

## **IC 7.1-5**

### **ARTICLE 5. CRIMES AND INFRACTIONS**

#### **IC 7.1-5-1**

##### **Chapter 1. General Provisions; Public Intoxication**

#### **IC 7.1-5-1-0.1**

##### **Repealed**

*(As added by P.L.220-2011, SEC.176. Repealed by P.L.63-2012, SEC.8.)*

#### **IC 7.1-5-1-1**

##### **Prohibition against commercial purposes**

Sec. 1. (a) It is unlawful for a person to manufacture for sale, bottle, sell, barter, import, transport, deliver, furnish, or possess, alcohol or alcoholic beverages, malt syrup, malt extract, liquid malt or wort, for commercial purposes except as authorized in this title.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.18.*

#### **IC 7.1-5-1-2**

##### **Repealed**

*(Repealed by Acts 1973, P.L.58, SEC.2.)*

#### **IC 7.1-5-1-3**

##### **Public intoxication prohibited; failure to enforce by a law enforcement officer**

Sec. 3. (a) Subject to section 6.5 of this chapter, it is a Class B misdemeanor for a person to be in a public place or a place of public resort in a state of intoxication caused by the person's use of alcohol or a controlled substance (as defined in IC 35-48-1-9), if the person:

- (1) endangers the person's life;
- (2) endangers the life of another person;
- (3) breaches the peace or is in imminent danger of breaching the peace; or
- (4) harasses, annoys, or alarms another person.

(b) A person may not initiate or maintain an action against a law enforcement officer based on the officer's failure to enforce this section.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.702; P.L.213-2001, SEC.2; P.L.93-2012, SEC.2; P.L.117-2012, SEC.1.*

#### **IC 7.1-5-1-4**

##### **Repealed**

*(Repealed by Acts 1973, P.L.156, SEC.2.)*

#### **IC 7.1-5-1-5**

##### **Repealed**

*(Repealed by Acts 1973, P.L.156, SEC.2.)*

#### **IC 7.1-5-1-6**

##### **Intoxication upon common carrier prohibited; failure to enforce by a law enforcement officer**

Sec. 6. (a) Subject to section 6.5 of this chapter, it is a Class B misdemeanor for a person to be, or to become, intoxicated as a result of the person's use of alcohol or a controlled substance (as defined in IC 35-48-1-9) in or upon a vehicle commonly used for the public transportation of passengers, or in or upon a common carrier, or in or about a depot, station, airport, ticket office, waiting room or platform, if the person:

- (1) endangers the person's life;
- (2) endangers the life of another person;
- (3) breaches the peace or is in imminent danger of breaching the peace; or
- (4) harasses, annoys, or alarms another person.

(b) A person may not initiate or maintain an action against a law enforcement officer based on the officer's failure to enforce this section.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.703; P.L.213-2001, SEC.3; P.L.93-2012, SEC.3; P.L.117-2012, SEC.2.*

#### **IC 7.1-5-1-6.5**

##### **Request of medical assistance, victim of sex offense, crime witness; prohibited from being taken into custody; immunity from criminal prosecution; actions against law enforcement officers**

Sec. 6.5. (a) A law enforcement officer may not take a person into custody based solely on the commission of an offense involving alcohol described in subsection (b) if the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

- (1) The law enforcement officer has contact with the person because the person:
  - (A) either:
    - (i) requested emergency medical assistance; or
    - (ii) acted in concert with another person who requested emergency medical assistance;for an individual who reasonably appeared to be in need of medical assistance;
  - (B) is the victim of a reported sex offense (as defined in IC 11-8-8-5.2); or

- (C) witnessed and reported what the person reasonably believed to be a crime.
  - (2) The person described in subdivision (1)(A), (1)(B), or (1)(C):
    - (A) provided:
      - (i) the person's full name; and
      - (ii) any other relevant information requested by the law enforcement officer; and
    - (B) in the case of a person described in subdivision (1)(A):
      - (i) remained at the scene with the individual who reasonably appeared to be in need of medical assistance until emergency medical assistance arrived; and
      - (ii) cooperated with emergency medical assistance personnel and law enforcement officers at the scene.
  - (b) A person who meets the criteria of subsection (a)(1) and (a)(2) is immune from criminal prosecution for an offense under:
    - (1) section 3 of this chapter if the offense involved a state of intoxication caused by the person's use of alcohol;
    - (2) section 6 of this chapter if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol; and
    - (3) IC 7.1-5-7-7.
  - (c) A person may not initiate or maintain an action against a law enforcement officer based on the officer's compliance or failure to comply with this section.
- As added by P.L.93-2012, SEC.4. Amended by P.L.156-2014, SEC.2.*

#### **IC 7.1-5-1-6.6**

#### **Dismissal of public intoxication or illegal possession charges**

- Sec. 6.6. (a) This section applies only to a person:
- (1) arrested for a violation of:
    - (A) section 3 of this chapter if the offense involved a state of intoxication caused by the person's use of alcohol;
    - (B) section 6 of this chapter if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol; or
    - (C) IC 7.1-5-7-7; and
  - (2) whose arrest was facilitated because another person reported that the person appeared to be in need of medical assistance due to the use of alcohol.
- (b) If a person described in subsection (a):
- (1) does not have a prior conviction for an offense described in subsection (a);
  - (2) pleads guilty to an offense described in subsection (a); and
  - (3) agrees to be placed in the custody of the court;
- the court, without entering a judgment of conviction, shall defer further proceedings and place the person in the custody of the court under conditions determined by the court.

(c) If the person placed in the custody of the court violates the conditions of custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against the person.

(d) There may be only one (1) dismissal under this section with respect to a person.

*As added by P.L.156-2014, SEC.3.*

#### **IC 7.1-5-1-7**

##### **Notice of conviction sent to commission**

Sec. 7. Notice of Conviction Sent to Commission. A court, upon convicting a permittee for a violation of a provision of this title, shall cause a certified copy of the judgment of conviction to be made and forwarded to the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-5-1-8**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.704. Repealed by P.L.159-2014, SEC.19.)*

#### **IC 7.1-5-1-9**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.705; P.L.158-2013, SEC.125. Repealed by P.L.159-2014, SEC.20.)*

#### **IC 7.1-5-1-9.5**

##### **Repealed**

*(As added by P.L.121-1998, SEC.1. Amended by P.L.204-2001, SEC.49; P.L.1-2006, SEC.150; P.L.109-2013, SEC.9. Repealed by P.L.159-2014, SEC.21.)*

#### **IC 7.1-5-1-10**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-1-11**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-1-12**

##### **Violation of commission's order**

Sec. 12. Violation of Commission's Order. A person who recklessly imports, transports, receives, purchases, sells, distributes, delivers, or possesses an alcoholic beverage in violation of an order of the commission entered pursuant to IC 7.1-2-7, commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978,  
P.L.2, SEC.706.*

## **IC 7.1-5-2**

### **Chapter 2. Advertising**

#### **IC 7.1-5-2-1**

##### **Repealed**

*(Repealed by P.L.58-1984, SEC.6.)*

#### **IC 7.1-5-2-2**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by P.L.78-1986, SEC.7. Repealed by P.L.159-2014, SEC.22.)*

#### **IC 7.1-5-2-3**

##### **Signs regulated**

Sec. 3. (a) It is unlawful for the holder of a retailer's or dealer's permit of any type to display, keep, have, or maintain, a sign, advertisement, poster or design, obstruction to view, device or equipment contrary to the provisions of this title, or to a rule or regulation of the commission, in, about, or in connection with the business authorized by the holder's permit.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.23.*

#### **IC 7.1-5-2-4**

##### **Gift of outside sign prohibited**

Sec. 4. (a) It is unlawful for a manufacturer of alcoholic beverages or other permittee authorized to sell and deliver alcoholic beverages to give, supply, furnish, or grant to the holder of a retailer's or dealer's permit a sign, poster, or advertisement for use, or intended to be used, outside of or on the exterior of the licensed premises or on a building situated on the licensed premises or in connection with them, or on premises adjacent to the licensed premises.

(b) It is unlawful for a retail or dealer permittee to receive or accept, or to display or permit to be displayed, a sign, poster, or advertisement given in violation of subsection (a).

(c) A person who violates subsection (a) or (b) commits a Class C infraction. A person commits a separate violation for each day during which a violation of subsection (a) or (b) continues.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.24.*

#### **IC 7.1-5-2-5**

##### **Repealed**

*(Repealed by P.L.57-1984, SEC.15.)*

#### **IC 7.1-5-2-6**

**Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.707; P.L.57-1984, SEC.14. Repealed by P.L.159-2014, SEC.25.)*

**IC 7.1-5-2-7**

**Limitation on brand name advertising near certain premises; temporary banners permitted for sporting events, festivals, and holidays**

Sec. 7. (a) The term "premises" as used in this subsection does not include a facility (as defined in IC 7.1-2-3-16.5). A primary source of supply, wholesaler, or salesman of alcoholic beverages, or the agent or representative of a primary source of supply, wholesaler, or salesman of alcoholic beverages may not directly or indirectly place, display, or maintain or cause to be placed, displayed, or maintained a sign advertising alcoholic beverages by brand name within two hundred (200) feet of a premises having a retailer or dealer permit to sell alcoholic beverages. The distance must be determined by measuring between the nearest point on the licensed premises to the nearest point of the sign.

(b) A sign advertising alcoholic beverages by brand name may not indicate by arrows, hands, or other similar devices a particular retailer or dealer premises.

(c) Notwithstanding subsection (a), a primary source of supply, wholesaler, or salesman of alcoholic beverages, or the agent or representative of a primary source of supply, wholesaler, or salesman of alcoholic beverages may place, display, maintain or cause to be placed, displayed, or maintained temporary banners or pennants advertising alcoholic beverages by brand name on or within two hundred (200) feet of a retailer or dealer premises if the banners or pennants commemorate a sporting event, festival, or holiday held in Indiana. The banners or pennants may be displayed under this subsection beginning twenty-one (21) days before the sporting event, festival, or holiday and ending five (5) days after the close of the sporting event, festival, or holiday.

(d) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*As added by P.L.106-1995, SEC.17. Amended by P.L.15-2011, SEC.13; P.L.159-2014, SEC.26.*

### **IC 7.1-5-3**

#### **Chapter 3. Containers**

### **IC 7.1-5-3-1**

#### **Beer must be bottled at brewery**

Sec. 1. (a) This section does not apply to the following:

(1) An establishment where alcoholic beverages are sold that is owned, in whole or part, by an entity that holds a brewer's permit issued under IC 7.1-3-2-2(b).

(2) An establishment where alcoholic beverages are sold that is owned, in whole or part, by a statewide trade organization consisting of members, each of whom holds a brewer's permit issued under IC 7.1-3-2-2(b).

(b) Except as provided in section 6 of this chapter, it is unlawful to sell beer in this state at retail in a bottle, can, or other container, unless the bottle, can, or other container was packaged and sealed by the brewer at the brewer's bottling house contiguous or adjacent to the brewery in which the beer was produced.

