

HOUSE BILL No. 1210

DIGEST OF HB 1210 (Updated January 15, 2020 5:24 pm - DI 133)

Citations Affected: IC 7.1-5; IC 16-18; IC 16-27; IC 16-38; IC 16-42; IC 35-52.

Synopsis: Various health matters. Establishes penalties for intentionally interfering with an investigation and enforcement of a home health agency by the state department of health (department). Allows the department to use the immunization data registry to store and release nonimmunization personal health information. Changes the title of a "certified food handler" to "certified food protection manager" (CFPM). Repeals the definition of "food handler". Requires a CFPM to provide certain documents to the food establishment and obtain a valid certificate every five years. Prohibits using the title "certified food protection manager" unless the person holds a certificate. Provides that a CFPM may be required to be present during all hours of operation if the department and food establishment agreed upon a variance concerning the requirements for the operation of the food establishment. Amends the establishments that are exempt from the certified food protection manager requirements. Establishes new penalties. Provides for the transition of an existing certified food handler to a certified food protection manager. Makes conforming changes.

Effective: July 1, 2020.

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January 13, 2020, read first time and referred to Committee on Public Health. January 16, 2020, reported — Do Pass.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1210

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1	SECTION 1. IC 7.1-5-12-5, AS AMENDED BY P.L.231-2015,
2	SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3	JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (c) and
4	subject to section 13 of this chapter, smoking may be allowed in the
5	following:
6	(1) A horse racing facility operated under a permit under
7	IC 4-31-5 and any other permanent structure on land owned or
8	leased by the owner of the facility that is adjacent to the facility.
9	(2) A riverboat (as defined in IC 4-33-2-17) and any other
10	permanent structure that is:
11	(A) owned or leased by the owner of the riverboat; and
12	(B) located on land that is adjacent to:
13	(i) the dock to which the riverboat is moored; or
14	(ii) the land on which the riverboat is situated in the case of
15	a riverboat described in IC 4-33-2-17(2).
16	(3) A facility that operates under a gambling game license under
17	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
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 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) An establishment owned or leased by a business that meets the
following requirements:
(A) The business prohibits entry by an individual who is less
than twenty-one (21) years of age.
(B) The owner or operator of the business holds a beer, liquor,
or wine retailer's permit.
(C) The business limits smoking in the establishment to cigar
smoking.
(D) During the preceding calendar year, at least ten percent
(10%) of the business's annual gross income was from the sale
of cigars and the rental of onsite humidors.
(E) The person in charge of the business posts in the
establishment conspicuous signs that display the message that
cigarette smoking is prohibited.
(7) 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.



1	(D) The business:
2	(i) provides a separate, enclosed, designated smoking room
3	or area that is adequately ventilated to prevent migration of
4	smoke to nonsmoking areas of the premises;
5	(ii) allows smoking only in the room or area described in
6	item (i);
7	(iii) does not allow an individual who is less than eighteen
8	(18) years of age to enter into the room or area described in
9	item (i); and
10	(iv) allows a guest in the smoking room or area described in
1	item (i) only when accompanied by a bona fide member of
12	the business.
13	(8) A retail tobacco store used primarily for the sale of tobacco
14	products and tobacco accessories that meets the following
15	requirements:
16	(A) The owner or operator of the store holds a valid tobacco
17	sales certificate issued under IC 7.1-3-18.5.
18	(B) The store prohibits entry by an individual who is less than
19	eighteen (18) years of age.
20	(C) The sale of products other than tobacco products and
21	tobacco accessories is merely incidental.
22	(D) The sale of tobacco products accounts for at least
23	eighty-five percent (85%) of the store's annual gross sales.
23 24	(E) Food or beverages are not sold in a manner that requires
25	consumption on the premises, and there is not an area set aside
26	for customers to consume food or beverages on the premises.
27	(9) A bar or tavern:
28	(A) for which a permittee holds:
29	(i) a beer retailer's permit under IC 7.1-3-4;
30	(ii) a liquor retailer's permit under IC 7.1-3-9; or
31	(iii) a wine retailer's permit under IC 7.1-3-14;
32	(B) that does not employ an individual who is less than
33	eighteen (18) years of age;
34	(C) that does not allow an individual who:
35	(i) is less than twenty-one (21) years of age; and
36	(ii) is not an employee of the bar or tavern;
37	to enter any area of the bar or tavern; and
38	(D) that is not located in a business that would otherwise be
39	subject to this chapter.
10	(10) A cigar manufacturing facility that does not offer retail sales.
1 1	(11) A premises of a cigar specialty store to which all of the
12	following apply:



