2025 Legislative Update: Alcohol, Tobacco, Type II Gaming, & LEO

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Alcohol & Tobacco Legislation

Index of Impacted Statutes
(Alcohol & Tobacco Bills)

Enrolled Act	Description	Impacted Indiana Code Sections (ATC Bills)
HEA1053	Wine Delivery, Artisan Distillers, DORA Cups, and New Permits	7.1-3-15-3; 7.1-3-18-9; NEW 7.1-3-20-16.8(j)-(k); 7.1-3-23-6; 7.1-3-27-3; 7.1-3-27-8; NEW 7.1-3-31-12(b)
HEA1275	Alcohol Tobacco Commission	4-36-2-20; NEW 6-7-2-8(g); 7.1-1-3-47.5; 35-46-1-1.7-1.8; 35-46-1-10 & §§ 10.2, 10.5, 11.5, 11.7, 11.8; 7.1-2-3-17; 7.1-2-4-14; 7.1-2-4-15; 7.1-3-1-3.1; 7.1-3-1-6.4; 7.1-3-1-25; 7.1-3-1.5-1; NEW 7.1-3-6.3 et seq; 7.1-3-4-2; 7.1-3-6.1-6; 7.1-3-6.1-7; 7.1-3-6.2-6; 7.1-3-6.5-3; 7.1-3-6.5-5; 7.1-3-6.5-6; 7.1-3-9-1; 7.1-3-14-3; 7.1-3-18.5-6; 7.1-3-18.5-7; 7.1-6-2-6; 7.1-6-2-8; 24-3-5-5; 24-3-5-8; NEW 7.1-3-18.5-11(b); 7.1-3-21-8; 7.1-3-23-6; 7.1-5-7-3 ; NEW 7.1-5-7-11(a)(33); NEW 7.1-5-8-14; 35-46-6-3; 7.1-5-9-14; 7.1-5-10-20; 7.1-5-11-16; STRIKES 35-52-7-96; NEW 7.1-7-2-17.7; NEW 7.1-7-5-5; 35-52-7-97; ALL Scopes of Permit Sections (Donation Allowance)
HEA1276	Various Alcohol and Tobacco Matters	NEW 7.1-3-2-7(5)(S); 7.1-3-5-3; NEW 7.1-3-9-11(a)(7); 7.1-3-9.5-3; 7.1-3-10-7; NEW 7.1-3-10-13(a)(7); STRIKES 7.1-3-12-5(a)(4); 7.1-3-15-3; NEW 7.1-3-20-26(b); 7.1-3-20-27; NEW 7.1-3-20-29(a)(1) & (2); 7.1-3-23-16; 7.1-3-27-8; NEW 7.1-3-27-8(a)(13); NEW 7.1-3-32 et seq; 7.1-5-10-12
HEA1468	Supplemental Cigar Permit & Cigar Room	NEW 7.1-3-18.6 et seq; NEW 7.1-3-20-8.7

HEA1053

HEA 1053: Overview

- Alcohol provisions effective July 1, 2025
- Creates new non-quota alcoholic beverage permits
- Parity in delivery privileges for wine dealers
- Shorten notice period for revocation & suspensions
- Updates artisan distiller permit scope
- Sourcing of cups in DORA ordinances

HEA 1053: New Permits

New Permits for City of Warsaw- 7.1-3-20-16.8(j)-(k)

- Three (3) non-quota, economic development district permits
- New three-way restaurant permits
- Non-transferrable except ownership if location no longer economic development area
- $40,000 initial permit fee

New Permit for Town of Syracuse- 7.1-3-20-16.8(l)-(m)

- One (1) non-quota, economic development district permit
- New three-way restaurant permit
- Non-transferrable except ownership if location no longer economic development area
- $40,000 initial permit fee

HEA1053: DORAs, Days, and Dealers

Wine Dealer Delivery- 7.1-3-15-3(d)(1)

- Deliver wine in permissible containers to home or office of customer
- Delivery only by licensed employee of wine dealer
- Adds wine delivery to reason issue employee permit- 7.1-3-18-9(a)(4)
- Gives wine dealers same delivery privileges as other dealers

Notice of Suspension or Revocation Hearings- 7.1-3-23-6

- ATC must give notice three (3) business days prior to hearing
- Prior law required ten (10) days notice
- Compromise regarding ATC emergency authority

DORA Cups- 7.1-3-31-12(b)

- Municipality cannot require DORA participant to purchase cups from a specific vendor

HEA1053: Artisan Distillers

Maximum Production Cap (7.1-3-27-3)

- Current cap is 20,000 gallons liquor per year
- New cap is 30,000 gallons liquor per year
- Any permit holders approaching cap?