(c) A person who knowingly or intentionally violates subsection (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.64-2011, SEC.2; P.L.6-2012, SEC.61; P.L.159-2014, SEC.27; P.L.79-2015, SEC.10.*

### **IC 7.1-5-3-2**

#### **Sale from original container only**

Sec. 2. (a) Except as provided in section 6 of this chapter, it is unlawful for a person to sell, dispense, give away, furnish, or supply or serve to a person, an alcoholic beverage, from a container other than the original container in which the liquor was contained at the time it was purchased by the seller, dispenser, giver, or person serving it.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.29.) As amended by P.L.159-2014, SEC.28.*

### **IC 7.1-5-3-3**

#### **Repealed**

*(Repealed by P.L.63-1990, SEC.1.)*

### **IC 7.1-5-3-4**

#### **Refilling prohibited; exceptions**

Sec. 4. (a) This section does not apply to the following:

(1) The necessary refilling of a container by a person holding a permit that authorizes the person to manufacture, rectify, or bottle liquor.

(2) An establishment where alcoholic beverages are sold that is



owned, in whole or part, by an entity that holds a brewer's permit for a brewery described in IC 7.1-3-2-7(5).

(3) An establishment where alcoholic beverages are sold that is owned, in whole or part, by a statewide trade organization consisting of members, each of whom holds a brewer's permit for a brewery described in IC 7.1-3-2-7(5).

(4) The refilling of a bottle or container or possession of a refilled bottle or container if the refilling or possession is not for resale or another commercial purpose.

(5) The refilling of a bottle or container with hard cider in an establishment where alcoholic beverages are sold that is owned, in whole or in part, by an entity that manufactures hard cider under the appropriate permit issued under this title.

(6) The refilling of a bottle or container with a product from a farm winery in an establishment in which alcoholic beverages are sold that is owned, in whole or in part, by the holder of a farm winery permit.

(b) Except as provided in section 6 of this chapter, it is unlawful for a person to:

(1) refill a bottle or container, in whole or in part, with an alcoholic beverage; or

(2) knowingly possess a bottle or container that has been refilled, in whole or in part, with an alcoholic beverage;

after the container of liquor has been emptied in whole or in part.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.50; P.L.64-2011, SEC.3; P.L.6-2012, SEC.62; P.L.159-2014, SEC.29; P.L.79-2015, SEC.11; P.L.133-2016, SEC.9; P.L.214-2016, SEC.31.*

### **IC 7.1-5-3-5**

#### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

### **IC 7.1-5-3-6**

#### **Mixing of drinks permitted**

Sec. 6. Mixing of Drinks Permitted. The provisions of this chapter shall not prohibit the service of a mixed drink from the vessel in which it was prepared. However, the liquor used in the preparation of a mixed drink shall be drawn directly from the original container in which the liquor was contained and poured directly into the vessel in which the mixed drink is to be prepared.

*(Formerly: Acts 1973, P.L.55, SEC.1.)*

## **IC 7.1-5-4**

### **Chapter 4. Unpaid Taxes; Counterfeit Permits**

#### **IC 7.1-5-4-1**

##### **Possession of untaxed beverages prohibited**

Sec. 1. It is a Class C misdemeanor for a person to sell, barter, give away, or possess an alcoholic beverage, knowing that all taxes due the state on it are not paid.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.30.)  
As amended by Acts 1978, P.L.2, SEC.708; P.L.159-2014, SEC.30.*

#### **IC 7.1-5-4-2**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-4-3**

##### **Unlawful furnishing of evidence of payment of tax prohibited**

Sec. 3. (a) It is unlawful for a person, other than an officer of the state lawfully entitled to do so, to furnish evidence of the payment of the excise tax, or to execute or issue a permit of any type, to another person.

(b) A person who knowingly or intentionally violates this section commits a Level 6 felony.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.32.)  
As amended by P.L.159-2014, SEC.31.*

#### **IC 7.1-5-4-4**

##### **Repealed**

*(Repealed by Acts 1973, P.L.56, SEC.38.)*

#### **IC 7.1-5-4-5**

##### **Possession of counterfeit permit prohibited**

Sec. 5. (a) It is unlawful for a person to possess an article, instrument, imitation, or counterfeit of a permit, other than one lawfully issued to the person and which the person is lawfully entitled to possess.

(b) It is unlawful for a person to display an imitation or counterfeit of a permit for the purpose of defrauding the state of the payment of a tax or license fee imposed by this title.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the cost of the permit is at least seven hundred fifty dollars (\$750).

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.33.)  
As amended by P.L.159-2014, SEC.32.*

#### **IC 7.1-5-4-6**

##### **Fraudulent statements prohibited**

Sec. 6. (a) It is unlawful for a person to make a statement, written or oral, as to payment to, or the receipt by, the state, for the purpose of defrauding the state of a tax or license fee imposed by this title.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Level 6 felony if the tax or license fee is at least seven hundred fifty dollars (\$750).

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.33.*

#### **IC 7.1-5-4-7**

##### **Evidence**

Sec. 7. Evidence. The possession of a permit, or of an imitation or counterfeit of a permit, contrary to the provisions of this chapter, is prima facie evidence of an intent to defraud the state by the possessor of the prohibited article.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.34.)*

## **IC 7.1-5-5**

### **Chapter 5. Miscellaneous Crimes**

#### **IC 7.1-5-5-1**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.159-2014, SEC.34.)*

#### **IC 7.1-5-5-2**

##### **Commission; receiving gifts prohibited**

Sec. 2. (a) It is unlawful for a commissioner, an officer or employee of the commission, or a member of a local board, to receive a gratuity, commission, or profit of any kind from a person applying for or receiving a permit under this title.

(b) A person who knowingly or intentionally violates subsection (a) commits a Level 6 felony.

(c) In addition to any other penalty provided for a violation of subsection (a), a person who violates subsection (a) shall be dismissed as provided in this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.35.*

#### **IC 7.1-5-5-3**

##### **Illegal influence prohibited**

Sec. 3. (a) It is unlawful for the holder of a manufacturer's permit of any type, a wholesaler's permit of any type, or an officer, employee, agent or other representative of a surety company which has executed a bond for a permittee under this title to seek to influence or recommend or solicit the appointment of a member of a local board, or of an officer, appointee, or employee under this title, or meet with, consult, or advise a member of a local board concerning the issuance of a permit of any type.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.36.*

#### **IC 7.1-5-5-4**

##### **Repealed**

*(Repealed by Acts 1977, P.L.97, SEC.1.)*

#### **IC 7.1-5-5-5**

##### **Repealed**

*(Repealed by Acts 1977, P.L.97, SEC.1.)*

#### **IC 7.1-5-5-6**

##### **Repealed**

*(Repealed by Acts 1977, P.L.97, SEC.1.)*

### **IC 7.1-5-5-7**

#### **Discrimination in sales prohibited; exception; special discounts for certain products**

Sec. 7. (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom the permittee is not authorized to sell under this title.

(b) A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.

(c) This section does not apply to the holder of a gaming site permit that complies with IC 7.1-3-17.5-6.

(d) Notwithstanding subsection (a), a beer wholesaler may offer a special discount price to a beer dealer or beer retailer for beer or flavored malt beverage, if the beer or flavored malt beverage:

- (1) is a brand or package the beer wholesaler has discontinued; or
- (2) will expire in not more than:
  - (A) twenty (20) days for packaged beer or packaged flavored malt beverage; and
  - (B) ten (10) days for draft beer or draft flavored malt beverage.

(e) The special discount under subsection (d) only applies to beer or flavored malt beverage that will expire and be subject to removal from retailer or dealer shelves in accordance with the primary source of supply's coding data clearly identified on the container.

(f) Any beer or flavored malt beverage sold at a special discount price under subsection (d) shall be accompanied by an invoice clearly designating, in addition to all other information required by law, all the following information:

- (1) The date of delivery.
- (2) The expiration date of each brand, package type, and quantity delivered.
- (3) The per unit price for each package.

(g) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L. 55, SEC. 1.) As amended by P.L. 204-2001, SEC. 51; P.L. 250-2003, SEC. 16; P.L. 224-2005, SEC. 30; P.L. 233-2007, SEC. 32; P.L. 159-2014, SEC. 37.*

### **IC 7.1-5-5-8**

#### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-5-9**

##### **Coercion prohibited; unequitable termination of contract prohibited**

Sec. 9. (a) This section does not apply to product management (as described in 905 IAC 1-5.2-15) by a permittee.

(b) It is unlawful for a permittee to coerce, or attempt to coerce, or persuade another permittee to enter into an agreement, or to take an action, which would violate a provision of this title or of the rules and regulations of the commission.

(c) It is unlawful for a beer wholesaler or a primary source of supply to cancel or terminate an agreement or contract between a beer wholesaler and a primary source of supply for the sale of beer, unfairly and without due regard for the equities of the other party.

(d) A person who knowingly or intentionally violates subsection (b) or (c) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.224-2005, SEC.31; P.L.94-2008, SEC.48; P.L.159-2014, SEC.38.*

#### **IC 7.1-5-5-10**

##### **Acceptance of gift by retailer prohibited**

Sec. 10. (a) It is unlawful for a person who holds a retailer's or dealer's permit of any type to receive or accept from a manufacturer of alcoholic beverages, or from a permittee authorized to sell and deliver alcoholic beverages, a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, or lease, rehabilitation, decoration, improvement or repair of premises.

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.39; P.L.64-2015, SEC.1; P.L.196-2015, SEC.17.*

#### **IC 7.1-5-5-11**

##### **Gift to retail permittee prohibited; promotional prizes; bona fide incentives**

Sec. 11. (a) Except as provided in subsections (c) and (d), it is unlawful for a manufacturer of alcoholic beverages or a permittee authorized to sell and deliver alcoholic beverages to:

(1) give, supply, furnish, or grant to another permittee who purchases alcoholic beverages from the manufacturer or permittee a rebate, sum of money, accessory, furniture, fixture, loan of money, concession, privilege, use, title, interest, lease, or rental of premises; or

(2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have a business dealing with the other permittee.

(b) This section shall not apply to the sale and delivery and

collection of the sale price of an alcoholic beverage in the ordinary course of business.

(c) If the promotional program is approved under the rules adopted by the commission and is conducted in all wholesaler establishments through which the manufacturer distributes alcoholic beverages in Indiana, a manufacturer of alcoholic beverages may award bona fide promotional prizes and awards to any of the following:

- (1) A person with a wholesaler's permit issued under IC 7.1-3.
- (2) An employee of a person with a wholesaler's permit issued under IC 7.1-3.

(d) A manufacturer may offer on a nondiscriminatory basis bona fide incentives to wholesalers when the incentives are determined based on sales to retailers or dealers occurring during specified times for specified products. The incentive may be conditioned on the wholesaler selling a:

- (1) specified product at a specified price or less than a specified price; or
- (2) minimum quantity of a specified product to a single customer in a single transaction.

The incentive may not be conditioned on a wholesaler having total sales of a minimum quantity of a specified product during the applicable period.