1	(A) The owner or operator of the store holds a valid tobacco
2	sales certificate issued under IC 7.1-3-18.5.
3	(B) The sale of tobacco products and tobacco accessories
4	account for at least fifty percent (50%) of the store's annual
5	gross sales.
6	(C) The store has a separate, enclosed, designated smoking
7	room that is adequately ventilated to prevent migration of
8	smoke to nonsmoking areas.
9	(D) Smoking is allowed only in the room described in clause
10	(C).
11	(E) Individuals who are less than eighteen (18) years of age are
12	prohibited from entering into the room described in clause (C).
13	(F) Cigarette smoking is not allowed on the premises of the
14	store.
15	(G) The owner or operator of the store posts a conspicuous
16	sign on the premises of the store that displays the message that
17	cigarette smoking is prohibited.
18	(H) The store does not prepare any food or beverage that
19	would require a certified food handler protection manager
20	under IC 16-42-5.2.
21	(12) The premises of a business that is located in the business
22	owner's private residence (as defined in IC 3-5-2-42.5) if the only
23	employees of the business who work in the residence are the
24	owner and other individuals who reside in the residence.
25	(b) The owner, operator, manager, or official in charge of an
26	establishment or premises in which smoking is allowed under this
27	section shall post conspicuous signs in the establishment that read
28	"WARNING: Smoking Is Allowed In This Establishment" or other
29	similar language.
30	(c) This section does not allow smoking in the following enclosed
31	areas of an establishment or premises described in subsection (a)(1)
32	through (a)(11):
33	(1) Any hallway, elevator, or other common area where an
34	individual who is less than eighteen (18) years of age is permitted.
35	(2) Any room that is intended for use by an individual who is less
36	than eighteen (18) years of age.
37	(d) The owner, operator, or manager of an establishment or premises
38	that is listed under subsection (a) and that allows smoking shall provide
39	a verified statement to the commission that states that the establishment
40	or premises qualifies for the exemption. The commission may require
41	the owner, operator, or manager of an establishment or premises to
42	provide documentation or additional information concerning the
-	provide documentation of additional information concerning the



1	exemption of the establishment or premises.
2	SECTION 2. IC 16-18-2-51.5 IS AMENDED TO READ AS
3	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 51.5. "Certified food
4	handler", protection manager", for purposes of IC 16-42-5.2, has the
5	meaning set forth in IC 16-42-5.2-4.
6	SECTION 3. IC 16-18-2-52 IS AMENDED TO READ AS
7	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 52. (a) "Certificate" or
8	"certification", for purposes of IC 16-31, means authorization in written
9	form issued by the Indiana emergency medical services commission to
10	a person to furnish, operate, conduct, maintain, advertise, or otherwise
11	engage in providing emergency medical services as a part of a regular
12	course of doing business, either paid or voluntary.
13	(b) "Certificate", for purposes of IC 16-42-5.2, has the meaning
14	set forth in IC 16-42-5.2-4.5.
15	SECTION 4. IC 16-18-2-138.3 IS REPEALED [EFFECTIVE JULY
16	1, 2020]. Sec. 138.3. "Food handler", for purposes of IC 16-42-5.2, has
17	the meaning set forth in IC 16-42-5.2-5.
18	SECTION 5. IC 16-27-1-12 IS AMENDED TO READ AS
19	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) The state health
20	commissioner may take one (1) or more of the following actions on any
21	ground listed in subsection (b):
22	(1) Issue a letter of correction.
23	(2) Issue a probationary license.
24	(3) Conduct a resurvey.
25	(4) Deny renewal of a license.
26	(5) Revoke a license.
27	(6) Impose a civil penalty in an amount not to exceed ten
28	thousand dollars (\$10,000).
29	(b) The state health commissioner may take action under subsection
30	(a) on any of the following grounds:
31	(1) Violation of any of the provisions of this chapter or rules
32	adopted under this chapter.
33	(2) Permitting, aiding, or abetting the commission of an illegal act
34	in a home health agency.
35	(3) Conduct or practice found by the state department to be
36	detrimental to the welfare of the patients of the home health care
37	agency.
38	(c) A person who intentionally:
39	(1) prevents, interferes with, or attempts to impede the work
40	of an employee of the state department in the investigation
41	and enforcement of any provision of this article or rule



42

adopted under this article;

