

### **IC 7.1-3**

## **ARTICLE 3. PERMITS**

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

#### Chapter 1. General Provisions

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

#### **Issuance of permits authorized**

Sec. 1. Issuance of Permits Authorized. The commission may issue only the types of permits authorized by this article subject to the applicable provisions of this title.

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

### **IC 7.1-3-1-2**

#### **No property right in permit**

Sec. 2. No Property Right in Permit. A permittee shall have no property right in a wholesaler's, retailer's, or dealer's permit of any type.

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

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

#### **Term of permits; renewal**

Sec. 3. (a) A permit of any type issued by the commission, except as provided in subsections (b) and (f) or unless otherwise provided in this title, shall be in force for one (1) calendar year only, including the day upon which it is granted. At the end of the one (1) year period the permit shall be fully expired and null and void.

(b) Notwithstanding subsection (a), a permit that is subject to section 5.5 or 5.6 of this chapter is effective for two (2) calendar years, including the day upon which the permit is granted. However, a local board may recommend to the commission that the permit be issued or renewed for only a one (1) year period. The commission may issue or renew a permit for the period recommended by the local board.

(c) A permittee who is granted a two (2) year permit under subsection (b) or subsection (f) is liable for any annual fees assessed by the commission. The annual fee is due on the annual anniversary date upon which the permit was granted.

(d) If the commission grants a two (2) year permit, the commission may ask a local board to hold a hearing to reconsider the duration of a permittee's permit. A hearing held under this subsection is subject to section 5.5 or 5.6 of this chapter. A local board shall hold the hearing requested by the commission within thirty (30) days before the permittee's next annual anniversary date and forward a recommendation to the commission following the hearing.

(e) If a permittee is granted a permit for more than one (1) year, the commission shall require the permittee to file annually with the commission the information required for an annual permit renewal.

(f) Notwithstanding subsection (a), the following are effective for two (2) calendar years, including the day upon which the permit is

granted:

- (1) A beer wholesaler's permit issued under IC 7.1-3-3-1.
- (2) A wine wholesaler's permit issued under IC 7.1-3-13-1.
- (3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.52-1994, SEC.2; P.L.205-1999, SEC.8; P.L.250-2003, SEC.7; P.L.224-2005, SEC.2.*

#### **IC 7.1-3-1-3.1**

##### **Letters of extension**

Sec. 3.1. (a) Notwithstanding section 3 of this chapter, any member of the commission may issue an original letter of extension extending the term of a permit for a maximum period of ninety (90) days for good cause shown upon the written request of the permittee and payment of the fee if required.

(b) Upon the expiration of an original letter of extension, or any renewal thereof, if good cause still exists, subsequent renewals of the extension may be granted to that permittee only upon the affirmative vote of a majority of the members of the commission.

*As added by Acts 1982, P.L.69, SEC.5.*

#### **IC 7.1-3-1-3.5**

##### **Deposit of permits; business not in operation**

Sec. 3.5. A permittee to whom a retailer or dealer permit has been issued under this title, may deposit that permit with the commission for a period of one (1) year if the permittee is unable to immediately operate the business to which the permit applies. The commission may extend the term of the deposit for not more than four (4) additional one (1) year periods if the permittee is able to show to the satisfaction of the commission that the permittee is making a good faith effort to put the permit into operation.

*As added by Acts 1982, P.L.69, SEC.6. Amended by P.L.250-2003, SEC.8.*

#### **IC 7.1-3-1-4**

##### **Applications for permits; general**

Sec. 4. The commission shall issue a permit authorized by this title only upon proper application. The application shall be in writing, and verified, upon forms prescribed and furnished by the commission. The application shall contain the terms and information required by this title or by the rules and regulations of the commission. The appropriate surety bond, if one is required, also shall be submitted with the application.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.22.*

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

##### **Applications for permits; disclosures**

Sec. 5. Applications for Permits: Disclosures. An application for a permit to sell alcoholic beverages of any kind, and the required

publication of notice, shall disclose the name of the applicant and the specific address where the alcoholic beverages are to be sold, and any assumed business name under which the business will be conducted. The application and notice also shall disclose the names and addresses of the president and secretary of the corporation, club, association or organization who will be responsible to the public for the sale of the alcoholic beverage if the applicant is a corporation, club, association, or other type of organization.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.7.*

### **IC 7.1-3-1-5.3**

#### **Notice to plan commission of application, renewal, or transfer of permit within its jurisdiction**

Sec. 5.3. (a) This section applies to an application for a new permit, renewal of a permit, or transfer of a permit authorized by this article for a location in a:

- (1) second or third class city; or
- (2) county other than a county containing a consolidated city.

(b) As used in this section, "plan commission" has the meaning set forth in IC 36-7-1-14.

(c) A director of a plan commission may request the commission to notify the plan commission that the commission has received an application for a permit for a location within the territory where the plan commission has jurisdiction.

(d) If the commission receives a request under subsection (c), the commission shall provide to the appropriate plan commission a copy of the notice that the commission submits for publication to meet the requirements of section 5 of this chapter. The commission shall mail the copy to the plan commission no later than the day that the commission submits the notice for publication.

*As added by P.L.70-1997, SEC.1.*

### **IC 7.1-3-1-5.5**

#### **Applications for permits; counties with consolidated city; notice; affidavit**

Sec. 5.5. (a) This section applies only in a county having a consolidated city.

(b) As used in this section, "contiguous property owner" refers to a property owner who has real property that is geographically adjacent to or in contact with any point on the border of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(c) As used in this section, "neighboring property owner" means:

- (1) a contiguous property owner; or
- (2) a property owner who has real property that:
  - (A) is geographically adjacent to or in contact with any point on the border of the property of a contiguous property owner; and
  - (B) some portion of which is within five hundred (500) feet

of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(d) As used in this section, "principal owner" means any person or entity holding at least a fifteen percent (15%) interest in the business for which a permit is sought to sell alcoholic beverages.

(e) As used in this section, "property owner" means any person whose name and address appears in the county assessor's real property tax assessment records as a person responsible for the payment of property taxes on a parcel of real property.

(f) Except as provided in section 28(d) of this chapter, subsection (g) applies to a location in the consolidated city only if:

(1) the application is for a liquor dealer's permit for a location within the boundaries of the special fire service district, as determined in conformity with IC 7.1-3-22-8; or

(2) the local alcoholic beverage board requires the applicant to comply with subsection (g).

(g) In addition to the notice required by section 5 of this chapter, the applicant for a new permit, or a transfer of a permit to sell alcoholic beverages of any type or at any location must, at least fifteen (15) days before the date of the local alcoholic beverage board hearing, mail notice of the hearing at the applicant's expense to the following:

(1) Each neighboring property owner.

(2) The department of metropolitan development of the consolidated city.

(3) The following entities that have registered with the department of metropolitan development of the consolidated city:

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

(h) The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.

(2) A statement that the applicant has filed an application with the alcohol and tobacco commission for the sale of alcoholic beverages.

(3) The specific address where alcoholic beverages are asked to

be sold.

(4) The type of alcoholic beverage permit applied for.

(5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.

(6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(i) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application. The affidavit must list the names and addresses of the individuals or other entities to which notice was mailed by the applicant.

(j) In addition to the information required by subsection (i), the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) Verification from the department of metropolitan development of the consolidated city that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

(k) Subsection (j)(1) does not apply to a permit holder that received and held a permit before September 1, 1987.

(l) Notwithstanding subsection (f)(1), an applicant seeking a transfer of a permit from a permit holder to a new permit holder when the new permit holder does not intend to change the nature of the business operated under the permit may apply to the local board for a waiver of the notice requirement in subsection (g). The local board may consider any information the local board considers relevant in making a determination to approve or deny the waiver request. The local board must approve or deny a waiver request at the first regularly scheduled meeting that occurs at least fifteen (15) days after the local board receives the waiver request from the applicant. *As added by P.L. 112-1987, SEC. 2. Amended by P.L. 52-1994, SEC. 3; P.L. 106-1995, SEC. 4; P.L. 70-1997, SEC. 2; P.L. 204-2001, SEC. 23.*

### **IC 7.1-3-1-5.6**

#### **Permit renewal requirements**

Sec. 5.6. (a) This section applies only in a county having a consolidated city.

(b) This section applies only to an application for the renewal of a permit to sell alcoholic beverages.

(c) The definitions set forth in section 5.5 of this chapter apply to this section.

(d) The renewal of a permit is subject to IC 7.1-3-19-9.5.

(e) Except as provided in section 28(d) of this chapter, subsections (f) and (g) apply to a location in the consolidated city

only if the application is for a liquor dealer's permit.

(f) Notwithstanding subsection (d), if:

- (1) an applicant has been cited for a violation of law or a rule of the commission; or
- (2) the local alcoholic beverage board has received at least five
- (5) written complaints against the applicant alleging a violation of law or a rule of the commission;

then upon direction of the local board, the applicant shall, at least fifteen (15) days before the date of the local alcoholic beverage board hearing, mail notice of the hearing at the applicant's expense as provided in subsection (g).

(g) The applicant shall mail the notice required under subsection (f) to the following:

- (1) Each neighboring property owner.
- (2) The department of metropolitan development of the consolidated city.
- (3) The following entities that have registered with the department of metropolitan development of the consolidated city:

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

(h) The notice that the applicant mails must provide the following information:

- (1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.
- (2) A statement that the applicant has filed an application with the alcohol and tobacco commission for the sale of alcoholic beverages.
- (3) The specific address where alcoholic beverages are asked to be sold.
- (4) The type of alcoholic beverage permit applied for.
- (5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.
- (6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(i) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application.

The affidavit must list the names and addresses of the persons to whom notice was mailed by the applicant.

(j) In addition to the information required by subsection (i), the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) Verification from the department of metropolitan development of the consolidated city that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

(k) Subsection (j)(1) does not apply to a permit holder that received and held a permit before September 1, 1987.

*As added by P.L.52-1994, SEC.4. Amended by P.L.2-1995, SEC.38; P.L.106-1995, SEC.5; P.L.204-2001, SEC.24.*

### **IC 7.1-3-1-6**

#### **Applications for permits; consent to search**

Sec. 6. Applications for Permits: Consent to Search. An application for a permit shall contain the express statement of the applicant that he consents for the duration of the permit term, if it is issued to him, to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of his licensed premises and vehicles to determine whether he is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a permit or its use by a permittee.

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

### **IC 7.1-3-1-6.5**

#### **Repealed**

*(Repealed by P.L.52-1994, SEC.7.)*

### **IC 7.1-3-1-7**

#### **Surety bonds; amounts**

Sec. 7. (a) An applicant for a brewer's permit, a distiller's permit, or a liquor wholesaler's permit shall file with the commission a surety bond in the penal sum of ten thousand dollars (\$10,000).

(b) An applicant for a rectifier's permit shall file with the commission a surety bond in the penal sum of fifteen thousand dollars (\$15,000).

(c) An applicant for a vintner's permit shall file with the commission a surety bond in the penal sum of one thousand dollars (\$1,000).

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.58-1984, SEC.1; P.L.205-1999, SEC.9.*

### **IC 7.1-3-1-8**

#### **Terms and conditions of surety bond**

Sec. 8. Terms and Conditions of Surety Bond. The required surety bond of an applicant shall meet with the approval of the commission. The bond shall be made payable to the State of Indiana and be conditioned that so long as the applicant holds his permit unrevoked, he will not violate a provision of this title or a rule or regulation of the commission relating to his permit. The bond also shall be conditioned that he will account for all taxes and fees levied by this title on the products manufactured, sold, or withdrawn for sale by the applicant under his permit. A permittee shall keep the bond in full force and effect continuously in order to keep his permit in force.

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

### **IC 7.1-3-1-9**

#### **Recovery on bond**

Sec. 9. Recovery on Bond. The State of Indiana may recover the sum of one hundred dollars (\$100), and no more, in any one (1) action on a permittee's surety bond for the violation of a rule or regulation of the commission. The State of Indiana may recover no more than two hundred dollars (\$200) in any one (1) action on the surety bond for the violation of a provision of this title. Violations prior to the institution of the action on the bond shall be deemed one (1) continuing violation. However, the State of Indiana may recover the full amount of all taxes and fees due and owing by the permittee under this title in a single action on the bond. No person shall bring an action on the bond except the State of Indiana for the use and benefit of the state.

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

### **IC 7.1-3-1-10**

#### **Surety bond; approval**

Sec. 10. Surety Bonds: Approval. The commission shall keep a surety bond filed under this title safely in its files. The commission shall not approve a surety bond unless the surety company is solvent and qualified to do business in this state. The commission, before approving a surety bond, shall require the commissioner of the department of insurance to furnish to the commission copies of reports of the surety company and other information concerning the reserves and reliability of the company.

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

### **IC 7.1-3-1-11**

#### **Cash in lieu of bond**

Sec. 11. Cash in Lieu of Bond. Cash, or bonds of the United States, or both, may be tendered to the commission in lieu of a surety bond required by the provisions of this title if it is tendered on the same terms and conditions as a surety bond.

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



### **IC 7.1-3-1-12**

#### **Cancellation of surety bond**

Sec. 12. Cancellation of Surety Bond. A surety may not cancel or annul a surety bond filed in accordance with the provisions of this title after it has been approved by the commission. However, a surety, with the consent of the commission, may cancel a bond and be released from liability accruing after the effective date of the cancellation. The commission shall not approve a cancellation until the surety has paid and discharged in full its liability to the state on the bond to the date of the approval of the cancellation.

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

### **IC 7.1-3-1-13**

#### **Payments**

Sec. 13. A person may make a payment to the commission:

- (1) in cash;
- (2) by a valid postal money order of the United States;
- (3) by certified check;
- (4) by cashier's check;
- (5) by check drawn on the bank deposit of a business;
- (6) by bank draft;
- (7) by money order;
- (8) by credit card, debit card, charge card, or similar method; or
- (9) if approved by the commission, by an electronic funds transfer (as defined in IC 4-8.1-2-7).

However, payment made by one (1) of the methods listed in subdivisions (3) through (6) must be of or drawn upon a solvent bank or trust company. However, if a payment is made by bank draft, check, cashier's check, or money order, the liability is not finally discharged and the person has not paid the obligation until the draft, check, or money order has been honored by the institution on which it is drawn. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the liability until the commission receives payment or credit from the institution responsible for making the payment or credit. The commission may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the commission or charged directly to the commission's account, the commission or credit card vendor may collect from the person using the bank or credit card a fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.205-1999, SEC.10; P.L.204-2001, SEC.25.*

### **IC 7.1-3-1-14**

#### **Times when sales lawful; athletic or sports events in specified counties or cities; auto racing**

Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic

beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) 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.

(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.60, SEC.2.) As amended by P.L.99-1983, SEC.1; P.L.102-1989, SEC.1; P.L.64-1990, SEC.1; P.L.72-1991, SEC.1; P.L.1-1992, SEC.28; P.L.106-1995, SEC.6; P.L.205-1999, SEC.11; P.L.136-2000, SEC.1; P.L.72-2004, SEC.4; P.L.224-2005, SEC.3; P.L.165-2006, SEC.3.*

### **IC 7.1-3-1-15**

#### **Service while standing**

Sec. 15. Service While Standing. It is lawful for a retail permittee to serve an alcoholic beverage to a customer whether the customer is seated or standing. It also is lawful for a customer of a retail permittee to be served an alcoholic beverage and to consume it whether he is seated or standing.

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

### **IC 7.1-3-1-16**

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

### **IC 7.1-3-1-17**

#### **Transportation of alcoholic beverages; general**

Sec. 17. Transportation of Alcoholic Beverages: General. The traffic and transportation of alcohol and alcoholic beverages for sale

within this state shall be subject to the rules and regulations of the commission. Alcohol and alcoholic beverages shall be transported and delivered only in containers that are lawful under this title and permissible under the rules and regulations of the commission.

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

#### **IC 7.1-3-1-18**

##### **Publication of notice**

Sec. 18. (a) Whenever, under the provisions of this title, publication of notice of application for a permit is required, the publication shall be made in one (1) newspaper of general circulation published in the county where the permit is to be in effect.

(b) Publication required by this section may be made in any newspaper of general circulation published one (1) or more times each week.

(c) The rates which shall be paid for the advertising of a notice required under this title shall be those required to be paid in case of other notices published for or on behalf of the state.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.224-2005, SEC.4.*

#### **IC 7.1-3-1-19**

##### **Character of the business test**

Sec. 19. Character of the Business Test. Whenever the character of the business in which an applicant is engaged is material to his being issued a permit under this article, or is material to his being qualified to continue to hold the permit, it must be made to appear to the satisfaction of the commission that a substantial portion of the business carried on, or to be carried on, in the premises in respect to which a permit is applied for is in the nature of the applicant's main business function in the premises.

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

#### **IC 7.1-3-1-20**

##### **Display of permit**

Sec. 20. A person to whom a permit has been issued to carry on any of the businesses or undertakings authorized by this title shall, before being fully qualified to do business, post and display, and keep posted and displayed, in the most conspicuous place in the person's licensed premises the person's permit to do business.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.77-1988, SEC.1.*

#### **IC 7.1-3-1-21**

##### **Sponsoring amateur athletic event**

Sec. 21. The holder of a permit of any type issued under the provisions of this title or a manufacturer of an alcoholic beverage may sponsor, finance, or promote in any way an amateur athletic contest, amateur athletic team, or amateur athletic sporting event of any kind.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.57-1984, SEC.3.*

#### **IC 7.1-3-1-22**

##### **Medical exemption**

Sec. 22. Medical Exemption. A regularly licensed physician, a dentist, or a person holding a license to practice medicine, or to engage in a profession in which the treatment of the human body, or of an animal body, is necessarily involved, a clinic, a noncommercial laboratory, a hospital or a sanitarium, may acquire, own and dispense for medicinal, mechanical or scientific purposes only, and not for beverage purposes, an alcoholic beverage or ethyl alcohol without a permit being issued under this title.

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

#### **IC 7.1-3-1-23**

##### **Pharmacy exemption**

Sec. 23. Pharmacy Exemption. A registered pharmacist who owns or manages a regularly licensed drug store and who is not the holder of a drug store permit issued pursuant to the provisions of IC 1971, 7.1-3-10, but who is the holder of an unrevoked permit of the Indiana Board of Pharmacy, may acquire, own and use only in the compounding of physician's prescriptions two (2) gallons of ethyl alcohol per year without a permit being issued under this title.

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

#### **IC 7.1-3-1-23.5**

##### **Wine appreciation course instructor exemption**

Sec. 23.5. An instructor teaching a class on wine appreciation at an accredited college or university (as described under IC 24-4-11-2) may purchase, acquire, possess, and dispense wine for educational purposes within the class without a permit under this title.

*As added by P.L.54-2008, SEC.1.*

#### **IC 7.1-3-1-24**

##### **Religious exemption**

Sec. 24. Religious Exemption. A pastor, rabbi, minister, or priest may purchase, acquire, possess and dispense wine for sacramental purposes or for performing a religious rite only without a permit being issued under this title.

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

#### **IC 7.1-3-1-25**

##### **Authorization to permit the sale of alcoholic beverages at certain public facilities**

Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of

the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).
- (4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
- (6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
- (7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).
- (8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).
- (9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

- (1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and
- (2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

- (1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and
- (2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that owns a golf course may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

- (1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and
- (2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

- (1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
- (3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).
- (4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).
- (5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

- (1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or
- (2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

*As added by Acts 1980, P.L.8, SEC.64. Amended by Acts 1982, P.L.1, SEC.22; P.L.100-1983, SEC.1; P.L.57-1984, SEC.4; P.L.85-1985, SEC.4; P.L.112-1987, SEC.3; P.L.103-1989, SEC.1; P.L.12-1992, SEC.55; P.L.87-1993, SEC.1; P.L.71-1996, SEC.3; P.L.71-1997, SEC.1; P.L.205-1999, SEC.12; P.L.136-2000, SEC.2; P.L.170-2002, SEC.54; P.L.165-2006, SEC.4.*

**IC 7.1-3-1-26**

### **Sales among collectors**

Sec. 26. No permit is required for the sale, purchase, or gift by a collector to another collector of a container that is:

- (1) a ceramic commemorative bottle; or
- (2) a uniquely designed decanter.

An unbroken federal tax stamp must be on the container at the time of the sale, purchase, or gift.

*As added by P.L.57-1984, SEC.5.*

### **IC 7.1-3-1-27**

#### **Affidavit of compliance by retailer permittee; financial statements**

Sec. 27. (a) Notwithstanding any other provision of this article, a retailer permittee who is required to comply with the gross food and beverage sales, or gross food sales, standards contained in this article as a condition of receiving, continuing to hold, or renewing, the permittee's permit, or otherwise doing business, may attest to the permittee's compliance with those standards by filing an affidavit of compliance with the commission.

(b) The affidavit of compliance authorized by subsection (a) must be in writing and signed by the permittee, or by a responsible officer or partner, under the penalties of perjury, that the representations contained in it are true.

(c) If the commission has reasonable grounds to doubt the truthfulness of an affidavit filed pursuant to subsection (a), it may require the permittee to support it by audited financial statements. If the audited financial statements do not support the affidavit and show the required compliance with the applicable standards of this article, the commission may revoke the permit.

*As added by P.L.112-1987, SEC.4.*

### **IC 7.1-3-1-28**

#### **Posting notice of application**

Sec. 28. (a) This section applies to the initial issuance, transfer of location, or transfer of ownership of the following:

- (1) Any form of retailer's permit issued under this title.
- (2) Any form of dealer's permit issued under this title.

(b) To qualify for approval of an application, an applicant must show proof to the commission that the applicant has provided notice concerning the application in conformity with this section.

(c) Except as provided in subsection (d), the applicant shall post a sign for the period, in the location, and in the form specified in the rules adopted by the commission to indicate to the public that the applicant is seeking the issuance of a retailer's or dealer's permit. The rules adopted by the commission must require that:

- (1) the wording on the sign be in a sufficiently large type size; and
- (2) the sign be posted in a sufficient manner in a window or another area;

so that the sign is visible from the largest public thoroughfare or the nearest public thoroughfare in the vicinity of the applicant's location.

The commission may require an applicant to use a sign prepared by the commission. The commission may charge a fee for a sign prepared by the commission that does not exceed the cost of the sign.

(d) This subsection applies to a county having a consolidated city. If the application is for a permit other than a liquor dealer's permit, the applicant may:

(1) post notice of the application as set forth in subsection (c);

or

(2) mail notice in accordance with:

(A) section 5.5 of this chapter if the application is for a new permit or transfer of a permit; or

(B) section 5.6 of this chapter if the application is for renewal of a permit.

*As added by P.L.204-2001, SEC.26.*



### **IC 7.1-3-1.5**

#### Chapter 1.5. Certification of Alcohol Server Training Programs

### **IC 7.1-3-1.5-1**

#### **"Alcohol server"**

Sec. 1. As used in this chapter, "alcohol server" means the following:

(1) A person who works on the licensed premises of a retailer permittee as a:

- (A) manager;
- (B) bartender; or
- (C) waiter or a waitress.

(2) A person who works on the licensed premises of a dealer permittee as a:

- (A) manager; or
- (B) sales clerk.

*As added by P.L.161-2005, SEC.1.*

### **IC 7.1-3-1.5-1.2**

#### **"Applicant"**

Sec. 1.2. As used in this chapter, "applicant" means a person who applies for a trainer certificate under this chapter to train:

- (1) alcohol servers; and
- (2) individuals who plan to become certified trainers;

on the selling, serving, and consumption of alcoholic beverages.

