

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1116

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-3-13-2.5, AS AMENDED BY P.L.186-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. All premises to be used by an applicant for a wine wholesaler's permit must be described in the application for the permit and in the permit, if the permit is issued. A wine wholesaler may not keep or store wine at any place other than the premises described in the wine wholesaler's application and permit. A person who holds a wine wholesaler's permit and who also holds a beer wholesaler's permit is not disqualified from using multiple premises for the storage of wine because the person holds a beer wholesaler's permit. The holder of a wine wholesaler's permit ~~issued under~~ **described in** IC 7.1-4-4.1-13(c) may enter into an agreement to:

- (1) locate the wine wholesaler's business within the licensed premises of a farm winery or a farm winery brandy distiller; or
- (2) use goods and services provided by a farm winery or a farm winery brandy distiller;

or both.

SECTION 2. IC 7.1-3-27-6, AS ADDED BY P.L.109-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A holder of an artisan distiller's permit may also hold one (1) of the following:

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- (1) A farm winery permit.
- (2) A brewer's permit for a brewery described in IC 7.1-3-2-7(5).
- (3) A distiller's permit under IC 7.1-3-7.

(b) A holder of an artisan distiller's permit who also holds a permit described under subsection (a)(2) may hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant as described in IC 7.1-3-2-7(5)(C).

SECTION 3. IC 7.1-5-9-10, AS AMENDED BY P.L.71-2012, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in:

- (1) a brewer's permit for a brewery that manufactures not more than thirty thousand (30,000) barrels of beer in a calendar year for sale or distribution within Indiana; **and**
- (2) **an artisan distiller's permit if the holder of the retailer's permit also holds a brewer's permit described in subdivision (1).**

SECTION 4. IC 7.1-5-12-4, AS ADDED BY P.L.141-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) Except as provided in section 5 of this chapter, smoking is prohibited in the following:

- (1) A public place.
- (2) A place of employment.
- (3) A vehicle owned, leased, or operated by the state if the vehicle is being used for a governmental function.
- (4) The area within eight (8) feet of a public entrance to:
 - (A) a public place; or
 - (B) a place of employment.

(b) An employer shall inform each of the employer's employees and prospective employees of the smoking prohibition applying to the place of employment.

(c) An owner, operator, manager, or official in charge of a public place or place of employment shall remove ashtrays or other smoking paraphernalia from areas of the public place or place of employment where smoking is prohibited under this chapter. However, this subsection does not prohibit the display of ashtrays or other smoking paraphernalia that are intended only for retail sale.

(d) This subsection does not apply to an owner, an operator, a



manager, or an official in charge of a public place or place of employment in which smoking is allowed under section 5 of this chapter. An owner, operator, manager, or official in charge of a public place or place of employment shall post conspicuous signs at each public entrance that read "State Law Prohibits Smoking Within 8 Feet of this Entrance" or other similar language.

SECTION 5. IC 7.1-5-12-5, AS ADDED BY P.L.141-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Except as provided in subsection (c) and subject to section 13 of this chapter, smoking may be allowed in the following:

- (1) A horse racing facility operated under a permit under IC 4-31-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.
- (2) A riverboat (as defined in IC 4-33-2-17) and any other permanent structure that is:
 - (A) owned or leased by the owner of the riverboat; and
 - (B) located on land that is adjacent to:
 - (i) the dock to which the riverboat is moored; or
 - (ii) the land on which the riverboat is situated in the case of a riverboat described in IC 4-33-2-17(2).
- (3) A facility that operates under a gambling game license under IC 4-35-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.
- (4) A satellite facility licensed under IC 4-31-5.5.
- (5) An establishment owned or leased by a business that meets the following requirements:
 - (A) The business was in business and permitted smoking on December 31, 2012.
 - (B) The business prohibits entry by an individual who is less than twenty-one (21) years of age.
 - (C) The owner or operator of the business holds a beer, liquor, or wine retailer's permit.
 - (D) The business limits smoking in the establishment to either:
 - (i) cigar smoking; or
 - (ii) smoking with a waterpipe or hookah device.
 - (E) During the preceding calendar year, at least ten percent (10%) of the business's annual gross income was from:
 - (i) the sale of cigars and the rental of onsite humidors; or
 - (ii) the sale of loose tobacco for use in a waterpipe or hookah device.
 - (F) The person in charge of the business posts in the



establishment conspicuous signs that display the message that cigarette smoking is prohibited.

(6) A premises owned or leased by and regularly used for the activities of a business that meets all of the following:

(A) The business is exempt from federal income taxation under 26 U.S.C. 501(c).

(B) The business:

(i) meets the requirements to be considered a club under IC 7.1-3-20-1; or

(ii) is a fraternal club (as defined in IC 7.1-3-20-7).

(C) The business provides food or alcoholic beverages only to its bona fide members and their guests.

(D) The business, during a meeting of the business's members, voted within the previous two (2) years to allow smoking on the premises.

(E) The business:

(i) provides a separate, enclosed, designated smoking room or area that is adequately ventilated to prevent migration of smoke to nonsmoking areas of the premises;

(ii) allows smoking only in the room or area described in item (i); and

(iii) does not allow an individual who is less than eighteen (18) years of age to enter into the room or area described in item (i).

