

# SENATE BILL No. 95

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-1; IC 7.1-3.

**Synopsis:** Alcoholic beverage wholesalers. Provides that a commercially reasonable agreement between and among beer, wine, or liquor wholesalers and wholesaler's affiliates to provide logistic services does not create prohibited interests between or among the wholesalers.

**Effective:** July 1, 2019.

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## Boots, Doriot

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January 3, 2019, read first time and referred to Committee on Public Policy.

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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.

## SENATE BILL No. 95

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 7.1-1-2-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. ~~Direct and Indirect~~  
3 ~~Prohibition.~~ (a) For the purposes of this title, whenever a person is  
4 prohibited from doing a certain act or holding a certain interest directly,  
5 ~~he the person~~ shall be prohibited also from doing that act or holding  
6 that interest indirectly.

7 (b) A commercially reasonable agreement between and among:  
8 (1) wholesalers;  
9 (2) wholesalers' affiliates that hold carriers' alcoholic permits  
10 under IC 7.1-3-18-1; or  
11 (3) both a person described in subdivision (1) and a person  
12 described in subdivision (2);  
13 for the provision of logistic services does not create prohibited  
14 interests between or among the wholesalers in violation of  
15 IC 7.1-5-9-3, IC 7.1-5-9-4, or IC 7.1-5-9-6.

16 SECTION 2. IC 7.1-1-3-1.5 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2019]: **Sec. 1.5. "Wholesaler's affiliate" means a person that**  
 2 **directly, or indirectly through one (1) or more intermediaries,**  
 3 **controls, is controlled by, or is under common control with, a**  
 4 **wholesaler permittee.**

5 SECTION 3. IC 7.1-1-3-22.5 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2019]: **Sec. 22.5. "Logistic services" means**  
 8 **providing, managing, or coordinating the:**

- 9 (1) transportation;  
 10 (2) distribution;  
 11 (3) sorting; or  
 12 (4) storage;

13 **of alcoholic beverages. The term includes any services that are**  
 14 **incidental to providing, managing, or coordinating the services**  
 15 **listed in this section.**

16 SECTION 4. IC 7.1-3-3-5, AS AMENDED BY P.L.153-2015,  
 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2019]: **Sec. 5. (a)** The holder of a beer wholesaler's permit  
 19 may purchase and import from the primary source of supply, possess,  
 20 and sell at wholesale, beer and flavored malt beverages manufactured  
 21 within or without this state.

22 (b) A beer wholesaler permittee may possess, transport, sell, and  
 23 deliver beer to:

- 24 (1) another beer wholesaler authorized by the brewer to sell the  
 25 brand purchased;  
 26 (2) an employee;  
 27 (3) a holder of a beer retailer's permit, beer dealer's permit,  
 28 temporary beer permit, dining car permit, boat permit, airplane  
 29 permit, or supplemental caterer's permit; and  
 30 (4) a qualified organization for:  
 31 (A) an allowable event to which IC 7.1-3-6.1 applies; or  
 32 (B) a charity auction to which IC 7.1-3-6.2 applies;

33 located within this state. The sale, donation to a qualified organization,  
 34 transportation, and delivery of beer shall be made only from inventory  
 35 that has been located on the wholesaler's premises before the time of  
 36 invoicing and delivery.

37 (c) The beer wholesaler's bona fide regular employees may purchase  
 38 beer from the wholesaler in:

- 39 (1) bottles, cans, or any other type of permissible containers in an  
 40 amount not to exceed forty-eight (48) pints; or  
 41 (2) one (1) keg;

42 at any one (1) time.



1 (d) The importation, transportation, possession, sale, and delivery  
 2 of beer shall be subject to the rules of the commission and subject to  
 3 the same restrictions provided in this title for a person holding a  
 4 brewer's permit.

5 (e) The holder of a beer wholesaler's permit may purchase, import,  
 6 possess, transport, sell, and deliver any commodity listed in  
 7 IC 7.1-3-10-5, unless prohibited by this title. However, a beer  
 8 wholesaler may deliver flavored malt beverages only to the holder of  
 9 one (1) of the following permits:

10 (1) A beer wholesaler or wine wholesaler permit, if the wholesaler  
 11 is authorized by the primary source of supply to sell the brand of  
 12 flavored malt beverage purchased.

13 (2) A wine retailer's permit, wine dealer's permit, temporary wine  
 14 permit, dining car wine permit, boat permit, airplane permit, or  
 15 supplemental caterer's permit.

16 (f) A beer wholesaler may:

17 (1) store beer for an out-of-state brewer described in IC 7.1-3-2-9  
 18 and deliver the stored beer to another beer wholesaler that the  
 19 out-of-state brewer authorizes to sell the beer;

20 (2) perform all necessary accounting and auditing functions  
 21 associated with the services described in subdivision (1); and

22 (3) receive a fee from an out-of-state brewer for the services  
 23 described in subdivisions (1) through (2).

24 **(g) A beer wholesaler or a beer wholesaler's affiliate that holds**  
 25 **a carriers' alcoholic permit under IC 7.1-3-18-1 may provide**  
 26 **logistic services to one (1) or more holders of a beer, wine, or liquor**  
 27 **wholesalers' permit.**

28 SECTION 5. IC 7.1-3-8-3, AS AMENDED BY P.L.153-2015,  
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2019]: Sec. 3. (a) The holder of a liquor wholesaler's permit  
 31 shall be entitled to sell liquor at wholesale.