*As added by P.L.165-2006, SEC.5.*

### **IC 7.1-3-1.5-1.3**

#### **"Certified trainer"**

Sec. 1.3. As used in this chapter, "certified trainer" means a person who is issued a trainer certificate under section 4.6 of this chapter.

*As added by P.L.165-2006, SEC.6.*

### **IC 7.1-3-1.5-2**

#### **"Dealer permittee"**

Sec. 2. As used in this chapter, "dealer permittee" means a person who holds a liquor dealer permit under IC 7.1-3-10 for a package liquor store.

*As added by P.L.161-2005, SEC.1.*

### **IC 7.1-3-1.5-3**

#### **"Program"**

Sec. 3. As used in this chapter, "program" refers to a program designed to educate an alcohol server on the:

- (1) selling;
- (2) serving; and
- (3) consumption;

of alcoholic beverages.

*As added by P.L.161-2005, SEC.1.*

#### **IC 7.1-3-1.5-4**

##### **"Retailer permittee"**

Sec. 4. As used in this chapter, "retailer permittee" means a person who holds a:

- (1) beer retailer's permit under IC 7.1-3-4;
- (2) liquor retailer's permit under IC 7.1-3-9; or
- (3) wine retailer's permit under IC 7.1-3-14.

*As added by P.L.161-2005, SEC.1.*

#### **IC 7.1-3-1.5-4.2**

##### **"Server certificate"**

Sec. 4.2. As used in this chapter, "server certificate" means a certificate issued by the commission under this chapter to an individual who completes a program established or approved under section 6 of this chapter.

*As added by P.L.165-2006, SEC.7.*

#### **IC 7.1-3-1.5-4.3**

##### **"Server program"**

Sec. 4.3. As used in this chapter, "server program" refers to a program designed to educate an alcohol server on the:

- (1) selling;
- (2) serving; and
- (3) consumption;

of alcoholic beverages.

*As added by P.L.94-2008, SEC.14.*

#### **IC 7.1-3-1.5-4.4**

##### **"Trainer certificate"**

Sec. 4.4. As used in this chapter, "trainer certificate" means a certificate issued by the commission under this chapter to an applicant who meets the requirements under section 4.6 of this chapter.

*As added by P.L.165-2006, SEC.8.*

#### **IC 7.1-3-1.5-4.5**

##### **"Trainer program"**

Sec. 4.5. As used in this chapter, "trainer program" refers to a program designed to educate an individual on the training of alcohol servers on the:

- (1) selling;
- (2) serving; and
- (3) consumption;

of alcoholic beverages.

*As added by P.L.94-2008, SEC.15.*

#### **IC 7.1-3-1.5-4.6**

##### **Trainer certificate; requirements**

Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:

- (1) files the application and pays the fees established by the commission under section 5 of this chapter;
- (2) completes a program established or approved under section 5.5 of this chapter; and
- (3) meets the requirements under this chapter and rules adopted by the commission.

*As added by P.L.165-2006, SEC.9. Amended by P.L.94-2008, SEC.16.*

#### **IC 7.1-3-1.5-4.8**

##### **Certified trainer; authorized activities**

Sec. 4.8. A certified trainer may train alcohol servers on the selling, serving, and consumption of alcoholic beverages.

*As added by P.L.165-2006, SEC.10. Amended by P.L.94-2008, SEC.17.*

#### **IC 7.1-3-1.5-5**

##### **Rules**

Sec. 5. The commission shall adopt rules under IC 4-22-2 to establish:

- (1) an application form;
- (2) standards; and
- (3) fees;

for certification under this chapter.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.11.*

#### **IC 7.1-3-1.5-5.5**

##### **Trainer program; approval**

Sec. 5.5. (a) Subject to subsection (b), the commission may approve a trainer program by a third party that is designed to educate individuals on the training of alcohol servers on the selling, serving, and consumption of alcoholic beverages.

(b) The commission may not approve a trainer program by a third party that holds or has an interest in any of the following permits:

- (1) A primary source of supply permit.
- (2) A beer, wine, or liquor wholesaler's permit.
- (3) A beer, wine, or liquor retailer's permit.
- (4) A beer, wine, or liquor dealer's permit.

(c) In approving a trainer program under this section, the commission may consider the following factors:

- (1) The needs of applicants.
- (2) The geographical distribution of the third parties' locations in Indiana.
- (3) The adequacy of the facilities where the trainer program will be conducted.

*As added by P.L.94-2008, SEC.18.*

#### **IC 7.1-3-1.5-6**

##### **Server program requirements**

Sec. 6. (a) The commission shall:

- (1) establish a server program; and
- (2) approve a server program established by a third party that meets the requirements of this chapter;

that is designed to educate alcohol servers on the selling, serving, and consumption of alcoholic beverages.

(b) A server program established or approved under subsection (a) must include the following:

- (1) Training by an instructor who:
  - (A) has knowledge in the subject areas described in this section; and
  - (B) is a certified trainer under this chapter.
- (2) Information on specific subject areas as required by the commission.
- (3) A minimum of at least two (2) hours of training to complete the program.
- (4) Information on:
  - (A) state laws and rules regarding the sale and service of alcoholic beverages;
  - (B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;
  - (C) the effects of alcohol:
    - (i) when taken with commonly used prescription and nonprescription drugs; and
    - (ii) on human behavior;
  - (D) methods of:
    - (i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and
    - (ii) handling situations involving an underage or intoxicated person;
  - (E) methods for properly and effectively:
    - (i) checking the identification of an individual;
    - (ii) identifying an illegal identification of an individual; and
    - (iii) handling situations involving individuals who have provided illegal identification;
  - (F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and
  - (G) recognizing certain behavior to assess the amount of alcohol an individual:
    - (i) has consumed; and
    - (ii) may safely consume.
- (5) One (1) or both of the following:
  - (A) A written test.
  - (B) An oral test.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.12; P.L.94-2008, SEC.19.*

**IC 7.1-3-1.5-7**

**Repealed**

*(Repealed by P.L.165-2006, SEC.40.)*

**IC 7.1-3-1.5-8**

**Trainer certificate expiration and renewal**

Sec. 8. (a) A trainer certificate issued under this chapter expires three (3) years after the date the trainer certificate was issued.

(b) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the renewal requirements for a trainer certificate under this chapter.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.13.*

**IC 7.1-3-1.5-9**

**Trainer certificate renewal requirements**

Sec. 9. To renew a trainer certificate under this chapter, the certified trainer must:

(1) file the renewal application established and provided by the commission;

(2) pay a renewal fee of forty-five dollars (\$45); and

(3) complete a refresher course established or approved by the commission;

not later than the expiration date of the trainer certificate.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.14.*

**IC 7.1-3-1.5-10**

**Suspension; revocation; fines**

Sec. 10. (a) The commission may:

(1) refuse to issue, renew, or restore a certificate issued under this chapter; or

(2) suspend or revoke a certificate issued under this chapter;

if the board determines that the applicant or certificate holder has not complied with this chapter.

(b) The commission may fine a certificate holder for the violation of a:

(1) provision of this chapter; or

(2) rule adopted by the commission under this chapter.

The commission may fine a certificate holder for each day the violation continues if the violation is of a continuing nature.

*As added by P.L.161-2005, SEC.1.*

**IC 7.1-3-1.5-11**

**Injunction**

Sec. 11. (a) If a person violates this chapter, the attorney general, the commission, or the prosecuting attorney of the county in which

the person violates this chapter may maintain an action in the name of the state to enjoin the person from continuing in violation of this chapter.

(b) A person who is enjoined and who violates the injunction shall be punished for contempt of court.

*As added by P.L.161-2005, SEC.1.*

### **IC 7.1-3-1.5-12**

#### **Violation; Class B infraction**

Sec. 12. A person who trains alcohol servers without a trainer certificate under this chapter commits a Class B infraction.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.15; P.L.94-2008, SEC.20.*

### **IC 7.1-3-1.5-13**

#### **Retailer or dealer permittee; management representative; duties and responsibilities**

Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a server program or a trainer program established or approved under section 5.5 or 6 of this chapter not later than one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the server program subject areas described in section 6 of this chapter or subject areas of a trainer program every three (3) years after the date the alcohol server completes a server program or a trainer program; and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a server program or a trainer program established or approved under section 5.5 or 6 of this chapter:

(1) not later than one hundred twenty (120) days after the date:

(A) the dealer permittee is issued a permit described in section 2 of this chapter; or

(B) the retailer permittee is issued a permit described in section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a server program or a trainer program.

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the requirements under subsections (a) and (b).

(d) The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

*As added by P.L.161-2005, SEC.1. Amended by P.L.165-2006, SEC.16; P.L.94-2008, SEC.21.*

#### **IC 7.1-3-1.5-14**

##### **Server certificate**

Sec. 14. A server program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the server program.

*As added by P.L.165-2006, SEC.17. Amended by P.L.94-2008, SEC.22.*

#### **IC 7.1-3-1.5-14.5**

##### **Trainer certificate**

Sec. 14.5. A trainer program established or approved under section 5.5 of this chapter must provide a trainer certificate to an individual who successfully completes the program.

*As added by P.L.94-2008, SEC.23.*

#### **IC 7.1-3-1.5-15**

##### **Observation of server program**

Sec. 15. The commission may attend and observe training by a certified trainer under a server program established or approved under section 6 of this chapter at any time.

*As added by P.L.165-2006, SEC.18. Amended by P.L.94-2008, SEC.24.*

#### **IC 7.1-3-1.5-15.5**

##### **Observation of trainer program**

Sec. 15.5. The commission may attend and observe training under a trainer program established or approved under section 5.5 of this chapter at any time.

*As added by P.L.94-2008, SEC.25.*

#### **IC 7.1-3-1.5-16**

##### **Rules**

Sec. 16. The commission shall adopt rules under IC 4-22-2 to carry out this chapter.

*As added by P.L.165-2006, SEC.19.*

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

### **Chapter 2. Brewers' Permits**

#### **IC 7.1-3-2-1**

##### **Application**

Sec. 1. Application. The commission may issue a brewer's permit to a person who desires to commercially manufacture beer.

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

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

##### **Persons eligible for permits**

Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership, all the partners of which are bona fide residents of Indiana;
- (3) a limited liability company, all the members of which are bona fide residents of Indiana; or
- (4) a corporation organized and existing under the laws of Indiana and having authority under its charter to manufacture or sell beer.

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership organized and existing under the laws of Indiana;
- (3) a limited liability company organized and existing under the laws of Indiana; or
- (4) a corporation organized and existing under the laws of Indiana.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.51-1994, SEC.3; P.L.72-2004, SEC.5.*

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

##### **Preference for existing permittees**

Sec. 3. Preference for Existing Permittees. A holder of a brewer's permit shall be entitled to preference in the issuance of a brewer's permit over a new applicant for that permit and the existing permittee shall not be refused the permit except for good cause after hearing.

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

#### **IC 7.1-3-2-4**

##### **Out-of-state brewer; qualifications**

Sec. 4. A brewer or other person located outside Indiana who is desirous of selling beer or flavored malt beverage to an Indiana permittee for importation into and resale in Indiana, in order to qualify under this title, shall file with the commission a surety bond in a penal sum equal to its average monthly excise tax liability for the previous year, payable to the state of Indiana and conditioned on the



principal's faithful performance and discharge in its agreement with the commission as provided in section 5 of this chapter. The bond and agreement, unless suspended or revoked, shall be renewable annually.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.58-1984, SEC.2; P.L.72-1996, SEC.2.*

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

##### **Out-of-state brewer; agreement**

Sec. 5. There shall accompany the bond required by section 4 of this chapter an agreement by the applicant to:

- (1) pay to the state the taxes and fees levied by the state for which the applicant is liable on beer shipped or transported into Indiana;
- (2) furnish reports required by the commission of the sales of beer and flavored malt beverage by the principal to an Indiana permittee; and
- (3) consent to an examination of the principal's records pertaining to sales to an Indiana permittee.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.58-1984, SEC.3; P.L.72-1996, SEC.3.*

#### **IC 7.1-3-2-6**

##### **Cessation of manufacturing; revocation of permit**

Sec. 6. Cessation of Manufacturing: Revocation of Permit. The commission may revoke the permit of a brewer if the brewer does not, in good faith, begin to manufacture beer within six (6) months after the issuance of the permit, or if he suspends manufacturing of beer for six (6) consecutive months, without the consent and approval of the commission. The revocation shall be affected in accordance with the rules and regulations of the commission.

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

#### **IC 7.1-3-2-7**

##### **Scope of permit**

Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:
  - (A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.
  - (B) Be the proprietor of a restaurant.
  - (C) Hold a beer retailer's permit, a wine retailer's permit, or

a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

- (i) bulk containers; or
- (ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(H) Sell and deliver beer to a consumer at the permit premises of the brewer or at the residence of the consumer. The delivery to a consumer may be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Provide complimentary samples of beer that are:

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

(8) Own a portion of the corporate stock of a sports corporation that:

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(9) For beer described in IC 7.1-1-2-3(a)(4):

- (A) may allow transportation to and consumption of the beer on the licensed premises; and
- (B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.52-1992, SEC.3; P.L.88-1993, SEC.1; P.L.15-1994, SEC.3; P.L.107-1995, SEC.1; P.L.177-1999, SEC.6; P.L.72-2004, SEC.6; P.L.94-2008, SEC.26.*

**IC 7.1-3-2-8****Transportation of beer**

Sec. 8. Transportation of Beer. The transportation of beer to a county within this state shall be only in barrel or keg containers, or in bottles, or in other containers permissible under the rules and regulations of the commission. A brewer may ship beer to points outside this state in any convenient container.

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

**IC 7.1-3-2-9****Out-of-state brewer; use of beer wholesalers**

Sec. 9. An out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may:

- (1) appoint a beer wholesaler to perform the services described in IC 7.1-3-3-5(f)(1) through IC 7.1-3-3-5(f)(2); and
- (2) provide a fee to a beer wholesaler who performs the services described in IC 7.1-3-3-5(f)(1) through IC 7.1-3-3-5(f)(2).

*As added by P.L.72-1997, SEC.1.*

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

#### **Chapter 3. Beer Wholesalers' Permits**

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

#### **Application**

Sec. 1. Application. The commission may issue a beer wholesaler's permit to a person who desires to sell beer at wholesale and who meets the qualifications required by this title. The commission may require additional proof, by affidavit or otherwise, that an applicant possesses any or all of the required qualifications. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

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

#### **Necessary investment**

Sec. 2. Necessary Investment. An applicant for a beer wholesaler's permit shall have available for investment, capital, in cash or property, necessary and useful in his business, exclusively as a beer wholesaler, of at least fifteen thousand dollars (\$15,000), exclusive of motor vehicles. If his application is granted, the investment shall actually be made and proof of it submitted to the commission before the applicant shall engage in business as a beer wholesaler. The provisions of this section shall not apply to a permittee who held a valid beer wholesaler's permit as of April 2, 1965. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

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

#### **Building requirements**

Sec. 3. Building Requirements. The building to be occupied by a beer wholesaler shall be owned or leased by him, or storage space in it shall be leased to him. If the building or storage space is held by lease, the lease shall be for the full term of the permit, and no other person, or stockholder of a corporation, interested in the manufacture of, or in the sale at retail of, alcoholic beverages shall own the building or have any interest in it. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

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

#### **Premises described in application**

Sec. 4. (a) The premises to be used as a warehouse by an applicant shall be described in the application for the permit. The commission shall not issue a beer wholesaler's permit to an applicant for any other warehouse or premises than that described in the application. The commission shall issue only one (1) beer wholesaler's permit to an applicant, but a permittee may be permitted to transfer the permittee's warehouse to another location within the county that is not required to be within the corporate limits of an incorporated city or town, upon application to, and approval of, the commission.

(b) As used in this subsection, "immediate relative" means the father, the mother, a brother, a sister, a son, or a daughter of a wholesaler permittee. Notwithstanding subsection (a), the

commission, upon the death or legally adjudged mental incapacitation of a wholesaler permittee, may allow the transfer of the wholesaler permit only to an immediate relative of the wholesaler permittee who concurrently holds a majority share in a valid wholesaler permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.205-1999, SEC.13; P.L.94-2008, SEC.27.*

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

#### **Scope of permit**

Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

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

- (1) another beer wholesaler authorized by the brewer to sell the brand purchased;
- (2) an employee; or
- (3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, or supplemental caterer's permit;

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

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

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

at any one (1) time.

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

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

- (1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.
- (2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit.

(f) A beer wholesaler may:

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

beer;

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

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

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.60, SEC.3; Acts 1974, P.L.25, SEC.2.) As amended by Acts 1978, P.L.52, SEC.1; P.L.57-1984, SEC.6; P.L.78-1986, SEC.3; P.L.72-1996, SEC.4; P.L.72-1997, SEC.2; P.L.224-2005, SEC.5; P.L.94-2008, SEC.28.*

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

#### **Renewals**

Sec. 6. Renewals. A permittee who holds a beer wholesaler's permit and who desires that it be renewed shall file an application for renewal with the commission not less than thirty (30) days prior to the expiration of the existing permit. The application shall be made in the same manner that an application for an original permit is made.

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

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

#### **Action of commission on renewals**

Sec. 7. Action of Commission on Renewals. The commission shall notify the applicant in writing of its determination to grant or deny the renewal of a beer wholesaler's permit not more than ten (10) days after the filing of the application. The notice may be given by personal service upon the applicant or by registered mail, addressed to applicant at the address shown in the application for renewal. The registration and deposit of the notice, properly addressed, in the post office within the ten (10) day period shall be sufficient when the notice is given by registered mail.

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

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

#### **Notice of renewal**

Sec. 8. Notice of Renewal. The determination shall be final and conclusive if the notice advises the applicant that his beer wholesaler's permit will be renewed at the expiration of the existing permit term. Prior to the expiration of the existing permit term, the commission shall issue a renewal beer wholesaler's permit to the applicant for the ensuing year. The failure on the part of the commission to issue the renewal permit prior to the expiration of the existing permit shall not deprive the applicant of the right to continue in operation pending its issuance.

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

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

#### **Demand for public hearing**

Sec. 9. Demand for Public Hearing. The commission shall state in the notice to the applicant the reasons for the denial of the renewal of his beer wholesaler's permit if they decide not to renew the permit.

The commission shall grant a public hearing to the applicant on the matter if, within five (5) days after receipt by the applicant of the notice of denial, he files with the commission a written demand for a public hearing. The hearing shall be held either in the offices of the commission or in the county seat of the county in which the applicant's place of business is located after ten (10) days' notice to the applicant of the time and place of the hearing.

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

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

##### **Conduct of hearing**

Sec. 10. Conduct of Hearing. The hearing on the denial of the renewal shall be conducted by a member of the commission or by a special examiner designated by it for this purpose. A deputy attorney general of the state shall represent the State of Indiana at the hearing and he shall present the written and oral evidence in support of the reasons given in the notice of the denial of the renewal of the beer wholesaler's permit. The applicant, in person or by counsel, shall present his evidence in support of his right to the renewal and in rebuttal of the evidence presented by the state. The burden shall be upon the state to establish the existence and sufficiency of the reasons for the denial of the renewal of the permit.

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

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

##### **Findings and conclusions; action of commission**

Sec. 11. Findings and Conclusions: Action of Commission. The person who conducted the hearing shall make a report of the recommended findings of fact and conclusions to the commission following the hearing. The commission, upon receipt of the report, by a majority vote of its membership, shall make findings of fact and state its conclusions affirming or reversing the proposed denial of renewal. The commission shall enter its order accordingly and that order shall be final and conclusive except as otherwise provided in this title. The commission shall serve the applicant, personally or by registered mail, with a copy of the findings of fact, conclusions, and order.

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

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

##### **Petition for review**

Sec. 12. Petition for Review. The applicant, if the order of the commission affirms the denial of the renewal of his permit, may file, within ten (10) days following its receipt by him, an action to review the findings, conclusions and order in the Superior Court of Marion County, or in the circuit or superior court of the county in which the applicant has his licensed premises, to set aside and enjoin the enforcement of the order of denial on the grounds that it is unlawful, unreasonable, or insufficient, or that it was obtained by wrongful, fraudulent or other unlawful methods.

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

### **IC 7.1-3-3-13**

#### **Contents of petition**

Sec. 13. Contents of Petition. The petition for review shall be verified by the applicant, or by someone in his behalf having knowledge of the matters stated in the petition, and may include a prayer that a temporary restraining order be issued against the commission, temporarily restraining it from enforcing its order denying the renewal. The temporary restraining order, if issued, shall be issued in accordance with the procedures provided in the Indiana Rules of Civil Procedure.

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

### **IC 7.1-3-3-14**

#### **Ad interim operations**

Sec. 14. Ad Interim Operations. The denial of the renewal of the permit shall not become effective until ten (10) days following the receipt by the applicant of a copy of the findings of fact, conclusions, and order of the commission affirming the denial if notice of denial of renewal has been given and a public hearing has been demanded as provided in this chapter. The enforcement of the commission's order of denial of renewal shall be suspended pending the expiration or dissolution of the temporary restraining order if one has been sought and issued as provided in this chapter. During the period that the order of denial is ineffective or suspended, the applicant shall be fully authorized and entitled to operate as a beer wholesaler to the same extent and effect as though a renewal permit had been issued concurrently with the expiration of his previous permit, and without being liable, criminally or civilly, on the ground of operating his beer wholesaler's business without a permit.

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

### **IC 7.1-3-3-15**

#### **Trial**

Sec. 15. Trial. The court shall give preference to the action for review in order that, consistent with justice, the matters in issue may be determined speedily. A change of venue from the county shall not be granted in an action for review, but either party may apply for and secure a change of judge under the Indiana Rules of Civil Procedure. The trial of the action shall be by the court without the intervention of a jury.

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

### **IC 7.1-3-3-16**

#### **Costs**

Sec. 16. Costs. The commission, in the event the denial of renewal becomes final as a result of a failure to bring an action for review, or as a result of the final judgment of the court in which the action was brought, shall deduct from the annual license fee accompanying the



application the amount of court costs taxed against the applicant and shall pay it to the clerk of the court. The commission shall apply the balance of the annual license fee to the payment of a license fee for the period of the beer wholesaler's continued operation computed at the rate of two dollars and seventy-five cents (\$2.75) per day for the number of calendar days, including Sundays and holidays, elapsed during the period of continued operation.

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

#### **IC 7.1-3-3-17**

##### **Cancellation of franchise agreement**

Sec. 17. Cancellation of Franchise Agreement. The circuit or superior court of the county in which the licensed premises of a beer wholesaler are located shall have jurisdiction to enjoin the cancellation or termination of a franchise or agreement between a beer wholesaler and a brewer in violation of IC 1971, 7.1-5-5-9. The action may be brought by a beer wholesaler or brewer who is or might be adversely affected by the cancellation or termination. The court, in granting an injunction under this section, shall provide that the brewer shall not supply the customers or territory of the beer wholesaler through servicing the customers or territory through another beer wholesaler or by any other means while the injunction is in effect. An injunction issued under this section shall require the posting of proper bond against damages for an injunction improvidently granted and a showing that the danger of irrevocable loss or damage is immediate. The beer wholesaler shall continue to service the accounts of the brewer in good faith during the term of the injunction.