(7) A retail tobacco store used primarily for the sale of tobacco products and tobacco accessories that meets the following requirements:

(A) The owner or operator of the store held a valid tobacco sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.

(B) The store prohibits entry by an individual who is less than eighteen (18) years of age.

(C) The sale of products other than tobacco products and tobacco accessories is merely incidental.

(D) The sale of tobacco products accounts for at least eighty-five percent (85%) of the store's annual gross sales.

(E) Food or beverages are not sold **for in a manner that requires** consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.

(8) A bar or tavern:

(A) for which a permittee holds:

(i) a beer retailer's permit under IC 7.1-3-4;



- (ii) a liquor retailer's permit under IC 7.1-3-9; or
 - (iii) a wine retailer's permit under IC 7.1-3-14;
 - (B) that does not employ an individual who is less than eighteen (18) years of age;
 - (C) that does not allow an individual who:
 - (i) is less than twenty-one (21) years of age; and
 - (ii) is not an employee of the bar or tavern; to enter any area of the bar or tavern; and
 - (D) that is not located in a business that would otherwise be subject to this chapter.
- (9) A cigar manufacturing facility that does not offer retail sales.
- (10) A premises of a cigar specialty store to which all of the following apply:
- (A) The owner or operator of the store held a valid tobacco sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.
 - (B) The sale of tobacco products and tobacco accessories account for at least fifty percent (50%) of the store's annual gross sales.
 - (C) The store has a separate, enclosed, designated smoking room that is adequately ventilated to prevent migration of smoke to nonsmoking areas.
 - (D) Smoking is allowed only in the room described in clause (C).
 - (E) Individuals who are less than eighteen (18) years of age are prohibited from entering into the room described in clause (C).
 - (F) Cigarette smoking is not allowed on the premises of the store.
 - (G) The owner or operator of the store posts a conspicuous sign on the premises of the store that displays the message that cigarette smoking is prohibited.
 - (H) Food or beverages are not sold **for in a manner that requires** consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.
- (11) The premises of a business that is located in the business owner's private residence (as defined in IC 3-5-2-42.5) if the only employees of the business who work in the residence are the owner and other individuals who reside in the residence.
- (b) The owner, operator, manager, or official in charge of an establishment or premises in which smoking is allowed under this section shall post conspicuous signs in the establishment that read "WARNING: Smoking Is Allowed In This Establishment" or other



similar language.

(c) This section does not allow smoking in the following enclosed areas of an establishment or premises described in subsection (a)(1) through (a)(10):

- (1) Any hallway, elevator, or other common area where an individual who is less than eighteen (18) years of age is permitted.
- (2) Any room that is intended for use by an individual who is less than eighteen (18) years of age.

(d) The owner, operator, or manager of an establishment or premises that is listed under subsection (a) and that allows smoking shall provide a verified statement to the commission that states that the establishment or premises qualifies for the exemption. The commission may require the owner, operator, or manager of an establishment or premises to provide documentation or additional information concerning the exemption of the establishment or premises.

SECTION 6. IC 14-18-2-3, AS AMENDED BY P.L.71-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) As used in this section, "inn" means a public facility that has the following:

- (1) At least twenty (20) rooms for the accommodation of overnight guests.
 - (2) A dining room that offers table service for at least forty (40) individuals at one (1) time during normal dining hours.
- (b) A lease and contract authorized by this chapter must include in its terms the following provisions and conditions:
- (1) The legal description of the leasehold. A survey for the description is not required.
 - (2) The term of the lease. The term may not exceed forty (40) years with two (2) additional options to renew of thirty (30) years each.
 - (3) Provision for the submission of complete plans and specifications to the department for review and written approval before beginning any construction.
 - (4) The manner of payment of rental.
 - (5) The facilities provided will be available to the public without discrimination and at charges designed to make the facilities available to a maximum number of the citizens of Indiana.
 - (6) That the rates and fees charged for goods and services on the leased area will be in accord with those charged at similar developments in the area.
 - (7) The disposition of the leasehold and improvements at the termination of the lease.



(8) Except as provided in ~~subsection~~ **subsections (c) and (e)**, if the lease and contract concerns state owned land under the management and control of the department, including state parks, a prohibition on the sale or public display of alcoholic beverages on the premises.

(c) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of an inn if

~~(1) the lease and contract concerns federally owned land under the control and management of the department; and~~

~~(2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.~~

(d) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a public golf course if:

(1) the lease and contract concerns federally owned land that is:

(A) under the control and management of the department; and

(B) located on Brookville Reservoir; and

(2) the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(e) A lease and contract authorized by this chapter may permit in its terms the retail sale of alcoholic beverages for consumption on the licensed premises of a pavilion located within Indiana Dunes State Park if the lessee or concessionaire applies for and secures the necessary permits required by IC 7.1.

(f) The retail sale of alcoholic beverages on licensed premises described in subsections (c), (d), and (e) is subject to any other applicable alcoholic beverage provisions under the Indiana Code and any rule adopted to implement any other applicable alcoholic beverage provisions under the Indiana Code.

(g) A lease and contract may prescribe other terms and conditions that the department considers necessary and advisable to carry out the intent and purposes of this chapter.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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