(e) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.32-1988, SEC.5; P.L.72-1997, SEC.3; P.L.224-2005, SEC.32; P.L.159-2014, SEC.40.*

#### **IC 7.1-5-5-12**

##### **Amateur athletics; soliciting assistance prohibited**

Sec. 12. (a) It is unlawful for a permittee who sponsors an amateur athletic contest, team, or sporting contest to solicit or accept assistance, either financial or otherwise, from another permittee for the purpose of promoting the amateur athletic contest, team, or sporting event.

(b) It is unlawful for a permittee who is solicited in violation of subsection (a) to give that assistance.

(c) A person who knowingly or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Level 6 felony if the assistance is at least seven hundred fifty dollars (\$750).  
*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.41.*

## **IC 7.1-5-6**

### **Chapter 6. Permits**

#### **IC 7.1-5-6-1**

##### **Making alcoholic beverages without permit prohibited**

Sec. 1. (a) It is a Class C misdemeanor for a person to knowingly own, have in the person's possession or under the person's control, or use a still or distilling apparatus for the manufacture of liquor, except as otherwise provided in this title.

(b) It is a Class C misdemeanor for a person to knowingly own, have in the person's possession or under the person's control, or use brewing or wine-making apparatus, for the manufacture for commercial purposes of beer or wine, except as otherwise provided in this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.709; P.L.159-2014, SEC.42.*

#### **IC 7.1-5-6-2**

##### **Acting as salesman without permit prohibited**

Sec. 2. (a) It is unlawful for a person to act as a salesman, regardless of whether the sale is to be made by a seller within this state, to a buyer within or without this state, or by a seller outside this state for delivery to a buyer within this state, or whether the sale otherwise may be legal or illegal, unless that person has applied for and been issued a salesman's permit.

(b) It is unlawful for a buyer in this state to give an order, bargain, contract, or agreement to a salesman who does not have a salesman's permit. This section does not apply to a permittee of any type, a permittee's agent, or employees working or acting on the licensed premises of the permittee.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.43.*

#### **IC 7.1-5-6-3**

##### **Acting without permit; defenses**

Sec. 3. (a) It is unlawful for a person to act as a clerk in a package liquor store, or as a bartender, waiter, waitress, or manager for a retailer permittee unless that person has applied for and been issued the appropriate permit. This section does not apply to dining car or boat employees or to a person described in IC 7.1-3-18-9(d). A person who knowingly or intentionally violates this subsection commits a Class B misdemeanor.

(b) It is a defense to a charge under this section if, not later than thirty (30) days after being cited by the commission, the person who was cited produces evidence that the appropriate permit was issued by the commission on the date of the citation.



(c) It is a defense to a charge under this section for a new applicant for a permit if, not later than thirty (30) days after being cited by the commission, the new applicant who was cited produces a receipt for a cashier's check or money order showing that an application for the appropriate permit was applied for on the date of the citation.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.51, SEC.5; P.L.77-1988, SEC.5; P.L.102-1989, SEC.7; P.L.159-2014, SEC.44.*

#### **IC 7.1-5-6-4**

##### **Falsification of record prohibited**

Sec. 4. (a) It is unlawful for a person to falsify, or cause to be falsified, an entry, statement, account, recital, or computation, or an application for a permit, or an instrument, or paper required to be filed in connection with the application, or in connection with the revocation, or proposed revocation, or a permit.

(b) It is unlawful for a person to enter, or cause to be entered, a false entry, statement, account, recital, computation, or representation of a fact in a book, document, account, order, paper, or statement required to be kept or filed, or made or furnished to the commission under the provisions of this title or a rule or regulation of the commission.

(c) A person who knowingly or intentionally violates this section commits a Level 6 felony.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.45.*

## **IC 7.1-5-7**

### **Chapter 7. Minors**

#### **IC 7.1-5-7-0.1**

##### **Repealed**

*(As added by P.L.220-2011, SEC.177. Repealed by P.L.63-2012, SEC.9.)*

#### **IC 7.1-5-7-0.3**

##### **Repealed**

*(As added by P.L.220-2011, SEC.178. Repealed by P.L.159-2014, SEC.46.)*

#### **IC 7.1-5-7-1**

##### **False statements of age**

Sec. 1. It is a Class C misdemeanor for a minor to knowingly or intentionally make a false statement of the minor's age or to present or offer false or fraudulent evidence of majority or identity to a permittee for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure an alcoholic beverage.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.11; P.L.102-1983, SEC.1; P.L.77-1988, SEC.6; P.L.67-1990, SEC.1; P.L.1-1993, SEC.45; P.L.94-2008, SEC.49; P.L.125-2012, SEC.1; P.L.113-2014, SEC.14; P.L.217-2014, SEC.2; P.L.159-2014, SEC.47.*

#### **IC 7.1-5-7-2**

##### **Furnishing false evidence of identification**

Sec. 2. It is a Class C misdemeanor for a person to sell, give, or furnish to a minor false or fraudulent evidence of majority or identity with the intent to violate or assist in the violation of a provision of this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.12; P.L.102-1983, SEC.2; P.L.159-2014, SEC.48.*

#### **IC 7.1-5-7-3**

##### **Possession of false identity**

Sec. 3. It is a Class C infraction for a minor to have in his possession false or fraudulent evidence of majority or identity with the intent to violate a provision of this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.13; P.L.102-1983, SEC.3.*

#### **IC 7.1-5-7-4**

##### **Statement of age**

Sec. 4. A permittee shall have the right to demand of a customer a signed written statement, on a form prescribed by the commission,

that the customer is not a minor. It is a Class C infraction for a minor to misrepresent his age on the statement.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.14; P.L.102-1983, SEC.4.*

#### **IC 7.1-5-7-4.5**

##### **Permittee retention of ID cards**

Sec. 4.5. (a) As used in this section, "ID card" means any of the following:

- (1) A driver's license.
- (2) A photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government.
- (3) A government issued document bearing an individual's photograph.

(b) As used in this section, "permittee" means a person who holds a valid permit under this title, including an employee of a permittee.

(c) A permittee may retain an ID card that was provided to the permittee by a person as proof of age for making a purchase of an alcoholic beverage, if the permittee has:

- (1) received alcohol server training under IC 7.1-3-1.5; and
- (2) a reasonable belief that the ID card:
  - (A) has been altered or falsified; or
  - (B) was not issued to the person who provided the ID card to the permittee.

(d) If the permittee retains an ID card, the permittee shall do the following:

- (1) Issue a receipt to the person who provided the ID card. The receipt must state the date and the hour that the permittee retained the ID card.
- (2) Not later than twenty-four (24) hours after the ID card is retained, provide:
  - (A) the ID card; and
  - (B) a written statement of the facts and circumstances surrounding the permittee's retention of the ID card; to a state or local law enforcement agency that has jurisdiction where the permit premises is located.

(e) If the law enforcement agency does not:

- (1) initiate an investigation; or
- (2) find that probable cause exists;

as to any violation of section 1, 3, or 4 of this chapter, the law enforcement agency shall release the ID card to the person who was issued the ID card.

(f) A permittee is not subject to criminal liability or civil liability for retention of an ID card in accordance with this section.

(g) A permittee is not immune from civil or criminal liability for using force against a person in order to obtain an ID card.

*As added by P.L.214-2016, SEC.32.*

**IC 7.1-5-7-5**

**Repealed**

*(Repealed by P.L.100-1983, SEC.8.)*

**IC 7.1-5-7-5.1**

**Defenses of permittee to charge of unlawfully furnishing alcoholic beverage to minor**

Sec. 5.1. (a) A permittee in a criminal prosecution or in a proceeding before the commission or a local board based upon a charge of unlawfully furnishing an alcoholic beverage to a minor may offer either or both of the following proofs as a defense or defenses to the prosecution or proceeding:

(1) That:

(A) the purchaser:

(i) falsely represented the purchaser's age in a written statement, such as that prescribed by subsection (b), supported by two (2) forms of identification showing the purchaser to be at least twenty-one (21) years of age;

(ii) produced a driver's license bearing the purchaser's photograph;

(iii) produced a photographic identification card, issued under IC 9-24-16-1 or a similar card, issued under the laws of another state or the federal government, showing that the purchaser was of legal age to make the purchase; or

(iv) produced a government issued document bearing the purchaser's photograph and showing the purchaser to be at least twenty-one (21) years of age;

(B) the appearance of the purchaser was such that an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(C) the sale was made in good faith based upon the reasonable belief that the purchaser was actually of legal age to make the purchase.

(2) That the permittee or the permittee's agent had taken all reasonable precautions in instructing the permittee's employees, in hiring the permittee's employees, and in supervising them as to sale of alcoholic beverages to minors.

(b) The following written statement is sufficient for the purposes of subsection (a)(1)(A)(i):

REPRESENTATION AND STATEMENT  
OF AGE  
FOR PURCHASE OF ALCOHOLIC  
BEVERAGES

I understand that misrepresentation of age to induce the sale, service, or delivery of alcoholic beverages to me is cause for my arrest and prosecution, which can result in punishment as follows:

(1) Possible payment of a fine of up to \$500.

(2) Possible imprisonment for up to 60 days.

(3) Possible loss or deferment of driver's license privileges for up to one year.

(4) Possible requirement to participate in an alcohol education or treatment program.

Knowing the possible penalties for misstatement, I hereby represent and state, for the purpose of inducing

\_\_\_\_\_ (Name of licensee)

to sell, serve, or deliver alcoholic beverages to me, that I was born: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and am \_\_\_\_\_ years of age.

(Month) (Day) (Year)

Date \_\_\_\_\_

Signed \_\_\_\_\_

Address \_\_\_\_\_

Other Identification  
Presented:  
Nonphoto driver's  
license: (number & state)

Signature of person  
who witnessed completion  
of this statement  
by patron:

\_\_\_\_\_ Social Security Number

Other \_\_\_\_\_

\_\_\_\_\_  
*As added by P.L.100-1983, SEC.5. Amended by P.L.79-1986, SEC.2;  
P.L.2-1991, SEC.56; P.L.10-2010, SEC.9.*

### **IC 7.1-5-7-6**

#### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

### **IC 7.1-5-7-7**

#### **Illegal possession**

Sec. 7. (a) Subject to IC 7.1-5-1-6.5, it is a Class C misdemeanor for a minor to knowingly:

- (1) possess an alcoholic beverage;
- (2) consume an alcoholic beverage; or
- (3) transport an alcoholic beverage on a public highway when not accompanied by at least one (1) of the minor's parents or guardians.

(b) If a minor is found to have violated subsection (a)(2) or (a)(3) while operating a vehicle, the court may order the minor's driving privileges suspended for up to one (1) year. However, if the minor is less than eighteen (18) years of age, the court shall order the minor's driving privileges suspended for at least sixty (60) days.

(c) The court shall deliver any order suspending a minor's driving privileges under this section to the bureau of motor vehicles, which shall suspend the minor's driving privileges under IC 9-24-18-12.2

for the period ordered by the court.  
*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.710; Acts 1982, P.L.69, SEC.15; P.L.53-1994, SEC.1; P.L.93-2012, SEC.5; P.L.125-2012, SEC.2; P.L.217-2014, SEC.3; P.L.159-2014, SEC.49.*

#### **IC 7.1-5-7-8**

##### **Sale to minors prohibited; furnishing property for the purpose of enabling minors to consume alcohol prohibited**

Sec. 8. (a) It is a Class B misdemeanor for a person to:

- (1) recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish an alcoholic beverage to a minor;  
or
- (2) knowingly or intentionally:
  - (A) rent property; or
  - (B) provide or arrange for the use of property;  
for the purpose of allowing or enabling a minor to consume an alcoholic beverage on the property.