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

#### **IC 7.1-3-3-18**

##### **Certain transactions void**

Sec. 18. Certain Transactions Void. The transfer, sale, acquisition, assignment, control of, or beneficial interest, direct or indirect, in or to a beer wholesaler's permit, or in its business, or in its corporate stock, by a brewer contrary to the provisions of IC 1971, 7.1-5-9-2, or the transfer, assignment upon the capital stock book, or other corporate record, of a corporation holding a beer wholesaler's permit, of the capital stock, or a part of it, is wholly void and not capable of validation.

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

#### **IC 7.1-3-3-19**

##### **Permits prohibited to persons holding wine wholesaler's permit and liquor wholesaler's permit**

Sec. 19. The commission may not issue a beer wholesaler's permit to a person who holds a wine wholesaler's permit and a liquor wholesaler's permit.

*As added by P.L.72-1996, SEC.5.*

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

### **Chapter 4. Beer Retailers' Permits**

#### **IC 7.1-3-4-1**

##### **Application**

Sec. 1. Application. The commission may issue a beer retailer's permit to a person who desires to sell beer to customers for consumption on the licensed premises and who meets the qualifications provided by this title.

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

#### **IC 7.1-3-4-2**

##### **Special disqualifications**

Sec. 2. (a) The commission shall not issue a beer retailer's permit, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

- (1) An alien.
- (2) A person who:
  - (A) is not of good moral character and of good repute in the community in which the person resides; or
  - (B) has been convicted within ten (10) years before the date of application of:
    - (i) a federal crime having a sentence of at least one (1) year;
    - (ii) an Indiana Class A, Class B, or Class C felony; or
    - (iii) a crime in a state other than Indiana having a penalty equal to the penalty for an Indiana Class A, Class B, or Class C felony.
- (3) A person who does not own the premises to which the permit will be applicable, or who does not have a bona fide lease on the premises for the full period for which the permit is to be issued.
- (4) A law enforcement officer or an officer who is not an elected officer of a municipal corporation, or governmental subdivision, or of this state, charged with any duty or function in the enforcement of this title.
- (5) An officer or employee of a person engaged in the alcoholic beverage traffic, which person is a nonresident of this state, or is engaged in carrying on any phase of the manufacture of, traffic in, or transportation of alcoholic beverages without a permit under this title when a permit is required by this title.
- (6) If the permit applicant does not hold a brewer's permit, a person who leases from a person, or an officer or agent of that person, who holds a brewer's permit or a beer wholesaler's permit.
- (7) If the permit applicant does not hold a brewer's permit, a person who is indebted to a person who holds a brewer's permit or a beer wholesaler's permit, or an officer or agent of that person, for a debt secured by a lien, mortgage, or otherwise, upon the premises for which the beer retailer's permit is to be

applicable, or upon any of the property or fixtures on the premises, or used, or to be used in connection with the premises.

(8) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required for the issuance of a beer retailer's permit to the person.

(9) A minor.

(10) A person non compos mentis.

(11) A person who has held a permit under this title and who has had that permit revoked within one (1) year prior to the date of application for a beer retailer's permit.

(12) A person who has made an application for a permit of any type which has been denied less than one (1) year prior to the person's application for a beer retailer's permit unless the first application was denied by reason of a procedural or technical defect.

(13) A person who is not the proprietor of a restaurant located and being operated on the premises described in the application for the beer retailer's permit, or of a hotel, or of a club, owning, or leasing the premises as a part of it. The disqualification contained in this subdivision shall not apply to the qualifications for or affect the privileges to be accorded under a beer dealer's permit or a dining car beer permit.

(b) Subsection (a)(9) does not prevent a minor from being a stockholder in a corporation.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.5; P.L.88-1993, SEC.2; P.L.73-1997, SEC.1; P.L.205-1999, SEC.14.*

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

#### **Premises outside corporate limits**

Sec. 3. Premises Outside Corporate Limits. (a) The commission may issue a beer retailer's permit for premises situated outside the corporate limits of an incorporated city or town if the premises are within, or in immediate proximity to, an unincorporated town:

(1) which has been a settlement or a group of residences for more than ten (10) years;

(2) to which the inhabitants of the surrounding countryside resort for purchases or public meetings or as a community or neighborhood center; and

(3) which has borne a name and has been known by that name for more than ten (10) years.

(b) The county surveyor of the county in which the premises is located shall certify the information set forth in subsection (a) to the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.276-2001, SEC.2.*

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

**Premises outside corporate limits; persons eligible**

Sec. 4. Premises Outside Corporate Limits: Persons Eligible. The commission may issue a beer retailer's permit as authorized by IC 1971, 7.1-3-4-3, only to an applicant who is the proprietor of a drug store, grocery store, confectionery, or of a store in good repute which, in the judgment of the commission, deals in other merchandise that is not incompatible with the sale of beer.

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

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

**Repealed**

*(Repealed by P.L.204-2001, SEC.68.)*

**IC 7.1-3-4-6**

**Scope of permit**

Sec. 6. (a) The holder of a beer retailer's permit shall be entitled to purchase beer for sale under his permit only from a permittee entitled to sell to him under this title. A beer retailer shall be entitled to possess beer and sell it at retail to a customer for consumption on the licensed premises. A beer retailer also shall be entitled to sell beer to a customer and deliver it in permissible containers to the customer on the licensed premises, or to the customer's house.

(b) A beer retailer shall not be entitled to sell beer at wholesale. He shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall he be entitled to sell beer at a place other than the licensed premises. However, a beer retailer may offer food service (excluding alcoholic beverages) to a patron who is outside the licensed premises by transacting business through a window in the licensed premises.

(c) A beer retailer shall be entitled to sell and deliver warm or cold beer for carry out, or for at-home delivery, in barrels or other commercial containers in a quantity that does not exceed fifteen and one-half (15 1/2) gallons at any one (1) time.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.2; P.L.112-1987, SEC.5.*

**IC 7.1-3-4-7**

**Limitation of sales; fees; clubs; discrimination**

Sec. 7. (a) Notwithstanding any other law, a beer retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A beer retailer may call the annual fee described in subsection (a) a membership fee.

(c) A beer retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a beer retailer to discriminate

among persons on the basis of race, sex, age, or religion when selecting persons to have access to the retailer's facilities and services.

*As added by P.L.73-1991, SEC.1.*

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

### **Chapter 5. Beer Dealers' Permits**

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

##### **Application**

Sec. 1. Application. The commission may issue a beer dealer's permit to a person who desires to sell beer to customers for consumption only off the licensed premises and who meets the qualifications provided by this title.

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

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

##### **Applicants eligible for permits; renewal of permits**

Sec. 2. (a) The commission may issue a beer dealer's permit only to an applicant who is the proprietor of a drug store, grocery store, or package liquor store.

(b) The commission may issue a beer dealer's permit to an applicant that is a foreign corporation if:

- (1) the applicant is duly admitted to do business in Indiana;
- (2) the sale of beer is within the applicant's corporate powers; and
- (3) the applicant is otherwise qualified under this title.

(c) The commission shall not issue a beer dealer's permit to a person who is disqualified under the special disqualifications. However, the special disqualification listed in IC 7.1-3-4-2(a)(13) shall not apply to an applicant for a beer dealer's permit.

(d) Notwithstanding subsection (a), the commission may renew a beer dealer's permit for an applicant who:

- (1) held a permit before July 1, 1997; and
- (2) is the proprietor of a confectionery or a store that:
  - (A) is not a drug store, grocery store, or package liquor store;
  - (B) is in good repute; and
  - (C) in the judgment of the commission, deals in merchandise that is not incompatible with the sale of beer.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.74-1997, SEC.1; P.L.41-2002, SEC.1.*

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

##### **Scope of permit**

Sec. 3. (a) The holder of a beer dealer's permit shall be entitled to purchase beer for sale under the permit only from a permittee entitled to sell to a beer dealer under this title.

(b) A beer dealer shall be entitled to possess beer and sell it at retail to a customer in permissible containers only.

(c) A beer dealer may not sell beer by the drink nor for consumption on the licensed premises nor shall a beer dealer allow it to be consumed on the licensed premises.

(d) Except as provided in subsection (e), a beer dealer shall be entitled to sell beer to a customer and deliver it in permissible

containers to the customer on the licensed premises, or to the customer's residence or office. A beer dealer shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall a beer dealer be entitled to sell beer at a place other than the licensed premises. A beer dealer shall not be entitled to sell beer and deliver beer for carry-out, or for delivery to a customer's residence or office, in a quantity that exceeds eight hundred sixty-four (864) ounces in a single transaction. However, notwithstanding IC 7.1-5-10-11, a beer dealer who is licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell and deliver warm or cold beer for carry-out, or for delivery to a customer's residence, office, or a designated location in barrels or other commercial containers that do not exceed two thousand sixteen (2,016) ounces per container. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

(e) Unless a beer dealer is a grocery store or drug store, a beer dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A beer dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a patron who is outside the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.3; P.L.65-1990, SEC.1; P.L.106-1995, SEC.7; P.L.204-2001, SEC.27.*

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

##### **Renewal or transfer of certain permits held before July 1, 2008**

Sec. 4. (a) Notwithstanding IC 7.1-1-3-18.5, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:

- (1) held a permit before July 1, 2008; and
- (2) has a premises that does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.

(b) The commission may transfer ownership of a beer dealer's permit under this section only to an applicant who is the proprietor of:

- (1) a drug store;
- (2) a grocery store; or
- (3) a package liquor store.

*As added by P.L.94-2008, SEC.29.*

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

##### **Reporting annual gross sales of food; confidential; department of state revenue; verification**

Sec. 5. (a) As used in this section, "annual gross sales of food" refers to annual gross sales of food for human consumption that are

exempt from the state gross retail tax.

(b) The holder of a permit issued to a grocery store that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2) shall report annually to the commission the amount of the permit holder's establishment's annual gross sales of food.

(c) An applicant who:

- (1) is applying for a beer dealer's permit; and
- (2) is the proprietor of a grocery store that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2);

shall report to the commission the amount of the applicant's establishment's annual gross sales of food.

(d) The information provided to the commission under subsections (b) and (c) regarding the amount of annual gross sales of food is confidential information and may not be disclosed to the public under IC 5-14-3. However, the commission may disclose the information:

- (1) to the department of state revenue to verify the accuracy of the amount of annual gross sales of food reported to the commission under subsections (b) and (c); and
- (2) in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy in the amount of annual gross sales discovered by the department of state revenue.

(e) The department of state revenue shall verify the accuracy of the reports provided to the commission under this section. The department of state revenue shall report to the commission any discrepancy that the department discovers between:

- (1) the amount of annual gross sales of food that the permit holder has reported to the department; and
- (2) the amount of annual gross sales of food that the permit holder has reported to the commission.

(f) Notwithstanding IC 6-8.1-7-1 or any other law, in fulfilling its obligations under this section, the department of state revenue may provide to the commission confidential information. The commission shall maintain the confidentiality of information provided by the department of state revenue under this section. However, the commission may disclose the information in any administrative or judicial proceeding to revoke or suspend the holder's permit as a result of a discrepancy discovered by the department of state revenue under subsection (e).

*As added by P.L.94-2008, SEC.30.*



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

### **Chapter 6. Temporary, Dining Car, and Boat Beer Permits**

#### **IC 7.1-3-6-1**

##### **Temporary beer permits**

Sec. 1. Subject to sections 3.5 and 3.6 of this chapter, the commission may issue a temporary beer permit without publication of notice or investigation before a local board to a qualified person as provided in this chapter. In all other respects, a temporary beer permit shall be issued, revoked, and governed by the restrictions and limitations made in a provisional order or rule or regulation of the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.73-1996, SEC.1.*

#### **IC 7.1-3-6-2**

##### **Persons eligible for permits**

Sec. 2. Persons Eligible for Permits. The commission may issue a temporary beer permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in IC 1971, 7.1-3-4-2(c), (h), and (m), and the residency requirements provided in IC 1971, 7.1-3-21-3, shall not apply to an applicant for a temporary beer permit.

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

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

##### **Reasons for permit**

Sec. 3. The commission may issue a temporary beer permit only to:

- (1) enable a fair, athletic event, barbecue, picnic, wedding reception, convention, exhibition, spectacle or contest to be publicly held and carried on; or
- (2) accommodate the institutional activities of an association, society, charitable or benevolent organization, or a branch of one (1) of these, or both.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.250-2003, SEC.9.*

#### **IC 7.1-3-6-3.5**

##### **Temporary beer permit; cities of 150,000 to 500,000; conditions; approval of mayor**

Sec. 3.5. (a) This section applies to a temporary beer permit for the sale of beer within a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000).

(b) The commission may not issue a temporary beer permit to a person unless:

- (1) the person meets all requirements for a temporary beer

permit under this chapter; and

(2) the mayor of the city in which the beer will be sold approves the issuance of the temporary beer permit.

(c) If a person asks the mayor to approve the issuance of a temporary beer permit, the mayor shall notify the commission of the mayor's decision to approve or disapprove the permit not later than fourteen (14) days after the person's request for approval.

(d) If the mayor does not approve or disapprove the request within the time required by subsection (c), the commission shall consider the request to be approved by the mayor.

*As added by P.L.52-1992, SEC.4.*

### **IC 7.1-3-6-3.6**

#### **Temporary beer permits; town parks**

Sec. 3.6. (a) This section applies to a temporary beer permit for the sale of beer in a town park in a town having a population of less than ten thousand (10,000).

(b) The commission may not issue a temporary beer permit to a person unless:

(1) the person meets all of the requirements for a temporary beer permit under this chapter; and

(2) the town council:

(A) holds a public hearing on the request for a permit; and

(B) approves the issuance of the temporary beer permit.

(c) If a person asks a town council to approve the issuance of a temporary beer permit, the town clerk-treasurer shall notify the commission of the town council's decision to approve or disapprove the permit not later than thirty (30) days after the person's request for approval.

(d) If a person who applies for a temporary beer permit from the commission demonstrates to the satisfaction of the commission that no action was taken on the person's request by the town council under subsection (c), the commission shall consider the request to be approved by the town council.

*As added by P.L.73-1996, SEC.2.*

### **IC 7.1-3-6-4**

#### **Term of permit**

Sec. 4. Term of Permit. The commission may issue a temporary beer permit for a term, to and including, fifteen (15) days from its issuance. However, if an emergency exists, in the judgment of the commission, a temporary beer permit may be renewed for a period not to exceed fifteen (15) additional days.

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

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

#### **Scope of permit**

Sec. 5. Scope of Permit. The holder of a temporary beer permit shall be entitled to purchase and receive beer on any day of the year, only from a person who holds a brewer's permit, a beer wholesaler's

permit, or a beer dealer's permit at their respective places of business. A lawful supplier may sell and deliver beer to a temporary beer permit holder on any day of the year at his place of business. The holder of a temporary beer permit shall be entitled to sell beer only for consumption on the licensed premises, and shall be subject to the same restrictions as apply to the sale of beer by the holder of a beer retailer's permit. A temporary beer permittee shall not be entitled to sell at wholesale or for carry-out from the licensed premises.  
*(Formerly: Acts 1973, P.L.55, SEC.1.)*

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

##### **Dining car beer permits**

Sec. 6. Dining Car Beer Permits. The commission may issue a dining car beer permit to a corporation that owns or operates a railroad as a public carrier. The commission also may issue a dining car permit to a person who owns, operates, or leases cars which are operated as part of a railroad train. A dining car beer permit may be issued without publication of notice or investigation before a local board but the issuance shall conform to any rules or regulations made by the commission. Dining car beer permits shall be issued at the rate of one (1) permit for a unit to consist of not more than five (5) dining and buffet cars.

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

#### **IC 7.1-3-6-7**

##### **Scope of permit**

Sec. 7. Scope of Permit. The holder of a dining car beer permit shall be entitled to bring into Indiana, for the purpose of service within its dining and buffet cars, sufficient beer for the accommodation of passengers riding on the train, when served by the drink only and to be consumed upon the premises, for the entire trip being made by the cars.

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

#### **IC 7.1-3-6-8**

##### **Display of permit**

Sec. 8. Display of Permit. The original dining car beer permit shall be kept displayed at the main Indiana office of the person to whom it was issued. A certificate of an officer or agent of the permittee stating that a dining car beer permit is in full force and effect for the car, or words to that effect, shall be kept displayed in each licensed dining and buffet car.

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

#### **IC 7.1-3-6-9**

##### **Renewals**

Sec. 9. Renewals. The holder of a dining car beer permit need not renew his permit annually. However, in order to keep the permit in force, the permittee must pay the annual license fee to the chairman on the anniversary date of the issuance of the original permit.

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

#### **IC 7.1-3-6-10**

##### **Excise tax**

Sec. 10. The holder of a dining car beer permit shall pay to the department the beer excise tax on the beer or flavored malt beverage withdrawn for sale within Indiana.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.6.) As amended by P.L.72-1996, SEC.6.*

#### **IC 7.1-3-6-11**

##### **Shipments by carrier**

Sec. 11. Shipments by Carrier. Nothing contained in a dining car beer permit or the privileges accorded under it shall effect the provisions of this title in regard to the shipment of alcoholic beverages by a carrier for either a consignor, or a consignee, or both.

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

#### **IC 7.1-3-6-12**

##### **Boat beer permits; application**

Sec. 12. Boat Beer Permits: Application. The commission may issue a boat beer permit to the proprietor of a boat engaged in regular passenger service and which makes regular runs in seasonable weather between established termini.

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

#### **IC 7.1-3-6-13**

##### **Prerequisites**

Sec. 13. Prerequisites. The commission shall follow all the procedures for publication of notice and investigation before a local board as provided in IC 1971, 7.1-3-19, before it issues a boat beer permit. However, the publication and investigation shall be made in any county in this state where the particular boat usually docks.

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

#### **IC 7.1-3-6-14**

##### **Scope of permit**

Sec. 14. The holder of a boat beer permit may purchase beer, possess it, and sell it at retail for consumption only in the dining room of the boat described in the application. The permit holder may sell beer only in the course of a run and only one (1) hour before the boat embarks on the run.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.77-1988, SEC.2.*

#### **IC 7.1-3-6-15**

##### **Temporary boat beer permits**

Sec. 15. Temporary Boat Beer Permits. The commission may issue a temporary boat beer permit to the proprietor of a boat under the same terms and conditions as are provided for the issuance of a

temporary beer permit. A temporary boat beer permit shall be applicable to the dining room of the boat only and may be issued only for an excursion voyage.

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

### **IC 7.1-3-6-16**

#### **Race track beer retailer permit**

Sec. 16. (a) The commission may issue a beer retailer permit, either inside or outside corporate limits, to the proprietor of a race track that:

- (1) meets the specifications of rules adopted by the commission;
- and
- (2) is sanctioned by a nationally chartered and recognized racing organization.

(b) The scope of a permit issued under this section, including the times during which beer may be sold, shall be set by rules adopted by the commission.

(c) A permit issued under this section is exempt from IC 7.1-3-21-1 and IC 7.1-3-22-3. The permit is not transferable for ownership or location.

*As added by P.L.106-1995, SEC.8.*

### **IC 7.1-3-6.5**

#### **Chapter 6.5. Tracking of Beer Kegs**

### **IC 7.1-3-6.5-1**

#### **"Keg" defined**

Sec. 1. As used in this chapter, "keg" means a brewery sealed individual container of beer:

- (1) destined for retail sale; and
- (2) having a liquid capacity of at least seven and three-fourths (7 3/4) gallons.

*As added by P.L.63-2002, SEC.1.*

### **IC 7.1-3-6.5-2**

#### **"Person" defined**

Sec. 2. As used in this chapter, "person" means a person who is not a permittee.

*As added by P.L.63-2002, SEC.1.*

### **IC 7.1-3-6.5-3**

#### **Marking of keg by permittee; identification marker requirements**

Sec. 3. A permittee who sells a keg of beer for consumption at a place other than a licensed premises must place an identification marker on the keg at the time of sale. The commission shall prescribe the form of the identification marker. The identification marker must:

- (1) enable the identification and tracking of the seller of beer;
- (2) be removable or reusable when the keg is returned to the wholesaler for refilling; and
- (3) contain other information that the commission requires.

*As added by P.L.63-2002, SEC.1.*

### **IC 7.1-3-6.5-4**

#### **Obligation of keg purchaser to sign receipt; receipt requirements**

Sec. 4. A person who purchases a keg of beer for consumption at a place other than a licensed premises must sign a receipt for the keg. The commission shall prescribe a form for the receipt that:

- (1) enables the identification and tracking of the purchaser of beer; and
- (2) contains other information that the commission requires.

*As added by P.L.63-2002, SEC.1.*

### **IC 7.1-3-6.5-5**

#### **Failure of permittee to mark keg or obtain receipt; suspension of permit; civil penalties**

Sec. 5. The commission may impose a civil penalty under IC 7.1-3-23-3 or suspend the permit of a permittee who sells a keg of beer for consumption at a place other than a licensed premises and who at the time of sale fails to:

- (1) place an identification marker on the keg; or
- (2) obtain a signed receipt from the purchaser.

*As added by P.L.63-2002, SEC.1.*

**IC 7.1-3-6.5-6**

**Possession of keg without identification marker or with altered marker; providing false information on receipt**

Sec. 6. A person who:

- (1) possesses a keg of beer without an identification marker required under this chapter;
- (2) possesses a keg of beer with an altered identification marker; or
- (3) provides false information on a receipt required under this chapter;

commits a Class B infraction.

*As added by P.L.63-2002, SEC.1.*

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

### **Chapter 7. Distillers' and Rectifiers' Permits**

#### **IC 7.1-3-7-1**

##### **Application**

Sec. 1. Application. The commission may issue a distiller's permit to a person who desires to commercially manufacture liquor. The commission also may issue a rectifier's permit to a person who desires to rectify liquor.

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

#### **IC 7.1-3-7-2**

##### **Persons eligible for permits**

Sec. 2. Persons Eligible for Permits. The commission may issue a distiller's or a rectifier's permit to a domestic corporation, or a foreign corporation admitted to do business in this state, if the corporation is qualified to obtain the necessary permit or license from the United States to own or operate an establishment to manufacture or rectify liquor.

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

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

##### **Scope of permit**

Sec. 3. Scope of Permit. The holder of a distiller's permit shall be entitled to manufacture liquor, to rectify it, and to bottle it. A distiller shall enjoy all the privileges accorded the holder of a rectifier's permit, but he shall not have to obtain a separate rectifier's permit nor pay an additional fee. A distiller shall be entitled to transport liquor and to sell and deliver it in shipments to points outside this state, or to the holder of a liquor wholesaler's permit, or to the holder of a rectifier's permit. A distiller may not sell liquor to a consumer, nor to a person for the purpose of having it retailed by him, whether that person holds a liquor retailer's permit under this title or not.

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

#### **IC 7.1-3-7-4**

##### **Importation of alcohol by distiller**

Sec. 4. Importation of Alcohol by Distiller. The holder of a distiller's permit also shall be entitled to import alcohol for use in the manufacture, preparation, or rectification of liquor or other substances that may be lawfully manufactured under his permit.

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

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

##### **Importation of liquor by distiller**

Sec. 5. Importation of Liquor by Distiller. The holder of a distiller's permit also shall be entitled to import and sell within this state liquor fully manufactured outside this state and ready for marketing when imported. A distiller may sell imported liquor only to a person who holds a liquor wholesaler's permit, or to the holder



of a rectifier's permit, or to another distiller. A distiller may not sell imported liquor at retail nor to a retailer. A distiller also may sell and ship to a place outside this state, the liquor manufactured by another distiller under this title.

