

Indiana Alcohol & Tobacco Commission

New Member Training

Local Alcoholic Beverage Board 2018

New Member Training Program Indiana Code 7.1-2-4-13.5

A local board member shall complete a training program conducted by the commission not more than 180 days after the member's appointment to the board.

This program must include training on all the following subjects:

An overview of Indiana alcoholic beverage law and enforcement.

Duties and responsibilities of the board concerning new permit applications, permit transfers, and renewal of existing permits.

The open door law and public records law.

Notice and hearing requirements.

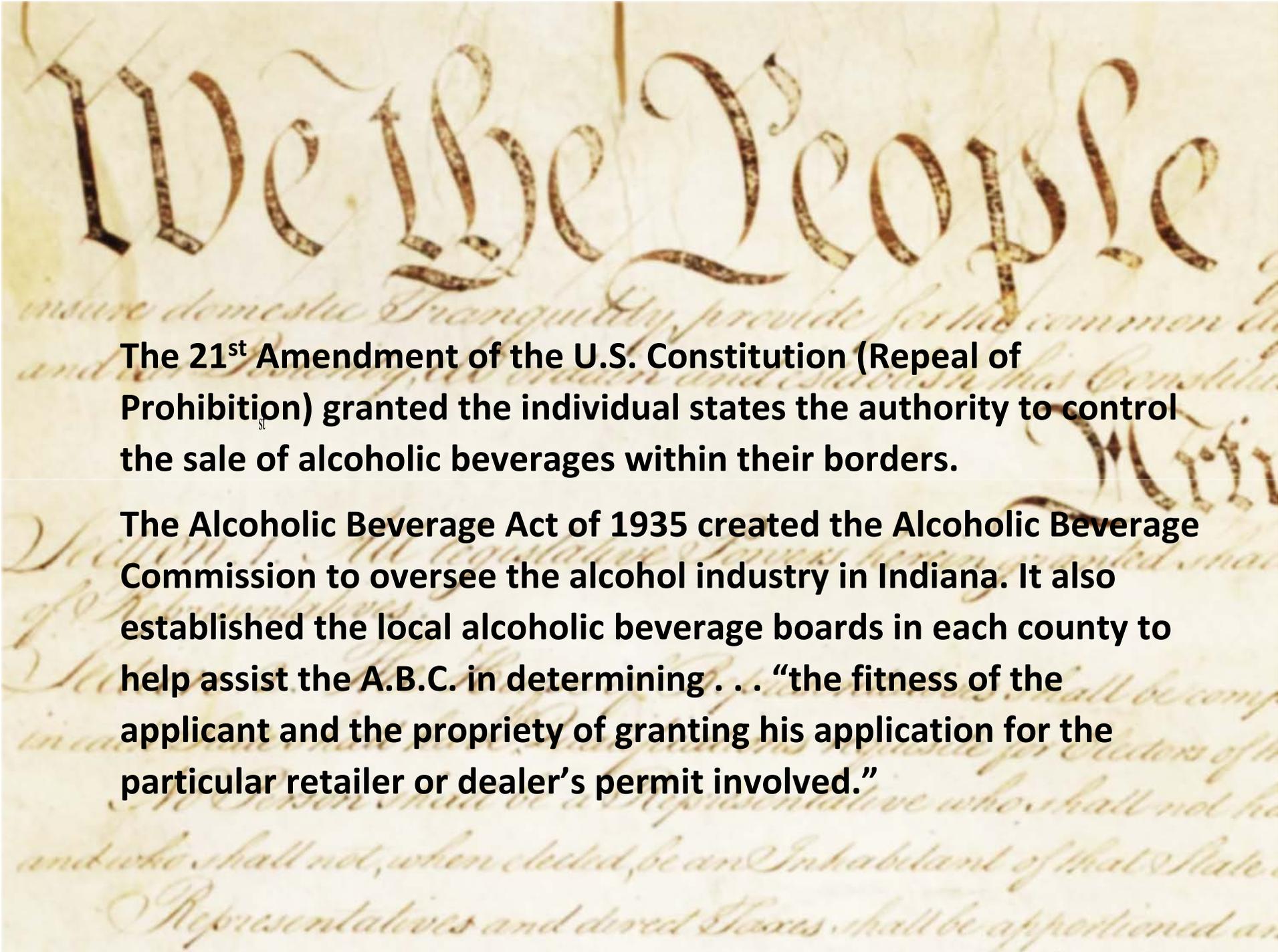
The process for appeal of an adverse decision of the board.