(2) prevents or attempts to prevent an employee of the state
department from examining any relevant records in the
conduct of official duties under this article or rule adopted
under this article;
(3) prevents or interferes with an employee of the state
department in preserving evidence of the breach of any
provision of this article or rules adopted by the state
department;
(4) retaliates or discriminates against a patient, health care
representative, power of attorney, employee, agency staff
member, or any other person for:
(A) contacting or providing information to any state
official; or
(B) initiating, participating in, or testifying in an action
under this article or rules adopted by the state
department; or
(5) fails to correct or interferes with the correction process
within the correction period specified on the citation or
approved plan of correction, unless an extension is granted by
the director and the corrections are made before expiration of
the extension;
commits a Class C misdemeanor.
(c) (d) In addition to the criminal provisions for violations
described in this section, the commissioner may commence an
action under IC 4-21.5 applies to an action under this section. for
issuance of an order of compliance and assess a civil penalty not to
exceed twenty-five thousand dollars (\$25,000).
SECTION 6. IC 16-38-5-1, AS AMENDED BY P.L.191-2013,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2020]: Sec. 1. (a) The state department shall maintain an
immunization data registry to collect, store, analyze, release, and report
immunization data.
(b) Except as provided in subsection (c), data in the immunization
data registry may be used only for the following purposes:
(1) To assure that necessary immunizations are provided and
overimmunization is avoided.
(2) To assess immunization coverage rates.
(3) To determine areas of underimmunization and other
epidemiological research for disease control purposes.
(4) To document that required immunizations have been provided

as required for school or child care admission.

(5) To accomplish other public health purposes as determined by



41

the state department.

2	(c) The immunization data registry may be used to store and
3	release other nonimmunization personal health information
4	maintained by the state department, including blood lead screening
5	and newborn screening information, so providers and the
6	individual may access the health information. However, section 3
7	of this chapter does not apply to the release of nonimmunization
8	personal health information. Nonimmunization personal health
9	information may be released only in accordance with state and
10	federal laws concerning that personal health information.
11	(c) (d) The state department may adopt rules under IC 4-22-2
12	concerning who may input and retrieve information from the
13	immunization data registry.
14	SECTION 7. IC 16-42-5.2-1 IS AMENDED TO READ AS
15	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. Except as provided
16	in this chapter, a corporation or local health department may not
17	impose any registration, certification, or licensing requirements on food
18	handling or certified food handlers. protection managers.
19	SECTION 8. IC 16-42-5.2-2, AS AMENDED BY P.L.139-2005,
20	SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21	JULY 1, 2020]: Sec. 2. (a) Except as provided in subsection (b), This
22	chapter does not apply to a food establishment when the food
23	establishment's food handling activities do not include the cooking of
24	raw food of an animal origin or are limited solely to one (1) or more
25	of the following:
26	(1) Heating or serving precooked foods.
27	(2) Preparing or serving a continental breakfast such as rolls,
28	coffee, juice, milk, and cold cereal.
29	(3) Preparing or serving nonalcoholic or alcoholic beverages that
30	are not potentially hazardous beverages or ice.
31	(4) Preparing or serving packaged or unpackaged low hazard
32	foods, that are not potentially hazardous foods, including elephant
33	ears, funnel cakes, cotton candy, confectionaries, baked goods,
34	popcorn, and chips and grinding coffee beans.
35	(5) Providing prepackaged food in its original package.
36	(b) This subsection does not apply to a pharmacy that is a food
37	establishment that provides only prepackaged food products for sale.
38	A food establishment that has more than ten thousand (10,000) square
39	feet in total retail sales space at the food establishment location must
40	comply with this chapter.
41	SECTION 9. IC 16-42-5.2-3.5, AS ADDED BY P.L.139-2005,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



42

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1	JULY 1, 2020]: Sec. 3.5. (a) An organization that is exempt from the
2	state gross retail tax under IC 6-2.5-5-21(b)(1)(B),
3	IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D) is exempt from
4	complying with the requirements of this chapter.
5	(b) This section does not prohibit an exempted organization from
6	waiving the exemption and using a certified food handler. protection
7	manager.
8	SECTION 10. IC 16-42-5.2-3.7 IS ADDED TO THE INDIANA
9	CODE AS A NEW SECTION TO READ AS FOLLOWS
10	[EFFECTIVE JULY 1, 2020]: Sec. 3.7. As used in this chapter,
11	"certificate" means a certificate, letter, or other document that
12	verifies that the individual has passed an accreditation examination
13	given by an accredited testing service recognized by the
14	Conference for Food Protection or an equivalent nationally
15	recognized certification program as determined by the state
16	department of health.
17	SECTION 11. IC 16-42-5.2-4 IS AMENDED TO READ AS
18	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. As used in this
19	chapter, "certified food handler" protection manager" means a food
20	handler who holds a certificate. described in section 7 of this chapter.
21	SECTION 12. IC 16-42-5.2-5 IS REPEALED [EFFECTIVE JULY
22	1, 2020]. Sec. 5. As used in this chapter, "food handler" means an
23	individual who:
24	(1) is an owner, an operator, a manager, or an employee of a food

- (1) is an owner, an operator, a manager, or an employee of a food establishment; and
- (2) is responsible for or oversees the storage, preparation, display, or serving of food to the public.