32 (b) A liquor wholesaler shall be entitled to purchase liquor within  
 33 this state from a person who holds an artisan distiller's permit, a  
 34 distiller's permit, a rectifier's permit, or a liquor wholesaler's permit. A  
 35 liquor wholesaler also may purchase liquor outside this state from the  
 36 primary source of supply and, from that source, may transport and  
 37 import liquor into this state.

38 (c) A liquor wholesaler may sell, transport, and deliver liquor only  
 39 to a person who, under this title, holds a:

40 (1) liquor retailer's permit;

41 (2) supplemental caterer's permit;

42 (3) liquor dealer's permit; or



1 (4) liquor wholesaler's permit.

2 A liquor wholesaler may sell, donate, transport, and deliver liquor to a  
 3 qualified organization for an allowable event to which IC 7.1-3-6.1  
 4 applies or charity auction to which IC 7.1-3-6.2 applies. The sale,  
 5 transportation, donation to a qualified organization, and delivery of  
 6 liquor shall be made only from inventory that has been located on the  
 7 wholesaler's premises before the time of invoicing and delivery, and  
 8 only in permissible containers and is subject to the rules of the  
 9 commission fixing the quantity which may be sold or delivered at any  
 10 one (1) time.

11 (d) A liquor wholesaler's bona fide regular employees may purchase  
 12 liquor from the wholesaler in an amount not to exceed eighteen (18)  
 13 liters.

14 **(e) Notwithstanding subsection (c), a liquor wholesaler or a**  
 15 **liquor wholesaler's affiliate that holds a carriers' alcoholic permit**  
 16 **under IC 7.1-3-18-1 may provide logistic services to one (1) or**  
 17 **more holders of a beer, wine, or liquor wholesaler's permit.**

18 SECTION 6. IC 7.1-3-13-3, AS AMENDED BY P.L.153-2015,  
 19 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2019]: Sec. 3. (a) The holder of a wine wholesaler's permit  
 21 may purchase, import, and transport wine, brandy, or flavored malt  
 22 beverage from the primary source of supply. A wine wholesaler may  
 23 export and transport wine, brandy, or flavored malt beverage by the  
 24 bottle, barrel, cask, or other container, to points outside Indiana. A  
 25 wine wholesaler is entitled to sell, furnish, and deliver wine or flavored  
 26 malt beverage from inventory that has been located on the wholesaler's  
 27 premises before the time of invoicing and delivery to a wine  
 28 wholesaler, a wine retailer, a supplemental caterer, a temporary wine  
 29 permittee, and a wine dealer, but not at retail. A wine wholesaler may  
 30 sell, furnish, and deliver brandy from inventory that has been located  
 31 on the wholesaler's premises before the time of invoicing and delivery,  
 32 but not at retail, only to a person who holds a liquor retailer's permit,  
 33 a supplemental caterer's permit, or a liquor dealer's permit. A holder of  
 34 a wine wholesaler's permit may sell wine to the wine wholesaler's bona  
 35 fide regular employees. A wine wholesaler may sell, donate, and  
 36 deliver wine or flavored malt beverage from inventory that has been  
 37 located on the wholesaler's premises before the time of invoicing and  
 38 delivery to a qualified organization that is conducting an allowable  
 39 event to which IC 7.1-3-6.1 applies or a charity auction to which  
 40 IC 7.1-3-6.2 applies.

41 (b) As used in this section, "brandy" means:

42 (1) any alcoholic distillate described in 27 CFR 5.22(d) as in



- 1 effect on January 1, 1983; or  
 2 (2) a beverage product that:  
 3 (A) is prepared from a liquid described in subdivision (1);  
 4 (B) is classified as a cordial or liqueur as defined in 27 CFR  
 5 5.22(h) as in effect on January 1, 1997; and  
 6 (C) meets the following requirements:  
 7 (i) At least sixty-six and two-thirds percent (66 2/3%) of the  
 8 product's alcohol content is composed of a substance  
 9 described in subdivision (1).  
 10 (ii) The product's label makes no reference to any distilled  
 11 spirit other than brandy.  
 12 (iii) The product's alcohol content is not less than sixteen  
 13 percent (16%) by volume or thirty-two (32) degrees proof.  
 14 (iv) The product contains dairy cream.  
 15 (v) The product's sugar, dextrose, or levulose content is at  
 16 least twenty percent (20%) of the product's weight.  
 17 (vi) The product contains caramel coloring.  
 18 (c) Nothing in this section allows a wine wholesaler to sell, give,  
 19 purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless  
 20 the wine wholesaler also holds a beer wholesaler's permit under  
 21 IC 7.1-3-3-1.  
 22 (d) A wine wholesaler that also holds a liquor wholesaler's permit  
 23 under IC 7.1-3-8 may not:  
 24 (1) hold a beer wholesaler's permit under IC 7.1-3-3;  
 25 (2) possess, sell, or transport beer; or  
 26 (3) sell more than one million (1,000,000) gallons of flavored  
 27 malt beverage during a calendar year.  
 28 **(e) Notwithstanding any other provision of this section, a wine**  
 29 **wholesaler or a wine wholesaler's affiliate that holds a carriers'**  
 30 **alcoholic permit under IC 7.1-3-18-1 may provide logistic services**  
 31 **to one (1) or more holders of a beer, wine, or liquor wholesaler's**  
 32 **permit.**