(b) However, the offense described in subsection (a) is:

- (1) a Class A misdemeanor if the person has a prior unrelated conviction under this section; and
- (2) a Level 6 felony if the consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.

(c) This section shall not be construed to impose civil liability upon any postsecondary educational institution, including public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless the institution or its agent:

- (1) sells, barters, exchanges, provides, or furnishes an alcoholic beverage to a minor; or
- (2) either:
  - (A) rents property; or
  - (B) provides or arranges for the use of property;  
for the purpose of allowing or enabling a minor to consume an alcoholic beverage on the property.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.74, SEC.1.) As amended by Acts 1982, P.L.69, SEC.16; P.L.102-1983, SEC.5; P.L.100-1983, SEC.6; P.L.79-1986, SEC.3; P.L.2-2007, SEC.132; P.L.94-2008, SEC.50; P.L.158-2013, SEC.127; P.L.159-2014, SEC.50.*

#### **IC 7.1-5-7-9**

##### **Parent taking child into tavern prohibited**

Sec. 9. (a) It is a Class C infraction for a parent, guardian, trustee, or other person having custody of a child under eighteen (18) years of age to take that child into a tavern, bar, or other public place

where alcoholic beverages are sold, bartered, exchanged, given away, provided, or furnished.

(b) It is a Class C infraction for a permittee to permit the parent, guardian, trustee, or other person having custody of the child under eighteen (18) years of age to be in or around the prohibited place with the child.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.17; P.L.102-1983, SEC.6.*

#### **IC 7.1-5-7-10**

##### **Minors in taverns prohibited**

Sec. 10. (a) It is a Class C infraction for a minor to knowingly or intentionally be in a tavern, bar, or other public place where alcoholic beverages are sold, bartered, exchanged, given away, provided, or furnished.

(b) It is a Class C misdemeanor for a permittee to recklessly permit a minor to be in the prohibited place beyond a reasonable time in which an ordinary prudent person can check identification to confirm the age of a patron.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.18; P.L.102-1983, SEC.7; P.L.79-1986, SEC.4; P.L.77-1988, SEC.7; P.L.1-1993, SEC.46; P.L.125-2012, SEC.3; P.L.217-2014, SEC.4; P.L.159-2014, SEC.51.*

#### **IC 7.1-5-7-11**

##### **Exception for certain places**

Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2-20.5).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold

or dispensed by the drink.

(17) Entertainment complex

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.

(20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.

(21) An automobile racetrack.

(22) An indoor theater under IC 7.1-3-20-26.

(23) A senior residence facility campus (as defined in IC 7.1-3-1-29(c)) at which alcoholic beverages are given or furnished as provided under IC 7.1-3-1-29.

(24) A hotel other than a part of a hotel that is a room in a restaurant in which a bar is located over which alcoholic beverages are sold or dispensed by the drink.

(25) The location of an allowable event to which IC 7.1-3-6.1 applies.

(26) The location of a charity auction to which IC 7.1-3-6.2 applies.

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

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

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

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

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.74, SEC.2.) As amended by P.L.100-1983, SEC.7; P.L.15-1994, SEC.10; P.L.105-1995, SEC.6; P.L.71-1996, SEC.5; P.L.72-1996, SEC.22; P.L.117-2000, SEC.1; P.L.72-2004, SEC.16; P.L.224-2005, SEC.33; P.L.2-2007, SEC.133; P.L.10-2010, SEC.10; P.L.196-2015, SEC.18; P.L.153-2015, SEC.12; P.L.196-2015, SEC.19.*

### **IC 7.1-5-7-12**

#### **Employment of minors prohibited**

Sec. 12. Except as provided in section 13 of this chapter, it is a Class B misdemeanor for a person to knowingly or intentionally employ a minor in or about a place where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, in a capacity which requires or allows the minor to sell, furnish, or otherwise deal in alcoholic beverages.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982,*



*P.L.69, SEC.19; P.L.204-2001, SEC.52; P.L.159-2014, SEC.52.*

### **IC 7.1-5-7-13**

#### **Employment of minors; exceptions**

Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

- (A) selling;
- (B) furnishing, other than serving;
- (C) consuming; or
- (D) otherwise dealing in;

alcoholic beverages.

(2) A person at least nineteen (19) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person who is at least nineteen (19) years of age but less than twenty-one (21) years of age and who has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 from serving alcoholic beverages in a dining area or family room of a restaurant or hotel:

- (A) in the course of a person's employment as a waiter, waitress, or server; and
- (B) under the supervision of a person who:
  - (i) is at least twenty-one (21) years of age;
  - (ii) is present at the restaurant or hotel; and
  - (iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.53; P.L.161-2005, SEC.3; P.L.3-2008, SEC.70; P.L.94-2008, SEC.51.*

### **IC 7.1-5-7-14**

#### **Notice from parents**

Sec. 14. It is a Class B misdemeanor for a permittee to knowingly or intentionally permit a minor to be in or around the licensed premises after receiving written notice from the parent, guardian, or other person having custody of the minor that the minor is in fact a minor and directing that the minor be excluded from the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.20; P.L.159-2014, SEC.53.*

**IC 7.1-5-7-15****Aiding unlawful possession**

Sec. 15. A person twenty-one (21) years of age or older who knowingly or intentionally encourages, aids, or induces a minor to unlawfully possess an alcoholic beverage commits a Class C infraction.

*As added by P.L.102-1983, SEC.8.*

**IC 7.1-5-7-16****Inspections**

Sec. 16. The commission shall conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with this title. Only the commission may conduct the random unannounced inspections. The commission may use retired or off duty law enforcement officers to conduct inspections under this section.

*As added by P.L.94-2008, SEC.52. Amended by P.L.216-2011, SEC.2.*

**IC 7.1-5-7-17****Enforcement actions**

Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:

- (1) at least eighteen (18) years of age; and
- (2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

- (1) occur under the direction of an enforcement officer vested with full police powers and duties; and
- (2) be a part of the enforcement action.

*As added by P.L.94-2008, SEC.53.*

## **IC 7.1-5-8**

### **Chapter 8. Miscellaneous Prohibited Activities**

#### **IC 7.1-5-8-0.3**

##### **Intent and purpose of certain amendments made to chapter**

Sec. 0.3. The intent and purpose of the amendments made to sections 4, 5, and 6 of this chapter by P.L.94-2008 are the promotion of performing arts in Indiana.

*As added by P.L.220-2011, SEC.179.*

#### **IC 7.1-5-8-1**

##### **Hindering enforcement of title prohibited**

Sec. 1. It is a Class C misdemeanor for a person to recklessly hinder, obstruct, interfere with, or prevent the observance or enforcement of any of the following:

(1) A provision of this title.

(2) A rule or regulation of the commission adopted in the administration of this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.711; P.L.204-2001, SEC.54.*

#### **IC 7.1-5-8-2**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-8-3**

##### **Wood alcohol as beverage prohibited**

Sec. 3. Wood Alcohol As Beverage Prohibited. It is a Class A misdemeanor for a person knowingly to give, furnish, barter, keep for sale, or deliver a preparation, liquid, fluid, or drink, or other substance likely or intended to be used as a beverage, that contains wood alcohol.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.712.*

#### **IC 7.1-5-8-4**

##### **Taking alcoholic beverages on licensed premises and serving setups prohibited; exception**

Sec. 4. (a) It is a Class B misdemeanor for a person who owns or operates a private or public restaurant or place of public or private entertainment to knowingly or intentionally permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section do not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track that is used primarily in the sport of auto racing.

(3) An outdoor place of public entertainment that:

(A) has an area of at least four (4) acres and not more than six (6) acres;

(B) is located within one (1) mile of the White River;

(C) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(D) is used primarily in connection with live music concerts.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

(c) This section does not apply to a person who owns or operates a private or public restaurant or place of public or private entertainment where a qualified organization is conducting:

(1) an allowable event to which IC 7.1-3-6.1 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered as a prize in the allowable event; or

(2) a charity auction to which IC 7.1-3-6.2 applies, and the alcoholic beverage brought into the establishment is:

(A) in sealed bottles or cases; and

(B) donated to or purchased by the qualified organization to be offered for sale in the charity auction.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.136-2000, SEC.4; P.L.204-2001, SEC.55; P.L.94-2008, SEC.54; P.L.159-2014, SEC.54; P.L.153-2015, SEC.13.*

#### **IC 7.1-5-8-5**

##### **Taking alcoholic beverage on licensed premises; exceptions**

Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a track that is used primarily in the sport of auto racing.

(c) This section does not apply to a person at an outdoor place of public entertainment that:

(1) has an area of at least four (4) acres and not more than six (6) acres;

(2) is located within one (1) mile of the White River;

(3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(4) is used primarily in connection with live music concerts.

(d) It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee an alcoholic beverage that was not then and there purchased from that permittee.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.713; P.L.177-1999, SEC.8; P.L.136-2000, SEC.5; P.L.204-2001, SEC.56; P.L.94-2008, SEC.55.*

#### **IC 7.1-5-8-6**

##### **Taking liquor into restaurants prohibited; exception**

Sec. 6. (a) It is a Class C misdemeanor for a person to knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

(b) This section does not apply to a person at an outdoor place of public entertainment that:

- (1) has an area of at least four (4) acres and not more than six (6) acres;
- (2) is located within one (1) mile of the White River;
- (3) is owned and operated by a nonprofit corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (4) is used primarily in connection with live music concerts.

(c) This section does not apply to a person who carries liquor into a restaurant or place of public entertainment where a qualified organization is conducting:

- (1) an allowable event to which IC 7.1-3-6.1 applies, and the liquor brought into the establishment is:
  - (A) in sealed bottles or cases; and
  - (B) donated to or purchased by the qualified organization to be offered as a prize in the allowable event; or
- (2) a charity auction to which IC 7.1-3-6.2 applies, and the liquor brought into the establishment is:
  - (A) in sealed bottles or cases; and
  - (B) donated to or purchased by the qualified organization to be offered for sale in the charity auction.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.714; P.L.94-2008, SEC.56; P.L.153-2015, SEC.14.*

#### **IC 7.1-5-8-7**

##### **Repealed**

*(Repealed by P.L.102-1989, SEC.8.)*

#### **IC 7.1-5-8-8**

**Repealed**

*(Repealed by Acts 1978, P.L.51, SEC.8.)*

**IC 7.1-5-8-9**

**Purchase of beer from un-bonded brewery prohibited**

Sec. 9. It is a Class C misdemeanor for a permittee to knowingly or intentionally purchase, receive, or import beer from a brewer or other person located outside this state unless the bond and agreement required by this title have been accepted by the commission and are currently effective.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.55.*

**IC 7.1-5-8-10**

**Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

**IC 7.1-5-8-11**

**Possessing, purchasing, selling, offering to sell, or using powdered or crystalline alcohol prohibited; exceptions**

Sec. 11. (a) This section does not apply to the possession, purchase, or use of powdered or crystalline alcohol for bona fide research purposes by any of the following:

- (1) A hospital licensed under IC 16-21.
- (2) The state department of health.
- (3) A state educational institution (as defined in IC 21-7-13-32).
- (4) A private college or university.
- (5) A pharmaceutical or biotechnology company.

