

HOUSE BILL No. 1368

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: Florist gift basket permit. Establishes a gift basket permit that allows a retail florist located within Indiana to include a limited amount of beer, wine, or liquor in gift baskets prepared by the florist. Requires the permittee to purchase the alcoholic beverages from a dealer (grocery store, drug store, or package liquor store), farm winery, microbrewery, or artisan distillery. Requires a gift basket to be delivered by the permittee or an employee of the permittee who is at least 21 years of age and not by a common carrier. Establishes a fee of \$100 annually for a gift basket permit.

Effective: July 1, 2019.

Austin

January 14, 2019, read first time and referred to Committee on Public Policy.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1368

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

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, 2019]:
- 4 **Chapter 28. Gift Basket Permit**
- 5 **Sec. 1. As used in this chapter, "permit" means a gift basket**
- 6 **permit issued under this chapter.**
- 7 **Sec. 2. As used in this chapter, "retail florist business" means an**
- 8 **establishment that is primarily engaged in the arrangement and**
- 9 **retail sale of fresh cut flowers, floral arrangements, and potted**
- 10 **plants.**
- 11 **Sec. 3. The commission may issue a gift basket permit under this**
- 12 **chapter only to an applicant who:**
- 13 **(1) owns a retail florist business located within Indiana; and**
- 14 **(2) is not the holder of any other alcoholic beverage permit of**
- 15 **any type.**
- 16 **Sec. 4. A permit allows the permittee to do the following:**
- 17 **(1) Possess alcoholic beverages and sell alcoholic beverages in**



- 1 their original packages to a customer only:
- 2 (A) as part of a gift basket that includes any of the items
- 3 listed in subdivision (4);
- 4 (B) for consumption off the licensed premises; and
- 5 (C) in an amount that does not exceed the limits set forth
- 6 in subdivision (2).
- 7 (2) Include in a gift basket that is prepared and sold by the
- 8 permittee not more than:
- 9 (A) two (2) 750 milliliter bottles of wine;
- 10 (B) six (6) twelve (12) ounce bottles of beer; or
- 11 (C) one (1) 750 milliliter bottle of liquor.
- 12 (3) Purchase alcoholic beverages to be included in a gift
- 13 basket only from the holder of any of the following permits
- 14 issued under this title:
- 15 (A) A dealer permit.
- 16 (B) A farm winery permit.
- 17 (C) A brewery permit under IC 7.1-3-2-7(5).
- 18 (D) An artisan distiller permit.
- 19 (4) Include any of the following items or combination of items
- 20 in a gift basket:
- 21 (A) Food items.
- 22 (B) Flowers, plants, and garden related items.
- 23 (C) Drinking glasses and bottle opening devices.
- 24 (D) Books or other reading materials.
- 25 (E) Gift certificates.
- 26 (F) Apparel items.
- 27 (G) Novelty items, including ornaments, holiday
- 28 decorations, and candles.
- 29 (H) Kitchen and dining tools and accessories.
- 30 **Sec. 5. (a) A permittee may sell gift baskets containing alcoholic**
- 31 **beverages subject to the following:**
- 32 (1) Before the gift basket may be delivered, the permittee
- 33 must receive full payment for the purchase by a credit card or
- 34 debit card issued in the purchaser's name.
- 35 (2) Sales of gift baskets containing alcoholic beverages may be
- 36 made only during the times that the holder of a dealer permit
- 37 may sell alcoholic beverages under IC 7.1-3-1-14.
- 38 (3) If the purchaser purchases a gift basket by telephone, the
- 39 permittee must make a good faith effort to verify the age of
- 40 the purchaser by obtaining the purchaser's driver's license
- 41 number, state identification card number, or government
- 42 issued identification number, and verifying the age of the



1 purchaser in a commercially available database.

2 (b) A permittee may not sell gift baskets at any other licensed
3 premises.

4 Sec. 6. (a) A gift basket may be delivered only by:

5 (1) the permittee; or

6 (2) an employee of the permittee;

7 who is at least twenty-one (21) years of age. A permittee may not
8 deliver a gift basket containing alcoholic beverages using a
9 common carrier.