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

#### **IC 7.1-3-7-6**

##### **Repealed**

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

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

##### **Scope of permit**

Sec. 7. Scope of Permit. The holder of a rectifier's permit shall be entitled to rectify liquor and to bottle it. A rectifier shall be entitled to transport liquor and to sell and deliver it in shipments to points outside this state, or to the holder of a liquor wholesaler's permit. A rectifier may not sell liquor to a consumer, nor to a person for the purpose of having it retailed by him, whether that person holds a liquor retailer's permit under this title or not.

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

#### **IC 7.1-3-7-8**

##### **Importation of alcohol by rectifier**

Sec. 8. Importation of Alcohol by Rectifier. The holder of a rectifier's permit also shall be entitled to import alcohol for use in the preparation and rectification of liquor but not for sale as a finished product for beverage purposes. A rectifier shall not be entitled to import liquor for sale within this state intending to sell it without rectification by him, nor to sell it, directly or indirectly, as an agent or otherwise.

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

#### **IC 7.1-3-7-9**

##### **Renewals**

Sec. 9. Renewals. The holder of a distiller's or rectifier's permit shall pay the appropriate annual license fee to the chairman on the anniversary of the date of the issuance of the original permit in order to keep his distiller's or rectifier's permit in force.

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

## **IC 7.1-3-7.5**

### **Chapter 7.5. Farm Winery Brandy Distiller's Permits**

#### **IC 7.1-3-7.5-1**

##### **"Brandy" defined**

Sec. 1. As used in this chapter, "brandy" has the meaning set forth in IC 7.1-3-13-3.

*As added by P.L.235-2001, SEC.1.*

#### **IC 7.1-3-7.5-2**

##### **Issuance of permit to farm winery permit holder**

Sec. 2. The commission may issue a farm winery brandy distiller's permit to a person who holds a farm winery permit under IC 7.1-3-12 and who desires to commercially manufacture brandy.

*As added by P.L.235-2001, SEC.1.*

#### **IC 7.1-3-7.5-3**

##### **Permitted activities**

Sec. 3. (a) The holder of a farm winery brandy distiller's permit may do the following:

- (1) Manufacture brandy.
- (2) Rectify brandy.
- (3) Bottle brandy.
- (4) Use brandy that it has manufactured for the purpose of producing fortified wine.
- (5) Sell, transport, and deliver brandy that it has manufactured to other wineries.
- (6) Sell at retail on the permitted premises to consumers by the glass or by the bottle, or both, brandy that it has manufactured.

(b) Upon the approval of the commission, a holder of a farm winery brandy distiller's permit under this chapter may conduct business at not more than three (3) additional locations that are separate from the farm winery brandy distillery. At the additional locations, the holder of the permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of brandy.

*As added by P.L.235-2001, SEC.1. Amended by P.L.165-2006, SEC.20.*

#### **IC 7.1-3-7.5-4**

##### **Quantity produced**

Sec. 4. Except as provided in section 5 of this chapter, the holder of a farm winery brandy distiller's permit may produce not more than ten thousand (10,000) gallons of brandy in a calendar year.

*As added by P.L.235-2001, SEC.1.*

#### **IC 7.1-3-7.5-5**

##### **Brandy sold through wholesaler not counted toward gallonage limit**

Sec. 5. Brandy produced by the holder of a farm winery brandy

distiller's permit that is sold through a wholesaler licensed under IC 7.1-3-8 is not counted toward the gallonage limit established in section 4 of this chapter.

*As added by P.L.235-2001, SEC.1.*

#### **IC 7.1-3-7.5-6**

##### **License fee**

Sec. 6. The holder of a farm winery brandy distiller's permit must pay the appropriate annual license fee to the commission on the anniversary of the date of the issuance of the original permit to keep a brandy distiller's permit in force.

*As added by P.L.235-2001, SEC.1.*

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

### Chapter 8. Liquor Wholesalers' Permits

#### **IC 7.1-3-8-1**

##### **Application**

Sec. 1. Application. The commission may issue a liquor wholesaler's permit to a person who desires to sell liquor at wholesale.

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

#### **IC 7.1-3-8-2**

##### **Premises described in application**

Sec. 2. Premises Described in Application. The premises to be used by an applicant for a liquor wholesaler's permit shall be described in the application for the permit and in the permit if it is issued. A liquor wholesaler shall not be entitled to keep or store liquor at a place other than the premises described in the application and the permit.

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

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

##### **Scope of permit**

Sec. 3. (a) The holder of a liquor wholesaler's permit shall be entitled to sell liquor at wholesale.

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

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

- (1) liquor retailer's permit;
- (2) supplemental caterer's permit;
- (3) liquor dealer's permit; or
- (4) liquor wholesaler's permit.

The sale, transportation, and delivery of liquor shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, and only in permissible containers and is subject to the rules of the commission fixing the quantity which may be sold or delivered at any one (1) time.

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

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.60, SEC.4; Acts 1974, P.L.25, SEC.3.) As amended by P.L.57-1984, SEC.7; P.L.224-2005, SEC.6; P.L.94-2008, SEC.31.*

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

### Chapter 9. Liquor Retailers' Permits

#### **IC 7.1-3-9-1**

##### **Application**

Sec. 1. Application. The commission may issue a liquor retailer's permit to a person who desires to sell liquor to customers for consumption on the licensed premises.

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

#### **IC 7.1-3-9-2**

##### **Local jurisdiction limited**

Sec. 2. A liquor retailer's permit may be issued under the provisions of this title for premises situated in a city having a population of at least five thousand (5,000). A city or town legislative body, or an officer of one (1) of them, shall have no power or jurisdiction to regulate the sale of, traffic in, or transportation of alcoholic beverages, or to levy a tax, fee, license fee, or to issue or require a license to be issued by it or its officer or agent in respect to alcoholic beverages.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.8-1989, SEC.36.*

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

##### **Small city exception**

Sec. 3. The legislative body of a city or town that has a population of less than five thousand (5,000) shall have the power and jurisdiction to enact an enabling ordinance consenting that liquor retailer's permits may be issued to applicants in respect to premises located within the city or town.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.8-1989, SEC.37.*

#### **IC 7.1-3-9-4**

##### **Enabling ordinance**

Sec. 4. Enabling Ordinance. The enabling ordinance authorized by IC 1971, 7.1-3-9-3, shall be a general ordinance containing no conditions, exceptions or limitations. The enabling ordinance, after it has been duly enacted, may not be altered, amended, or repealed for a period of two (2) years and sixty (60) days after the date of its enactment. During the period of the two (2) years and sixty (60) days from the enactment of the enabling ordinance consenting to the issuance of liquor retailer's permits, no other ordinance on the subject may be enacted.

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

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

##### **Repeal of ordinance; continuance of operations**

Sec. 5. Repeal of Ordinance: Continuance of Operations. The holder of a liquor retailer's permit issued prior to the repeal,

amendment, or expiration of an enabling ordinance authorized by IC 1971, 7.1-3-9-3, may continue to operate under his permit, during the time that his permit is in force, for a period of ninety (90) days after the enactment of a conflicting ordinance or the repeal of the original ordinance unless the sale of alcoholic beverages again becomes lawful by the enactment of another enabling ordinance, in which case he may continue to operate under his permit during the unexpired term of it.

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

#### **IC 7.1-3-9-6**

##### **Certain local ordinances proscribed**

Sec. 6. Certain Local Ordinances Proscribed. A city or town shall not enact an ordinance which in any way, directly or indirectly, regulates, restricts, enlarges, or limits the operation or business of the holder of a liquor retailer's permit as provided in this title. A city or town shall not enact an ordinance covering any other business or place of business for the conduct of it in such a way as to prevent or inhibit the holder of a liquor retailer's permit from being qualified to obtain or continue to hold the permit, or operate to interfere with or prevent the exercise of the permittee's privileges under the permit.

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

#### **IC 7.1-3-9-7**

##### **Ordinances sent to commission**

Sec. 7. Ordinance Sent to Commission. The city clerk or town clerk of a city or town in which an ordinance proscribed by IC 1971, 7.1-3-9-6, has been enacted, shall, immediately upon the enactment, certify a copy of the ordinance and mail it by registered mail to the commission. The commission, out of its expenses, shall pay the clerk one dollar (\$1.00), for his services in the matter.

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

#### **IC 7.1-3-9-8**

##### **Three-way permits**

Sec. 8. Three-Way Permits. The commission may issue a liquor retailer's permit only to a person who also is, and continues to be, the holder of both a beer retailer's permit and a wine retailer's permit. However, applications for each of the three (3) types of permits may be made at the same time or in one (1) application combining requests for each of the three (3) types of permits. The publication of the notice of the applications may be combined, in any case, if the applications are pending simultaneously. The notices also may be combined in one (1) publication with notices of the application of other applicants for a permit.

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

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

##### **Scope of permit**

Sec. 9. (a) The holder of a liquor retailer's permit shall be entitled

to purchase liquor only from a permittee entitled to sell to him under this title. A liquor retailer shall be entitled to possess liquor and sell it at retail to a customer for consumption on the licensed premises. A liquor retailer also shall be entitled to sell liquor to a customer and deliver it in permissible containers to the customer on the licensed premises, or to the customer's house.

(b) A liquor retailer shall not be entitled to sell liquor at wholesale. He shall not be entitled to sell and deliver liquor on the street or at the curb outside the licensed premises, nor shall he be entitled to sell liquor at a place other than the licensed premises. However, a liquor retailer may offer food service (excluding alcoholic beverages) to a patron who is outside the licensed premises by transacting business through a window in the licensed premises.

(c) A liquor retailer shall not be entitled to sell and deliver liquor for carry out, or for at-home delivery, in a quantity that exceeds four (4) quarts at any one (1) time.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.112-1987, SEC.6.*

#### **IC 7.1-3-9-9.5**

##### **Limitation of sales; fees; clubs; discrimination**

Sec. 9.5. (a) Notwithstanding any other law, a liquor retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A liquor retailer may call the annual fee described in subsection (a) a membership fee.

(c) A liquor retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a liquor retailer to discriminate among persons on the basis of race, sex, age, or religion when selecting persons to have access to the retailer's facilities and services.

*As added by P.L.73-1991, SEC.2.*

#### **IC 7.1-3-9-10**

##### **High and fine reputation**

Sec. 10. High and Fine Reputation. The commission may issue a liquor retailer's permit only to a high grade club, restaurant, or hotel, which has a high and fine reputation for decency and law obedience. In no case shall a liquor retailer's permit be issued or stand unrevoked if the owner, manager, or management of the establishment is not a person of strict integrity and high repute, or if the premises have been padlocked.

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

#### **IC 7.1-3-9-11**

### **Sampling alcoholic beverages on liquor retailer's premises**

Sec. 11. (a) A liquor retailer may allow customers to sample the following:

- (1) Beer.
- (2) Wines.
- (3) Liquors.
- (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
- (5) Flavored malt beverages.
- (6) Hard cider.

(b) Sampling is permitted only:

- (1) on the liquor retailer's permit premises; and
- (2) during the permittee's regular business hours.

(c) A liquor retailer may not charge for the samples provided to customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

- (1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per day.
- (2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.
- (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) A sample size of beer, flavored malt beverage, or hard cider may not exceed six (6) ounces.

*As added by P.L. 12-1999, SEC.1. Amended by P.L. 72-2004, SEC.7; P.L. 94-2008, SEC.32.*

### **IC 7.1-3-9-12**

#### **Alcoholic beverage self-service in suites**

Sec. 12. (a) This section applies to:

- (1) the holder of a three-way permit that is issued to a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center; or
- (2) the holder of a catering permit while catering alcoholic beverages at a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center.

(b) As used in this section, "suite" means an area in a building or facility referred to in subsection (a) that:

- (1) is not accessible to the general public;
- (2) has accommodations for not more than seventy-five (75) persons per suite; and
- (3) is accessible only to persons who possess a ticket:
  - (A) to an event in a building or facility referred to in subsection (a); and



(B) that entitles the person to occupy the area while viewing the event described in clause (A).

The term does not include a restaurant, lounge, or concession area, even if access to the restaurant, lounge, or concession area is limited to certain ticket holders.

(c) A permittee may allow the self-service of individual servings of alcoholic beverages in a suite.

(d) A person who:

(1) possesses a ticket described in subsection (b)(3); and

(2) is at least twenty-one (21) years of age;

may obtain an alcoholic beverage in a suite by self-service.

(e) A permittee may do any of the following:

(1) Demand that a person occupying a suite provide:

(A) a written statement under IC 7.1-5-7-4; and

(B) identification indicating that the person is at least twenty-one (21) years of age.

(2) Supervise the self-service of alcoholic beverages.

(3) Have an employee in the suite who holds an employee permit under IC 7.1-3-18-9 to serve some or all of the alcoholic beverages.

*As added by P.L.72-2004, SEC.8.*

## **IC 7.1-3-9.5**

### **Chapter 9.5. Supplemental Caterers' Permits**

#### **IC 7.1-3-9.5-1**

##### **Application**

Sec. 1. Application. The commission may issue a supplemental caterer's permit only to a person who is, and continues to be, the holder of a three-way permit and who desires to sell, on a temporary basis only, alcoholic beverages for on premise consumption at locations other than his licensed premises.

*(Formerly: Acts 1974, P.L.25, SEC.1.)*

#### **IC 7.1-3-9.5-2**

##### **Notices**

Sec. 2. (a) The holder of a supplemental caterer's permit shall notify the commission in writing fifteen (15) days in advance of each function that the permittee intends to cater with alcoholic beverages. The commission may waive the fifteen (15) day notice period required under this subsection, but may not waive the requirement for filing notice.

(b) The notice shall include the following:

- (1) The date, time, and location of the function to be catered.
- (2) If the function is open to the public, located in a county having a population of less than one hundred fifty thousand (150,000), and located in a different county from the county where the permittee holds the three-way permit required under section 1 of this chapter, the signature of the following official on a document stating the official's approval of the catering of alcoholic beverages at the proposed date, time, and location:

(A) The president of the town council, if the location is in a town.

(B) The mayor, if the location is in a city.

(C) The president of the board of county commissioners, if the location is in unincorporated territory.

(c) If a permittee complies with all notice requirements of subsection (b), the commission in its absolute discretion has the authority, any other provision of this title to the contrary notwithstanding, to approve the proposed date and location of the function to be catered.

(d) The commission need not notify the permittee if the commission approved the proposed date and location, and the permittee may proceed as stated in the permittee's notice to the commission. The commission shall notify the permittee by certified United States mail, in advance of the function, if the commission does not approve the proposed date or location.

(e) A permittee whose proposed date or location has been disapproved by the commission still may cater the function on that date and at that location, but the permittee may not cater alcoholic beverages at that function on that date and at that location.

*(Formerly: Acts 1974, P.L.25, SEC.1.) As amended by P.L.51-1994,*

*SEC.4.*

**IC 7.1-3-9.5-3**

**Scope of permit**

Sec. 3. Scope of Permit. The holder of a supplemental caterer's permit is entitled to purchase alcoholic beverages only from a permittee entitled to sell to him under this title. The holder of a supplemental caterer's permit is entitled to sell alcoholic beverages only for on premise consumption at those locations approved by the commission and at times lawful under his retailers' permits. The holder of a supplemental caterer's permit is not entitled to sell alcoholic beverages at wholesale, nor for carry-out or at-home delivery.

*(Formerly: Acts 1974, P.L.25, SEC.1.)*

**IC 7.1-3-9.5-4**

**Nature of permit**

Sec. 4. Nature of Permit. A supplemental caterer's permit, for the purposes of this title, shall be considered a separate and distinct type of retailer's permit. It shall not affect the rights, privileges, and restrictions applicable to any other type of retailer's permit. The rights, privileges, and restrictions provided in this title for a supplemental caterer's permit apply only to this type of permit.

*(Formerly: Acts 1974, P.L.25, SEC.1.)*

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

### Chapter 10. Liquor Dealers' Permits

#### **IC 7.1-3-10-1**

##### **Application**

Sec. 1. Application. The commission may issue a liquor dealer's permit to a person who desires to sell liquor to customers for consumption off the licensed premises.

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

#### **IC 7.1-3-10-2**

##### **Drug stores**

Sec. 2. Drug Stores. The commission may issue a liquor dealer's permit to the proprietor of a drug store who holds a license issued by the state board of pharmacy. An applicant for a liquor dealer's permit for a drug store shall not be disqualified under IC 1971, 7.1-3-4-2(m).

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

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

##### **Drug store outside corporate limits**

Sec. 3. The commission may issue a liquor dealer's permit to a drugstore situated outside the corporate limits of a city or town if the proprietor of the drugstore holds a license issued by the state board of pharmacy. The permit authorized by this section shall be issued in the same manner, and subject to the same restrictions, as that which is provided for in the issuance of a liquor dealer's permit to a drugstore situated inside the corporate limits of a city or town.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.57-1984, SEC.8.*

#### **IC 7.1-3-10-4**

##### **Package liquor stores**

Sec. 4. Package Liquor Stores. The commission may issue a liquor dealer's permit to the proprietor of a package liquor store. An applicant for a liquor dealer's permit for a package liquor store shall not be disqualified under IC 1971, 7.1-3-4-2(m).

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

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

##### **Package liquor stores; permissible commodities**

Sec. 5. A package liquor store's exclusive business shall be the selling of the following commodities only:

- (1) Liquor in its original package.
- (2) Beer in permissible containers, if the permittee has the proper permit.
- (3) Wine in its original package.
- (4) Bar supplies used in the preparation for consumption of alcoholic beverages and in their consumption.
- (5) Tobacco products.

- (6) Uncooled and uniced charged water, carbonated soda, ginger ale, mineral water, grenadine, and flavoring extracts.
- (7) Printed materials.
- (8) Lottery tickets as provided in IC 4-30-9.
- (9) Cooled or uncooled nonalcoholic malt beverages.
- (10) Flavored malt beverage in its original package.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.57-1984, SEC.9; P.L.341-1989(ss), SEC.11; P.L.52-1992, SEC.5; P.L.72-1996, SEC.7.*

### **IC 7.1-3-10-6**

#### **Sale of beer; application and scope**

Sec. 6. Sale of Beer: Application and Scope. The commission may, upon proper application and the payment of the required license fee, issue a beer dealer's permit to the holder of a liquor dealer's permit. However, applications for both of the permits may be made at the same time. The provisions of IC 1971, 7.1-3-5, shall apply to the issuance and enjoyment of a beer dealer's permit issued under the provisions of this section.

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

### **IC 7.1-3-10-7**

#### **Scope of permit**

Sec. 7. (a) The holder of a liquor dealer's permit shall be entitled to purchase liquor only from a permittee entitled to sell to a liquor dealer under this title.

(b) A liquor dealer shall be entitled to possess liquor and sell it at retail in its original package to a customer only for consumption off the licensed premises.

(c) A liquor dealer may deliver liquor only in permissible containers to a customer's residence or office in a quantity that does not exceed twelve (12) quarts at any one (1) time. However, a liquor dealer who is licensed under IC 7.1-3-10-4 may deliver liquor in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

(d) A liquor dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. However, a liquor dealer that is a drug store may sell prescription drugs and health and beauty aids through a window in the licensed premises to a patron who is outside the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.6; P.L.65-1990, SEC.2; P.L.72-1996, SEC.8; P.L.204-2001, SEC.28.*

### **IC 7.1-3-10-8**

**Package liquor store; premises**

Sec. 8. Package Liquor Store: Premises. A package liquor store shall be conducted wholly apart from another business upon premises wholly separated from another room or store in which another business is conducted.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.58, SEC.1.)*

**IC 7.1-3-10-9**

**Cease and desist order**

Sec. 9. Cease and Desist Order. The commission shall request the holder of a liquor dealer's permit for a package liquor store to cease and desist the sale of a commodity which, in the judgment of the commission, is not a commodity which may be sold by him under the provisions of this title.

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

**IC 7.1-3-10-10**

**Failure to cease; offense**

Sec. 10. Failure to Cease. The holder of a liquor dealer's permit for a package liquor store who recklessly fails to cease the sale of a certain commodity after this action has been ordered by the commission commits a Class B misdemeanor.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1978, P.L.2, SEC.701.*

**IC 7.1-3-10-11**

**Appeal from order**

Sec. 11. Appeal from Order. The holder of a liquor dealer's permit for a package liquor store shall have the same right of appeal from a cease and desist order to sell a certain commodity issued by the commission that is available for the appeal of any other order of the commission under this title.

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

**IC 7.1-3-10-12**

**Repealed**

*(Repealed by P.L.204-2001, SEC.68.)*

**IC 7.1-3-10-13**

**Sampling alcoholic beverages on package liquor store premises**

Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:

- (1) Beer.
- (2) Wines.
- (3) Liquors.
- (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
- (5) Flavored malt beverages.
- (6) Hard cider.

(b) Sampling is permitted:

- (1) only on the package liquor store permit premises; and

(2) only during the store's regular business hours.

(c) No charge may be made for the samples provided to the customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

(1) A proprietor may allow a customer to sample not more than a combined total of two (2) liquor, liqueur, or cordial samples per day.

(2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) A sample size of beer, flavored malt beverage, or hard cider may not exceed six (6) ounces.

*As added by P.L. 58-1984, SEC.4. Amended by P.L. 52-1992, SEC.6; P.L. 106-1995, SEC.9; P.L. 12-1999, SEC.2; P.L. 72-2004, SEC.9; P.L. 94-2008, SEC.33.*

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

### Chapter 11. Dining Car, Airplane, and Boat Liquor Permits

#### **IC 7.1-3-11-1**

##### **Dining car liquor permits**

Sec. 1. Dining Car Liquor Permits. The commission may issue a dining car liquor permit to a corporation that is entitled to obtain a dining car beer permit under this title. The commission shall issue a dining car liquor permit in the same manner that a dining car beer permit is issued under this title. The commission shall not issue a dining car liquor permit to a corporation unless the corporation also is the holder of a dining car beer permit and a dining car wine permit. However, applications for each of the three (3) types of permits may be made at the same time.

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

#### **IC 7.1-3-11-2**

##### **Scope of permit**

Sec. 2. Scope of Permit. The restrictions, limitations, and provisions governing the sale of beer under a dining car beer permit shall apply to the possession, transportation, sale, delivery and service of liquor under a dining car liquor permit.

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

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

##### **Display of permit**

Sec. 3. Display of Permit. The original dining car liquor permit shall be kept displayed at the main Indiana office of the corporation. A certificate of an officer or agent of the permittee stating that a dining car liquor permit is in full force and effect for the car, or words to that effect, shall be kept displayed in each licensed dining and buffet car.

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

#### **IC 7.1-3-11-4**

##### **Renewals**

Sec. 4. Renewals. The holder of a dining car liquor permit need not renew his permit annually. However, in order to keep the permit in force, the permittee must pay the annual license fee to the chairman on the anniversary date of the issuance of the original permit.

