

HOUSE BILL No. 1311

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3-28; IC 7.1-4-4.1-12.5; IC 7.1-5-7-11.

Synopsis: Gift package permit. Establishes a gift package permit that allows a person who: (1) is solely engaged in the retail sale of gifts and flowers; and (2) does not have an interest in an alcoholic beverage permit; to sell and deliver gift packages that contain gifts, flowers, floral arrangements, potted plants, and beer and wine. Establishes requirements for: (1) hours; (2) verifying the age of purchasers and recipients; and (3) record keeping; of sales and deliveries of gift packages. Allows a minor to be on the licensed premises of a business with a gift package permit. Establishes a fee of \$100 annually for a gift package permit that is deposited into the enforcement and administration fund of the alcohol and tobacco commission.

Effective: July 1, 2020.

Fleming

January 14, 2020, read first time and referred to Committee on Public Policy.



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. 1311

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

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

1 SECTION 1. IC 7.1-3-28 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]:
4 **Chapter 28. Gift Package Permit**
5 **Sec. 1. As used in this chapter, "permit" means a gift package**
6 **permit issued under this chapter.**
7 **Sec. 2. As used in this chapter, "permittee" means a person who**
8 **has an interest in a gift package permit.**
9 **Sec. 3. As used in this chapter, "proof of age" means:**
10 (1) a driver's license;
11 (2) an identification card issued under IC 9-24-16-1, or a
12 similar card issued under the laws of another state or the
13 federal government; or
14 (3) a government issued document;
15 that bears a person's photograph and birth date.
16 **Sec. 4. As used in this chapter, "purchaser" means a person who**
17 **purchases a gift package under this chapter.**



1 **Sec. 5. The commission may issue a permit to a person who:**

- 2 (1) is at least twenty-one (21) years of age;
- 3 (2) is solely engaged in the retail sale and delivery of:
- 4 (A) gifts; and
- 5 (B) flowers, floral arrangements, and potted plants; and
- 6 (3) does not have an interest in any other alcoholic beverage
- 7 permit of any type.

8 **Sec. 6. (a) A permit allows a permittee to sell gift packages**

9 **containing gifts, flowers, floral arrangements, or potted plants, and**

10 **alcoholic beverages as described in subsection (b) for consumption**

11 **off the licensed premises. A permit does not allow a permittee to**

12 **sell a gift package containing only alcoholic beverages.**

13 **(b) A gift package may contain beer or wine, or beer and wine,**

14 **in their original packages, not to exceed:**

- 15 (1) two (2) seven hundred fifty (750) milliliter bottles of wine;
- 16 and
- 17 (2) seventy-two (72) ounces of beer contained in bottles, cans,
- 18 or both bottles and cans.

19 **(c) A gift package may only be sold for the personal use of the**

20 **recipient and not for resale or other commercial purposes.**

21 **Sec. 7. A permittee may purchase beer and wine from a holder**

22 **of any of the following permits:**

- 23 (1) A dealer permit.
- 24 (2) A wholesaler permit.
- 25 (3) A farm winery permit.
- 26 (4) A brewer's permit under IC 7.1-3-2-7(5).

27 **Sec. 8. A permittee may:**

- 28 (1) sell gift packages only during:
- 29 (A) the regular business hours of the permittee; and
- 30 (B) the hours that a dealer may sell alcoholic beverages
- 31 under IC 7.1-3-1-14; and
- 32 (2) deliver gift packages Monday through Saturday from 8
- 33 a.m. until 7 p.m.

34 **Sec. 9. (a) A permittee may receive and fill orders for gift**

35 **packages that a purchaser places in person or transmits by**

36 **electronic or other means, if the purchaser provides the following:**

- 37 (1) The purchaser's name, mailing address, telephone
- 38 number, and proof of age that shows that the purchaser is at
- 39 least twenty-one (21) years of age. Proof of age may be
- 40 evidenced:
- 41 (A) in person; or
- 42 (B) if the purchaser places the order by telephone or



- 1 electronically:
- 2 (i) by a photocopy or facsimile copy that is mailed or
- 3 electronically transmitted;
- 4 (ii) by a computer scanned, electronically transmitted
- 5 copy; or
- 6 (iii) through an age verification service used by the
- 7 permittee.
- 8 (2) The recipient's name, delivery address, and telephone
- 9 number. A post office box is not a valid delivery address. The
- 10 recipient's business address, or the address of a temporary
- 11 residence including a room of a hotel, motel, or other
- 12 temporary lodging, is considered a valid delivery address.
- 13 (b) A permittee must receive full payment for the purchase of
- 14 the gift package before delivery.
- 15 Sec. 10. (a) An employee of a permittee who is at least nineteen
- 16 (19) years of age may receive and process payments for sales
- 17 orders for gift packages in the course of the employee's
- 18 employment as permitted under IC 7.1-5-7-13(a)(2).
- 19 (b) A gift package may be delivered only by:
- 20 (1) the permittee; or
- 21 (2) an employee of the permittee;
- 22 who is at least twenty-one (21) years of age. However, a person
- 23 eighteen (18) years of age or older may assist in deliveries subject
- 24 to the requirements of IC 7.1-5-7-13(a)(4).
- 25 Sec. 11. (a) All gift packages must have the following label on
- 26 the outside of the gift package: "CONTAINS ALCOHOLIC
- 27 BEVERAGES. SIGNATURE OF PERSON AGE 21 OR OLDER
- 28 REQUIRED FOR DELIVERY."
- 29 (b) The individual who personally receives and signs for the gift
- 30 package must present proof of age. A gift package may not be
- 31 delivered unless the person delivering the package verifies that the
- 32 individual who personally receives and signs for the delivery is at
- 33 least twenty-one (21) years of age.
- 34 Sec. 12. A permittee shall maintain for at least one (1) year a
- 35 written record of each sale and delivery that contains the
- 36 following:
- 37 (1) The purchaser's name, address, and telephone number.
- 38 (2) A copy of the purchaser's proof of age.
- 39 (3) The date, time, and location of:
- 40 (A) the purchase; and
- 41 (B) the delivery.
- 42 (4) The quantity of alcoholic beverages purchased.



