



January 29, 2020

SENATE BILL No. 171

DIGEST OF SB 171 (Updated January 28, 2020 9:05 am - DI 125)

Citations Affected: IC 6-9.

Synopsis: Clarksville food and beverage tax. Authorizes the town of Clarksville to adopt a town food and beverage tax. Provides that the tax rate may not exceed 1%. Provides that money received from the tax shall be distributed by the treasurer of state to the town of Clarksville. Specifies the uses to which receipts from the food and beverage tax may be applied.

Effective: Upon passage.

Grooms, Ford Jon

January 6, 2020, read first time and referred to Committee on Rules and Legislative Procedure.

January 14, 2020, amended; reassigned to Committee on Tax and Fiscal Policy.

January 28, 2020, amended, reported favorably — Do Pass.

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January 29, 2020

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.

SENATE BILL No. 171

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

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

1 SECTION 1. IC 6-9-54 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 54. Clarksville Food and Beverage Tax**

5 **Sec. 1. This chapter applies to the town of Clarksville.**

6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**

8 **Sec. 3. (a) The fiscal body of the town may adopt an ordinance**
9 **to impose an excise tax, known as the town food and beverage tax,**
10 **on transactions described in section 4 of this chapter. The fiscal**
11 **body of the town may adopt an ordinance under this subsection**
12 **only after the fiscal body has previously held at least one (1)**
13 **separate public hearing in which a discussion of the proposed**
14 **ordinance to impose the town food and beverage tax is the only**
15 **substantive issue on the agenda for that public hearing.**

16 **(b) If the town fiscal body adopts an ordinance under subsection**
17 **(a), the town fiscal body shall immediately send a certified copy of**

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1 the ordinance to the department of state revenue.

2 (c) If the town fiscal body adopts an ordinance under subsection
3 (a), the town food and beverage tax applies to transactions that
4 occur after the later of the following:

5 (1) The day specified in the ordinance.

6 (2) The last day of the month that succeeds the month in
7 which the ordinance is adopted.

8 Sec. 4. (a) Except as provided in subsection (c), a tax imposed
9 under section 3 of this chapter applies to a transaction in which a
10 food or beverage is furnished, prepared, or served:

11 (1) for consumption at a location or on equipment provided by
12 a retail merchant;

13 (2) in the town; and

14 (3) by a retail merchant for consideration.

15 (b) Transactions described in subsection (a)(1) include
16 transactions in which food or beverage is:

17 (1) served by a retail merchant off the merchant's premises;

18 (2) food sold in a heated state or heated by a retail merchant;

19 (3) made of two (2) or more food ingredients, mixed or
20 combined by a retail merchant for sale as a single item (other
21 than food that is only cut, repackaged, or pasteurized by the
22 seller, and eggs, fish, meat, poultry, and foods containing these
23 raw animal foods requiring cooking by the consumer as
24 recommended by the federal Food and Drug Administration
25 in chapter 3, subpart 3-401.11 of its Food Code so as to
26 prevent food borne illnesses); or

27 (4) food sold with eating utensils provided by a retail
28 merchant, including plates, knives, forks, spoons, glasses,
29 cups, napkins, or straws (for purposes of this subdivision, a
30 plate does not include a container or package used to
31 transport the food).

32 (c) The town food and beverage tax does not apply to the
33 furnishing, preparing, or serving of a food or beverage in a
34 transaction that is exempt, or to the extent the transaction is
35 exempt, from the state gross retail tax imposed by IC 6-2.5.

36 Sec. 5. The town food and beverage tax rate:

37 (1) must be imposed in an increment of twenty-five
38 hundredths percent (0.25%); and

39 (2) may not exceed one percent (1%);

40 of the gross retail income received by the merchant from the food
41 or beverage transaction described in section 4 of this chapter. For
42 purposes of this chapter, the gross retail income received by the



1 retail merchant from a transaction does not include the amount of
2 tax imposed on the transaction under IC 6-2.5.