(b) A person who possesses, purchases, sells, offers to sell, or uses powdered or crystalline alcohol commits a Class B infraction.

*As added by P.L.70-2015, SEC.2.*

## IC 7.1-5-9

### Chapter 9. Miscellaneous Prohibited Interests

#### IC 7.1-5-9-1

##### **Commission; prohibited interest**

Sec. 1. (a) It is unlawful for a commissioner, an officer or employee of the commission, or a member of a local board, to have an interest, either proprietary or by means of a loan, mortgage, or lien, or in any other manner, or to own stock in a corporation which has an interest, in the premises where alcoholic beverages are manufactured or sold, or in a business wholly or partially devoted to the manufacture, sale, transportation, or storage of alcoholic beverages. The prohibition contained in this section shall not apply to an expert or professional employee employed by the commission only for a special undertaking. A person who violates a provision of this section also shall be dismissed as provided in this title.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.56.*

#### IC 7.1-5-9-2

##### **Brewer's or vintner's interest in wholesaler's permit prohibited; financial assistance**

Sec. 2. (a) Except as provided in subsection (c), it is unlawful for the holder of a brewer's permit or for a brewer located outside Indiana that meets the requirements of IC 7.1-3-2-4 and IC 7.1-3-2-5 to hold, acquire, possess, own, or control, or to have an interest, claim, or title, in or to an establishment, company, or corporation holding or applying for a beer wholesaler's permit under this title, or in its business.

(b) Except as provided in subsection (c), it is unlawful for the holder of a vintner's permit or for a vintner located outside Indiana to hold, acquire, possess, own, or control, or to have an interest, claim, or title in or to, an establishment, company, or corporation holding or applying for a wine wholesaler's permit under this title, or in its business.

(c) A brewer covered by subsection (a) may provide financial assistance to the holder of a beer wholesaler's permit. A vintner covered by subsection (b) may provide financial assistance to the holder of the wine wholesaler's permit. The following conditions apply to the provision of financial assistance under this subsection:

- (1) The brewer may not require that the holder of the beer wholesaler's permit, and the vintner may not require that the holder of a wine wholesaler's permit, accept the financial assistance.
- (2) The financial assistance may be unsecured or secured.
- (3) If the financial assistance is secured, it may be secured only

by a security interest in the following property of the holder of the wholesaler's permit:

(A) Inventory of the products of the brewer or vintner.

(B) Premises or equipment, if the premises or equipment is used in the business of the holder of the wholesaler's permit.

(4) If the financial assistance is secured, the value of the property in which the security interest lies may not substantially exceed the debt secured.

(5) Except as provided in IC 7.1-3-2-9, the brewer or the vintner may not use financial assistance to acquire complete or partial control of the business of the holder of the wholesaler's permit.

(6) Except as provided in IC 7.1-3-2-9, the brewer or vintner must make available to all wholesalers (of any of its products) any assistance that it offers to any one (1) wholesaler of any of its products. This assistance must be provided on substantially identical terms. The brewer or vintner may not discriminate among wholesalers of any of its products in the enforcement of any terms related to assistance under this section.

(7) The brewer or vintner must report to the commission any assistance that it offers to a wholesaler under this section. It must make this report promptly after the assistance is offered.

(d) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.112-1987, SEC.9; P.L.72-1997, SEC.4; P.L.159-2014, SEC.57.*

### **IC 7.1-5-9-3**

#### **Beer permittee's interest limited**

Sec. 3. (a) This section applies to a brewer that manufactures, in aggregate, more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana.

(b) It is unlawful for the holder of a brewer's or beer wholesaler's permit to have an interest in a liquor permit of any type under this title.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.88-1993, SEC.6; P.L.186-2011, SEC.12; P.L.71-2012, SEC.8; P.L.159-2014, SEC.58; P.L.79-2015, SEC.12.*

### **IC 7.1-5-9-4**

#### **Interest in another permit prohibited**

Sec. 4. (a) Except as provided in IC 7.1-3-3-4, an applicant for a beer wholesaler's permit shall have no interest in the following:

(1) A permit to manufacture or to sell at retail alcoholic beverages of any kind.

(2) Any other permit to wholesale alcoholic beverages.

(3) Through stock ownership or otherwise, a partnership,



limited liability company, or corporation that holds:

(A) a permit to manufacture or to sell at retail alcoholic beverages of any kind; or

(B) any other permit to wholesale alcoholic beverages of any kind.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.51-1994, SEC.14; P.L.204-2001, SEC.59; P.L.159-2014, SEC.59.*

#### **IC 7.1-5-9-5**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.72-2004, SEC.18.)*

#### **IC 7.1-5-9-6**

##### **Liquor permittee's interests limited**

Sec. 6. (a) It is unlawful for the holder of a distiller's, rectifier's, or liquor wholesaler's permit to have an interest in a beer permit of any type under this title. This section does not apply to the holder of an artisan distiller's permit that has an interest in a brewer's permit issued under IC 7.1-3-2-2(b).

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.109-2013, SEC.10; P.L.159-2014, SEC.60; P.L.79-2015, SEC.13.*

#### **IC 7.1-5-9-7**

##### **Artisan distillers, distillers, and rectifiers**

Sec. 7. (a) Except as provided in IC 7.1-3-27-6, it is unlawful for the holder of an artisan distiller's, a distiller's, or a rectifier's permit to own, acquire, possess or cause to be transferred to the holder shares of stock of a corporation that holds an Indiana permit to sell alcoholic beverages at retail, or in a permit to sell at retail in this state, or to own or acquire an interest in the business being conducted under the permit, or in or to shares of stock in a corporation that owns a permit to sell at retail.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.109-2013, SEC.11; P.L.2-2014, SEC.32; P.L.159-2014, SEC.61.*

#### **IC 7.1-5-9-8**

##### **Certain interests prohibited**

Sec. 8. (a) The holder of an artisan distiller's permit, a distiller's permit, or a rectifier's permit may not own, acquire, or possess a permit to sell liquor at wholesale. A distiller or rectifier may not have an interest in the business of a permittee who is authorized to sell

beer, liquor, or wine at wholesale or retail.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.109-2013, SEC.12; P.L.159-2014, SEC.62.*

#### **IC 7.1-5-9-9**

##### **Wholesaler's interests limited**

Sec. 9. (a) It is unlawful for a person who has an interest in a beer wholesaler's permit to acquire, hold, own, or possess an interest of any type in a beer dealer's or retailer's permit.

(b) It is unlawful for a person who has an interest in a liquor wholesaler's permit to acquire, hold, own, or possess an interest of any type in a liquor dealer's or retailer's permit.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.63.*

#### **IC 7.1-5-9-10**

##### **Retailer owning interest in another permit prohibited; microbrewery and artisan distiller exception**

Sec. 10. (a) Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in:

- (1) a brewer's permit issued under IC 7.1-3-2-2(b); and
- (2) an artisan distiller's permit if the holder of the retailer's permit also holds a brewer's permit described in subdivision (1).

(c) A person who knowingly or intentionally violates subsection (a) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-2004, SEC.17; P.L.186-2011, SEC.13; P.L.71-2012, SEC.9; P.L.159-2014, SEC.64; P.L.70-2014, SEC.3; P.L.5-2015, SEC.20; P.L.79-2015, SEC.14.*

#### **IC 7.1-5-9-11**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.727.)*

#### **IC 7.1-5-9-12**

##### **Use of another's warehouse prohibited**

Sec. 12. Use of Another's Warehouse Prohibited. It is unlawful for a holder of a brewer's permit, beer or liquor wholesaler's permit, or a beer or liquor retailer's permit, to own, operate, maintain on his own account, patronize, use, or employ a warehouse, storage, or

depot, owned or operated by another person for the storage or keeping of an alcoholic beverage except at the plant or premises which is covered by his permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-5-9-13**

##### **Certain interests prohibited**

Sec. 13. (a) A:

- (1) proprietor of a drug store;
- (2) corporation holding:
  - (A) an artisan distiller's permit;
  - (B) a distiller's permit;
  - (C) a brewer's permit;
  - (D) a wholesaler's permit; or
  - (E) a permit to retail or deal in alcoholic beverages; or
- (3) wholesale drug company or a person who is the proprietor of a wholesale drug company;

may not own or control or participate in the permit of a package liquor store, or in its business, or in its establishment.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.109-2013, SEC.13; P.L.159-2014, SEC.65; P.L.5-2015, SEC.21.*

#### **IC 7.1-5-9-14**

##### **Sale to nonpermittee prohibited**

Sec. 14. (a) It is unlawful for the holder of a brewer's, distiller's, rectifier's, or a wholesaler's permit of any type to sell an alcoholic beverage to a person who does not hold an appropriate permit under this title, unless the sale is the sale of an alcoholic beverage to a consumer or employee as expressly authorized in this title.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.94-2008, SEC.57; P.L.159-2014, SEC.66.*

#### **IC 7.1-5-9-15**

##### **Manager's questionnaire; violations; filing**

Sec. 15. (a) The commission shall establish a manager's questionnaire for managers of licensed premises for the sale of alcoholic beverages.

(b) It is unlawful for a person to:

- (1) manage; or
- (2) buy when the transfer of the permit is contingent upon terms of a contract or an agreement;

a licensed premises for the sale of alcoholic beverages, unless the person has filed a valid manager's questionnaire with the commission.

- (c) The filing of a manager's questionnaire under this section:
  - (1) is in addition to other requirements for managers under this title; and
  - (2) does not exempt the filer from IC 7.1-5-6-3.

(d) A person who knowingly or intentionally violates subsection (b) commits a Class B misdemeanor.

*As added by P.L.52-1992, SEC.11. Amended by P.L.159-2014, SEC.67.*

## **IC 7.1-5-10**

### **Chapter 10. Unlawful Sales**

#### **IC 7.1-5-10-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The addition of section 15.5 of this chapter by P.L.80-1986 does not apply to actions accruing before April 1, 1986. *As added by P.L.220-2011, SEC.180.*

#### **IC 7.1-5-10-1**

##### **Times when sales unlawful**

Sec. 1. (a) Except as provided in subsection (c), it is unlawful to sell alcoholic beverages at a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on at the premises, as at a hotel or restaurant, permits.

(c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

(d) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.51, SEC.7; P.L.3-1997, SEC.423; P.L.205-1999, SEC.18; P.L.94-2008, SEC.58; P.L.1-2009, SEC.63; P.L.10-2010, SEC.11; P.L.159-2014, SEC.68; P.L.196-2015, SEC.20.*

#### **IC 7.1-5-10-2**

##### **Unauthorized sales prohibited**

Sec. 2. (a) It is unlawful for a permittee to recklessly sell, keep for sale, barter, furnish, or give away an alcoholic beverage which the permittee is not entitled to sell, keep for sale, barter, furnish, or give away under the permit.

