consolidated city is the population of its fire special service district, except to the extent that the case of Indiana Alcoholic Beverage Commission v. Baker (1972), 153 Ind.App. 118, 286 N.E.2d 174, has determined otherwise. However, the number of liquor dealer's permits issued to proprietors of package liquor stores located in the fire special service district may not exceed the number issued as of January 1, 1977. For purposes of this article relating to the permissible geographic location of package liquor store dealer permit holders, the area of a consolidated city is the area of the entire county.

As added by Acts 1980, P.L.8, SEC.66.

IC 7.1-3-22-9

Bidding for permits; fees; rules

Sec. 9. (a) This section applies to any permit that is subject to the quota provisions of this chapter unless that permit is obtained by sale, assignment, or transfer under IC 7.1-3-24.

(b) Whenever a permit to which this chapter applies becomes available, the commission shall offer an opportunity to bid for that permit to all persons who are qualified to receive that permit and who have indicated a desire to obtain that permit. The commission shall receive bids at an auction that it conducts. The highest bidder

at the commission's auction who is qualified to receive the permit in all respects (including a determination by the local board that the person is of good moral character and good repute in the community in which that person resides) is entitled to receive the permit. This bidder shall pay the amount of the bid at the time the permit is issued as a special fee for initial issuance of the permit.

(c) The special fee for initial issuance of a permit that is prescribed by this section is in addition to any other fees imposed by this title.

(d) All fee revenues collected under this section are subject to IC 7.1-4-7-4.

(e) The commission shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.32-1988, SEC.2.

IC 7.1-3-22-10

City or town purchasing permit issued in excess of quota; return and retirement of permit

Sec. 10. (a) This section applies to a permit subject to a quota under this article that:

- (1) exceeds the permissible number of permits under the quota; and
- (2) is eligible for renewal by law despite the permit exceeding the quota.

(b) A city or town may purchase a permit described in subsection (a) from the permit holder. The purchase price must be agreed to by:

- (1) the permit holder; and
- (2) the executive (as defined in IC 36-1-2-5) of the respective city or town, with the approval of the legislative body (as defined in IC 36-1-2-9) of the respective city or town.

(c) The executive of a city or town that purchases a permit under subsection (b) shall return the permit to the commission.

(d) The commission shall retire a permit received under subsection (c) and may not issue to another person a permit received under subsection (c).

As added by P.L.66-1998, SEC.1.