

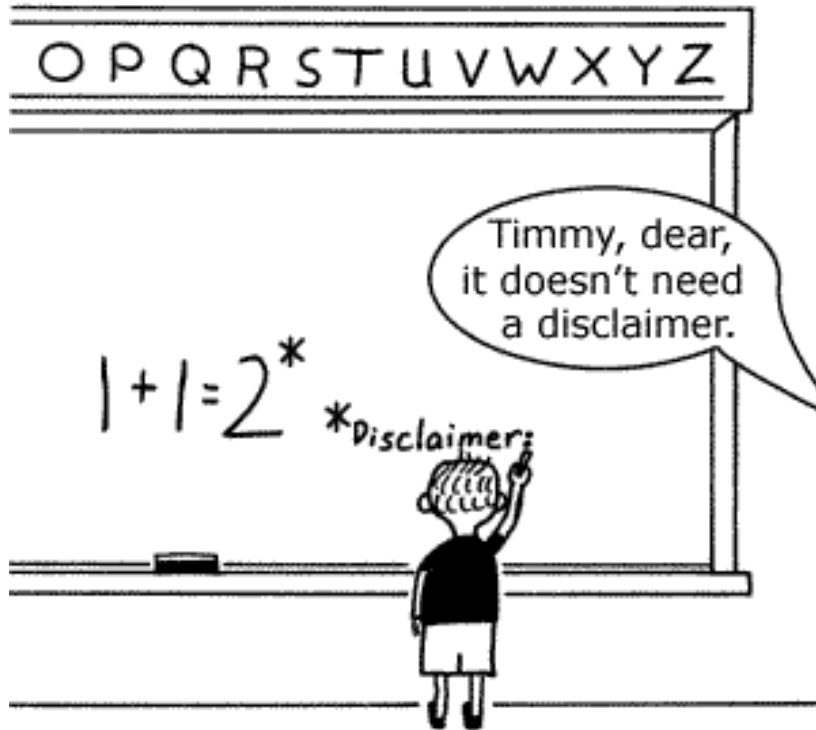
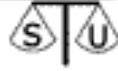
2024 Legislative Update: Alcoholic Beverage Laws

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Impacted Code Sections by Enrolled Act

Enrolled Act	Description	Impacted Indiana Code Sections
HEA 1025	Mixed Beverages	NEW 7.1-1-3-26.2; 7.1-3-13-3
HEA 1086	Alcoholic Beverage Sales	NEW 7.1-1-3-13.7 & 13.8; NEW 7.1-1-3-3.5; New 7.1-3-1-6.4; 7.1-3-4-6; 7.1-3-9-9; 7.1-3-14-4; 7.1-5-10-20; NEW 7.1-5-10-20.5
HEA 1197	Alcohol Tobacco Commission	7.1-2-4-10; 7.1-3-1-4; 7.1-3-1-5.3; 7.1-3-3-7 & 11; 7.1-3-9.5-2; 7.1-3-18-9.5; 7.1-3-23-34 & 45; 7.1-3-1-25; 7.1-3-20-16.8; 7.1-3-20-27; 7.1-3-20-28; 7.1-3-20-28.5; 7.1-3-20-29; 7.1-3-21-0.1; 7.1-3-21-15; 7.1-3-30-1; 7.1-3-31-2; 7.1-5-11-1.5; 7.1-5-12-5
SEA 20	Municipal Riverfront Permits	7.1-3-20-16; 7.1-3-20-16.1
SEA 58	Restaurant Carryout Sales	NEW 7.1-1-3-45.5; 7.1-3-20-9.5
SEA 146	Youth Employment	7.1-5-7-13
SEA 205	Collaborative Brewing	7.1-3-2-7

HEA 1025: Mixed Beverages

- Effective 7/1/2024
- Defines new “mixed beverage” product category
- Adds importation, sale, possession, purchase, and transportation of mixed beverages to scope of wine wholesaler permit
- Allows wine wholesalers to sell mixed beverages and flavored malt beverages to employees
- Repeals prohibition on sale of more than 1 million gallons of flavored malt beverage in calendar year by wine wholesale permit holder (that also holds liquor wholesaler permit)

HEA 1025: Mixed Beverages

Ind. Code 7.1-1-3-26.2 (NEW) defines “**mixed beverage**” as:

- a prepared cordial, cocktail, or highball that is in a can or container that holds not more than twenty-four (24) ounces and is a mixture of:
 - (1) whiskey, neutral spirits, brandy, gin, or another distilled spirit; and
 - (2) carbonated or plain water, pure juice from a flower or plant, or other flavoring materials;
- that is suitable for immediate consumption and contains at least 0.5% alcohol by volume but not more than 15% of alcohol by volume.