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

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

##### **Excise tax**

Sec. 5. Excise Tax. The holder of a dining car liquor permit shall pay to the department the liquor excise tax on the liquor withdrawn for sale within the state.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.56, SEC.7.)*



**IC 7.1-3-11-6****Shipments by carrier**

Sec. 6. Shipments by Carrier. Nothing contained in a dining car liquor permit or the privileges accorded under it shall effect the provisions of this title in regard to the shipment of alcoholic beverages by a carrier for either a consignor, or a consignee, or both.  
*(Formerly: Acts 1973, P.L.55, SEC.1.)*

**IC 7.1-3-11-7****Repealed**

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

**IC 7.1-3-11-8****Repealed**

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

**IC 7.1-3-11-9****Boat liquor permits**

Sec. 9. Boat Liquor Permits. The commission may issue a boat liquor permit to a person who is the proprietor of a boat and who is, and continues to be, the holder of a boat beer permit and boat wine permit. The commission may issue a boat liquor permit without publication of notice or having an investigation before a local board.  
*As added by Acts 1976, P.L.24, SEC.2.*

**IC 7.1-3-11-10****Scope of permit**

Sec. 10. Scope of Permit. The holder of a boat liquor permit shall enjoy the same privileges and be subject to the same conditions, restrictions, and limitations in regard to liquor under his permit as is provided in the case of the holder of a boat beer permit in regard to beer under his permit.  
*As added by Acts 1976, P.L.24, SEC.3.*

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

### **Chapter 12. Vintners' and Farm Winery Permits**

#### **IC 7.1-3-12-1**

##### **Application**

Sec. 1. Application. The commission may issue a vintner's permit to a person who desires to commercially manufacture wine.

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

#### **IC 7.1-3-12-2**

##### **Scope of permit**

Sec. 2. Scope of Permit. The holder of a vintner's permit is entitled to manufacture wine and to bottle it or place it in other containers. He also is entitled to transport wine and either to sell it, or deliver it, or both, in shipments to points outside this state, and to a wine wholesaler, and to another vintner. A vintner is not entitled to rectify or fortify wine unless he is also the holder of either a distiller's permit, or a rectifier's permit, or both. A vintner is not entitled to sell to a consumer or to a permittee who sells wine at retail. A vintner is entitled to advertise the name and address of any retailer or dealer who sells wine produced by his winery.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.71, SEC.1.)*

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

##### **Farm winery permit**

Sec. 3. The commission may issue a farm winery permit to a person who:

- (1) is the proprietor of a farm winery;
- (2) desires to commercially manufacture wine; and
- (3) is either:
  - (A) an individual; or
  - (B) a partnership, limited liability company, or corporation domiciled in or admitted to do business in Indiana.

A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.36-1999, SEC.1; P.L.201-1999, SEC.2; P.L.14-2000, SEC.24; P.L.165-2006, SEC.21.*

#### **IC 7.1-3-12-4**

##### **Farm winery; general requirements**

Sec. 4. In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment shall not annually sell more than one million (1,000,000) gallons of wine in Indiana, excluding wine shipped to an out-of-state address.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1977, P.L.93, SEC.1; Acts 1978, P.L.53, SEC.1; P.L.201-1999, SEC.3; P.L.165-2006, SEC.22; P.L.54-2008, SEC.2.*

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

### **Scope of farm winery permit**

Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
- (2) is entitled to serve complimentary samples of the winery's wine on the licensed premises or an outside area that is contiguous to the licensed premises as approved by the commission if each employee who serves wine on the licensed premises:
  - (A) holds an employee permit under IC 7.1-3-18-9; and
  - (B) completes a server training program approved by the commission;
- (3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
- (4) is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;
- (5) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at wholesale;
- (6) is exempt from the provisions of IC 7.1-3-14;
- (7) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;
- (8) for wine described in IC 7.1-1-2-3(a)(4):
  - (A) may allow transportation to and consumption of the wine on the licensed premises; and
  - (B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises;
- (9) is entitled to purchase and sell bulk wine as set forth in this chapter;
- (10) is entitled to sell wine as authorized by this section for carryout on Sunday; and
- (11) is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at not more than three (3) additional locations that are separate from the winery. At the additional locations, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than thirty (30) days in a calendar year.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.71, SEC.2.) As amended by P.L.85-1985, SEC.7; P.L.74-1996, SEC.1;*

*P.L.201-1999, SEC.4; P.L.177-1999, SEC.7; P.L.235-2001, SEC.2;  
P.L.41-2002, SEC.2; P.L.224-2005, SEC.7; P.L.165-2006, SEC.23.*

**IC 7.1-3-12-6**

**Repealed**

*(Repealed by P.L.165-2006, SEC.41.)*

**IC 7.1-3-12-7**

**Bulk wine purchases by farm winery**

Sec. 7. (a) Except as provided in subsection (b), a farm winery may purchase annually a quantity of bulk wine that does not exceed the greater of the following:

- (1) Five thousand five hundred (5,500) gallons.
- (2) Fifty percent (50%) of the quantity of wine produced by fermentation by the winery during the previous year.

(b) This subsection applies to a farm winery that suffers a loss of wine inventory due to natural or manmade disaster. If the farm winery documents the inventory loss and obtains permission from the commission, the winery may purchase a quantity of bulk wine not greater than the sum of the following:

- (1) The quantity of the winery's wine inventory loss.
- (2) The quantity of bulk wine that may be purchased by the farm winery annually under subsection (a).

*As added by P.L.41-2002, SEC.3.*

### IC 7.1-3-13

#### Chapter 13. Wine Wholesalers' and Bottlers' Permits

### IC 7.1-3-13-1

#### **Wine wholesalers' permit; issuance**

Sec. 1. (a) The commission may issue a wine wholesaler's permit to sell wine, or wine and brandy, at wholesale to a person who:

- (1) notwithstanding IC 7.1-5-9-4, holds a beer wholesaler's permit;
- (2) holds a liquor wholesaler's permit; or
- (3) does not hold an alcoholic beverage wholesaler's permit, but meets the qualifications to hold either a beer or a liquor wholesaler's permit.

(b) The holder of a wine wholesaler's permit under subsection (a)(1) or (a)(2):

- (1) is considered the same as a person who holds a wine wholesaler's permit under subsection (a)(3) for purposes of conducting activities and operations under the wine wholesaler's permit; and
- (2) may operate the beer or liquor wholesale business independently of the wine wholesale business.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.101-1983, SEC.1; P.L.112-1987, SEC.7.*

### IC 7.1-3-13-2

#### **Repealed**

*(Repealed by P.L.112-1987, SEC.10.)*

### IC 7.1-3-13-2.5

#### **Wine wholesalers; premises description required; wine storage; wholesaler business on farm winery or brandy distiller premises; goods and services provided by farm winery or brandy distiller**

Sec. 2.5. (a) All premises to be used by an applicant for a wine wholesaler's permit must be described in the application for the permit and in the permit, if the permit is issued. A wine wholesaler may not keep or store wine at any place other than the premises described in the wine wholesaler's application and permit. A person who holds a wine wholesaler's permit and who also holds a beer wholesaler's permit is not disqualified from using multiple premises for the storage of wine because the person holds a beer wholesaler's permit. The holder of a wine wholesaler's permit issued under IC 7.1-4-4.1-13(c) may enter into an agreement to:

- (1) locate the wine wholesaler's business within the licensed premises of a farm winery or a farm winery brandy distiller; or
- (2) use goods and services provided by a farm winery or a farm winery brandy distiller;

or both.

(b) A direct wine seller under IC 7.1-3-26 is not considered an affiliate of a wine wholesaler for purposes of IC 7.1-3-26-7(9) for an agreement under this section.

*As added by P.L.85-1985, SEC.8. Amended by P.L.165-2006, SEC.24.*

### **IC 7.1-3-13-3**

#### **Scope of permit; brandy**

Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, or a liquor dealer's permit. A holder of a wine wholesaler's permit may sell wine to the wine wholesaler's bona fide regular employees.

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

(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or

(2) a beverage product that:

(A) is prepared from a liquid described in subdivision (1);

(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).

(ii) The product's label makes no reference to any distilled spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:

(1) hold a beer wholesaler's permit under IC 7.1-3-3;

(2) possess, sell, or transport beer; or

(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.60, SEC.5; Acts 1974, P.L.25, SEC.4.) As amended by P.L.101-1983, SEC.2; P.L.57-1984, SEC.10; P.L.72-1996, SEC.9; P.L.75-1997, SEC.1; P.L.224-2005, SEC.8; P.L.165-2006, SEC.25.*

### **IC 7.1-3-13-3.5**

#### **Requirements to sell wine purchased from estate sale; immunity from product liability**

Sec. 3.5. (a) A wine wholesaler may sell wine purchased from an estate sale only if the following requirements are met:

- (1) The primary source of the wine sold at auction:
  - (A) is authorized to sell wine in Indiana on the date the wine is resold by the wholesaler;
  - (B) is given notice of the purchase by the wine wholesaler;
  - and
  - (C) authorizes the wine wholesaler to resell the wine purchased.
- (2) The seller of wine at auction is a bona fide estate of an Indiana decedent.
- (3) Each wine bottle is affixed with a sticker indicating that the wine was purchased from an estate.

(b) The notice given to the primary source under subsection (a)(1) must include the following information:

- (1) The name of the seller.
- (2) The amount of the product purchased and the sale price at auction.
- (3) The vintage of the wine purchased.

(c) A wholesaler is not liable for product liability for wine that the wholesaler sells from an estate auction purchase.

*As added by P.L.94-2008, SEC.34.*

### **IC 7.1-3-13-4**

#### **Wine bottlers' permit; application**

Sec. 4. Wine Bottlers' Permit: Application. The commission may issue a wine bottler's permit to a person who desires to commercially bottle wine.

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

### **IC 7.1-3-13-5**

#### **Persons eligible for permits**

Sec. 5. Persons Eligible for Permits. The commission shall not issue a wine bottler's permit to a person who is the holder of wine wholesaler's permit, a beer wholesaler's permit, or a liquor wholesaler's permit. A person shall be eligible to hold additional wine bottler's permits upon payment of the proper additional annual license fees.

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

### **IC 7.1-3-13-6**

#### **Scope of permit**

Sec. 6. Scope of Permit. The holder of a wine bottler's permit shall be entitled to import and transport wine from another state, or country, into this state. He shall be entitled to export and transport wine, by the bottle, barrel, cask, or other container, to points outside this state. A wine bottler shall have the exclusive right to bottle, to label, or both, with his own private label, or another label authorized by its owner, or to place wine in containers different from those in which the wine was imported into this state. Within this state, the holder of a wine bottler's permit shall be entitled to sell, furnish, and deliver wine only to a wine wholesaler, and shall be specifically prohibited from selling, furnishing, and delivering wine to a wine retailer or a wine dealer. Further, he shall not be entitled to sell wine at retail.

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



## **IC 7.1-3-14**

### **Chapter 14. Wine Retailers' Permits**

#### **IC 7.1-3-14-1**

##### **Application**

Sec. 1. Application. The commission may issue a wine retailer's permit to a person who desires to sell wine or flavored malt beverages for consumption on the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.10.*

#### **IC 7.1-3-14-2**

##### **Prerequisites**

Sec. 2. Prerequisites. The commission may issue or refuse a wine retailer's permit, in its discretion, with or without requiring an investigation before a local board. However, publication of notice need not be given if the commission does require an investigation before a local board.

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

#### **IC 7.1-3-14-3**

##### **Persons eligible for permits**

Sec. 3. Persons Eligible for Permits. The commission may issue a wine retailer's permit only to the following:

(a) A person who is not the holder of, nor an applicant for, any other permit and who is not disqualified under the special disqualifications and who operates a restaurant patronized by customers who are likely to consume table wine with their meals;

(b) A person who is the holder of a beer retailer's permit; or,

(c) A person who is the holder of a liquor retailer's permit.

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

#### **IC 7.1-3-14-4**

##### **Scope of permit**

Sec. 4. (a) The holder of a wine retailer's permit is entitled to purchase wine only from a permittee entitled to sell to the wine retailer under this title. A wine retailer is entitled to possess wine and sell it at retail to a customer for consumption on the licensed premises. A wine retailer is also entitled to sell wine to a customer and deliver it in permissible containers to the customer on the licensed premises or to the customer's house.

(b) A wine retailer is not entitled to sell wine at wholesale. A wine retailer is not entitled to sell and deliver wine on the street or at the curb outside the licensed premises, nor is the wine retailer entitled to sell wine at a place other than the licensed premises. However, a wine retailer may offer food service (excluding alcoholic beverages) to a patron who is outside the licensed premises by transacting business through a window in the licensed premises.

(c) A wine retailer is entitled to sell and deliver wine for carry out, or for at-home delivery.

*As added by P.L.112-1987, SEC.8.*

#### **IC 7.1-3-14-5**

##### **Limitation of sales; fees; clubs; discrimination**

Sec. 5. (a) Notwithstanding any other law, a wine retailer may limit sales to the following:

(1) Persons that the retailer selects to have access to the retailer's facilities and services in return for payment of an annual fee to the retailer.

(2) Guests of a person described in subdivision (1).

(b) A wine retailer may call the annual fee described in subsection (a) a membership fee.

(c) A wine retailer may call the retailer's premises a club. However, the premises is not a club within the meaning of IC 7.1-3-20-1.

(d) This section does not allow a wine retailer to discriminate among persons on the basis of race, sex, age, or religion when selecting persons to have access to the retailer's facilities and services.

*As added by P.L.73-1991, SEC.3.*

#### **IC 7.1-3-14-6**

##### **Issuance to proprietor of race track having beer retailer permit**

Sec. 6. (a) The commission may issue a wine retailer permit, either inside or outside corporate limits, to a person who holds a beer retailer permit under IC 7.1-3-6-16 and who is the proprietor of a race track that:

(1) meets the specifications of rules adopted by the commission; and

(2) is sanctioned by a nationally chartered and recognized racing organization.

(b) The scope of a permit issued under this section, including the times during which beer may be sold, shall be set by rules adopted by the commission.

(c) A permit issued under this section is exempt from IC 7.1-3-21-1 and IC 7.1-3-22-3. The permit is not transferable for ownership or location.

*As added by P.L.106-1995, SEC.10.*

#### **IC 7.1-3-14-7**

##### **Wine sampling**

Sec. 7. (a) A wine retailer may allow customers to sample wines.

(b) Sampling is permitted:

(1) only on the wine retailer's permit premises; and

(2) only during the permittee's regular business hours.

(c) A wine retailer may not charge for the samples provided to the customers.

(d) Sample size may not exceed one (1) ounce.

*As added by P.L.12-1999, SEC.3.*

## **IC 7.1-3-15**

### Chapter 15. Wine Dealers' Permits

#### **IC 7.1-3-15-1**

##### **Application**

Sec. 1. Application. The commission may issue a wine dealer's permit to a person who desires to sell wine or flavored malt beverages for consumption off the licensed premises.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.11.*

#### **IC 7.1-3-15-2**

##### **Persons eligible for permits**

Sec. 2. Persons Eligible for Permits. The commission may issue a wine dealer's permit only to the following:

- (a) A person who is the holder of a beer dealer's permit; or,
- (b) A person who is the holder of a liquor dealer's permit.

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

#### **IC 7.1-3-15-3**

##### **Scope of permit**

Sec. 3. (a) The holder of a wine dealer's permit shall be entitled to purchase wine only from a permittee who is authorized to sell to a wine dealer under this title. A wine dealer shall be entitled to sell wine for consumption off the licensed premises only and not by the drink.

(b) A wine dealer shall be entitled to sell wine in permissible containers in a quantity of not more than three (3) standard cases, as determined under the rules of the commission, in a single transaction. However, a wine dealer who is licensed under IC 7.1-3-10-4 may possess wine and sell it at retail in its original package to a customer only for consumption off the licensed premises.

(c) Unless a wine dealer is a grocery store or drug store, a wine dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A wine dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a person who is outside the licensed premises.

(d) However, a wine dealer who is licensed under IC 7.1-3-10-4 may deliver wine only in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.65-1990, SEC.3; P.L.106-1995, SEC.11; P.L.204-2001, SEC.29; P.L.41-2002, SEC.4.*

## **IC 7.1-3-16**

### **Chapter 16. Dining Car, Boat, and Temporary Wine Permits**

#### **IC 7.1-3-16-1**

##### **Dining car wine permits**

Sec. 1. Dining Car Wine Permits. The commission may issue a dining car wine permit to a person who is the holder of, or who is capable of receiving, a dining car beer permit.

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

#### **IC 7.1-3-16-2**

##### **Display of permit**

Sec. 2. Display of Permit. The original dining car wine permit shall be kept displayed at the main Indiana office of the permittee. A certificate of an officer or agent of the permittee stating that a dining car wine permit is in full force and effect for the car, or words to that effect, shall be kept displayed in each licensed dining and buffet car.

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

#### **IC 7.1-3-16-3**

##### **Boat wine permits**

Sec. 3. Boat Wine Permits. The commission may issue a boat wine permit to a person who is the proprietor of a boat and who also is, and continues to be, the holder of a boat beer permit. The commission may issue a boat wine permit without publication of notice or having an investigation before a local board.

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

#### **IC 7.1-3-16-4**

##### **Scope of permit**

Sec. 4. Scope of Permit. The holder of a boat wine permit shall enjoy the same privileges and be subject to the same conditions, restrictions, and limitations in regard to wine under his permit as is provided in the case of the holder of boat beer permit in regard to beer under his permit.

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

#### **IC 7.1-3-16-5**

##### **Temporary wine permits**

Sec. 5. Subject to section 5.5 of this chapter, the commission may issue a temporary wine permit without publication of notice or investigation before a local board to a qualified person as provided in this chapter. In all other respects, a temporary wine permit shall be issued, revoked, and governed by the restrictions and limitations made in a provisional order or rule or regulation of the commission.

*(Formerly: Acts 1973, P.L.59, SEC.1.) As amended by P.L.73-1996, SEC.3.*

#### **IC 7.1-3-16-5.5**

##### **Temporary wine permits; town parks**

Sec. 5.5. (a) This section applies to a temporary wine permit for the sale of wine in a town park in a town having a population of less than ten thousand (10,000).

(b) The commission may not issue a temporary wine permit to a person unless:

(1) the person meets all of the requirements for a temporary wine permit under this chapter; and

(2) the town council:

(A) holds a public hearing on the request for a permit; and

(B) approves the issuance of the temporary wine permit.

(c) If a person asks a town council to approve the issuance of a temporary wine permit, the town clerk-treasurer shall notify the commission of the town council's decision to approve or disapprove the permit not later than thirty (30) days after the person's request for approval.

(d) If a person who applies for a temporary wine permit from the commission demonstrates to the satisfaction of the commission that no action was taken on the person's request by the town council under subsection (c), the commission shall consider the request to be approved by the town council.

*As added by P.L.73-1996, SEC.4.*

#### **IC 7.1-3-16-6**

##### **Persons eligible for permits**

Sec. 6. Persons Eligible for Permits. The commission may issue a temporary wine permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in IC 1971, 7.1-3-4-2(c), (h), and (m), and the residency requirements provided in IC 1971, 7.1-3-21-3, shall not apply to an applicant for a temporary wine permit.

*(Formerly: Acts 1973, P.L.59, SEC.2.)*

#### **IC 7.1-3-16-7**

##### **Reasons for permits**

Sec. 7. Reasons for Permits. The commission may issue a temporary wine permit only to (a) Enable a fair, festival, athletic event, barbecue, picnic, convention, exhibition, spectacle, or contest, to be publicly held and carried on; or

(b) Accommodate the institutional activities of an association, society, charitable or benevolent organization, or a branch of one (1) of these, or both.

*(Formerly: Acts 1973, P.L.59, SEC.3.)*

#### **IC 7.1-3-16-8**

##### **Term of permit**

Sec. 8. Term of Permit. The commission may issue a temporary wine permit for a term, to and including, fifteen (15) days from its issuance. However, if an emergency exists, in the judgment of the

commission, a temporary wine permit may be renewed for a period not to exceed fifteen (15) additional days.

*(Formerly: Acts 1973, P.L.59, SEC.4.)*

### **IC 7.1-3-16-9**

#### **Scope of permit**

Sec. 9. Scope of Permit. The holder of a temporary wine permit shall be entitled to purchase and receive wine on any day of the year, only from a lawful supplier under this title at his place of business. A lawful supplier may sell and deliver wine to a temporary wine permit holder on any day of the year at his place of business. The holder of a temporary wine permit shall be entitled to sell wine only for consumption on the licensed premises, and shall be subject to the same restrictions as apply to the sale of beer by the holder of a temporary beer permit. A temporary wine permittee shall not be entitled to sell at wholesale nor for carry-out from the licensed premises.

*(Formerly: Acts 1973, P.L.59, SEC.5.)*

**IC 7.1-3-16.5**

**Repealed**

*(Repealed by P.L.224-2005, SEC.34.)*

**IC 7.1-3-17**

**Repealed**

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



## **IC 7.1-3-17.5**

### Chapter 17.5. Excursion and Adjacent Landsite Permit

#### **IC 7.1-3-17.5-1**

##### **Issuance of permit**

Sec. 1. (a) The commission may issue a gaming site permit to a person who has been issued:

- (1) a riverboat owner's license under IC 4-33-6;
- (2) an operating agent contract under IC 4-33-6.5; or
- (3) a gambling game license under IC 4-35;

to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) A permit issued under this chapter to a person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6) may be used:

- (1) on the riverboat; and
- (2) in a restaurant owned by the person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6) if the restaurant is located on property adjacent to the property used by the riverboat for docking purposes.

(c) A permit issued under this chapter to a person who has been issued a gambling game license under IC 4-35 may be used at a slot machine facility licensed under IC 4-35.

*As added by P.L.15-1994, SEC.4. Amended by P.L.92-2003, SEC.61; P.L.233-2007, SEC.24; P.L.94-2008, SEC.35.*

#### **IC 7.1-3-17.5-2**

##### **Quota provisions inapplicable**

Sec. 2. The commission shall issue a gaming site permit without regard to the quota provisions of IC 7.1-3-22.

*As added by P.L.15-1994, SEC.4. Amended by P.L.233-2007, SEC.25.*

#### **IC 7.1-3-17.5-3**

##### **Fee limitations inapplicable**

Sec. 3. A gaming site permit is not subject to the fee limitations otherwise set forth in IC 7.1.

*As added by P.L.15-1994, SEC.4. Amended by P.L.233-2007, SEC.26.*

#### **IC 7.1-3-17.5-4**

##### **Adoption of emergency rules**

Sec. 4. The commission may adopt emergency rules under IC 4-22-2-37.1 concerning the following for a gaming site permit:

- (1) Issuance.
- (2) Scope.
- (3) Permit fee.
- (4) Expiration.

(5) Revocation and suspension.  
*As added by P.L.15-1994, SEC.4. Amended by P.L.233-2007, SEC.27.*

#### **IC 7.1-3-17.5-5**

##### **Gaming site permits**

Sec. 5. The commission may adopt rules under IC 4-22-2 concerning the following for a gaming site permit:

- (1) Issuance.
- (2) Scope.
- (3) Permit fee.
- (4) Expiration.
- (5) Revocation and suspension.

*As added by P.L.28-1996, SEC.2. Amended by P.L.233-2007, SEC.28.*

#### **IC 7.1-3-17.5-6**

##### **Gaming site permits; providing alcoholic beverages to guests free of charge**

Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of a gaming site permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

- (1) Each alcoholic beverage dispensed to a guest:
  - (A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and
  - (B) is entered into a cash register as a sale and at the same price that is charged to the general public.
- (2) At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the gaming site permit.
- (3) All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the gaming site permit for not less than two (2) years.
- (4) The holder of the gaming site permit complies with the rules of the commission.