Any other subject determined by the commission.



Indiana Alcoholic Beverage Law and Enforcement



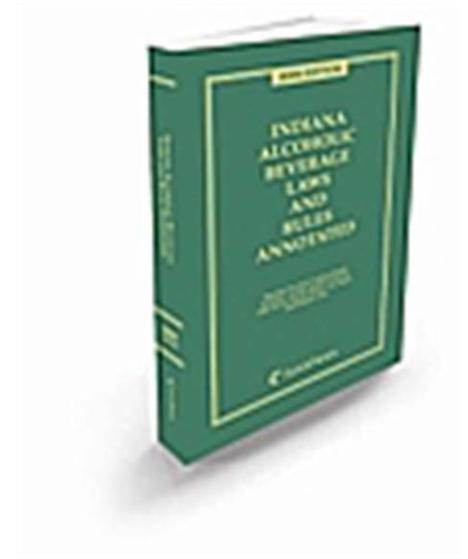


The 21st Amendment of the U.S. Constitution (Repeal of Prohibition) granted the individual states the authority to control the sale of alcoholic beverages within their borders.

The Alcoholic Beverage Act of 1935 created the Alcoholic Beverage Commission to oversee the alcohol industry in Indiana. It also established the local alcoholic beverage boards in each county to help assist the A.B.C. in determining . . . “the fitness of the applicant and the propriety of granting his application for the particular retailer or dealer’s permit involved.”

Indiana Alcoholic Beverage Law

- Indiana alcohol laws are found in Indiana Code 7.1
- Implemented 3-tier system of manufacturers, wholesalers, and retailers/dealers.
- Created quota system for most types of alcohol permits.



Alcohol & Tobacco Commission

The general purposes of the Alcohol & Tobacco Commission's work, as defined by law, are:

- To protect the economic welfare, health, peace and morals of the people of this state
- To regulate and limit the manufacture, sale, possession, and use of alcohol and alcoholic beverages
- To provide for the raising of revenue



- The Indiana Alcoholic Beverage Commission was created by an Act of the Indiana General Assembly in 1933, following the repeal of Prohibition. Effective July 1, 2001, the name was changed to the Alcohol and Tobacco Commission.
- The Commission is composed of four (4) members appointed by the Governor of the State of Indiana.



- There are also local alcoholic beverages boards in each of the state's 92 counties who consider and review all applications for alcoholic beverage permits in their particular area. An important part of the Commission is its law enforcement division - the Indiana State Excise Police.

The Commission licenses and regulates approximately 15,000 permits for the manufacture, operation or sale of alcoholic beverages at all restaurants, breweries, wineries, grocery stores, hotels, drug stores, package stores, stadiums, civic centers, social and fraternal clubs, horse tracks and river boats throughout the State of Indiana.