(b) A person who violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.715; P.L.159-2014, SEC.69.*

#### **IC 7.1-5-10-3**

##### **Unauthorized dealings prohibited**

Sec. 3. (a) It is unlawful for a person who is not a permittee to recklessly give away or furnish, to a person other than a guest or a member of the permittee's family, or to recklessly sell, barter, or exchange, an alcoholic beverage unless the permittee is expressly authorized to do so by this title.

(b) A person who violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.716; P.L.159-2014, SEC.70.*

#### **IC 7.1-5-10-4**

##### **Sale of untaxed alcoholic beverages prohibited**

Sec. 4. (a) It is unlawful for a person to recklessly sell, give, withdraw for sale or gift, offer for sale, display, barter, exchange, purchase, receive, possess, transport, or store an alcoholic beverage upon which the appropriate excise tax and applicable license fee have not been paid.

(b) A person who violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.35.) As amended by Acts 1978, P.L.2, SEC.717; P.L.159-2014, SEC.71.*

#### **IC 7.1-5-10-5**

##### **Sale without permit prohibited**

Sec. 5. (a) It is unlawful for a person, except as otherwise permitted by this title, to knowingly or intentionally purchase, receive, manufacture, import, or transport, or cause to be imported or transported from another state, territory, or country, into this state, or transport, ship, barter, give away, exchange, furnish, or otherwise handle, or dispose of an alcoholic beverage, or to possess an alcoholic beverage for purpose of sale.

(b) It is unlawful for a person to receive or acquire an alcoholic beverage from a person that the person knows does not hold, unrevoked, the appropriate permit under this title to sell, deliver, furnish, or give the alcoholic beverage to the person.

(c) A person who violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.72.*

#### **IC 7.1-5-10-6**

##### **Sale of adulterated or misbranded beverage prohibited**

Sec. 6. (a) It is unlawful for a person to sell, offer or expose for sale, or have in the person's possession with intent to sell, an alcoholic beverage that is adulterated or misbranded.

(b) It is unlawful for a person to alter or change a brand, label, mark, design, device, or inscription that has reference to the kind, brand, age, quality, quantity, or other description of the alcoholic beverage contents of a bottle or container.

(c) The possession of an adulterated or misbranded alcoholic beverage by a permittee, or other person engaged in the manufacture or traffic in alcoholic beverages, is prima facie evidence of knowledge of the misbranding or adulteration and of an intent to

violate a provision of this section.

(d) The possession by a permittee, or other person engaged in the alcoholic beverage traffic, of a bottle or container used, or intended to be used, for containing an alcoholic beverage on which a label, brand, mark, design, or device has been altered or changed is prima facie evidence of an intent to violate a provision of this section.

(e) A person who violates subsection (a) or knowingly or intentionally violates subsection (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.73.*

#### **IC 7.1-5-10-7**

##### **Purchase from non-permittee prohibited**

Sec. 7. Purchase from Non-Permittee Prohibited. It is a Class C infraction for a person knowingly to purchase, or to agree to purchase, an alcoholic beverage from a person who does not at the time of the purchase hold a permit authorizing the seller to sell, or agree to sell, the alcoholic beverage to the purchaser.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.718.*

#### **IC 7.1-5-10-8**

##### **Solicitation of certain orders prohibited**

Sec. 8. (a) It is unlawful for a person to solicit or receive, or to allow the person's employee to solicit or receive, an order for an alcoholic beverage from another person in violation of a provision of this title.

(b) It is unlawful for a person to give information of how an alcoholic beverage may be obtained in violation of a provision of this title.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.74.*

#### **IC 7.1-5-10-9**

##### **Alcoholic content regulation**

Sec. 9. (a) It is unlawful, except as otherwise authorized in this title, for a person to sell, give away, barter, furnish, or exchange, or to possess or keep for a prohibited purpose, alcohol as a beverage, or a beverage or liquid likely to be used or intended to be used as a beverage, which has a content of alcohol that is higher than is permitted by the rules of the commission.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.75.*

#### **IC 7.1-5-10-10**

##### **Huckstering prohibited**

Sec. 10. Huckstering Prohibited. It is a Class C misdemeanor for a permittee to recklessly deliver an alcoholic beverage to a consumer without an order for it, or to recklessly huckster or peddle an alcoholic beverage to a person who is not a permittee.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.719.*

#### **IC 7.1-5-10-11**

##### **Sale of cold beer prohibited**

Sec. 11. (a) It is unlawful for the holder of a beer dealer's permit to offer or display for sale, or sell, barter, exchange or give away a bottle, can, container, or package of beer that was iced or cooled by the permittee before or at the time of the sale, exchange, or gift.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.76.*

#### **IC 7.1-5-10-12**

##### **Credit sales prohibited**

Sec. 12. (a) Except as provided in subsections (b) through (d), it is unlawful for a permittee to sell, offer to sell, purchase or receive, an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(b) A permittee may credit to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale and refund to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee.

(c) A manufacturer may extend usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state.

(d) An artisan distiller, a distiller, or a liquor or wine wholesaler may extend credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only.

(e) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.23; P.L.109-2013, SEC.14; P.L.159-2014, SEC.77.*

#### **IC 7.1-5-10-13**



### **Cashing of certain checks prohibited**

Sec. 13. (a) A permittee who holds a permit to sell at retail shall not cash a check issued by the division of family and children or by a charitable organization if any part of the proceeds of the check are to be used to purchase an alcoholic beverage.

(b) A permittee who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.16-1986, SEC.5; P.L.4-1993, SEC.12; P.L.5-1993, SEC.24; P.L.146-2008, SEC.360; P.L.44-2009, SEC.3; P.L.159-2014, SEC.78.*

### **IC 7.1-5-10-14**

#### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.720. Repealed by P.L.159-2014, SEC.79.)*

### **IC 7.1-5-10-15**

#### **Sale to intoxicated person prohibited**

Sec. 15. (a) A person who, knowing that another person is intoxicated, sells, barter, delivers, or gives away an alcoholic beverage to the intoxicated person commits a Class B misdemeanor.

(b) In any civil proceeding in which damages are sought from a permittee or a permittee's agent for the refusal to serve a person an alcoholic beverage, it is a complete defense if the permittee or agent reasonably believed that the person was intoxicated or was otherwise not entitled to be served an alcoholic beverage.

(c) After charges have been filed against a person for a violation of subsection (a), the prosecuting attorney shall notify the commission of the charges filed.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.721; P.L.86-1985, SEC.1; P.L.125-2000, SEC.4; P.L.159-2014, SEC.80.*

### **IC 7.1-5-10-15.5**

#### **Person furnishing alcoholic beverage; civil liability for damages; "furnish" defined**

Sec. 15.5. (a) As used in this section, "furnish" includes barter, deliver, sell, exchange, provide, or give away.

(b) A person who furnishes an alcoholic beverage to a person is not liable in a civil action for damages caused by the impairment or intoxication of the person who was furnished the alcoholic beverage unless:

- (1) the person furnishing the alcoholic beverage had actual knowledge that the person to whom the alcoholic beverage was furnished was visibly intoxicated at the time the alcoholic beverage was furnished; and
- (2) the intoxication of the person to whom the alcoholic beverage was furnished was a proximate cause of the death,

injury, or damage alleged in the complaint.

(c) If a person who is at least twenty-one (21) years of age suffers injury or death proximately caused by the person's voluntary intoxication, the:

- (1) person;
- (2) person's dependents;
- (3) person's personal representative; or
- (4) person's heirs;

may not assert a claim for damages for personal injury or death against a person who furnished an alcoholic beverage that contributed to the person's intoxication, unless subsections (b)(1) and (b)(2) apply.

*As added by P.L.80-1986, SEC.1. Amended by P.L.76-1996, SEC.1.*

#### **IC 7.1-5-10-16**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.722. Repealed by P.L.159-2014, SEC.81.)*

#### **IC 7.1-5-10-17**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. As amended by Acts 1978, P.L.2, SEC.723. Repealed by P.L.28-2014, SEC.2.)*

#### **IC 7.1-5-10-18**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.159-2014, SEC.82.)*

#### **IC 7.1-5-10-19**

##### **Repealed**

*(Formerly: Acts 1973, P.L.55, SEC.1. Repealed by P.L.159-2014, SEC.83.)*

#### **IC 7.1-5-10-20**

##### **Unlawful acts by retailers**

Sec. 20. (a) It is unlawful for a holder of a retailer's permit to do any of the following:

- (1) Sell alcoholic beverages during a portion of the day at a price that is reduced from the usual, customary, or established price that the permittee charges during the remainder of that day.
- (2) Furnish two (2) or more servings of an alcoholic beverage upon the placing of an order for one (1) serving to one (1) person for that person's personal consumption.
- (3) Charge a single price for the required purchase of two (2) or more servings of an alcoholic beverage.

(b) Subsection (a) applies to private clubs but does not apply to

private functions that are not open to the public.

(c) Notwithstanding subsection (a)(1), it is lawful for a holder of a retailer's permit to sell alcoholic beverages during a portion of the day at a price that is increased from the usual, customary, or established price that the permittee charges during the remainder of that day as long as the price increase is charged when the permittee provides paid live entertainment not incidental to the services customarily provided.

(d) Notwithstanding subsection (a), section 12 of this chapter, and IC 7.1-5-5-7, it is lawful for a hotel, in an area of the hotel in which alcoholic beverages are not sold, to make available to its registered guests and their guests alcoholic beverages at no additional charge beyond what is to be paid by the registered guests as the room rate.

(e) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*As added by P.L.86-1985, SEC.2. Amended by P.L.79-1986, SEC.5; P.L.159-2014, SEC.84.*

#### **IC 7.1-5-10-21**

##### **Repealed**

*(As added by P.L.176-1986, SEC.3. Amended by P.L.158-2013, SEC.128. Repealed by P.L.59-2016, SEC.1.)*

#### **IC 7.1-5-10-22**

##### **Unlawful sale of flavored malt beverage**

Sec. 22. (a) It is unlawful for a retailer or dealer to sell a flavored malt beverage except under the same conditions that a retailer or dealer is permitted to sell beer or other alcoholic beverages obtained by the fermentation of an infusion or decoction of barley malt or other cereal and hops in water.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*As added by P.L.72-1996, SEC.24. Amended by P.L.159-2014, SEC.85.*

#### **IC 7.1-5-10-23**

##### **Purchases for consumption off the licensed premises; proof of age**

Sec. 23. It is a Class B misdemeanor for a permittee or an employee or agent of a permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person who is or reasonably appears to be less than forty (40) years of age an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce:

- (1) a driver's license;
- (2) an identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government; or
- (3) a government issued document;

bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.