*As added by P.L.250-2003, SEC.10. Amended by P.L.72-2004, SEC.10; P.L.233-2007, SEC.29; P.L.94-2008, SEC.36.*

## **IC 7.1-3-17.7**

### **Chapter 17.7. Horse Track and Satellite Facility Permits**

#### **IC 7.1-3-17.7-1**

##### **Issuance of permit**

Sec. 1. (a) Except as provided in subsection (c), the commission may issue a horse track permit to a person who has been issued a recognized meeting permit under IC 4-31-5 to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) The commission may issue a satellite facility permit to a person who has been issued a satellite facility license under IC 4-31-5.5 to sell alcoholic beverages for on-premises consumption only.

(c) This chapter does not apply to a slot machine facility licensed under IC 4-35.

*As added by P.L.15-1994, SEC.5. Amended by P.L.233-2007, SEC.30.*

#### **IC 7.1-3-17.7-2**

##### **Quota provisions inapplicable**

Sec. 2. The commission shall issue a horse track permit or a satellite facility permit without regard to the quota provisions of IC 7.1-3-22.

*As added by P.L.15-1994, SEC.5.*

#### **IC 7.1-3-17.7-3**

##### **Fee limitations inapplicable**

Sec. 3. A horse track permit or a satellite facility permit is not subject to the fee limitations otherwise set forth in IC 7.1.

*As added by P.L.15-1994, SEC.5.*

#### **IC 7.1-3-17.7-4**

##### **IC 7.1-3-21-1 inapplicable**

Sec. 4. A horse track permit or a satellite facility permit is not subject to the provisions of IC 7.1-3-21-1.

*As added by P.L.15-1994, SEC.5.*

#### **IC 7.1-3-17.7-5**

##### **Adoption of administrative rules**

Sec. 5. The commission may adopt rules under IC 4-22-2 concerning the following for a horse track permit or a satellite facility permit:

- (1) Issuance.
- (2) Scope.
- (3) Permit fee.
- (4) Expiration.
- (5) Revocation and suspension.

*As added by P.L.15-1994, SEC.5. Amended by P.L.106-1995,*

*SEC.12.*

## **IC 7.1-3-18**

### Chapter 18. Carriers', Salesmen's, and Employees' Permits

#### **IC 7.1-3-18-1**

##### **Carriers' alcoholic permits**

Sec. 1. Carriers' Alcoholic Permits: Application and Issuance. The commission may issue a carrier's alcoholic permit to a person who is a carrier upon a showing of the reliability and responsibility of the carrier and the propriety of issuing the permit. The commission may issue a carrier's alcoholic permit without publication of notice and investigation by a local board.

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

#### **IC 7.1-3-18-2**

##### **Carriers' alcoholic permits; scope**

Sec. 2. Carriers' Alcoholic Permits: Scope. A carrier's alcoholic permit shall be required only for, and be applicable to, the movement, conveyance, importation and transportation of alcohol and alcoholic beverages on a public highway in this state. A carrier's alcoholic permit shall not be required when the conveyance, movement, importation, or transportation is conducted by means of cars or trains operated by a railroad of any type over fixed rails.

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

#### **IC 7.1-3-18-3**

##### **Permits required**

Sec. 3. Permits Required. A carrier shall be required to apply for and obtain a carrier's alcoholic permit before he may haul, convey, transport, or import alcoholic beverages on a public highway of this state or crossing a boundary of it.

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

#### **IC 7.1-3-18-4**

##### **Permits required; exception**

Sec. 4. Permits Required: Exception. A carrier who transports beer manufactured in Indiana for consumption outside this state shall not be required to obtain a carrier's alcoholic permit if the beer has been manufactured under a brewer's permit and if in the judgment of the commission, through safeguards provided by the co-operation of the brewer, the issuance of a permit to the carrier is not necessary to protect the interests of the State of Indiana.

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

#### **IC 7.1-3-18-5**

##### **Description of vehicles**

Sec. 5. Description of Vehicles. A carrier's alcoholic permit shall not be operative as to a vehicle owned or operated by the carrier and shall not authorize the transportation or conveyance of alcoholic beverages in it unless a description of the vehicle is first filed with the commission. The description of the vehicle shall include the

engine number, date of manufacture, approximate weight, motor vehicle number, all license plate numbers, capacity, and any other information that the commission may require. The filing of the required information shall include that vehicle in the coverage of the permit. The permittee may alter or add to the number of vehicles included under the permit from time to time.

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

#### **IC 7.1-3-18-6**

##### **Surety bond**

Sec. 6. Surety Bond. The commission also may, at the time of the issuance of a carrier's alcoholic permit, or at any other time thereafter, require a surety bond in a penal sum not to exceed five hundred dollars (\$500), executed by the permittee and payable to the State of Indiana. The bond shall be conditioned that he will not violate a provision of this title, or a rule or regulation of the commission pertaining to the business in which he is engaged under his permit. If a surety bond is required by the commission, the permit, although previously issued, shall not be in force and the permittee shall not operate under it until the surety bond has been duly executed, approved and filed with the commission.

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

#### **IC 7.1-3-18-7**

##### **Salesmen's permits; application and issuance**

Sec. 7. Salesmen's Permits: Application and Issuance. The commission may issue a salesman's permit to a person who desires to act as a salesman. The applicant shall state in the application the county or counties within Indiana within which the applicant desires to act as a salesman. The application and the permit issued by the commission shall set forth the name and address of the person whom the salesman represents. The application and permit also shall state if the salesman is acting for himself as principal. The application also shall include reasonable rules as the commission may prescribe from time to time.

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

#### **IC 7.1-3-18-8**

##### **Salesmen's permits; scope**

Sec. 8. (a) The holder of a salesman's permit is not entitled to represent a person whose name does not appear on the permit as the permittee's employer, if employed by another, nor may the permittee act for any other person not named in the permit.

(b) Subject to subsection (c), a permittee is not entitled to act as a salesman for more than one (1) person under one (1) permit. However, the commission may issue additional permits to the salesman for additional principals.

(c) A permittee may act as a salesman for more than one (1) person under one (1) permit if:

- (1) the permittee is an Internet company; and

(2) the Internet company provides the commission with the names of each permittee for whom the Internet company is a salesman in conformity with the rules adopted by the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.30.*

### **IC 7.1-3-18-9**

#### **Employee's permit**

Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:

- (1) a clerk in a package liquor store;
- (2) an employee who serves wine at a farm winery; or
- (3) a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) The commission may not issue an employee's permit to an applicant while the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

(g) The commission may not issue an employee's permit to an applicant who has two (2) unrelated convictions for operating while intoxicated if:

- (1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and

(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.

(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated in the ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If, in the ten (10) years immediately preceding the date of the applicant's application the applicant has:

(1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or

(2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);

the commission may grant or deny the issuance of a permit.

(i) The commission shall revoke a permit issued to an employee under this section if:

(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or

(2) the employee is convicted of operating while intoxicated after the issuance of the permit.

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.4; P.L.77-1988, SEC.3; P.L.102-1989, SEC.2; P.L.64-1990, SEC.2; P.L.51-1994, SEC.7; P.L.205-1999, SEC.15; P.L.125-2000, SEC.1; P.L.204-2001, SEC.31; P.L.165-2006, SEC.26.*

### **IC 7.1-3-18-10**

#### **Repealed**

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

### **IC 7.1-3-18-11**

#### **Temporary bartender's permit**

Sec. 11. (a) The commission may issue a temporary bartender's permit to any person who is at least twenty-one (21) years of age for any of the following purposes:

(1) To be a bartender at any activity or event for which a temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16 (wine).

(2) To be a bartender at a nonprofit club for a maximum of four (4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is



required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is five dollars (\$5).

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

*As added by P.L.77-1988, SEC.4. Amended by P.L.52-1992, SEC.7; P.L.125-2000, SEC.2; P.L.224-2005, SEC.9.*

## **IC 7.1-3-18.5**

### **Chapter 18.5. Tobacco Sales Certificate**

#### **IC 7.1-3-18.5-1**

##### **Tobacco sales certificate required**

Sec. 1. (a) A person may not sell or otherwise distribute in exchange for consideration a tobacco product at retail without a valid tobacco sales certificate issued by the commission.

(b) A certificate may be issued only to a person who owns or operates at least one (1) of the following:

(1) A premises consisting of a permanent building or structure where the tobacco product is sold or distributed.

(2) A premises upon which a cigarette vending machine (as defined by IC 35-43-4-7) is located.

*As added by P.L.250-2003, SEC.11.*

#### **IC 7.1-3-18.5-2**

##### **Information required; fees; certification for each location; display of certificate; denial; requirements**

Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.

(2) Except as provided in section 6(c) of this chapter, a fee of two hundred dollars (\$200).

(3) The name under which the applicant transacts or intends to transact business.

(4) The address of the applicant's principal place of business or headquarters, if any.

(5) The statement required under section 2.6 of this chapter.

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) A certificate holder shall conspicuously display the holder's certificate on the holder's premises where the tobacco products are sold or distributed.

(d) Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.

(e) A certificate may be issued only to a person who meets the following requirements:

(1) If the person is an individual, the person must be at least eighteen (18) years of age.

(2) The person must be authorized to do business in Indiana.

(f) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

*As added by P.L.250-2003, SEC.11. Amended by P.L.224-2005, SEC.10; P.L.94-2008, SEC.37.*

#### **IC 7.1-3-18.5-2.6**

##### **Statement of consent**

Sec. 2.6. An application for a tobacco certificate must contain the express statement of the applicant that the applicant consents for the duration of the certificate term (if the commission issues the certificate to the applicant) to the entrance, inspection, and search by an enforcement officer, without a warrant or other process, of the applicant's retail premises to determine whether the applicant is complying with the provisions of this title. The consent required by this section is renewed and continued by the retention of a certificate or the certificate's use by the applicant or the applicant's agents.

*As added by P.L.94-2008, SEC.38.*

### **IC 7.1-3-18.5-3**

#### **Contents of certificate; term of certificate; nontransferable**

Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

- (1) The certificate number.
- (2) The certificate holder's name.
- (3) The permanent location of the business or vending machine for which the certificate is issued.
- (4) The expiration date of the certificate.

(b) A certificate is:

- (1) valid for three (3) years after the date of issuance, unless the commission suspends the certificate; and
- (2) nontransferable.

*As added by P.L.250-2003, SEC.11. Amended by P.L.224-2005, SEC.11.*

### **IC 7.1-3-18.5-4**

#### **Adoption of rules**

Sec. 4. The commission may adopt rules under IC 4-22-2 to establish procedures for the issuance, renewal, and reinstatement of a certificate.

*As added by P.L.250-2003, SEC.11.*

### **IC 7.1-3-18.5-5**

#### **Certificate suspension; revocation; notice and hearing**

Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension or revocation of a certificate to the certificate holder.

(c) Subject to subsection (b), the commission shall revoke the certificate of a person upon a finding by a preponderance of the evidence that the person:

- (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4;

(2) has committed habitual illegal sale of tobacco as established under IC 35-46-1-10.2(h); or

(3) has committed habitual illegal entrance by a minor as established under IC 35-46-1-11.7(f).

*As added by P.L.250-2003, SEC.11. Amended by P.L.227-2007, SEC.61; P.L.94-2008, SEC.39.*

### **IC 7.1-3-18.5-6**

#### **Reinstatement or renewal; failure to pay civil penalty; Class B infraction; fee**

Sec. 6. (a) If a certificate has:

(1) expired; or

(2) been suspended;

the commission may not reinstate or renew the certificate until all civil penalties imposed against the certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7 have been paid.

(b) The failure to pay a civil penalty described in subsection (a) is a Class B infraction.

(c) If a certificate has been revoked, the commission may not reinstate or renew the certificate for at least one hundred eighty (180) days after the date of revocation. The commission may reinstate or renew the certificate only upon a reasonable showing by the applicant that the applicant shall:

(1) exercise due diligence in the sale of tobacco products on the applicant's premises where the tobacco products are sold or distributed; and

(2) properly supervise and train the applicant's employees or agents in the handling and sale of tobacco products.

If a certificate is reinstated or renewed, the applicant of the certificate shall pay an application fee of one thousand dollars (\$1,000).

(d) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

*As added by P.L.250-2003, SEC.11. Amended by P.L.94-2008, SEC.40.*

### **IC 7.1-3-18.5-7**

#### **Tobacco sales without certificate; Class A infraction**

Sec. 7. (a) A person who is required to have a certificate under this chapter and who sells or distributes tobacco products without a valid certificate commits a Class A infraction. Each violation of this section constitutes a separate offense.

(b) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

*As added by P.L.250-2003, SECTION 11. Amended by P.L.252-2003, SEC.4.*

### **IC 7.1-3-18.5-8**

#### **Mitigate civil penalties**

Sec. 8. The commission may mitigate civil penalties imposed against a certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, IC 35-46-1-11.7, or any of the provisions of this chapter if a certificate holder provides a training program for the certificate holder's employees that includes at least the following topics:

- (1) Laws governing the sale of tobacco products.
- (2) Methods of recognizing and handling customers who are less than eighteen (18) years of age.
- (3) Procedures for proper examination of identification cards to verify that customers are under eighteen (18) years of age.

*As added by P.L.94-2008, SEC.41.*

### **IC 7.1-3-18.5-9**

#### **Exercise due diligence; supervision and training of employees or agents; prima facie evidence of lack of due diligence**

Sec. 9. A certificate holder shall exercise due diligence in the supervision and training of the certificate holder's employees or agents in the handling and sale of tobacco products on the holder's retail premises. Proof that employees or agents of the certificate holder, while in the scope of their employment, committed at least six (6) violations relating to IC 35-46-1-10.2(a) in any one hundred eighty (180) day period shall be prima facie evidence of a lack of due diligence by the certificate holder in the supervision and training of the certificate holder's employees or agents.

*As added by P.L.94-2008, SEC.42.*

### **IC 7.1-3-18.5-10**

#### **Failure to attend hearing**

Sec. 10. (a) If a certificate holder fails to attend or participate in a hearing without good cause, the hearing judge may recommend to the commission that the commission suspend or revoke the certificate holder's certificate or impose a fine on the certificate holder of up to one thousand dollars (\$1,000).

(b) A hearing judge may grant a continuance of a hearing upon written motion showing good cause for the continuance.

*As added by P.L.94-2008, SEC.43.*

## **IC 7.1-3-19**

### **Chapter 19. Procedures for Issuance and Renewal of Retailers' and Dealers' Permits**

#### **IC 7.1-3-19-1**

##### **Permits issued in discretion of commission**

Sec. 1. Permits Issued in Discretion of Commission. The commission in its absolute discretion shall issue, suspend, or revoke, except as otherwise provided in this title, a retailer's or dealer's permit of any type.

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

#### **IC 7.1-3-19-2**

##### **Jurisdiction restricted**

Sec. 2. Jurisdiction Restricted. Except as otherwise provided in this title, no court shall have jurisdiction of an action to compel the issuance of a retailer's or dealer's permit of any type, or to revoke, annul, suspend, or enjoin an action, ruling, finding, or order of the commission suspending or revoking one (1) of these permits, and the consent of the State of Indiana is hereby expressly withdrawn and denied in such an action.

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

#### **IC 7.1-3-19-3**

##### **Prerequisites**

Sec. 3. Prerequisites. The commission, unless otherwise provided in this title, shall not grant an application and issue a retailer's or dealer's permit of any type until the publication of notice, the investigation before the local board, and the other proceedings required by this chapter have been completed.

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

#### **IC 7.1-3-19-4**

##### **Time and place for investigation**

Sec. 4. Time and Place for Investigation. The commission shall fix the time and place for investigating, before the appropriate local board, the fitness of the applicant, and the propriety of granting his application for the particular retailer's or dealer's permit involved. The investigation shall be held within the county in which the premises, described in the application, are situated and it shall be open to the public. The commission also shall notify the clerk of the circuit court of the appropriate county, from whom the applicant, and all others who inquire, shall be entitled to ascertain the time and place of the investigation before the local board. The clerk of the circuit court shall provide immediately to the county treasurer a copy of the time and place of investigations before the local board.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.106-1995, SEC.13.*

#### **IC 7.1-3-19-5**

**Publication of notice and investigation**

Sec. 5. The commission shall cause one (1) notice of the pending investigation to be published in a newspaper in accordance with the provisions of IC 7.1-3-1-18. The publication of the notice shall be at least fifteen (15) days before the investigation.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.224-2005, SEC.12; P.L.94-2008, SEC.44.*

**IC 7.1-3-19-6****Combined publication of notices**

Sec. 6. Combined Publication of Notices. The commission may combine in one (1) publication, notices of any number of applications by the same or different applicants if the combined publication contains the required information with respect to each application respectively and if the publication complies with all other requirements of this title.

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

**IC 7.1-3-19-7****Contents of notice**

Sec. 7. Contents of Notice. The notice shall advise the public of the name of the applicant, the type of permit applied for, the location of the premises as set forth in the application, and the time and place when and where the application will come up for investigation before the local board. The notice also shall advise that the local board will, at the time and place designated, investigate the application and receive information concerning the fitness of the applicant, and the propriety of issuing the permit applied for, at the named premises, to the applicant.

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

**IC 7.1-3-19-8****Testimony**

Sec. 8. Testimony. In the discretion of the designated member of the local board, sworn oral testimony may be heard, and affidavits or duly certified documents may be received. The local board also may utilize any and all sources of unsworn information.

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

**IC 7.1-3-19-9****Questionnaires**

Sec. 9. Questionnaires. Each member of the local board, at the conclusion of the investigation, shall answer in writing the questions contained in the questionnaire submitted by the commission in relation to the investigation. Each member of the local board shall sign the questionnaire in duplicate. Both copies of the questionnaire shall be given to the designated member who shall deliver them to the commission for its use in acting upon the application. The commission also may order that further investigations on an application be made before the local board.

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

### **IC 7.1-3-19-9.5**

#### **Renewals**

Sec. 9.5. (a) The commission shall provide procedures and forms to allow an applicant for the renewal of a retailer's or dealer's permit to file a simplified application.

(b) An applicant for renewal does not have to be present during the local board proceedings on the renewal unless notified by the commission or the local board. However, a local board may not take any action to deny the renewal of a retailer's or dealer's permit unless the applicant has been notified and given an opportunity to be present at an investigation before the local board.

(c) For the purpose of implementing this section, the commissioner may prorate permits of persons holding more than one (1) retailer's or dealer's permit so that those permits terminate at one (1) time and the renewed permits of that person shall have the same termination date.

(d) In a county containing a consolidated city, the renewal of a retailer's or dealer's permit is subject to this section and IC 7.1-3-1-5.6.

*As added by Acts 1977, P.L.94, SEC.1. Amended by P.L.16-1983, SEC.4; P.L.52-1994, SEC.5.*

### **IC 7.1-3-19-10**

#### **Commission's action**

Sec. 10. Commission's Action. The commission may investigate in any manner it deems best to enable it to act upon the application in a particular case. The commission may grant or refuse the application accordingly as it deems the public interest will be served best. The action of the commission on the application for a retailer's or dealer's permit of any type shall be final.

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

### **IC 7.1-3-19-11**

#### **Review of recommendations; findings of fact**

Sec. 11. (a) The commission shall follow the recommendation of a majority of the members of a local board to grant or deny an application for a retailer's or dealer's permit of any type, unless, after the commission's review of that recommendation, the commission determines that to follow the recommendation would be:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
- (2) contrary to a constitutional right, power, privilege, or immunity;
- (3) in excess of, or contrary to, statutory jurisdiction, authority, limitations or rights;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial evidence.

Such review shall be de novo.



(b) If the commission determines not to follow the recommendation of a local board, after the commission's review of that recommendation according to the standards set forth in subsection (a), the commission shall make written findings of fact on each material issue on which the commission's determination is based.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.64-1990, SEC.3.*

#### **IC 7.1-3-19-11.5**

##### **Appeal hearing; notice to local board; publication of notice**

Sec. 11.5. (a) As used in this section, "applicant" or "application" means an applicant or an application for:

- (1) a new permit; or
- (2) the transfer or renewal of an existing permit.

(b) This section applies if a permit applicant or a person who remonstrates at a local board hearing against the approval of the application files with the commission:

- (1) an objection to the commission's action on the application; and
- (2) a request for an appeal hearing before the commission.

(c) The commission shall do the following:

- (1) Provide notice to the local board, by first class mail, of the date of an appeal hearing set by the commission. Notice under this subdivision must be provided not later than ten (10) days before the date of the hearing.
- (2) Publish notice in the city, town, or county where the proposed permit premises is located of the date of an appeal hearing set by the commission. Notice under this subdivision must be published not later than ten (10) days before the date of the hearing.

*As added by P.L.94-2008, SEC.45.*

#### **IC 7.1-3-19-12**

##### **Return of fee**

Sec. 12. Return of Fee. The chairman shall deduct the sum of twenty-five dollars (\$25) from the license fee paid by the applicant for each application considered, but if the applications are combined in one (1) application, the chairman shall deduct the sum of thirty-five dollars (\$35) from the license fee, and return the balance of the fee to the applicant if the commission refuses to grant the application. The amount deducted from the fee shall be the property of the state and shall be disposed of as provided in article 4 of this title.

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

#### **IC 7.1-3-19-13**

##### **New permits in residential districts; duty of commission**

Sec. 13. New Permits in Residential Districts: Duty of Commission. The commission shall have the duty in considering an

application for a new retailer's permit of any type, or a new liquor dealer's permit, to determine whether the business to be conducted by the applicant pursuant to the proposed permit will be located within a residential district, and if so, whether the conduct of the business pursuant to the proposed permit will unreasonably impair and interfere with the peace, comfort, or enjoyment of life and property of the occupants of the residential district, or any of them. The commission shall deny the application if it finds in the affirmative on both questions.

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

#### **IC 7.1-3-19-14**

##### **New permits in residential districts; notice**

Sec. 14. New Permits in Residential Districts: Notice. The commission shall have the duty in making the determinations provided in IC 1971, 7.1-3-19-13, to publish notice that an application for a permit is pending and that a public hearing will be held on the application at a time and place to be stated in the notice. The notice shall state that at the hearing, residents of the residential district may appear and be heard in favor of, or in opposition to, the granting of the permit and may, if they desire to, present a verified written remonstrance against the granting of the permit.

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

#### **IC 7.1-3-19-15**

##### **New permits in residential districts; hearing**

Sec. 15. New Permits in Residential Districts: Hearing. The commission shall consider the matters which may be brought out at the hearing and the sentiments of the residents in making the determinations required by IC 1971, 7.1-3-19-13. Further, if at the hearing, there is presented to the commission a verified written remonstrance bearing the signatures of at least fifty-one percent (51%) of the registered voters of the residential district, the commission shall be bound to find in the affirmative and to deny the application.

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

#### **IC 7.1-3-19-16**

##### **New permits in residential districts; exceptions**

Sec. 16. New Permits in Residential Districts: Exceptions. The provisions of IC 7.1-3-19-13, 7.1-3-19-14, and 7.1-3-19-15, do not apply to the renewal of existing retailer's permits, nor to the renewal of existing liquor dealer's permits, nor to a nationally chartered veteran's organization which has occupied the same premises for ten (10) years prior to making application for a club permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.5.*

## **IC 7.1-3-20**

### Chapter 20. Clubs, Restaurants, and Hotels

#### **IC 7.1-3-20-1**

##### **Clubs; general requirements**

Sec. 1. Clubs: General Requirements. In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

(a) It shall have been organized in good faith under authority of law;

(b) It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed;

(c) It shall have maintained, in good faith, a membership roll for the three (3) year period;

(d) It shall have a paid-up membership of more than fifty (50) members at the time the application is filed;

(e) It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;

(f) It shall not be operated for pecuniary gain;

(g) The property and the advantages of the organization shall belong to its members; and,

(h) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

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

#### **IC 7.1-3-20-2**

##### **Clubs within corporate limits**

Sec. 2. The commission may issue the appropriate permit upon the application of a club if the premises to be licensed are situated within the corporate limits of a city or town.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.72, SEC.1.) As amended by Acts 1977, P.L.95, SEC.1; P.L.52-1992, SEC.8.*

#### **IC 7.1-3-20-2.5**

##### **Sunday sales; applicability; on-premises consumption**

Sec. 2.5. (a) This section applies to each holder of a permit issued under section 2, 3, or 4 of this chapter.