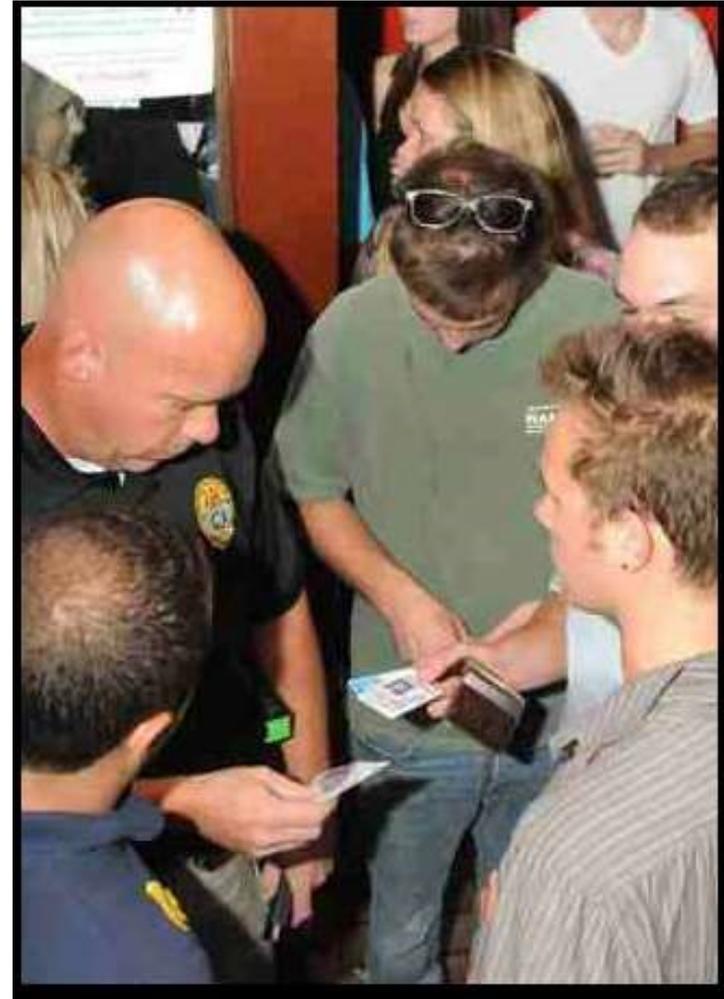
The Commission also licenses and regulates the permits of every bartender, waiter, waitress, salesperson and clerk associated with the sale or service of alcoholic beverages in the State of Indiana - almost 150,000 in number.

The Commission is responsible for raising revenue of approximately \$42 million for the citizens of Indiana.



Indiana State Excise Police

- Enforcement division of the Alcohol & Tobacco Commission
- Fully sworn police officers
- Mainly plainclothes with uniform for special details
- 6 Districts & GHQ





Duties of the Local Board

Local boards are the local arm of a state agency – not part of the county government in which they are located.

“You are the local link in our state alcoholic beverage licensing system. As such, you represent the state of Indiana, and your decisions must be based on current state laws and rules. You are also in a position to be responsive to local issues and views...”

Local Board Handbook (1998)



Types of Applications Investigated

- New Dealer/Retailer Permits
- Transfer of Existing Dealer/Retailer Permits
- Renewal of Existing Permits

The applicant (or his agent) must appear before the board for any new or transfer application, or any renewal for a location that has had a violation since its last renewal.





Investigation of Applications

- The District Excise Office normally conducts an onsite inspection of premise prior to the hearing.
- Members who wish to visit a location prior to a hearing should avoid discussing the application with anyone. Appointed members do not have search powers for on premise investigations.
- After conducting its investigation, the local board forwards its recommendation to the Commission.
- The ATC then reviews the local board's recommendations in deciding whether or not to approve the license.

Meetings provide local citizens the opportunity to voice their concerns about retailer and dealer permit applications in their neighborhoods.



To help protect the rights of both the applicants and the local community, the investigation of applications must be conducted accordance to the Open Door & Due Process laws.

Indiana's Open Door Law

Meetings are subject to Indiana's Open Door Laws, which prohibit discussion or decision on any matters related to an application outside of the public meeting.

In addition local boards must also:

- ✓ Post notice of meetings 48 hours in advance at agency office.
- ✓ Post agenda at entrance to meeting.
- ✓ Record minutes of the meeting.