SECTION 13. IC 16-42-5.2-6 IS REPEALED [EFFECTIVE JULY 1,2020]. Sec. 6. After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler.

SECTION 14. IC 16-42-5.2-7 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 7. A food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the state department of health meets the food borne illness prevention training requirements established by the state department of health.

SECTION 15. IC 16-42-5.2-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 7.1.(a)** A certified food protection manager must do the following:

(1) Provide the food establishment where the certified food protection manager is employed with a copy of the



1	individual's certificate and photo identification card.
2	(2) Obtain a valid certificate every five (5) years.
3	(b) An individual may not work as a certified food protection
4	manager with an expired certificate.
5	SECTION 16. IC 16-42-5.2-7.5 IS ADDED TO THE INDIANA
6	CODE AS A NEW SECTION TO READ AS FOLLOWS
7	[EFFECTIVE JULY 1, 2020]: Sec. 7.5. An individual may not use
8	the title "certified food protection manager" or indicate that the
9	individual is a certified food protection manager unless the
10	individual holds a valid certificate.
11	SECTION 17. IC 16-42-5.2-8 IS AMENDED TO READ AS
12	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) After December
13	31, 2004, A food establishment must have at least one (1) certified food
14	handler protection manager responsible for all periods of the food
15	establishment's operation. However, a certified food handler protection
16	manager need not be present at the food establishment during all hours
17	of operation.
18	(b) Notwithstanding subsection (a), if the state department and
19	food establishment enter into a variance concerning requirements
20	for the operation of the food establishment, a certified food
21	protection manager may be required to be present at the food
22	establishment during all hours of operation if agreed upon in the
23	variance.
24	SECTION 18. IC 16-42-5.2-8.5 IS ADDED TO THE INDIANA
25	CODE AS A NEW SECTION TO READ AS FOLLOWS
26	[EFFECTIVE JULY 1, 2020]: Sec. 8.5. A food establishment must do
27	the following:
28	(1) Provide the name and copies of the certificate and photo
29	identification card for the certified food protection manager
30	to an inspector from a governmental regulatory authority.
31	(2) Remove the certificate from the food establishment when
32	the certified food protection manager terminates employment
33	with the food establishment.
34	SECTION 19. IC 16-42-5.2-9 IS AMENDED TO READ AS
35	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. After December 31,
36	2004, A food establishment that begins operation or changes ownership
37	shall comply with section 8 of this chapter not later than six (6) months
38	after beginning operation or changing ownership.
39	SECTION 20. IC 16-42-5.2-10 IS AMENDED TO READ AS
40	FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. After December 31,
41	2004, If a food establishment does not have a certified food handler

protection manager because a certified food handler protection



manager terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 8 of this chapter not later than three (3) months after the termination date of the previous certified food handler. protection manager.

SECTION 21. IC 16-42-5.2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. After December 31, 2004, If more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler protection manager is required for the food establishments.

SECTION 22. IC 16-42-5.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) After December 31, 2004, An individual who violates any of the provisions of this chapter before July 1, 2020, is subject to the penalties prescribed by the executive board under section 13 of this chapter. This subsection expires January 1, 2021.

- (b) After June 30, 2020, a person that violates section 7.1(b) of this chapter is subject to a civil penalty not to exceed fifty dollars (\$50) per day per violation.
- (c) After June 30, 2020, a person that violates section 7.1(a)(1), 7.5, 8, 8.5, 9, or 10 of this chapter is subject to a civil penalty not to exceed one hundred dollars (\$100) per day per violation.

SECTION 23. IC 16-42-5.2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. Not later than December 31, 2003, The executive board shall may adopt rules under IC 4-22-2 establishing standards for:

- (1) the administration of this chapter; and
- (2) the imposition of penalties for violations of this chapter.

SECTION 24. IC 16-42-5.2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. This chapter does not limit the authority of a corporation or local health department to license require a permit for retail food establishments.

SECTION 25. IC 16-42-5.2-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 16. (a) Except for an individual whose certification expires on July 1, 2020, an individual who was a certified food handler on June 30, 2020, is considered a certified food protection manager on July 1, 2020.**

(b) This section expires June 30, 2021.

SECTION 26. IC 35-52-16-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 9.7. IC 16-27-1-12 defines a crime**



1 concerning home health agencies.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1210, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1210 as introduced.)

KIRCHHOFER

Committee Vote: Yeas 13, Nays 0