(b) A permit holder may sell alcoholic beverages under the terms of the permit on any twelve (12) Sundays during a calendar year.

(c) Sales under this section may be made only for on-premises consumption.

*As added by P.L.52-1992, SEC.9. Amended by P.L.224-2005, SEC.13.*

#### **IC 7.1-3-20-3**

##### **Clubs outside corporate limits**

Sec. 3. Clubs Outside Corporate Limits. The commission may

issue the appropriate permit upon the application of a club whose premises to be licensed are situated outside the corporate limits of an incorporated city or town if the club meets the following additional requirements:

(a) The club has been duly organized for social, athletic, or outdoor exercise purposes;

(b) The club requires and receives an annual membership fee of at least six dollars (\$6.00);

(c) The club has an investment of not less than five thousand dollars (\$5,000), in addition to investment in buildings, in grounds or fields especially prepared for athletic or physical exercise;

(d) The grounds or fields have been especially prepared for use for a period of at least six (6) months prior to the filing of the application for the permit; and,

(e) The grounds or fields have been patronized and used regularly during reasonable weather for physical exercise.

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

#### **IC 7.1-3-20-4**

##### **Clubs outside corporate limits; exception**

Sec. 4. Clubs Outside Corporate Limits: Exception. A club which has been in continuous existence for at least three (3) years and which has been formed for social, athletic, or outdoor exercise purposes, and which has been well known during that period of time and which either through the financial records which it has preserved or through the financial or other institutions with which it has dealt, can show that it has been in continuous active operation for the three (3) year period, and which has acquired by lease or ownership or other kind of substantial control an establishment outside the corporate limits of a city or town and which is of such respectability and probable permanence as to warrant the issuance of an appropriate permit, may be eligible, although it does not have the necessary qualifications, other than those contained in this section, to be granted a retailer's permit at the establishment.

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

#### **IC 7.1-3-20-5**

##### **Clubs; two locations**

Sec. 5. Clubs: Two Locations. If a club is eligible to be issued a permit for premises situated within a city or town, or outside of the corporate limits of a city or town, one (1) permit may be issued to the club for an establishment located outside of the corporate limits of a city or town, and another appropriate permit may be issued to the same club for an establishment located within the corporate limits of a city or town. The commission shall charge a separate annual license fee for each location.

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

#### **IC 7.1-3-20-6**

##### **Member of a club; qualifications**

Sec. 6. In order to be considered a "member of a club" within the meaning of this title, a person must meet the following qualifications:

- (1) The person must have become a member either as a charter member or by admission in accordance with the articles of incorporation, constitution, and bylaws of the club.
- (2) The person must maintain membership by the payment of dues in the required manner.
- (3) The person's name and address must be entered on the membership list which is supplied to the commission:
  - (A) the first time that the new or renewal application for the appropriate club permit is filed after the person becomes a member of the club; and
  - (B) with subsequent renewal applications that are filed after the person becomes a member of the club for as long as the person remains a member.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.75-1996, SEC.1.*

#### **IC 7.1-3-20-7**

##### **Fraternal clubs; labor organizations**

Sec. 7. (a) As used in this title and to be eligible to receive the appropriate permit, "fraternal club" means an association or corporation the membership of that is comprised of or forms:

- (1) a lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature; or
- (2) a body whose membership is comprised of persons who have served in the armed forces of the United States;

and which has been in continual existence on a national scale for more than five (5) years prior to the date the application is filed.

(b) Fraternal clubs and labor organizations need not meet the requirements of section 1 of this chapter, but are considered clubs for all other purposes of this title.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.10.*

#### **IC 7.1-3-20-8**

##### **Club; enabling ordinance required**

Sec. 8. The commission shall require the enactment of an enabling ordinance as provided in IC 1971, 7.1-3-9, before issuing a new liquor retailer's permit to a club in a city or town that has a population of less than five thousand (5,000). This section shall not apply to the renewal of an existing permit nor shall it apply to a fraternal club or a social club.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.32.*

#### **IC 7.1-3-20-8.5**

##### **Discriminatory practices**

Sec. 8.5. (a) As used in this section, "discriminatory practice" means a refusal to provide equal access to and use of services or

facilities on the basis of a person's race or color. However, the term does not include a practice of a club or fraternal club that requires a specific religious affiliation or belief as a condition of membership in the club or fraternal club.

(b) To be eligible to hold a club permit under this chapter, a club, fraternal club, or labor organization may not engage in a discriminatory practice.

(c) A person may file a complaint with the civil rights commission alleging a discriminatory practice by a club, fraternal club, or labor organization.

(d) The civil rights commission shall investigate the allegations in the complaint and, if reasonable cause is found, shall hold a hearing under IC 22-9-1-6 on the complaint. If the civil rights commission finds that a club, fraternal club, or labor organization has engaged in a discriminatory practice, the civil rights commission shall certify the finding to the alcohol and tobacco commission.

(e) If a club, fraternal club, or labor organization is found to have engaged in a discriminatory practice, the commission shall do one (1) or more of the following:

(1) Issue a warning to the club, fraternal club, or labor organization.

(2) Impose a civil penalty on the club, fraternal club, or labor organization not to exceed one thousand dollars (\$1,000).

(3) Suspend the club, fraternal club, or labor organization's permit for not more than ninety (90) days.

(4) Not issue a new club permit under this chapter if the club, fraternal club, or labor organization does not hold a club permit under this chapter.

(5) Revoke an existing club permit.

*As added by P.L.66-1990, SEC.1. Amended by P.L.204-2001, SEC.33.*

### **IC 7.1-3-20-8.6**

#### **Club guest day**

Sec. 8.6. (a) The holder of a club permit may do the following:

(1) Designate one (1) day in each month as "guest day".

(2) Keep a record of all designated guest days.

(3) Invite guests who are not members of the club to attend the club on a guest day.

(4) Sell or give alcoholic beverages to guests for consumption on the permit premises on a guest day.

(5) Keep a guest book listing members and their nonmember guests, except on a designated guest day.

(b) This subsection applies to a club that furnishes alcoholic beverages on not more than two (2) days in each week. Notwithstanding subsection (a)(1), the holder of a club permit to which this subsection applies may designate twenty-four (24) guest days in each calendar year rather than one (1) guest day in each month.

*As added by P.L.52-1992, SEC.10. Amended by P.L.90-1993, SEC.1;*

*P.L.205-1999, SEC.16.*

**IC 7.1-3-20-9**

**Restaurants; general requirements**

Sec. 9. Restaurants: General Requirements. In order to be considered a "restaurant" within the meaning of this title and to be eligible to receive an appropriate restaurant permit under this title, an establishment shall meet the following requirements:

(a) It shall be provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers; and,

(b) It shall have accommodations at which at least twenty-five (25) persons may be served at one (1) time.

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

**IC 7.1-3-20-10**

**Restaurants within corporate limits**

Sec. 10. Restaurants Within Corporate Limits. The commission may issue the appropriate permit upon the application of a restaurant if the premises to be licensed are situated within the corporate limits of a city or town.

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

**IC 7.1-3-20-11**

**Restaurants; unincorporated town exception**

Sec. 11. Restaurants: Unincorporated Town Exception. The commission may issue a beer retailer's permit to a restaurant if it is located within an unincorporated town, or in close proximity to one, and if the establishment meets the requirements provided in IC 1971, 7.1-3-20-9.

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

**IC 7.1-3-20-11.5**

**Restaurants; small city provision**

Sec. 11.5. (a) The commission may issue a three-way permit for the sale of alcoholic beverages, for on-the-licensed-premises consumption only, to the proprietor of a restaurant which is located in a city or town that has a population of less than twenty thousand (20,000), if the applicant meets the following requirements:

(1) The establishment is the holder of a one-way or a two-way permit.

(2) The establishment is qualified to hold a three-way permit but for the provisions of IC 7.1-3-22-3.

(b) A permit that is issued under this section may be transferred.

(c) The annual license fee for a three-way retailer's permit issued under this section is the same as the fee for a three-way retailer's permit issued under other provisions of this chapter. A person who holds a three-way retailer's permit under this section is not required to pay an annual license fee for any one-way or two-way retailer's permit that the person must hold to maintain eligibility for a

three-way retailer's permit under this section.

*As added by Acts 1976, P.L.24, SEC.1. Amended by Acts 1981, P.L.44, SEC.3; P.L.91-1993, SEC.1; P.L.204-2001, SEC.34.*

### **IC 7.1-3-20-12**

#### **Restaurants outside corporate limits**

Sec. 12. The commission may issue a three-way permit for the sale of alcoholic beverages to the proprietor of a restaurant which is located outside the corporate limits of an incorporated city or town if the restaurant meets the additional requirements:

(1) It shall be a table service restaurant in which a patron is seated at a table and is served by a waiter or waitress and the food served is predominantly consumed on the premises.

(2) It shall be sufficiently served by adequate law enforcement at its premises.

(3) If it does business during seven (7) or more months of each year, it shall have had an annual gross food sales of at least one hundred thousand dollars (\$100,000) for the three (3) years immediately preceding its application for a permit unless the permittee is the proprietor of 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.

(4) If it does business during six (6) or fewer months of each year, it shall have had average monthly gross food sales of at least eight thousand five hundred dollars (\$8,500) for each month it did business for the three (3) years immediately preceding its application for a permit.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.72, SEC.2.) As amended by P.L.85-1985, SEC.11; P.L.106-1995, SEC.14; P.L.224-2005, SEC.14.*

### **IC 7.1-3-20-13**

#### **New restaurants outside corporate limits**

Sec. 13. (a) The commission may issue a three-way permit to the proprietor of a new restaurant which is located outside the corporate limits of an incorporated city or town for the sale of alcoholic beverages if:

(1) the applicant proves to the local board and the commission that a projection of his experience had for the first ninety (90) days of gross food sales at the location will exceed not less than two hundred thousand dollars (\$200,000) in gross food sales by the end of two (2) years from the date of his application; and

(2) the restaurant meets the additional requirements provided in section 12 of this chapter, other than the gross food sales requirement.

(b) Notwithstanding subsection (a), the gross food sales requirement under this section for an applicant who plans to do business during six (6) or fewer months of each year is an average of at least eight thousand five hundred dollars (\$8,500) per month for



each full month that the applicant plans to do business.

(c) Notwithstanding subsections (a) and (b), the commission may issue a permit for a new restaurant to sell alcoholic beverages at the time of its opening if the applicant for this permit first executes a verified certification to the commission stating that the anticipated gross food sales are expected to exceed two hundred thousand dollars (\$200,000) during the first two (2) years of operation. Not more than one hundred twenty (120) days after the opening of the new restaurant, the applicant shall furnish to the commission a financial statement showing the dollar amount of food sales made during the first ninety (90) days of operation. The commission may require this financial statement to be audited by a certified public accountant. If the food sales shown on the financial statement do not meet the standards set forth in subsection (a), the commission may revoke the permit.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1975, P.L.72, SEC.3.) As amended by P.L.85-1985, SEC.12.*

#### **IC 7.1-3-20-13.5**

##### **Public restaurant at golf course or tennis club; gross food sales requirement**

Sec. 13.5. Notwithstanding sections 12 and 13 of this chapter, there is no annual or monthly gross food sales requirement to obtain a three-way permit for the sale of alcoholic beverages in a restaurant that is:

- (1) open to the general public; and
- (2) located on:
  - (A) the grounds of a regulation size golf course that has at least nine (9) holes; or
  - (B) the premises of a tennis club that has at least eight (8) regulation size tennis courts.

*As added by P.L.64-1990, SEC.4. Amended by P.L.51-1994, SEC.8; P.L.76-1997, SEC.1; P.L.224-2005, SEC.15.*

#### **IC 7.1-3-20-13.6**

##### **"Clubhouse" defined; sale of alcoholic malt beverages; employees' or bartenders' permits**

Sec. 13.6. (a) As used in this section, "clubhouse" means a facility:

- (1) that is located on a golf course; and
- (2) where alcoholic beverages are sold under a retailer's permit or a club permit issued by the commission.

(b) The holder of a retailer's permit or a club permit for the sale of alcoholic beverages at a clubhouse may, under the same permit, sell alcoholic malt beverages at a permanent, semipermanent, or portable structure or cart that meets the following requirements:

- (1) Is on the same golf course premises as the clubhouse.
- (2) Is within reasonable proximity of the clubhouse.
- (3) Provides minimum food service.
- (4) Has a floor plan or design that meets the following

requirements:

(A) Is on file with the commission.

(B) Has been approved by the commission.

(c) All employees of a permittee described in subsection (b), who are involved in the furnishing, supplying, conveying, selling or serving of alcoholic beverages, shall have an employee's permit or bartender's permit, as applicable.

*As added by P.L.87-1993, SEC.2.*

#### **IC 7.1-3-20-14**

##### **Restaurants outside corporate limits; nonrenewals**

Sec. 14. (a) The commission shall not renew the permit of a permittee licensed under section 12 or 13 of this chapter upon the expiration of the permit in the calendar year next succeeding a calendar year in which the permittee's gross food sales are less than one hundred thousand dollars (\$100,000), unless the permittee can establish to the satisfaction of the local board and the commission that his projected gross food sales for the ensuing calendar year will exceed one hundred thousand dollars (\$100,000).

(b) Notwithstanding subsection (a), the gross food sales requirement under this section for a permittee who does business during six (6) or fewer months of each year is an average of at least eight thousand five hundred dollars (\$8,500) per month for each full month that the permittee does business.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.13.*

#### **IC 7.1-3-20-15**

##### **Repealed**

*(Repealed by Acts 1975, P.L.72, SEC.4.)*

#### **IC 7.1-3-20-16**

##### **Airport restaurants; restaurants in certain economic development areas; redevelopment projects or districts, historic river vessels, cultural centers, historic districts**

Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.
- (2) A county courthouse is located within the district.
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

- (1) a town with a population of more than twenty thousand (20,000); or
- (2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

- (1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.
- (2) A unit of the National Park Service is partially located within the district.
- (3) An international deep water seaport is located within the

district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.14; P.L.78-1986, SEC.6; P.L.103-1989, SEC.2; P.L.72-1991, SEC.2; P.L.12-1992, SEC.56; P.L.277-1993(ss), SEC.131; P.L.15-1994, SEC.6; P.L.170-2002, SEC.55; P.L.155-2005, SEC.1; P.L.214-2005, SEC.48; P.L.224-2005, SEC.16; P.L.1-2006, SEC.148; P.L.165-2006, SEC.27.*

#### **IC 7.1-3-20-16.1**

##### **Municipal riverfront development project; alcoholic beverage permit requirements**

Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

(1) The project boundaries must border on at least one (1) side of a river.

(2) The proposed permit premises may not be located more than:

(A) one thousand five hundred (1,500) feet; or

(B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a redevelopment project area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1;

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; or

(C) a community revitalization enhancement district designated under IC 36-7-13-12.1.

(4) The project must be funded in part with state and city

money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution.

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3. *As added by P.L.72-2004, SEC.11. Amended by P.L.155-2005, SEC.2 and P.L.214-2005, SEC.49; P.L.185-2005, SEC.2; P.L.1-2006, SEC.149; P.L.2-2007, SEC.131.*

### **IC 7.1-3-20-16.5**

#### **Restaurants in historic places or districts; retailer's permits**

Sec. 16.5. (a) A permit that is authorized by this section:

(1) is subject to the quota provisions of IC 7-1-3-22; and

(2) is not subject to the proximity provisions of IC 7.1-3-21-11.

(b) The commission may issue a retailer's permit to the proprietor of a restaurant that is located in a facility that is on the National Register of Historic Places or that is located within the boundaries of an historic district that is established by ordinance pursuant to IC 36-7-11-7.

*As added by P.L.91-1993, SEC.2.*

### **IC 7.1-3-20-17**

#### **Service bars**

Sec. 17. Service Bars. (a) An establishment which is licensed under the provisions of this article and which has a gross annual business of at least one hundred thousand dollars (\$100,000), of which at least fifty percent (50%), is in the retail sale of food, may have, subject to the approval of the commission, a service bar which is not in full, free and unobstructed view from a street or public highway.

(b) An establishment shall qualify as to the gross annual business provision if the projection of the first ninety (90) days of business for the establishment for one (1) year equals, or is greater than, one hundred thousand dollars (\$100,000), in the proportions set forth in subsection (a), as shown by the books and records of the establishment.

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

### **IC 7.1-3-20-18**

#### **Hotels; general requirements**

Sec. 18. (a) In order to be considered a "hotel" within the meaning of this title and to be eligible to receive an appropriate hotel permit under this title, an establishment shall meet the following requirements:

- (1) It shall be provided with special space and accommodations where, in consideration of payment, food and lodging are habitually furnished to travelers.
- (2) It shall have at least twenty-five (25), adequately furnished and completely separate sleeping rooms with adequate facilities under one (1) continuous roof.
- (3) It shall be so disposed that persons usually apply for and receive overnight accommodations in it in the course of usual and regular travel or as a residence.
- (4) It shall operate either a:
  - (A) regular dining room constantly frequented by customers each day; or
  - (B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.

(b) This subsection applies to a hotel that qualifies under subsection (a)(4)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(4)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.35.*

### **IC 7.1-3-20-19**

#### **Hotels within corporate limits**

Sec. 19. Hotels Within Corporate Limits. The commission may issue the appropriate permit upon the application of a hotel if the premises to be licensed are situated within the corporate limits of a city or town.

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

### **IC 7.1-3-20-20**

#### **Hotels outside corporate limits**

Sec. 20. (a) The commission may issue a three-way permit to a hotel situated outside the corporate limits of an incorporated city or town if the establishment meets the following requirements:

- (1) It shall be provided with special space and accommodations where, in consideration of payment, food and lodging are habitually furnished to travelers.
- (2) It shall have at least twenty-five (25) adequately furnished and completely separate sleeping rooms with adequate facilities under one (1) roof.
- (3) It shall be so disposed that persons usually apply for and receive overnight accommodations in it in the course of usual and regular travel or as a residence.
- (4) It shall operate either a:
  - (A) regular dining room constantly frequented by customers each day; or
  - (B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.
- (5) It shall be sufficiently served by adequate law enforcement at its premises.

(b) This subsection applies to a hotel that qualifies under subsection (a)(4)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(4)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.36.*

### **IC 7.1-3-20-21**

#### **Resort hotels**

Sec. 21. (a) In order to be considered a "resort hotel" within the meaning of this title and to be eligible to receive an appropriate resort hotel permit under this title, an establishment shall meet the following requirements:

- (1) It shall be constantly patronized during a season of at least three (3) months.
- (2) It shall have improvements of a least five thousand dollars



(\$5,000), in value, on the premises.

(3) It shall have at least twenty-five (25), adequately furnished and completely separate sleeping rooms, exclusive of any basement rooms, with adequate facilities.

(4) It shall be so disposed that persons usually apply for and receive overnight accommodations in it.

(5) It shall have either a:

(A) regular dining room frequented by customers each day during which the resort hotel is open to the public; or

(B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.

(6) It shall be located on one (1) premises.

(7) It shall be operated by one (1) person, or under one (1) management.

(8) It shall be a permanent structure of at least two (2) stories, exclusive of the basement.

(9) It shall be reasonably fire-proof.

(10) It shall be sufficiently responsible to discharge all of its obligations under the law to its guests and it shall have kept a register of its guests.

(11) It shall have been in active operation for a period of three (3) years immediately prior to the filing of the application for a permit.

(b) This subsection applies to a hotel that qualifies under subsection (a)(5)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(5)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.37.*

### **IC 7.1-3-20-22**

#### **Resort hotels; seasonal permits**

Sec. 22. Resort Hotels: Seasonal Permits. The commission may grant a seasonal permit to a resort hotel upon the application of its owner or manager if he possesses the same qualifications that are required for the issuance of corresponding permits to other applicants. The seasonal permit shall entitle the permittee to sell beer, liquor, or wine, from the fifteenth day of April to the fifteenth day of October, both dates inclusive.

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

### **IC 7.1-3-20-23**

#### **Hotels; in-room vending units**

Sec. 23. (a) As used in this section, "in-room vending unit" means a closed container that is:

(1) located in a guest room of a hotel; and

(2) used for the storage and dispensing of food or beverage (alcoholic or nonalcoholic).

(b) The holder of a retailer's permit that is issued to a hotel may dispense alcoholic beverages in individual portions to registered hotel guests through in-room vending units.

(c) Access to the interior of an in-room vending unit must be:

(1) restricted by a locking device, the opening of which requires use of a key, magnetic card, or similar device; or

(2) controlled at all times by the holder of a retailer's permit that is issued to a hotel.

(d) Alcoholic beverages may be dispensed through in-room vending units only:

(1) on days and at times when the sale of alcoholic beverages is permitted under this title; and

(2) to persons who are permitted to purchase alcoholic beverages under this title.

(e) A permittee to whom this section applies may provide a key, magnetic card, or similar device required to gain access to the interior of an in-room vending unit only to a person who is:

(1) a registered hotel guest; and

(2) twenty-one (21) years of age or older.

(f) In order to prevent the illegal furnishing of an alcoholic beverage to a minor, a permittee to whom this section applies shall determine that the registered hotel guest is not a minor (as defined in IC 7.1-1-3-25) prior to providing a key, magnetic card, or similar device required to gain access to the interior of an in-room vending unit to that registered hotel guest.

(g) Each employee of a permittee to whom this section applies who handles alcoholic beverages for dispensing through an in-room vending unit must be twenty-one (21) years of age or older and hold an employee's permit issued by the commission under IC 7.1-3-18-9. *As added by P.L.102-1989, SEC.3. Amended by P.L.1-1990, SEC.88.*

### **IC 7.1-3-20-24**

#### **Licensed permit premises used exclusively as catering hall**

Sec. 24. (a) This section does not affect the requirements necessary to obtain a permit to sell alcoholic beverages on the premises of a licensed premises.

(b) The commission may designate a licensed permit premises used exclusively for catered events as a catering hall.

(c) Catering halls designated under this section are not required to be open to the general public. However, if a designated catering hall desires to host an event that is open to the general public, the catering hall shall comply with the notice requirement under IC 7.1-3-9.5-2. A catering hall with a special three-way catering hall permit under subsection (d) may not be open to the general public.

(d) The commission may issue a special three-way catering hall permit to an applicant to sell alcoholic beverages for on premises consumption on a premises that:

(1) is used only for private catered events as a catering hall; and

(2) has accommodations for at least two hundred fifty (250) individuals.

An applicant who is issued a permit under this subsection is not required to obtain a restaurant permit.

(e) A permit authorized by subsection (d) may be issued without regard to the quota provisions of IC 7.1-3-22.