Indiana Public Records Law

- The Access to Public Records Act (Act) was enacted to permit the citizens of Indiana broad and easy access to public documents. The citizens of Indiana have the right to obtain information relating their government and to more fully participate in the governmental process.
- Any request for local board-related records must be made to directly to the Alcohol & Tobacco Commission. Public Records Request Forms may be downloaded from the commission's website at www.in.gov/atc/2409.htm.

Notice and Hearing Requirements

INDIANA ALCOHOL AND TOBACCO COMMISSION (ATC)
PUBLIC NOTICE OF APPLICATION
FOR ALCOHOLIC BEVERAGE PERMIT

APPLICANT _____
ADDRESS OF PREMISES _____

The applicant has applied for a _____ ATC Application No. _____ & has filed for the following:
Type of premises and permit type by ATC number

A. NEW PERMIT
B. TRANSFER OF PERMIT TO:
 NEW OWNER (person to person transfer) FROM _____
 NEW LOCATION (place to place transfer) FROM _____
 NEW OWNER AND LOCATION (double transfer) FROM _____
C. STOCK TRANSFER RESULTING IN CHANGE OF CONTROLLING INTEREST (name of stockholder) _____

IMPORTANT INFORMATION
Permittees must appear personally or by counsel as a representative against the application at the Local Board Hearing and identify themselves to the Local Board stating their name and address or telephone number to the Local Board at the hearing.

This "Notice" must be continuously posted during the period the application is pending before the Local Board, which in no event shall be less than 10 days. The Local Board meets at _____ Room _____ on _____ 200 _____ at _____ M.

Direct all requests to:
Alcohol and Tobacco Commission
Indiana Government Center South
392 W. Washington Street Room E114
Indianapolis, IN 46204
For further information call: (317) 219-2430

WARNING: Removing, defacing, covering up or destroying this "Public Notice of Application" by anyone during the period the application is pending is a violation of the Alcohol and Tobacco Commission Code.

Date Posted

By (Signature)

PREMISES ARE CURRENTLY PERMITTED TO SELL ALCOHOLIC BEVERAGES YES NO

- The ATC shall make publication of the hearing notice in a newspaper of general circulation published in the county where the permit is to be in effect.

- Notices are also included at www.in.gov/atc
- Applicants must post a public notice at the proposed premise at least 10 days prior to the scheduled local board hearing.

Hearing Notices are mailed to local board members approximately one month prior to the meeting.

Permit Number & Type

Name/Address

New/Transfer/Renewal



Alcohol and Tobacco Commission

302 West Washington Street, Room E114
Indianapolis, Indiana 46204 (317) 232-2430

April 3, 2008

Excise District No. 5

HEARING NOTICE

The Alcoholic Beverage Board of Knox County, Indiana, at 1:30 PM on May 13, 2008, at the City Hall, City Council Chambers in the city of Vincennes, at a public hearing, will investigate the propriety of holding an alcoholic beverage permit by the 9 applicants listed herein, to wit:

DL4221237 DEALER - BEER, WINE AND LIQUOR RENEWAL
WAL-MART STORES EAST LP, 650 KIMMEL RD, VINCENNES
d/b/a WAL-MART SUPERCENTER # 492

DL4220320 DEALER - BEER AND WINE RENEWAL
CASEY'S MARKETING COMPANY, 1902 WILLOW STREET, VINCENNES
d/b/a CASEY'S GENERAL STORES 2271
MICHAEL R RICHARDSON, 4865 COPPER CREEK DR, CAPITOL HEIGHTS IA, PRES. ELI JAMES WIRTZ, 9817 VALDEZ DR, URBANDALE IA, SECY.

RC4213604 RETAILER - BEER, WINE AND LIQUOR RENEWAL
VETERANS OF FOREIGN WARS 1157, 2401 HART ST RD, VINCENNES
d/b/a VETERANS OF FOREIGN WARS

RR4206068 RETAILER - BEER AND WINE TRANSFER OWNERSHIP
10 N 2ND LLC, 10 N SECOND ST, VINCENNES
d/b/a COOPER'S TAVERN

RR4210671 RETAILER - BEER, WINE AND LIQUOR RENEWAL

Organization of Local Boards

There are four voting members on each local board. Appointments may be made without regard to political affiliation and run from January to December.