Self-Distribution (7.1-3-27-8)

- Artisan distiller can sell direct to retailers if:
  - Does not sell to a wholesaler
  - Distributes ≤ 10,000 gallons in Indiana annually
    - HEA1053 increased from 9,000 gallons
- Self-distribution cap is 2,000 gallons liquor
  - HEA1053 increased from 1,000 gallons

HEA1053: Collaborative Distilling

New Privilege- Collaborative Distilling (7.1-3-27-8)

- Artisan distiller may contract to manufacture liquor for another artisan distiller
- How useful is this privilege?

Conditions & Limitations on Collaboration

- Distiller for which product distilled manufactures 40+ gallons liquor from raw materials at licensed premises
- Distiller manufacturing liquor for another permittee may not distill more product under contract than distill from raw materials under its permit

HEA1275

HEA1275: Overview

ATC's 2025 Agency Bill

- Fix type II gambling game definition
- Flavored nitrous oxide ban
- Consistent definition "tobacco product"
- Misc modernizations & technical revisions
- Address gaps in dram shop requirement
- Permits for civic center concessionaires
- Bouncer employee permits
- Donation authority added to permits
- Donations for onsite consumption of donated product
- Electronic participation- charity raffles & auctions
- Eliminated keg registration program

HEA1275: Overview Cont.

ATC's 2025 Agency Bill

- Expands allowable use of Doyle Fund monies
- Allows ATC recover disposal cost for contraband
- Narrowed ownership disclosure requirement
- Infraction for minor's use of fake ID to purchase tobacco
- Small brewery added to limited separation exception
- Lifts ban transportation alcoholic beverages on Sunday
- Bans products categorized as "nicotine analogue"

Emergency effective date (upon passage):

- Administrative (fee waived) extensions
- Ownership disclosure modernization

HEA 1275: Modernizations & Technical

Misc. Modernizations

- Repeal registration of formulas, brands, etc. (7.1-2-3-17)
- Electronic local board minutes & clean up (7.1-2-4-14 & 15)
- Fee waived extensions for ATC error or delay (7.1-3-1-3.1)
- Eliminate keg registration program (7.1-3-6.5-3, §5, & §6)
- Update special disqualification for legal status (7.1-3-4-2)
- Electronic participation charity auction and raffle (7.1-3-6.2 & 6.3)

Technical Updates

- Clarify special disqualifications apply liquor retail (7.1-3-9-1)
- Language updates wine retail scope of permit (7.1-3-14-3)
- Ban on sales to non-permittees applies all permits (7.1-5-9-14)
- Clarifies event packages allowed under 7.1-5-10-20(a)(4)
- Creates consistency across IC definitions “tobacco product”

HEA 1275: Tobacco Product & Alternative Charges

“Tobacco Product” means:

“…a product that: (1) contains tobacco or nicotine, including e-liquid (as defined by IC 7.1-7-2-10); (2) is intended for human consumption; and (3) is not approved by the federal Food and Drug Administration for tobacco cessation.”

This is the definition used throughout Indiana Code.

Alternative Charge- Fake ID to Purchase Tobacco

ISEP can now charge minors with infraction for using a fake to purchase tobacco

Current law only provide misdemeanor for this activity while allowing infraction of using fake ID to purchase alcohol

HEA 1275: Gaming & Donations

Type II Gaming

- Definition "Type II gambling game" updated for sports wagering theme with maximum ticket price set at $10

Charity Raffles & Auctions

- Allows electronic participation in charity raffle or auction
- Requires alcoholic beverage prizes to be claimed in person
- NOT applicable to Type II gaming!

Donations

- Scope of permit sections updated to allow alcohol donations
- New chapter created allowing donations for consumption on premises at charity event (7.1-3-6.3)
- 7.1-3-6.3 establishes rules and requirements for donations <u>between permit holders</u> (rules don't apply to other donations)
- Cash donations between permit holders prohibited (7.1-3-6.3-5)

HEA 1275: Dram Shop & Disclosure

Liquor Liability Insurance (7.1-3-1-6.4)

- Exemption for craft manufacturers without on premises consumption
- Removes minimum coverage requirement
- Endorsement on general liability policy acceptable
- Exception for permit holders with gross receipts from sale of alcoholic beverages of no more than $25,000 in prior year

Ownership Disclosure Requirements (7.1-3-21-8)

- Reduces disclosure to holders of at least 5% interest
- Disclosure limited to owners with operational control