10 (b) The permittee or the employee delivering the gift basket
11 must verify the age of the person accepting delivery as set forth in
12 IC 7.1-5-10-23.

13 (c) The permittee shall maintain a written record of each
14 delivery for at least one (1) year that shows the purchaser's name,
15 the location of the delivery, and the quantity of alcoholic beverages
16 delivered.

17 Sec. 7. A permit allows a permittee to:

18 (1) sell; and

19 (2) deliver;

20 a gift basket that contains alcoholic beverages only to the residence
21 or business of a person who is at least twenty-one (21) years of age.

22 Sec. 8. This chapter does not affect, prevent, or impose any
23 additional requirements upon a dealer permittee or other
24 permittee that may, under the authority of the permittee's
25 alcoholic beverage permit, sell and deliver gift baskets to
26 consumers containing alcoholic beverages.

27 SECTION 2. IC 7.1-4-4.1-12.5 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2019]: Sec. 12.5. An annual permit fee of one
30 hundred dollars (\$100) is imposed for the issuance of a gift basket
31 permit under IC 7.1-3-28.

32 SECTION 3. IC 7.1-5-7-11, AS AMENDED BY P.L.270-2017,
33 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2019]: Sec. 11. (a) The provisions of sections 9 and 10 of this
35 chapter shall not apply if the public place involved is one (1) of the
36 following:

37 (1) Civic center.

38 (2) Convention center.

39 (3) Sports arena.

40 (4) Bowling center.

41 (5) Bona fide club.

42 (6) Drug store.



- 1 (7) Grocery store.
 2 (8) Boat.
 3 (9) Dining car.
 4 (10) Pullman car.
 5 (11) Club car.
 6 (12) Passenger airplane.
 7 (13) Horse racetrack facility holding a recognized meeting permit
 8 under IC 4-31-5.
 9 (14) Satellite facility (as defined in IC 4-31-2-20.5).
 10 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
 11 public.
 12 (16) That part of a restaurant which is separate from a room in
 13 which is located a bar over which alcoholic beverages are sold or
 14 dispensed by the drink.
 15 (17) Entertainment complex.
 16 (18) Indoor golf facility.
 17 (19) A recreational facility such as a golf course, bowling center,
 18 or similar facility that has the recreational activity and not the sale
 19 of food and beverages as the principal purpose or function of the
 20 person's business.
 21 (20) A licensed premises owned or operated by a postsecondary
 22 educational institution described in IC 21-17-6-1.
 23 (21) An automobile racetrack.
 24 (22) An indoor theater under IC 7.1-3-20-26.
 25 (23) A senior residence facility campus (as defined in
 26 IC 7.1-3-1-29(c)) at which alcoholic beverages are given or
 27 furnished as provided under IC 7.1-3-1-29.
 28 (24) A hotel other than a part of a hotel that is a room in a
 29 restaurant in which a bar is located over which alcoholic
 30 beverages are sold or dispensed by the drink.
 31 (25) The location of an allowable event to which IC 7.1-3-6.1
 32 applies.
 33 (26) The location of a charity auction to which IC 7.1-3-6.2
 34 applies.
 35 (27) A farm winery and any additional locations of the farm
 36 winery under IC 7.1-3-12, if the minor is in the company of a
 37 parent, legal guardian or custodian, or family member who is at
 38 least twenty-one (21) years of age.
 39 (28) An artisan distillery under IC 7.1-3-27, if:
 40 (A) the person who holds the artisan distiller's permit also
 41 holds a farm winery permit under IC 7.1-3-12; and
 42 (B) the minor is in the company of a parent, legal guardian or



1 custodian, or family member who is at least twenty-one (21)
2 years of age.

3 **(29) A retail florist business to which IC 7.1-3-28 applies.**

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

- 9 (1) The minor is eighteen (18) years of age or older.
10 (2) The minor is in the company of a parent, guardian, or family
11 member who is twenty-one (21) years of age or older.
12 (3) The purpose for being on the licensed premises is the
13 consumption of food and not the consumption of alcoholic
14 beverages.