- One member appointed by the board of county commissioners.
- One member appointed by the executive office of the largest city in the county.
(except in counties with two or more cities over 10,000 in population).
- One member appointed by county council.
- Designated member appointed by the A.T.C. (usually an excise officer).



Duties of Members

President:

- Presides at meetings
- Signs meeting minute forms

Designated Member:

- Conducts on-site inspections
- Transmits evidence to A.T.C.



Due Process during Investigation



Members of the community who wish to speak or offer evidence regarding an applicant are known as “remonstrators”.

- Local Boards may utilize any and all information presented at the hearing; however, it may not consider information obtained outside of the hearing process.
- The applicant may be allowed to proceed first.
- Remonstrators may then offer testimony and evidence.
- The applicant may then present rebuttal evidence.

Hearing Procedures



- All persons shall be allowed to speak at a local board meeting. (however, local boards may set reasonable time limits).
- A local board may give more weight to testimony provided by property owners & residents and/or business operators & owners located within 1,000 feet of the permit location.
- Effective 1/1/2012 ALL local board hearings will be recorded by digital audio recorders.
- Anyone wishing to testify at the hearing must sign the remonstrator sheet.

Quorums & Continuances

- Continuances may only be granted by the designated member of the board.
- Continuances should not exceed 90 days.
- If further continuances are requested, they should be approved by the Executive Secretary or the Commission.



- Quorum = Minimum of three member.
- Because most local boards meet only once a month, it is important that members attend meetings whenever possible to avoid unnecessary delays.

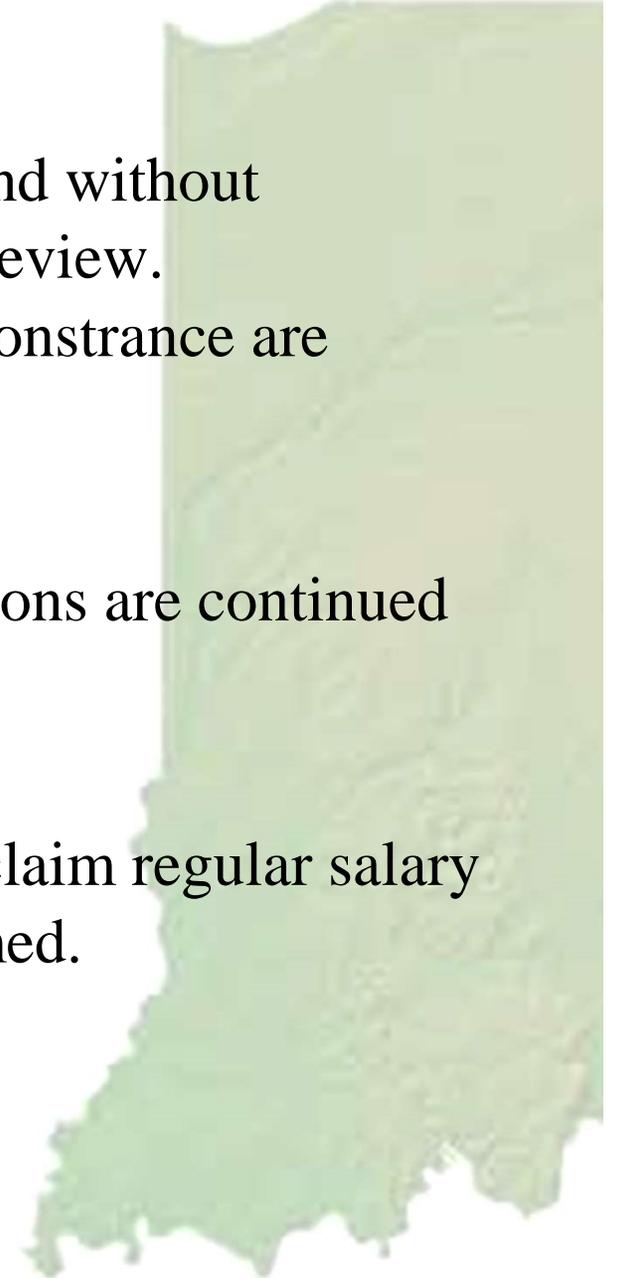
Commission Policy Meetings with No Quorum