HEA 1275: Aerosols & Analogues

Flavored Nitrous Oxide

- Bans tobacco distributors selling flavored nitrous oxide (6-7-2-8(g))
- Misdemeanor to sell flavored nitrous oxide except (35-46-6-3):
  - By a wholesale or retail restaurant supplier
  - To an individual or business for culinary purposes
- Violation for permittee to sell flavored nitrous oxide in contravention of 35-46-6-3 (7.1-5-8-14)

Nicotine Analogue (7.1-7-5-5)

- Nicotine analogue is chemically similar to nicotine & advertised as having nervous system effects equal to or greater than nicotine
- Misdemeanor to sell nicotine analogue product
- How determine if product is nicotine analogue?
  - Advertising, label, marketing
  - Intent to avoid tobacco regulations

ATC recover disposal cost for contraband (7.1-3-18.5-11(b))

HEA 1275: Remaining Revisions

Civic Center Permits (7.1-3-1-25)

- Clarify concessionaires contracted with local can hold permit
- Update all civic center permit types to allow vendor hold permit

New Employee Permit Requirement (7.1-3-1.5-1)

- Employee permit required for staff that checks IDs and controls entry to 21+ establishment
- Intended to target bouncer type employee

Doyle Fund Monies (7.1-3-18.5-6)

- Fund comprised of all tobacco related civil penalties
- Use currently restricted to youth tobacco functions
- Expanded to fund all tobacco enforcement & education

Small Breweries- Limited Separation (7.1-5-7-11(a)(33))

- Small brewer and connected retail permit exempt from limited separation required by 905 IAC 1-41-2

HEA1276

HEA 1276: Overview

- Farm Markets!
- No limits on dealer transactions
- Mixed Beverage Samples
- Craft manufacturer expo days
- Noncontiguous patios
- Logansport theater permit
- Indy City Market food hall master permit

HEA 1276: Farm Markets!

Farm Market Participation

- Farm market participation added to craft manufacturing permits
- Must obtain ATC approval to participate in each farm market
- All craft manufacturers can sell product for offsite consumption
- Farm wineries & small brewers can also serve samples

New Farm Market Chapter (7.1-3-32)

- Allows municipalities to limit or ban all or some craft manufacturers from participating in local farm market
- Municipalities may ban sampling

Expo Days- All Craft Manufacturers

- Expo days increased from 45 to 75 days per year
- Increased to accommodate farm market participation

HEA 1276: Transactions Ample & RTD Sample

Repeal of Dealer Transaction Limits

- Repeals transaction limits for dealer permits
  - Beer dealer sales (7.1-3-5-3(d))
  - Liquor dealer delivery (7.1-3-10-7(c))
  - Wine dealer sales (7.1-3-15-3(b))

Liquor Permits Sampling Mixed Beverages

- Liquor retailers sample mixed drinks (7.1-3-9-11(a)(7))
- Liquor dealers sample mixed drinks (7.1-3-10-13(a)(7))

HEA 1276: Permits & Patios

New Three Way Theater Permit (7.1-3-20-26(b))

- Indoor theater
- City with population of 18,000 to 20,000 (Logansport)
- Historic district listed National Historic Preservation Act

Food Hall Master Permit Update (7.1-3-20-29(e))

- New food hall master permit created for Indy City Market

Patios (7.1-3-20-27)

- Allows patio within 100 feet of permitted building
- No 3rd party property interest between patio & permitted bldg
- If within r/w must have written permission r/w owner
- Contact ISEP local board officer for floor plan amendment

HEA1468

HEA1468: Cigar Room

Cigar Room (7.1-3-20-8.7)

- Restaurant, club, hotel permit
- Segregated, closed room for cigar consumption
- Connected to outdoor patio
- Well ventilated
- Not connected dining room
- Cigar room limited 21+ (corresponding signage posted)
- Permittee must obtain written permission local government
- Emergency created for this provision on HEA1468

HEA1468: Supplemental Cigar Permit

Supplemental Cigar Sales Certificate (7.1-3-18.6)

- Certificate sell cigars at event located somewhere other than holder's licensed premises
- Modeled on supplemental catering permit
- Requires holder to have tobacco sales certificate
- DOES NOT allow smoking in violation of smoking ban

Administrative Terms of Certificate

- $1,000 application and renewal fee
- Certificates issued for 3-year period
- Holder must notify ATC of events at least 5 days prior
- ATC must send denials by electronic or certified mail
- Separate and distinct license

INDIANA DEPARTMENT OF REVENUE

2025 Legislative Changes

Collin Davis, Director of Tax Policy
Indiana Department of Revenue

Overview

- HEA 1001
  - Budget Bill
  - Tax rate changes
  - Funding changes
- SEA 453
  - DOR Agency Bill
  - Technical changes
- HEA 1275
  - Alcohol and Tobacco Commission Matters
  - Nitrous Oxide prohibition
- Ongoing Issues

HEA 1001 – Budget Bill

- Effective July 1, 2025, increases the tax rates of cigarette tax, OTP tax, closed system cartridge tax, and electronic cigarette tax
- The distribution of these taxes, plus associated penalties, fines and fees, changed as well, with an emphasis on funding Medicaid.