*As added by P.L.10-2010, SEC.12. Amended by P.L.216-2011, SEC.3.*

#### **IC 7.1-5-10-24**

##### **Restrictions for certain restaurants and drug stores or grocery stores located in the same building**

Sec. 24. (a) This section does not apply to the licensed premises of a drug store, grocery store, or restaurant to which the following apply:

- (1) A person has, as of July 1, 2015, an application on file with the commission for a:
  - (A) dealer's permit for the drug store or grocery store; and
  - (B) retailer's permit for the restaurant.
- (2) The licensed premises of the:
  - (A) drug store or grocery store; and
  - (B) restaurant;

as described in the permit applications, are located in the same building.

(b) If:

- (1) a person has an interest in:
  - (A) a dealer's permit for a drug store or grocery store; and
  - (B) a retailer's permit for a restaurant; and
- (2) the licensed premises of the drug store or grocery store and the restaurant are located in the same building;

the licensed premises of the drug store or grocery store and the licensed premises of the restaurant must be completely separated by a wall and have separate entrances.

*As added by P.L.196-2015, SEC.21.*

#### **IC 7.1-5-10-25**

##### **Alcoholic beverages sold for carryout prohibited for certain restaurants**

Sec. 25. If:

- (1) a person has an interest in:
  - (A) a dealer's permit for a drug store or grocery store; and
  - (B) a retailer's permit for a restaurant; and
- (2) the licensed premises of the drug store or grocery store and the restaurant are located in the same building;

beer, wine, and liquor may not be sold for carryout from the licensed premises of the restaurant.

*As added by P.L.196-2015, SEC.22.*

## **IC 7.1-5-11**

### **Chapter 11. Unlawful Transportation**

#### **IC 7.1-5-11-1**

##### **Importation limited**

Sec. 1. A person who knowingly or intentionally imports liquor into this state without specific authorization under this title commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.86.*

#### **IC 7.1-5-11-1.5**

##### **Shipments of alcoholic beverages to residents without valid wholesaler permits; violations**

Sec. 1.5. (a) Except as provided in IC 7.1-3-26, it is unlawful for a person in the business of selling alcoholic beverages in Indiana or outside Indiana to ship or cause to be shipped an alcoholic beverage directly to a person in Indiana who does not hold a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).

(b) An in-state or an out-of-state vintner, distiller, brewer, rectifier, or importer that:

(1) holds a basic permit from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives; and

(2) knowingly violates subsection (a);

commits a Class A misdemeanor.

(c) A person who is not an in-state or an out-of-state vintner, distiller, brewer, rectifier, or importer that holds a basic permit from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives who knowingly violates subsection (a) commits a Level 6 felony.

(d) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(e) If the chairman of the alcohol and tobacco commission or the attorney general determines that a vintner, distiller, brewer, rectifier, or importer that holds a basic permit from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives has made an illegal shipment of an alcoholic beverage to consumers in Indiana, the chairman shall:

(1) notify the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in writing and by certified mail of the official determination that state law has been violated; and

(2) request the federal bureau to take appropriate action.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.121-1998, SEC.2. Amended by P.L.165-2006,*

SEC.38; P.L.159-2014, SEC.87.

#### **IC 7.1-5-11-2**

##### **Transportation limited**

Sec. 2. (a) It is unlawful for a carrier who is required to obtain a carrier's alcoholic permit by IC 7.1-3-18 to transport alcoholic beverages over or along a public highway within this state unless the carrier has applied for a carrier's alcoholic permit and been issued:

- (1) a carrier's alcoholic permit; or
- (2) specific authorization from the commission to transport alcoholic beverages on a public highway under rules adopted by the commission.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.88.*

#### **IC 7.1-5-11-3**

##### **Transportation in non-registered vehicles prohibited**

Sec. 3. (a) It is unlawful for the holder of a carrier's alcoholic permit to import or transport alcoholic beverages in a vehicle that has not been registered with the commission as required by this title.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.89.*

#### **IC 7.1-5-11-4**

##### **Deliveries limited**

Sec. 4. (a) It is unlawful for an officer, agent, or employee of a railroad company, express company, or other common carrier to recklessly deliver:

- (1) an alcoholic beverage to a person other than the person to whom it is consigned;
- (2) it without a written order by the consignee; or
- (3) it to a person when the alcoholic beverage has been consigned to a fictitious person or a person under a fictitious name.

(b) A person who violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.724; P.L.159-2014, SEC.90.*

#### **IC 7.1-5-11-5**

##### **Transportation of untaxed beverage prohibited; exemptions**

Sec. 5. (a) This section does not apply to a permittee, or a licensed carrier for a permittee, who is lawfully entitled to hold or possess an alcoholic beverage without the payment of the excise tax on the

alcoholic beverage before the time the alcoholic beverage is withdrawn for sale.

(b) A person who transports an alcoholic beverage on a public highway, knowing that any of the taxes due the state on it have not been paid, commits a Level 6 felony.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.725; P.L.1-1999, SEC.20; P.L.158-2013, SEC.129; P.L.159-2014, SEC.91.*

#### **IC 7.1-5-11-6**

##### **Devious transportation prohibited**

Sec. 6. (a) It is unlawful for a person to use or employ, or agree to use or employ, a method of transportation, or device, or fictitious name, or fictitious routing, or to enter into a scheme or method of transportation, or to resort to a trick or device, with the intent to evade, avoid, or defeat the collection of a tax imposed by this title, or to evade or prevent the enforcement of a provision of this title.

(b) A person who violates this section commits a Class A misdemeanor. However, the offense is a Level 6 felony if the amount of tax is at least seven hundred fifty dollars (\$750).

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.92.*

#### **IC 7.1-5-11-7**

##### **False shipments prohibited**

Sec. 7. (a) It is unlawful for a consignee to accept or receive a package that contains an alcoholic beverage upon which appears a statement, label, address, superscription, shipping direction, legend, or design which the person knows is false or misleading.

(b) It is unlawful for a carrier, or other person, to consign, ship, transport, or deliver a package that contains an alcoholic beverage if the person knows that a statement, label, address, superscription, shipping direction, legend, or design on it is false or misleading.

(c) A person who violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.93.*

#### **IC 7.1-5-11-8**

##### **Delivery to non-consignee prohibited**

Sec. 8. (a) It is unlawful for a person to present or tender for transportation to a carrier or a person acting or assuming to act for a carrier an alcoholic beverage:

- (1) for delivery to a person other than the consignee designated by the person offering the alcoholic beverage for shipment; or
- (2) for the purpose of effecting a delivery of the alcoholic beverage to a person not permitted to receive it as consignee:

(A) under the provisions of this title;

- (B) under the provisions of a rule of the commission; or
- (C) because the person is not the bona fide consignee of the shipment.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.94.*

#### **IC 7.1-5-11-9**

##### **Violation of transportation contract prohibited**

Sec. 9. (a) It is unlawful for a carrier or a person acting or assuming to act for a carrier, to deliver an alcoholic beverage in this state to a person, or at a place, other than the person, or place, or both, designated in the bill of lading or transportation contract.

(b) It is unlawful for a person to accept for transportation a shipment containing an alcoholic beverage, knowing that the shipment is intended for a person not permitted to receive it under the provisions of this title, or under a rule of the commission.

(c) A person who knowingly or intentionally violates subsection (a), or who violates subsection (b), commits a Class B misdemeanor. *(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.95.*

#### **IC 7.1-5-11-10**

##### **Transportation of liquor limited**

Sec. 10. (a) This section applies only if the commission has adopted a rule requiring a mark or label of identification to be displayed on the outside of a package containing liquor.

(b) It is unlawful for a person to transport liquor or cause it to be transported upon a public highway into this state from another state, territory, or country, or to transport or cause it to be transported along or over a public highway in this state, unless there is displayed on the outside of the package, in plain view, a mark or label of identification required by a rule adopted by the commission.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.36.) As amended by P.L.159-2014, SEC.96.*

#### **IC 7.1-5-11-11**

##### **Bill of lading or other evidence of ownership required**

Sec. 11. (a) It is unlawful for a person to transport into this state upon a public highway of this state, an alcoholic beverage from another state, territory, or country, unless the person accompanying, or in charge of the shipment, has present and available for exhibition:

- (1) a bill of lading; or
- (2) other evidence of ownership or shipment authorized by a rule adopted by the commission.



(b) It is unlawful for a person to refuse to exhibit, or permit to be read or examined, the bill of lading or other evidence of ownership or shipment upon a lawful demand of the chairman, or of a police officer of the state, or of a governmental subdivision of it.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.97.*

#### **IC 7.1-5-11-12**

##### **Use of highway for evasion prohibited**

Sec. 12. (a) It is unlawful for a person to use or employ a public highway in this state with the intent of evading a provision of this title.

(b) A person who violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.98.*

#### **IC 7.1-5-11-13**

##### **Recordkeeping required**

Sec. 13. (a) A railroad company, an express company, and a common carrier shall keep in the office at which delivery of an alcoholic beverage to a consignee is made, a separate record in which shall be entered the information required by this title for the shipment of an alcoholic beverage.

(b) This record shall be open to the inspection of the chairman.

(c) An agent, officer, or employee of a railroad company, express company, or common carrier who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.99.*

#### **IC 7.1-5-11-14**

##### **False statement prohibited**

Sec. 14. (a) It is unlawful for a person to make a false statement to a railroad, express, or transportation company for the purpose of obtaining an alcoholic beverage.

(b) It is unlawful for a person to make a false statement to a person engaged in the business of transporting goods, wares, and merchandise for the purpose of obtaining the shipment, transportation, or delivery of an alcoholic beverage.

(c) A person who knowingly or intentionally violates subsection (a) or (b) commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.159-2014, SEC.100.*

#### **IC 7.1-5-11-15**

### **Transportation of unowned goods limited**

Sec. 15. (a) This section does not apply to the shipment of an alcoholic beverage from another state in continuous transit through this state into another state unless the shipment is intended to evade a provision of this title.

(b) This section does not prohibit a person, other than a permittee, from bringing into this state a quantity of:

(1) wine not exceeding eighteen (18) liters; or

(2) liquor not exceeding one (1) quart;

if the person is a traveler in the ordinary course of travel and if it is not intended for sale to another person.

(c) It is unlawful for a person to import or transport an alcoholic beverage that is not at that time the absolute property of an authorized permittee under this title.

(d) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.165-2006, SEC.39; P.L.159-2014, SEC.101.*

### **IC 7.1-5-11-16**

#### **Transportation to retailer or dealer on Sunday prohibited**

Sec. 16. It is a Class C misdemeanor for a person to knowingly or intentionally deliver or transport an alcoholic beverage to the holder of a retailer's or dealer's permit of any type, except a temporary beer or wine permit, on Sunday.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.59, SEC.9.) As amended by Acts 1978, P.L.2, SEC.726; P.L.159-2014, SEC.102.*

## **IC 7.1-5-12**

### **Chapter 12. Prohibition on Smoking**

#### **IC 7.1-5-12-0.5**

##### **"Ashtray"**

Sec. 0.5. As used in this chapter, "ashtray" means any receptacle that is used for disposing of smoking materials, including ash and filters.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-1**

##### **"Place of employment"**

Sec. 1. As used in this chapter, "place of employment" means an enclosed area of a structure that is a place of employment. The term does not include a private vehicle.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-2**

##### **"Public place"**

Sec. 2. As used in this chapter, "public place" means an enclosed area of a structure in which the public is invited or permitted.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-3**

##### **"Smoking"**

Sec. 3. As used in this chapter, "smoking" means the:

- (1) carrying or holding of a lighted cigarette, cigar, or pipe or any other lighted tobacco smoking equipment; or
- (2) inhalation or exhalation of smoke from lighted tobacco smoking equipment.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-4**

##### **Places smoking is prohibited; duties of employers and person in charge of a place of employment or public place**

Sec. 4. (a) Except as provided in section 5 of this chapter, smoking is prohibited in the following:

- (1) A public place.
- (2) A place of employment.
- (3) A vehicle owned, leased, or operated by the state if the vehicle is being used for a governmental function.
- (4) The area within eight (8) feet of a public entrance to:
  - (A) a public place; or
  - (B) a place of employment.