All renewal applications without remonstrance and without violations are forwarded to the Commission for review.

All new and/or transfer applications without remonstrance are forwarded to the Commission for review.

All applications with remonstrance and/or violations are continued until they can be heard by a quorum.

Any appointed member in attendance may only claim regular salary and mileage. No investigation fees may be claimed.



Voting Options

There are three voting options available for local board members:



“Recommended Approved”

-full two year period



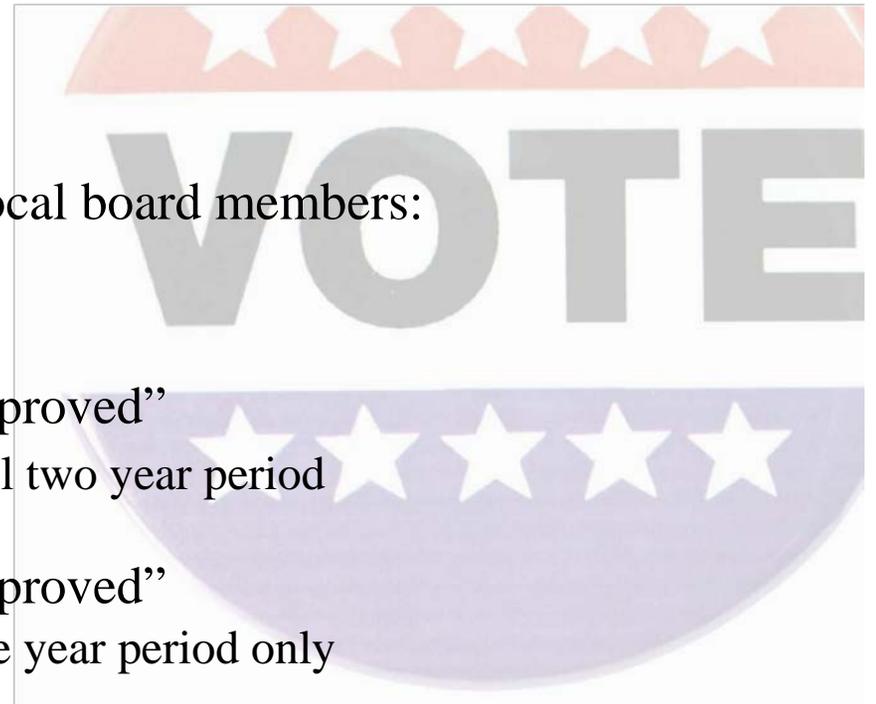
“Recommended Approved”

-one year period only



“Recommended Disapproved”

Local board members must make their decisions based on what is required of the applicant under Indiana law and may not add restrictions (i.e. limited hours of operation/additional separation) as a condition for their favorable recommendation to the A.T.C.



Reasons for Denial

(New or Transfer Applications)

-  Applicant does not possess a high & fine reputation.
-  No need for the services at the location. No community desire for the services.
-  Services would have negative impact on other businesses in the community.
-  Premise is within 200' of church or school.
-  Premise is located within residential area (as defined by I.C. 7.1-1-3-38).

200' Rule

- 7.1-3-21-11. Location of premises in proximity to school or church Prohibitions Restrictions.
 - (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.