1 **(5) The name, birth date, and signature of the person who**
 2 **personally received the delivery.**

3 **(6) A copy of the proof of age of the person who personally**
 4 **received the delivery.**

5 **(7) The name of the permittee or the permittee's employee**
 6 **who delivered the gift package.**

7 **Sec. 13. This chapter does not affect, prevent, or impose any**
 8 **additional requirements upon a dealer permittee or other**
 9 **permittee that may, under the authority of the permittee's**
 10 **alcoholic beverage permit, sell and deliver gift packages that**
 11 **contain alcoholic beverages to consumers.**

12 SECTION 2. IC 7.1-4-4.1-12.5 IS ADDED TO THE INDIANA
 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2020]: **Sec. 12.5. (a) An annual permit fee of**
 15 **one hundred dollars (\$100) is imposed for the issuance of a gift**
 16 **package permit under IC 7.1-3-28.**

17 **(b) The commission shall deposit all fees collected for the**
 18 **issuance of gift package permits into the enforcement and**
 19 **administration fund established under IC 7.1-4-10.**

20 SECTION 3. IC 7.1-5-7-11, AS AMENDED BY P.L.285-2019,
 21 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2020]: **Sec. 11. (a) The provisions of sections 9 and 10 of this**
 23 **chapter shall not apply if the public place involved is one (1) of the**
 24 **following:**

25 (1) Civic center.

26 (2) Convention center.

27 (3) Sports arena.

28 (4) Bowling center.

29 (5) Bona fide club.

30 (6) Drug store.

31 (7) Grocery store.

32 (8) Boat.

33 (9) Dining car.

34 (10) Pullman car.

35 (11) Club car.

36 (12) Passenger airplane.

37 (13) Horse racetrack facility holding a recognized meeting permit
 38 under IC 4-31-5.

39 (14) Satellite facility (as defined in IC 4-31-2-20.5).

40 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
 41 public.

42 (16) That part of a restaurant which is separate from a room in



- 1 which is located a bar over which alcoholic beverages are sold or
 2 dispensed by the drink.
 3 (17) Entertainment complex.
 4 (18) Indoor golf facility.
 5 (19) A recreational facility such as a golf course, bowling center,
 6 or similar facility that has the recreational activity and not the sale
 7 of food and beverages as the principal purpose or function of the
 8 person's business.
 9 (20) A licensed premises owned or operated by a postsecondary
 10 educational institution described in IC 21-17-6-1.
 11 (21) An automobile racetrack.
 12 (22) An indoor theater under IC 7.1-3-20-26.
 13 (23) A senior residence facility campus (as defined in
 14 IC 7.1-3-1-29(c)) at which alcoholic beverages are given or
 15 furnished as provided under IC 7.1-3-1-29.
 16 (24) A hotel other than a part of a hotel that is a room in a
 17 restaurant in which a bar is located over which alcoholic
 18 beverages are sold or dispensed by the drink.
 19 (25) The location of an allowable event to which IC 7.1-3-6.1
 20 applies.
 21 (26) The location of a charity auction to which IC 7.1-3-6.2
 22 applies.
 23 (27) A farm winery and any additional locations of the farm
 24 winery under IC 7.1-3-12, if the minor is in the company of a
 25 parent, legal guardian or custodian, or family member who is at
 26 least twenty-one (21) years of age and the minor is accompanied
 27 by the adult in any area that the adult may be present whether or
 28 not the area:
 29 (A) is separated in any manner from where the wine is
 30 manufactured, sold, or consumed within the farm winery
 31 premises; or
 32 (B) operates under a retailer's permit.
 33 (28) An artisan distillery under IC 7.1-3-27, if:
 34 (A) the person who holds the artisan distiller's permit also
 35 holds a farm winery permit under IC 7.1-3-12; and
 36 (B) the minor is in the company of a parent, legal guardian or
 37 custodian, or family member who is at least twenty-one (21)
 38 years of age.
 39 (29) An art instruction studio under IC 7.1-5-8-4.6.
 40 (30) The licensed premises of a food hall under IC 7.1-3-20-29
 41 and the food and beverage vending space of a food hall vendor
 42 permittee under IC 7.1-3-20-30. However, sections 9 and 10 of



1 this chapter apply to a bar within the food and beverage vending
2 space of a food hall vendor permittee under IC 7.1-3-20-30 that
3 serves alcoholic beverages intended to be consumed while sitting
4 or standing at the bar.

5 **(31) A business to which IC 7.1-3-28 applies.**

6 (b) For the purpose of this subsection, "food" means meals prepared
7 on the licensed premises. It is lawful for a minor to be on licensed
8 premises in a room in which is located a bar over which alcoholic
9 beverages are sold or dispensed by the drink if all the following
10 conditions are met:

11 (1) The minor is eighteen (18) years of age or older.

12 (2) The minor is in the company of a parent, guardian, or family
13 member who is twenty-one (21) years of age or older.

14 (3) The purpose for being on the licensed premises is the
15 consumption of food and not the consumption of alcoholic
16 beverages.