(b) An employer shall inform each of the employer's employees and prospective employees of the smoking prohibition applying to the place of employment.

(c) An owner, operator, manager, or official in charge of a public

place or place of employment shall remove ashtrays or other smoking paraphernalia from areas of the public place or place of employment where smoking is prohibited under this chapter. However, this subsection does not prohibit the display of ashtrays or other smoking paraphernalia that are intended only for retail sale.

(d) This subsection does not apply to an owner, an operator, a manager, or an official in charge of a public place or place of employment in which smoking is allowed under section 5 of this chapter. An owner, operator, manager, or official in charge of a public place or place of employment shall post conspicuous signs at each public entrance that read "State Law Prohibits Smoking Within 8 Feet of this Entrance" or other similar language.

*As added by P.L.141-2012, SEC.2. Amended by P.L.70-2014, SEC.4.*

### **IC 7.1-5-12-5**

#### **Exceptions to smoking ban; signage; areas where smoking is prohibited in exempted premises; verified statement**

Sec. 5. (a) Except as provided in subsection (c) and subject to section 13 of this chapter, smoking may be allowed in the following:

(1) A horse racing facility operated under a permit under IC 4-31-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.

(2) A riverboat (as defined in IC 4-33-2-17) and any other permanent structure that is:

(A) owned or leased by the owner of the riverboat; and

(B) located on land that is adjacent to:

(i) the dock to which the riverboat is moored; or

(ii) the land on which the riverboat is situated in the case of a riverboat described in IC 4-33-2-17(2).

(3) A facility that operates under a gambling game license under 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.
  - (D) The business:
    - (i) provides a separate, enclosed, designated smoking room or area that is adequately ventilated to prevent migration of smoke to nonsmoking areas of the premises;
    - (ii) allows smoking only in the room or area described in item (i);
    - (iii) does not allow an individual who is less than eighteen (18) years of age to enter into the room or area described in item (i); and
    - (iv) allows a guest in the smoking room or area described in item (i) only when accompanied by a bona fide member of the business.
- (8) A retail tobacco store used primarily for the sale of tobacco products and tobacco accessories that meets the following requirements:
- (A) The owner or operator of the store holds a valid tobacco sales certificate issued under IC 7.1-3-18.5.
  - (B) The store prohibits entry by an individual who is less than eighteen (18) years of age.
  - (C) The sale of products other than tobacco products and tobacco accessories is merely incidental.
  - (D) The sale of tobacco products accounts for at least

eighty-five percent (85%) of the store's annual gross sales.  
(E) Food or beverages are not sold in a manner that requires consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.

(9) A bar or tavern:

(A) for which a permittee holds:

- (i) a beer retailer's permit under IC 7.1-3-4;
- (ii) a liquor retailer's permit under IC 7.1-3-9; or
- (iii) a wine retailer's permit under IC 7.1-3-14;

(B) that does not employ an individual who is less than eighteen (18) years of age;

(C) that does not allow an individual who:

- (i) is less than twenty-one (21) years of age; and
- (ii) is not an employee of the bar or tavern;

to enter any area of the bar or tavern; and

(D) that is not located in a business that would otherwise be subject to this chapter.

(10) A cigar manufacturing facility that does not offer retail sales.

(11) A premises of a cigar specialty store to which all of the following apply:

(A) The owner or operator of the store holds a valid tobacco sales certificate issued under IC 7.1-3-18.5.

(B) The sale of tobacco products and tobacco accessories account for at least fifty percent (50%) of the store's annual gross sales.

(C) The store has a separate, enclosed, designated smoking room that is adequately ventilated to prevent migration of smoke to nonsmoking areas.

(D) Smoking is allowed only in the room described in clause (C).

(E) Individuals who are less than eighteen (18) years of age are prohibited from entering into the room described in clause (C).

(F) Cigarette smoking is not allowed on the premises of the store.

(G) The owner or operator of the store posts a conspicuous sign on the premises of the store that displays the message that cigarette smoking is prohibited.

(H) The store does not prepare any food or beverage that would require a certified food handler under IC 16-42-5.2.

(12) The premises of a business that is located in the business owner's private residence (as defined in IC 3-5-2-42.5) if the only employees of the business who work in the residence are the owner and other individuals who reside in the residence.

(b) The owner, operator, manager, or official in charge of an establishment or premises in which smoking is allowed under this

section shall post conspicuous signs in the establishment that read "WARNING: Smoking Is Allowed In This Establishment" or other similar language.

(c) This section does not allow smoking in the following enclosed areas of an establishment or premises described in subsection (a)(1) through (a)(11):

(1) Any hallway, elevator, or other common area where an individual who is less than eighteen (18) years of age is permitted.

(2) Any room that is intended for use by an individual who is less than eighteen (18) years of age.

(d) The owner, operator, or manager of an establishment or premises that is listed under subsection (a) and that allows smoking shall provide a verified statement to the commission that states that the establishment or premises qualifies for the exemption. The commission may require the owner, operator, or manager of an establishment or premises to provide documentation or additional information concerning the exemption of the establishment or premises.

*As added by P.L.141-2012, SEC.2. Amended by P.L.70-2014, SEC.5; P.L.231-2015, SEC.7.*

#### **IC 7.1-5-12-6**

##### **Enforcement**

Sec. 6. (a) The commission shall enforce this chapter.

(b) This chapter may also be enforced by:

(1) the state department of health established by IC 16-19-1-1;

(2) a local health department, as defined in IC 16-18-2-211;

(3) a health and hospital corporation established by IC 16-22-8-6;

(4) the division of fire and building safety established within the department of homeland security by IC 10-19-7-1; and

(5) a law enforcement officer;

in cooperation with the commission.

(c) The commission, the state department of health, a local health department, a health and hospital corporation, the division of fire and building safety, or a law enforcement officer may inspect premises that are subject to this chapter to ensure that the person responsible for the premises is in compliance with this chapter.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-7**

##### **Duties of person in charge of a public place**

Sec. 7. (a) This section does not apply to an establishment or premises in which smoking is allowed under section 5 of this chapter.

(b) The owner, operator, manager, or official in charge of a public place shall do the following:

(1) Post conspicuous signs that read "Smoking Is Prohibited By State Law" or other similar language.

(2) Ask an individual who is smoking in violation of this chapter to refrain from smoking.

(3) Cause to be removed from the public place an individual who is smoking in violation of this chapter and fails to refrain from smoking after being asked to refrain from smoking.

(c) In addition to the requirements under subsection (b), the owner or operator of a restaurant shall post a conspicuous sign at each entrance to the restaurant informing the public that smoking is prohibited in the restaurant.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-8**

##### **Smoking in a prohibited area; penalty**

Sec. 8. (a) A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class B infraction, except as provided in subsection (b).

(b) A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class A infraction if the person has been adjudged to have committed at least three (3) prior unrelated infractions under:

(1) this section; or

(2) IC 16-41-37-4 (before its repeal).

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-9**

##### **Civil actions**

Sec. 9. (a) A local health department may enforce this chapter by filing a civil action under IC 16-20-1-26.

(b) A health and hospital corporation may enforce this chapter by filing a civil action under IC 16-22-8-31.

(c) The division of fire and building safety may enforce this chapter by filing a civil action under IC 22-12-7-13.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-10**

##### **Failure to comply with requirements; penalty**

Sec. 10. (a) An owner, manager, operator, or official in charge of a public place or place of employment who fails to comply with a requirement imposed by this chapter commits a Class B infraction, except as provided in subsection (b).

(b) A failure to comply described in subsection (a) is a Class A infraction if the owner, manager, operator, or official has been adjudged to have committed at least three (3) prior unrelated infractions under this chapter.

*As added by P.L.141-2012, SEC.2.*



### **IC 7.1-5-12-11**

#### **Discharge, refusal to hire, or retaliation against employee prohibited**

Sec. 11. An owner, a manager, or an employer shall not discharge, refuse to hire, or in any manner retaliate against an individual for:

- (1) reporting a violation of this chapter; or
- (2) exercising any right or satisfying any obligation under this chapter.

*As added by P.L.141-2012, SEC.2.*

### **IC 7.1-5-12-12**

#### **Smoking in school bus; prohibited**

Sec. 12. (a) As used in this section, "school bus" means a motor vehicle that is:

- (1) designed and constructed for the accommodation of at least ten (10) passengers;
- (2) owned or operated by a public or governmental agency, or privately owned and operated for compensation; and
- (3) used for the transportation of school children to and from the following:
  - (A) School.
  - (B) School athletic games or contests.
  - (C) Other school functions.

(b) As used in this section, "school week" means a week that:

- (1) begins on Monday and ends on Friday; and
- (2) includes at least three (3) days during which, on each day, more than four (4) hours of classroom instruction are provided.

(c) A person who smokes in a school bus during a school week or while the school bus is being used for the transportation of school children to and from:

- (1) a school;
- (2) a school athletic game or contest; or
- (3) another school function;

commits a Class B infraction, except as provided in subsection (d).

(d) A person who smokes in a school bus as described in subsection (c) commits a Class A infraction if the person, within the twelve (12) months immediately preceding the person's act of smoking in a school bus, committed at least three (3) prior unrelated acts of smoking in a school bus for which the person was adjudged to have committed infractions under this section.

*As added by P.L.141-2012, SEC.2.*

### **IC 7.1-5-12-13**

#### **Local ordinances**

Sec. 13. (a) This chapter does not prohibit a county, city, town, or other governmental unit from adopting an ordinance more restrictive than this chapter.

(b) This chapter does not supersede a smoking ordinance that is

adopted by a county, city, town, or other governmental unit before the effective date of this chapter and that is more restrictive than this chapter.

*As added by P.L.141-2012, SEC.2.*

#### **IC 7.1-5-12-14**

##### **Annual report**

Sec. 14. Beginning in 2013, the commission shall present an annual report to the interim study committee on public health, behavioral health, and human services established by IC 2-5-1.3-4 concerning the implementation and enforcement activities taken under this chapter. The report must include the number of smoking related inspections conducted and violations for the previous calendar year. The commission shall submit the report in electronic format under IC 5-14-6 to the legislative services agency not later than September 1 of each year.

*As added by P.L.141-2012, SEC.2. Amended by P.L.53-2014, SEC.73.*