Ruler

Line Path

Measure the distance between two points on the ground

Map Length: 53.23 Feet

Ground Length: 53.24

Heading: 180.72 degrees

Mouse Navigation

Save Clear

120 S Market St, Rockville

Image IndianaMap Framework Data

© 2011 Google

Imagery Date: 2/28/2005 1998

39°45'42.30" N 87°13'46.32" W elev 716 ft

Reasons for Denial

(Renewal Applications)



Permittee does not maintain a high & fine reputation.



Permittee has allowed premise to become a public nuisance.



Permittee refuses to comply with law or or rule of the commission.



Permittee has ceased to possess any of the qualifications required for the issuance of that particular type of permit.



Permittee has not fully disclosed the true facts in respect to the location of the premise for which the permit is applied.

Alcohol and Tobacco Commission
302 West Washington Street, Room E114
Indianapolis, Indiana 46204
(317) 232-2430

SUPPLEMENTAL LICENSES AND RESTRICTIONS
Sunday Sales

RETAILER PERMIT
BEER, WINE AND LIQUOR

PERMIT NUMBER	PERMIT TYPE	COUNTY	ISSUE DATE	EXPIRE DATE	SEATS
RH4205202	215	Knox	7/12/2007	7/18/2008	Unlimited

EXECUTIVE INN HOTEL - VINCENNES, INC
d/b/a EXECUTIVE INN OF VINCENNES
1 EXECUTIVE BLVD
VINCENNES IN 47591
ZOHEIR MAAROUF, PRES. ZOHEIR MAAROUF, SECY.

The above named permittee is hereby authorized to sell Beer, Wine and Liquor as a Retailer at and in the above designated premises in accordance with, and subject to, Title 7.1 of the Indiana Code and all acts supplemental or amendatory thereto and the rules, regulations, and orders of the Alcohol and Tobacco Commission. This permit is subject to revocation and/or suspension by the Commission at any time.

Dave Heath
Chairman
Alcohol and Tobacco Commission

STATE FORM 63122 05-05

Member Compensation

- Appointed members receive an annual salary of \$240.
- This salary is paid in monthly installments of \$20.
- Members also receive \$3 for each permit investigated (i.e. voted on).
- The current state rate for mileage is also paid for travel >2 miles.
- Members may not hold other “lucrative” office.





Alcohol and Tobacco Commission

302 West Washington Street, Room E114
Indianapolis, Indiana 46204 (317) 232-2430

March 13, 2008

Member's Name &
Address

KOKOMO IN 46901

Date of Meeting

LOCAL BOARD CLAIM FORM

LOCAL BOARD	BOARD MEETING DATE	VOUCHER NUMBER	39634
	04/24/2008	SOCIAL SECURITY NO.	XXX-XX-XXXX
		BOARD MEMBER NO.	3

Total Salary Claimed

		APPROVED BY STATE BOARD OF ACCOUNTS 1999	
		MONTHLY	YEARLY
Monthly Salary		04/2008	\$ \$ 20.00
Applications Investigated	APPLICATION INVESTIGATION (LAW PER SCHEDULED APPLICATIONS) \$ 21.00	NO. APPLICATIONS	RATE PER APPLICATION \$ 3.00
Mileage	NET MILES ROUND-TRIP MILES LESS TWO MILES. A MILEAGE CLAIM IS ALLOWED ONLY FOR THE FIRST HEARING ATTENDED FOR THE DAY. A MILEAGE CLAIM IS NOT ALLOWED FOR SUBSEQUENT HEARINGS ATTENDED ON THE SAME DAY.	NET MILES CLAIMED 12	RATE PER MILE \$ 0.40
TOTAL CLAIM AMOUNT (IF NO CHANGE IN APPLICATIONS INVESTIGATED)			\$