HEA 1001 – Cigarette Tax

- Increases the cigarette tax rate from $0.995 a pack of Class A cigarettes to $2.995 (the tax rate for Class B cigarettes is also increased to $3.98)
- Changes the distribution of cigarette taxes, fees, fines, and penalties collected under IC 6-7-1 in the following manner:
  - Deposits 1.76% of the revenue in the cigarette tax fund instead of 4.22%.
  - Deposits 23.67% of the revenue in the general fund instead of 56.84%.
  - Deposits 2.26% of the revenue in the pension relief fund instead of 5.43%.
  - Deposits 11.26% of the revenue in the healthy Indiana plan trust fund instead of 27.05%.
  - Deposits 59.38% of the revenue in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations instead of 2.46%.
  - Deposits 1.67% of the revenue shall in the state retiree health benefit trust fund instead of 4%.

HEA 1001 – Cigarette Inventory Tax

- Revenue stamps paid for before July 1, 2025, and in the possession of a distributor may be used after June 30, 2025, only if the full amount of the new cigarette tax rate, is remitted to DOR under the procedures prescribed by DOR.
- Basically, owe the difference between the old rate and the new rate on all such stamped cigarettes and unaffixed stamps.
- Must document a physical inventory of all Indiana stamped cigarettes (located in a warehouse, on docks, in trucks, and any other place where distributor has risk of loss) and unaffixed stamps (including any stamps in transit) by close of business June 30, 2025, on a form that will be provided with instructions on DOR's website by June 2, 2025.
- Does not apply to retailers.

HEA 1001 – Other Tobacco Products Tax

- Increases the tax rate from 24% to 30% on the wholesale price of tobacco products other than moist snuff.
- Increases the tax rate from $0.40 to $0.50 per ounce on moist snuff.
- Increases the tax rate from 24% to 30% on the wholesale price of cigars, and increases the maximum tax imposed from $1 to $3.
- Increases the tax rate from $0.40 to $0.50 per ounce on alternative nicotine products.

HEA 1001 – Closed System Cartridge Tax

- Increases the tax rate from 15% to 30% on the wholesale price of closed system cartridges.
- Changes the distribution of other tobacco products and closed system cartridge taxes, fees, fines, and penalties by decreasing the amount deposited in the affordable housing and community development fund established by IC 5-20-4-7 from 25% to 19.41%.
- The remainder is deposited as required by the cigarette tax deposit rules.

HEA 1001 – Electronic Cigarette Tax

- Increases the tax rate from 15% to 30% on the retail income from the sale of electronic cigarettes.
- Changes the distribution of electronic cigarette taxes, fees, fines, and penalties by decreasing the amount deposited in the general fund from 100% to 60.81% and requiring the remaining 39.19% to be deposited in the state general fund for the purpose of paying appropriations for Medicaid—Current Obligations.

SEA 453 – Relevant Changes

- Increases the renewal rate from annually to every two years for other tobacco products tax distributor's license, closed system cartridge tax distributor's license, and electronic cigarette tax retail dealer's certificate.
- Makes technical changes clarifying who is responsible for collecting OTP tax or CSC tax in distributor-to-distributor transactions.

HEA 1275 – DOR Impact

- Provides that a closed system cartridge tax or OTP tax distributor is prohibited from selling, using, or distributing flavored nitrous oxide.
- Further provides if a distributor violates these requirements, DOR may suspend or revoke the distributor's license and impose sanctions on the distributor in an amount equal to the cost of disposing of the flavored nitrous oxide.

Ongoing Issues

- CSC Tax and Electronic Cigarette Tax apply regardless of whether the taxable product contains (or is used with) nicotine.
  - The relevant definitions make no mention of nicotine as a requirement
  - Taxable whether or not it contains nicotine, Cannabidiol (CBD), or any other substance (even if it has no additive at all)
- The definition of “alternative nicotine product” makes no distinction regarding where the nicotine is derived, either naturally or artificially, from one plant or another.
- Industry confusion between open/closed products at retail.
- Having the proper licensing for Electronic Cigarette Tax .

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