HEA 1025: Mixed Beverages

- Are microwine wholesalers permitted to sell mixed beverages?
 - Yes. Microwine wholesalers are a subset of wine wholesaler permits created in IC 7.1-4-4.1-13(c) which sets a lower permit fee for wine wholesalers that sell less than 12,000 gallons of wine in a year. Other than the maximum volume and lower fee, microwine wholesalers have the same scope of permit as other wine wholesalers.
- Do flavored malt beverages and mixed beverages count towards the 12,000-gallon cap for microwine wholesalers?
 - No. Because flavored malt beverages and mixed beverages are not considered wine, they do not count towards the cap.
 - IC 7.1-4-4.1-13 states that there is a lower fee for a wine wholesaler who anticipates selling or previously sold less than 12,000 gallons of wine and brandy in the previous year.

HEA 1025: Mixed Beverages

- Prior to 7/1/2024, wholesalers CANNOT:
 - stage mixed beverage product in the wholesaler's warehouse. The changes in HEA 1025 that allow sales from inventory in the wholesaler's warehouse are not effective until July 1, 2024.
 - make sales to retail or dealer permittees. HEA 1025 allows the wine wholesaler to sell, furnish, and deliver mixed beverages on or after July 1, 2024. Since sales must come from product in the wholesaler's warehouse, they will not be able to pre-sell mixed beverage products.
 - allow salesmen to engage in activities related to mixed beverages. Since sales cannot occur until July 1, 2024 when mixed beverages are permitted in the warehouse, selling or taking orders for the sale of mixed beverages may occur until on or after July 1, 2024.
- Prior to 7/1/2024, wholesalers MAY enter into contracts with a primary source to distribute mixed beverages as long as the contract term has a start date on or after July 1, 2024. They may not purchase, import, or transport mixed beverages until July 1, 2024.

HEA 1025: Mixed Beverages

- Does NOT impact which retailer and dealer permittees can carry mixed beverages or ready-to-drink (RTD) cocktails.
- May only sell, transport and deliver mixed beverages to:
 - (1) A liquor retailer permittee
 - (2) A supplemental caterer permittee
 - (3) A liquor dealer permittee
 - (4) A liquor wholesaler permittee
 - (5) A wine wholesaler permittee

Operational Impact of HEA 1025

Creates new category of “mixed beverage”

NOTE: mixed beverages are NOT “wine”

Expands scope of wine wholesaler permit to include:

1. Purchase, import, and sale of mixed beverages
2. Sale of flavored malt beverages to employees

Eliminates restriction on volume of flavored malt beverages distributed by holder of wine & liquor wholesale permits

Indiana law previously limited to 1,000,000 gallons annually

**HEA 1086:
Alcoholic
Beverage
Sales**

Happy hour / social hour

Carryout sales in qualified
containers (vs. original container)

Liquor liability insurance
requirement

HEA 1086: Alcoholic Beverage Sales

- Happy hours / social hours
 - Creates happy hour privileges for retailer permittees
 - Limited to maximum 4 hours per day and 15 hours per week
 - Not allowed 9 p.m. to 3 a.m.
- Prohibits a retailer permittee from:
 - 1) Allowing a game on the licensed premises that:
 - (A) is determined by the quantity of alcoholic beverages consumed by a patron; or
 - (B) awards alcoholic beverage prizes (unless the alcohol is charity gaming prize or sold in a charity auction event); and
 - 2) Selling or serving an unlimited or indefinite amount of alcoholic beverages for a fixed price.
 - NOTE: Legislative intent is to prohibit unlimited amount of alcohol sold to individual persons (ex: bottomless drinks). Group alcohol sales (ex: wedding packages) are still permitted.

HEA 1086: Happy Hours or Social Hours

- Privilege that may be revoked for violation of above conditions
- Permit holder should have policies & internal controls ensuring patron safety
 - Nature of happy hour program could impact insurance rates
 - Duty of care to public- responsible alcohol service



HEA 1086: Alcoholic Beverage Sales

- Expands existing carryout privileges for retailer permittees
 - Includes “mixed drinks” and cocktails to-go
 - Must be delivered directly to customer on licensed premises in a “**qualified container**” for consumption off the licensed premises
 - Must already have carryout privileges or must apply for them, if eligible



HEA 1086: Alcoholic Beverage Sales

IC 7.1-1-3-33.5 (NEW) defines a “**qualified container**” as:

A new, clean sealable container that is *for the sale of alcoholic beverages* for consumption off the premises, that: (a) has a liquid capacity of not more than 4 quarts and (b) is **sealed** with a device or material that is used to fully close off the container securely without any perforations or straw holes

- Failure to use qualified container may result in loss of carryout privileges



HEA 1086: Alcoholic Beverage Sales

- Requires retailers and craft manufacturers to hold liquor liability (“dram shop”) insurance with minimum coverage of \$500,000
 - Adds definition of “craft manufacturer”
 - Establishes compliance deadlines



HEA 1086: Alcoholic Beverage Sales

- Compliance Deadlines:
 - Applications after June 30, 2024 must provide evidence of insurance with application
 - Application before July 1, 2024 must provide evidence of compliance by January 1, 2025
 - Extensions after July 1, 2024 must provide proof of insurance or application for coverage
- Evidence of coverage = policy declarations page & liquor liability endorsement
 - Must provide coverage amount, name & address of insured premises, term of coverage
- Contact your local independent insurance agent for coverage or visit:
 - Professional Insurance Agents (www.PIA.org)
 - Independent Insurance Agents of Indiana (www.BigI.org)
- Typically offered as part of insurance bundle
 - Premiums generally range \$300 to \$5,000 annually depending on risk factors