List of applications
considered at meeting

I hereby certify that the foregoing is just and correct, that the amount claimed is legally due me after allowing all just credits, and that no part of same has been paid. I further certify that, if the claim includes permit investigations, I have signed the Local Board Voting Sheet.		I hereby certify that the statutory Local Board Voting Sheet has been filed. (An Excise Officer's signature is not required if the claim does not include permit investigation).	
SIGNATURE OF CLAIMANT	DATE SIGNED	SIGNATURE OF EXCISE OFFICER	DATE SIGNED

PERMIT NUMBER	PERMIT TYPE	PERMITTEE NAME	INVESTIGATED	
			YES	NO
DL3401949	217	SOUPLEY'S INC	___	___
DL3404368	217	SOUPLEY'S INC	___	___
DL3420253	115	CASEY'S MARKETING COMPANY	___	___
DL3420256	115	CASEY'S MARKETING COMPANY	___	___
DL3495113	208	MEIJER STORES LIMITED PARTNERSHIP	___	___
RR3404325	210	MILBURN E HATFILED	___	___
RR3491059	112	PASTARRIFIC, INC.	___	___

TOTAL PERMITS 7

Appeal Process

- Once the Commission grants or denies an application, interested parties have (15) fifteen days to appeal the Commission's action.
- The Commission's Hearing Judge sets a date for an appeal hearing.
- Before the appeal hearing, the Hearing Judge reviews the transcript and audio tapes of the Local Board hearing (the Hearing Judge's review of the Local Board proceeding is de novo, meaning that the Hearing Judge is not bound by the Local Board's vote or any factual findings made by its members.)
- At the appeal hearing, the parties and remonstrators may present exhibits, testimony, and other evidence at the discretion of the Hearing Judge.
- After the appeal hearing, the Hearing Judge issues proposed Findings of Fact and Conclusions of Law to the Commission.
- The Commission then votes on the proposed Findings and Conclusions, which may reverse or affirm the Local Board decision, or occasionally remand the matter to the Local Board for further proceedings.

Why are some recommendations not adopted?

Under I.C. 7.1-3-19-11, the Commission must follow the recommendation of the local board unless, upon de novo review, it determines that to follow the recommendation would be:

- Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
- Contrary to constitutional right, power, privilege or immunity;
- In excess of, or contrary to, statutory jurisdiction, authority, limitations, or rights;
- Without observance of procedure required by law; or
- Unsupported by substantial evidence.

Ethics Considerations

Rule: 42 IAC 1-5-6 Conflicts of Interest; Decisions and Voting: A local board member may not participate in any decision or vote if the member has knowledge that any of the following has a financial interest in the outcome of the matter:



- The local board member.
- A member of the immediate family of the member.
- A business organization in which the member is serving as an officer, a director, a trustee, a partner, or an employee. Any person or organization with whom the member is negotiating or has an arrangement concerning prospective employment.

Ethics Considerations

I.C. 7.1-5-5-2 Receipt of Gifts



“It is unlawful for a commissioner, an officer or employee of the commission, or a member of a local board, to receive a gratuity, commission, or profit of any kind from a person applying for or receiving a permit under this title. A person who violates the provisions of this section also shall be dismissed as provided in this title.”

Ethics Considerations

House Enrolled Act 1153

House Enrolled Act 1153 makes the Alcohol & Tobacco Commission responsible for administering “Type II” gaming in the state. Type II gaming includes tip tickets, pull tabs, raffles and drawings conducted in taverns.

This act also prohibits employees of the Commission from playing or participating in Type II gaming in any manner.



Thank You...

for your service to your fellow citizens of Indiana.

If at any time you feel you are unable to fulfill the requirements of membership on the board, please let your appointing body know immediately.



For further information, contact the

- Indiana Alcohol & Tobacco Commission at (317) 232-2452 or www.in.gov/atc or the
- Indiana State Excise Police at:

District 1 Bristol (574) 264-9480
District 2 Columbia City (260) 244-4285
District 3 Crawfordsville (765) 362-8815
District 4 Seymour (812) 523-8314
District 5 Vincennes (812) 882-1292
District 6 Indianapolis (317) 541-4100