3 Sec. 6. A tax imposed under this chapter shall be imposed, paid,
4 and collected in the same manner that the state gross retail tax is
5 imposed, paid, and collected under IC 6-2.5. However, the return
6 to be filed with the payment of the tax imposed under this chapter
7 may be made on a separate return or may be combined with the
8 return filed for the payment of the state gross retail tax, as
9 prescribed by the department of state revenue.

10 Sec. 7. The amounts received from the tax imposed under this
11 chapter shall be paid monthly by the treasurer of state to the town
12 fiscal officer upon warrants issued by the auditor of state.

13 Sec. 8. (a) If a tax is imposed under section 3 of this chapter by
14 the town, the town fiscal officer shall establish a food and beverage
15 tax receipts fund.

16 (b) The town fiscal officer shall deposit in the fund all amounts
17 received under this chapter.

18 (c) Money earned from the investment of money in the fund
19 becomes a part of the fund.

20 Sec. 9. (a) Money in the food and beverage tax receipts fund
21 must be used by the town:

22 (1) for the financing, construction, renovation, improvement,
23 equipping, or maintenance of projects; and

24 (2) to pay debt service on bonds issued under this chapter for
25 projects;

26 within the South Clarksville Redevelopment Area, as defined in the
27 South Clarksville Redevelopment Plan on February 1, 2016.

28 (b) The town may issue bonds to:

29 (1) pay any costs associated with the financing, construction,
30 renovation, improvement, equipping, and maintenance of a
31 project within the South Clarksville Redevelopment Area, as
32 defined in the South Clarksville Redevelopment Plan on
33 February 1, 2016; or

34 (2) refund bonds issued or other obligations incurred under
35 this chapter so long as any bonds issued or other obligations
36 incurred to refund bonds or retire other obligations do not
37 extend the date that the previous bonds or other obligations
38 will be completely paid as to principal and interest.

39 (c) Bonds issued or other obligations incurred under this
40 section:

41 (1) are payable solely from money provided in this chapter;

42 (2) must be issued in the manner prescribed by IC 36-5-2-11;



1 (3) may not have a term that is longer than twenty (20) years;

2 and

3 (4) may, in the discretion of the town, be sold at a negotiated
4 sale at a price to be determined by the town or in accordance
5 with IC 5-1-11 and IC 5-3-1.

6 Sec. 10. With respect to obligations for which a pledge has been
7 made under section 9 of this chapter, the general assembly
8 covenants with the holders of the obligations that this chapter will
9 not be repealed or amended in a manner that will adversely affect
10 the imposition or collection of the tax imposed under this chapter
11 if the payment of any of the obligations is outstanding.

12 Sec. 11. This chapter expires October 1, 2040.

13 SECTION 2. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 171 as introduced.)

BRAY, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 20, after "Sec.9." insert "**(a)**".

Page 3, line 21, delete "town for one (1) or more of the following purposes:" and insert "**town:**

(1) for the financing, construction, renovation, improvement, equipping, or maintenance of projects; and

(2) to pay debt service on bonds issued under this chapter for projects;

within the South Clarksville Redevelopment Area, as defined in the South Clarksville Redevelopment Plan on February 1, 2016.

(b) The town may issue bonds to:

(1) pay any costs associated with the financing, construction, renovation, improvement, equipping, and maintenance of a project within the South Clarksville Redevelopment Area, as defined in the South Clarksville Redevelopment Plan on February 1, 2016; or

(2) refund bonds issued or other obligations incurred under this chapter so long as any bonds issued or other obligations

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incurred to refund bonds or retire other obligations do not extend the date that the previous bonds or other obligations will be completely paid as to principal and interest.

(c) Bonds issued or other obligations incurred under this section:

- (1) are payable solely from money provided in this chapter;
- (2) must be issued in the manner prescribed by IC 36-5-2-11;
- (3) may not have a term that is longer than twenty (20) years; and
- (4) may, in the discretion of the town, be sold at a negotiated sale at a price to be determined by the town or in accordance with IC 5-1-11 and IC 5-3-1."

Page 3, delete lines 22 through 39.

Page 4, between lines 3 and 4, begin a new paragraph and insert:

"Sec. 11. This chapter expires October 1, 2040."

and when so amended that said bill do pass.

(Reference is to SB 171 as printed January 15, 2020.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 2.