Insurance Eligibility & Premium Factors

Adequacy of internal controls- service of alcohol & intoxicated customers

Server & bartender training

Food and alcohol sales ratios

Premises square footage

Hours of operation, time of last call

ATC violation history

Police runs & incidents, including assaults & DUI

Recreational activities on site may be factor in higher premiums

Happy hour and drink specials- policies and procedures

Alcoholic beverage prices

HEA 1197: Alcohol and Tobacco

- All ATC communications can be written or electronic
- Online/electronic application language
- Removes requirement that property tax clearance form (Form 1) contain an embossed seal from county treasurer
- Replace references to “Bureau of Alcohol, Tobacco Firearms & Explosives” with “Alcohol and Tobacco Tax and Trade Bureau” or successor agency (7.1-5-11-1.5)
- Repeals IC 7.1-3-20-28 (beer gardens)
- Repeals IC 7.1-3-20-28.5 (patio/rooftop bars of civic center or recreational facility)
- Repeals IC 7.1-3-21-0.1 (beer wholesaler residency requirement)
 - Tennessee Wine & Spirits Retailers Ass'n v. Thomas, 139 S. Ct. 2449, 204 L. Ed. 2d 801 (2019)

HEA 1197: Alcohol and Tobacco

Civic Center

- Adds "park or public recreation area with a permanent event or entertainment space" that is leased or owned by a county, city, town, or township to qualifying locations for civic center permit.

Food Hall Master

- Allows a food hall that has at least ten (10) distinct nonaffiliated vendors and is located in an economic development project with a total investment of at least \$100 million to apply for food hall master permit.

Craft Manufacturer Hospitality Permit

- Allows a craft manufacturer to host events on its licensed premises.

Non-Quota Economic Development Permits

- Noblesville: 14 new permits
 - 4 - 7.1-3-20-16.8(b)
 - 10 - 7.1-3-20-16.8(g) (3 in 2024; 3 in 2025; 4 in 2026)
- Delphi: 2 new permits 7.1-3-20-16.8(h)

HEA 1197: Alcohol and Tobacco

- Hotels
 - Codifies provision allowing outdoor bars
 - Smoking allowed in outdoor bar area if:
 - 21+ area
 - 18-inch barrier
 - At least 20 feet from entrances
- Designated Outdoor Refreshment Areas (DORAs)
 - Craft manufacturers added to designated permittees
 - Designated permittees= retailer and craft manufacturer



SEA 20: Municipal Riverfront District Permits

- Technical Correction
- Permit intended for premises within “municipal riverfront development project”
 - Municipal means “city or town”
- Permit eligibility requirements require state and local project funding
 - Currently, IC 7.1-3-20-16 requires use of “state and ***city*** money”
 - Unintentionally excludes projects located within and funded by towns
- SEA 20 revises language to “state and ***municipal*** money” to cover cities and towns

SEA 58: Specialty or Gourmet Market

- Creates narrow exception to gross retail income requirement for carryout sales
- “Specialty or gourmet market”
 - Holds beer & wine retail permits
 - Sells specialty foods for consumption on & off premises (deli meat, fruits & vegetable, gourmet cheese, pasta & noodles, herbs & spices, and olive oil and specialty wine)
 - Does not sell automotive fuel
- Holds retail permits with carryout privileges initially issued in November 2019
 - Issue date for purposes of exception survives transfer



SEA 146: Youth Employment

- Allows a person who is at least 18 years of age to ring up a sale of alcoholic beverages in the course of the person's employment.
- Allows a waiter, waitress, or server who is at least 18 years of age to serve alcoholic beverages in a dining room of a restaurant or hotel under certain conditions.
 - Does not allow restricted employees to act as bartender or serve in bar area. Must be 21+ years old.
- No impact on volunteer permits



Old Enough to Serve? Old enough to Serve!

SEA 205: Collaborative Brewing

Allows small breweries that produce no more than 90,000 barrels per year to manufacture beer for another small brewery if certain requirements are met.

- Upon completion, beer must be transported to permit holder for whom beer was manufactured.
- Must have produced at least 40 barrels of beer from raw materials at licensed premises in previous year in order to qualify.
- Number of barrels produced under contract cannot exceed the number of barrels produced from raw materials at licensed premises in same year.
- All records regarding number of barrels produced from raw materials at licensed premises (includes beer produced under contract) must be provided to ATC upon request.



2024 ATC Webinar Series

The ATC will host another webinar on **May 17, 2024** featuring representatives from the Indiana Department of Revenue.

Topics of discussion will include the excise tax changes introduced by HEA 1120 & SEA 228, and the impact of SEA 149 on tobacco sales certificates.



Questions?

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Don't forget to submit your CLE attendance form to atc-rules@atc.in.gov by **Tuesday, April 30th!**