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

*As added by P.L. 51-1994, SEC.9. Amended by P.L. 136-2000, SEC.3.*

#### **IC 7.1-3-20-24.4**

##### **Malls**

Sec. 24.4. (a) This section applies only to malls.

(b) As used in this section, "mall" means a retail shopping center that has the following characteristics:

(1) The center consists of an area that:

(A) has been redeveloped or renovated in part with grants from the federal, state, or local government; and

(B) is entirely located within a one-half (1/2) mile radius of the center of a consolidated city.

(2) The center consists of a building or group of buildings that:

(A) contains more than twenty-five (25) retailers; and

(B) is constructed in a manner so that the buildings or retail locations can be accessed without going outside the center.

(c) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of retail space within a mall. The permit may be a single permit even though more than one (1) area constitutes the licensed premises under the permit.

(d) A permit authorized by this section may be issued without regard to the proximity provisions of IC 7.1-3-21-11 or the quota provisions of IC 7.1-3-22.

(e) Permits issued under this section may not be transferred to a location outside the mall.

*As added by P.L. 15-1994, SEC.7.*

#### **IC 7.1-3-20-25**

##### **City markets**

Sec. 25. (a) This section applies only to a city market.

(b) As used in this section, "city market" means a marketplace where spaces are leased for a valuable consideration for the purpose of selling and displaying for sale to the general public items or products approved by the City Market Corporation and that has the following characteristics:

(1) The market consists of an area that:

(A) has been redeveloped or renovated in part with grants from the federal, state, or local government; and

(B) is entirely located within a one-half (1/2) mile radius of the center of a consolidated city.

(2) The market consists of a building or group of buildings that:

(A) contains more than ten (10) retailers; and

(B) is constructed in a manner so that the buildings or retail

locations can be accessed without going outside the market.

(c) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of retail space within a city market. The permit may be a single permit even though more than one (1) area constitutes the licensed premises under the permit.

(d) A permit authorized by this section may be issued without regard to the proximity provisions of IC 7.1-3-21-11 or the quota provisions of IC 7.1-3-22.

(e) Permits issued under this section may not be transferred to a location outside the city market.

*As added by P.L.15-1994, SEC.8.*

## **IC 7.1-3-21**

### Chapter 21. Restrictions on Issuance of Permits

#### **IC 7.1-3-21-1**

##### **Premises outside corporate limits**

Sec. 1. Premises Outside Corporate Limits. The commission shall not issue a permit in respect to premises situated outside the corporate limits of an incorporated city or town except as otherwise specifically provided in this article.

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

#### **IC 7.1-3-21-2**

##### **Repealed**

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

#### **IC 7.1-3-21-3**

##### **Residency requirements**

Sec. 3. The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of Indiana for five (5) years immediately preceding the date of the application for a permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.8; P.L.72-2004, SEC.12; P.L.165-2006, SEC.28.*

#### **IC 7.1-3-21-4**

##### **Partnership; qualifications of members**

Sec. 4. The commission shall not issue:

- (1) a liquor wholesaler's permit; or
- (2) an alcoholic beverage retailer's or dealer's permit;

of any type to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.51-1994, SEC.10; P.L.105-1995, SEC.5; P.L.165-2006, SEC.29.*

#### **IC 7.1-3-21-5**

##### **Corporations; officer and stockholder qualifications**

Sec. 5. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making

application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.12; P.L.72-2004, SEC.13; P.L.165-2006, SEC.30.*

#### **IC 7.1-3-21-5.2**

##### **Limited partnerships; qualifications of persons having partnership interest**

Sec. 5.2. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

*As added by P.L.51-1994, SEC.11. Amended by P.L.72-1996, SEC.13; P.L.72-2004, SEC.14; P.L.165-2006, SEC.31.*

#### **IC 7.1-3-21-5.4**

##### **Limited liability companies; manager and member qualifications**

Sec. 5.4. (a) The commission shall not issue:

- (1) an alcoholic beverage retailer's or dealer's permit of any type; or
- (2) a liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a liquor wholesaler's permit to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

*As added by P.L.51-1994, SEC.12. Amended by P.L.72-1996, SEC.14; P.L.72-2004, SEC.15; P.L.165-2006, SEC.32.*

#### **IC 7.1-3-21-6**

**Exceptions for retail and dealer partnerships, corporations, limited partnerships, and limited liability companies**

Sec. 6. (a) The provisions of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail and dealer partnerships, corporations, limited partnerships, and limited liability companies shall not apply to the issuance of:

- (1) a dining car permit;
- (2) a boat permit;
- (3) a drug store permit;
- (4) a grocery store permit;
- (5) a hotel permit;
- (6) an airplane permit;
- (7) a gaming site permit;
- (8) a horse track permit;
- (9) a satellite facility permit; or
- (10) a retail permit to an establishment:
  - (A) that is sufficiently served by adequate law enforcement at its permit location; and
  - (B) whose annual gross food sales at the permit location:
    - (i) exceed one hundred thousand dollars (\$100,000); or
    - (ii) in the case of a new application and as proved by the applicant to the local board and the commission, will exceed two hundred thousand dollars (\$200,000) by the end of the two (2) year period from the date of the issuance of the permit.

(b) The commission shall not issue a permit listed in subsection (a) to a foreign:

- (1) corporation;
- (2) limited partnership; or
- (3) limited liability company;

that is not duly qualified to do business in Indiana.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.6; P.L.15-1994, SEC.9; P.L.2-1995, SEC.39; P.L.71-1996, SEC.4; P.L.233-2007, SEC.31.*

**IC 7.1-3-21-7**

**Restaurant corporations; exception**

Sec. 7. Restaurant Corporations: Exception. The provisions of IC 1971, 7.1-3-21-5, shall not apply to the common stock ownership of a corporation holding a restaurant permit and having less than sixty per cent (60%) resident ownership prior to March 14, 1963.

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

**IC 7.1-3-21-8**

**Disclosure of interested parties**

Sec. 8. The commission shall not issue an alcoholic beverage permit of any type to a person unless that person has on file with the commission a verified list containing the name and address of each person who is, or will be, financially or beneficially interested in the permit and the business conducted, or to be conducted, under it. At

all times, a change in the list shall be filed by the applicant or permittee with the commission within ten (10) days of the date when the change became effective. The lists, together with any changes, shall be kept on file in the office of the commission and they shall be open to public inspection.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.38.*

### **IC 7.1-3-21-9**

#### **Public officers**

Sec. 9. The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a person who holds an elective or appointive public office which has the responsibility of enforcing the state laws regulating the sale of alcoholic beverage. The commission may issue an alcoholic beverage wholesaler's permit of any type to a person who holds any other appointive or elective public office.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.104-1989, SEC.1.*

### **IC 7.1-3-21-10**

#### **Location of premises; disclosure**

Sec. 10. (a) An application for a permit for premises situated within a distance of two hundred (200) feet from an elementary or secondary school or church must disclose this fact.

(b) The local board shall state, if required by the commission, in the questionnaire its opinion as to the propriety of granting the particular application.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.52-1994, SEC.6.*

### **IC 7.1-3-21-11**

#### **Premises near wall of school or church**

*Revisor's Note: The version of IC 7.1-3-21-11 appearing in the 2004 Edition of the Indiana Code was printed incorrectly. Use the following version of IC 7.1-3-21-11.*

Sec. 11. (a) As used in this section, "wall" means a wall of a building. The term does not include a boundary wall.

(b) Except as provided in subsection (c), the commission shall not issue a permit for a premises if a wall of the premises is situated within two hundred (200) feet from a wall of a school or church, if no permit has been issued for the premises under the provisions of Acts 1933, Chapter 80.

(c) This section does not apply to premises if:

(1) the premises of a grocery store or drug store if:

(A) a wall of the premises is situated within two hundred (200) feet from a wall of a church or school;

(B) the commission receives the written statement of the authorized representative of the church or school stating expressly that the church or school does not object to the issuance of the permit for the premises; and



(C) the commission determines that the church or school does not object to the issuance of the permit for the premises; or

(2) a church or school that applies for a temporary beer or wine permit.

(d) The commission shall base its determination under subsection (c)(1)(C) solely on the written statement of the authorized representative of the church or school.

(e) If the commission does not receive the written statement of the authorized representative of the church or school, the premises of the grocery store or drug store may not obtain the waiver allowed under this subsection.

(f) If the commission determines that the church or school does not object, this section and IC 7.1-3-21-10 do not apply to the permit premises of the grocery store or drug store on a subsequent renewal or transfer of ownership.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.77-1997, SEC.1; P.L.204-2001, SEC.39.*

#### **IC 7.1-3-21-12**

##### **Wagering occupational tax stamp**

Sec. 12. Wagering Occupational Tax Stamp. The commission shall not issue a permit to sell alcoholic beverages at retail to a person who holds, owns, or possesses a wagering occupational tax stamp issued by the United States internal revenue authorities.

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

#### **IC 7.1-3-21-13**

##### **4-H club exhibits**

Sec. 13. 4-H Club Exhibits. The commission shall not issue a temporary beer permit to a person for the express purpose of selling beer at a place where an organized 4-H club association has an exhibit.

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

#### **IC 7.1-3-21-14**

##### **Indiana state fair commission permit to sell alcoholic beverages on state fair grounds; permitted activities; requirements**

Sec. 14. (a) The commission shall issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds to the Indiana state fair commission.

(b) The holder of a permit under this section is:

(1) entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;

(2) entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;

(3) entitled to receive the permit directly from the commission without local board approval;

- (4) not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) entitled to allow a minor to be present in the places where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.165-2006, SEC.33.*

### **IC 7.1-3-21-15**

#### **Delinquency in payment of taxes**

Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

- (1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 and the innkeeper's tax under IC 6-9 that are due currently;
- (2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 for the assessment periods during which the transferor held the permit; or
- (3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

- (1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 that were delinquent have been paid.
- (2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 and, in a county where the county treasurer collects the innkeeper's tax, the innkeeper's tax under IC 6-9 have been paid for the assessment periods during which the transferor held the permit.
- (3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's delinquent tax liability has been satisfied, including

any delinquency in innkeeper's tax if the state collects the innkeeper's tax for the county in which the person seeks the permit.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission shall allow the applicant to certify, under the penalties for perjury, that the applicant is not delinquent in filing returns or remitting taxes.

*As added by P.L.57-1984, SEC.11. Amended by P.L.23-1986, SEC.15; P.L.6-1987, SEC.15; P.L.332-1989(ss), SEC.40; P.L.64-1990, SEC.5; P.L.106-1995, SEC.15; P.L.224-2005, SEC.17.*

## **IC 7.1-3-22**

### Chapter 22. Quotas on Issuance of Permits

#### **IC 7.1-3-22-1**

##### **Brewers' permits limited**

Sec. 1. (a) This section applies to a brewer that manufactures more than twenty thousand (20,000) barrels of beer in a calendar year.

(b) The commission may issue and have outstanding only one (1) brewer's permit for each unit of population of this state of one hundred and seventy-five thousand (175,000) or major fraction thereof. The commission, however, shall not issue more than four (4) brewer's permits in the same congressional district.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.88-1993, SEC.3.*

#### **IC 7.1-3-22-2**

##### **Beer wholesalers' permits limited**

Sec. 2. Beer Wholesalers' Permits Limited. The commission may issue only one (1) beer wholesaler's permit in each county in this state. The commission may issue additional beer wholesaler's permits on the basis of one (1) additional permit for each thirty-five thousand (35,000) unit of population, or fraction thereof, in a county whose population exceeds thirty-five thousand (35,000). This section shall not affect the right of renewal, or successive renewals, of a permit in a county in which the quota is now exceeded.

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

#### **IC 7.1-3-22-3**

##### **Retailers' permits limited**

Sec. 3. (a) The commission may grant only one (1) three-way permit, one (1) two-way permit, and one (1) one-way permit in an incorporated city or town or in an unincorporated town for each one thousand five hundred (1,500) persons, or fraction thereof, residing within the incorporated city or town or the unincorporated town. The commission shall include liquor retailer permits issued to clubs, but not those issued to fraternal clubs, in its quota computation when it is considering an application for a new liquor retailer's permit.

(b) This subsection applies when a city or town annexes into the city or town unincorporated territory where a retailer's permit has been granted before the annexation. The commission may only reclassify a retailer's permit for a premises in the former unincorporated territory as a permit for a premises in an incorporated city or town if the permittee has actually conducted a business of selling alcoholic beverages to customers for consumption on the licensed premises for two (2) consecutive years. The period of two (2) consecutive years may begin to run either before or after the annexation occurs. However, the following apply when a person applies for a retailer's permit after notice of an annexation hearing is made under IC 36-4-3-2.1 and before the annexation occurs:

- (1) The commission may grant the permit.
- (2) The commission may not reclassify the permit as a permit for a premises in an incorporated city or town.
- (3) The permit may be transferred to another person.
- (4) The permit may not be transferred to another location.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.245-2001, SEC.1.*

#### **IC 7.1-3-22-4**

##### **Dealers' permits limited**

Sec. 4. (a) The commission may grant:

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

(A) one (1) beer dealer's permit for each two thousand (2,000) persons, or a fraction thereof; or

(B) two (2) beer dealer's permits;

whichever is greater, within the incorporated city or town;

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) beer dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or

(B) eight (8) beer dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) beer dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

(B) twenty-three (23) beer dealer's permits;

whichever is greater, within the incorporated city or town.

(b) The commission may grant:

(1) in an incorporated city or town that has a population of less than fifteen thousand one (15,001):

(A) one (1) liquor dealer's permit for each two thousand (2,000) persons, or a fraction thereof; or

(B) two (2) liquor dealer's permit;

whichever is greater, within the incorporated city or town;

(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or

(B) eight (8) liquor dealer's permits;

whichever is greater, within the incorporated city or town; and

(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):

(A) one (1) liquor dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or

(B) twenty-three (23) liquor dealer's permits;

whichever is greater, within the incorporated city or town.

(c) The commission may grant in an area in the county outside an incorporated city or town:

(1) one (1) beer dealer's permit for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2) beer dealer's permits, whichever is greater; and

(2) one (1) liquor dealer's permits for each two thousand five hundred (2,500) persons, or a fraction thereof, or two (2) liquor dealer's permits, whichever is greater;

within the area in a county outside an incorporated city or town.

(d) Notwithstanding subsections (a), (b), and (c), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer that:

(1) held a permit before July 1, 2008; and

(2) does not qualify for a permit under the quota restrictions set forth in subsection (a), (b), or (c).

(e) Notwithstanding subsection (a) or (c), the commission may grant not more than two (2) new beer dealer's permits or five percent (5%) of the total beer dealer permits established under the quota restrictions set forth in subsection (a) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (a).

(2) An area in a county outside an incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (c).

(f) Notwithstanding subsection (b) or (c), the commission may grant not more than two (2) new liquor dealer's permits or five percent (5%) of the total liquor dealer permits established under the quota restrictions set forth in subsection (b) or (c), whichever is greater, for each of the following:

(1) An incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (b).

(2) An area in a county outside an incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (c).

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.94-2008, SEC.46.*

### **IC 7.1-3-22-5**

#### **Package liquor store dealer's permit; renewal**

Sec. 5. (a) The commission may issue only one (1) package liquor store dealer's permit in an incorporated city or town for each eight thousand (8,000) persons, or fraction thereof, within the incorporated city or town.

(b) Notwithstanding subsection (a), the commission may renew a package liquor store dealer's permit for an applicant who:

(1) held a permit before July 1, 1997; and

(2) does not qualify for a permit under the quota requirements

of subsection (a).  
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.74-1997,  
SEC.2.

#### **IC 7.1-3-22-6**

##### **Hotels excluded from quota**

Sec. 6. Hotels Excluded from Quota. A three-way permit, heretofore or hereafter, issued to a permittee whose licensed premises consist of a hotel and which premises are located within an incorporated city or town, shall not be included in the quota of three-way permits that may be issued lawfully to premises located within one (1) incorporated city, town, or unincorporated town.

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

#### **IC 7.1-3-22-7**

##### **Existing permits unaffected**

Sec. 7. Existing Permits Unaffected. The provisions of IC 1971, 7.1-3-22-3–7.1-3-22-5, shall apply only to applications for new permits and they shall not affect existing permits and transfers of them, whether from person to person or location to location, nor shall they effect any of the limitations, rights and privileges reserved to package liquor store dealers, or special types or kinds of retailer's permits, nor the restrictions on the issuance of permits to premises situated outside an incorporated city or town.

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

#### **IC 7.1-3-22-8**

##### **Quota determination; restrictions; permissible geographic location**

Sec. 8. In making quota determinations under this article, the population of a consolidated city is the population of its fire special service district, except to the extent that the case of Indiana Alcoholic Beverage Commission v. Baker (1972), 153 Ind.App. 118, 286 N.E.2d 174, has determined otherwise. However, the number of liquor dealer's permits issued to proprietors of package liquor stores located in the fire special service district may not exceed the number issued as of January 1, 1977. For purposes of this article relating to the permissible geographic location of package liquor store dealer permit holders, the area of a consolidated city is the area of the entire county.

As added by Acts 1980, P.L.8, SEC.66.

#### **IC 7.1-3-22-9**

##### **Bidding for permits; fees; rules**

Sec. 9. (a) This section applies to any permit that is subject to the quota provisions of this chapter unless that permit is obtained by sale, assignment, or transfer under IC 7.1-3-24.

(b) Whenever a permit to which this chapter applies becomes available, the commission shall offer an opportunity to bid for that permit to all persons who are qualified to receive that permit and who have indicated a desire to obtain that permit. The commission

shall receive bids at an auction that it conducts. The highest bidder at the commission's auction who is qualified to receive the permit in all respects (including a determination by the local board that the person is of good moral character and good repute in the community in which that person resides) is entitled to receive the permit. This bidder shall pay the amount of the bid at the time the permit is issued as a special fee for initial issuance of the permit.

(c) The special fee for initial issuance of a permit that is prescribed by this section is in addition to any other fees imposed by this title.

(d) All fee revenues collected under this section are subject to IC 7.1-4-7-4.

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

*As added by P.L.32-1988, SEC.2.*

### **IC 7.1-3-22-10**

#### **City or town purchasing permit issued in excess of quota; return and retirement of permit**

Sec. 10. (a) This section applies to a permit subject to a quota under this article that:

(1) exceeds the permissible number of permits under the quota; and

(2) is eligible for renewal by law despite the permit exceeding the quota.

(b) A city or town may purchase a permit described in subsection (a) from the permit holder. The purchase price must be agreed to by:

(1) the permit holder; and

(2) the executive (as defined in IC 36-1-2-5) of the respective city or town, with the approval of the legislative body (as defined in IC 36-1-2-9) of the respective city or town.

(c) The executive of a city or town that purchases a permit under subsection (b) shall return the permit to the commission.

(d) The commission shall retire a permit received under subsection (c) and may not issue to another person a permit received under subsection (c).

*As added by P.L.66-1998, SEC.1.*



## **IC 7.1-3-23**

### Chapter 23. Denial, Suspension, and Revocation of Permits

#### **IC 7.1-3-23-1**

##### **No right to compel issuance**

Sec. 1. No Right to Compel Issuance. An applicant for a permit of any type authorized by this title shall have no right to compel the issuance of a permit to him unless otherwise provided in this title.

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

#### **IC 7.1-3-23-2**

##### **Fine, suspension, and revocation**

Sec. 2. (a) The commission may:

- (1) fine or suspend or revoke the permit of; or
- (2) fine and suspend or revoke the permit of;

a permittee for the violation of a provision of this title or of a rule or regulation of the commission. The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature.

(b) The commission shall revoke the permit of a permittee for the violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 must be supported by a preponderance of the evidence. *(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.227-2007, SEC.62; P.L.3-2008, SEC.69.*

#### **IC 7.1-3-23-3**

##### **Maximum penalties**

Sec. 3. The commission, pursuant to section 2 of this chapter, may impose upon a permittee the following civil penalties:

- (1) An amount of not more than four thousand dollars (\$4,000) for each violation if the permittee is a brewer or distiller.
- (2) An amount of not more than two thousand dollars (\$2,000) for each violation if the permittee is a wholesaler of any type.
- (3) An amount of not more than one thousand dollars (\$1,000) for each violation if the permittee is the holder of a permit of a type not listed in subdivision (1) or (2).

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.32-1988, SEC.3.*

#### **IC 7.1-3-23-4**

##### **Additional fine**

Sec. 4. Additional Fine. The commission, if a fine imposed pursuant to IC 1971, 7.1-3-23-2, is not paid according to the order of commission, may suspend or add to the period of suspension of a permit in the following increments:

(a) A period of one (1) day for each one hundred dollars (\$100) remaining unpaid if the permittee is a brewer or distiller;

(b) A period of one (1) day for each fifty dollars (\$50) remaining unpaid if the permittee is a wholesaler of any type; and,

(c) A period of one (1) day for each twenty-five dollars (\$25) remaining unpaid if the permittee is the holder of a permit of a type not listed in (a) or (b) of this section.  
*(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-3-23-5**

##### **Revocation of permits**

Sec. 5. The commission shall revoke a permit of any type only on account of the violation of, or refusal to comply with, a provision of this title or of a rule or regulation of the commission, or on account of a violation of IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4 must be supported by a preponderance of the evidence.  
*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.227-2007, SEC.63.*

#### **IC 7.1-3-23-6**

##### **Revocation of permits; procedure**

Sec. 6. Revocation of Permits: Procedure. The commission shall give at least ten (10) days notice to the holder of the permit proposed to be revoked. The notice shall inform the holder of the time and place of the hearing to be held in regard to the proposed revocation. Unless otherwise provided in this title, all further procedures with reference to the revocation of a permit shall be prescribed by rule and regulation of the commission.  
*(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-3-23-7**

##### **Suspension; general rule**

Sec. 7. (a) Except as provided in subsection (b), the commission, after notice and hearing, and for cause other than that expressly provided in this title, may suspend a permit to manufacture, transport or sell alcoholic beverages for not longer than thirty (30) days for the violation of a provision of this title, or for the failure or the refusal to comply with a rule or regulation of the commission.

(b) This subsection applies to an individual charged with a Class B misdemeanor for violating IC 7.1-5-10-15(a). Upon receiving notice of charges filed under IC 7.1-5-10-15(a), the commission:

- (1) shall hold a hearing under section 6 of this chapter; and
- (2) may suspend the permit of the individual charged with the violation until disposition of the charges.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.125-2000, SEC.3.*

#### **IC 7.1-3-23-8**

##### **Procedure applicable**

Sec. 8. A proceeding before the commission which could result in the revocation or suspension in excess of three (3) days of the permit of a permittee authorized to sell alcoholic beverages at retail shall be conducted in the manner prescribed in section 6 of this chapter.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.100-1983, SEC.2; P.L.7-1987, SEC.8.*

### **IC 7.1-3-23-9**

#### **Judicial review**

Sec. 9. Whenever the permit of a permittee authorized to sell alcoholic beverages at retail is revoked or suspended in excess of three (3) days by action of the commission, the aggrieved permittee may seek judicial review of the action by following IC 4-21.5-5, except that the action for judicial review shall be filed in the circuit or superior court having jurisdiction in the county in which the licensed premises are located.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.100-1983, SEC.3; P.L.7-1987, SEC.9.*

### **IC 7.1-3-23-10**

#### **Repealed**

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

### **IC 7.1-3-23-11**

#### **Nonrenewal; judicial review available**

Sec. 11. Whenever an application for the renewal of a permit to sell alcoholic beverages at retail, except a temporary beer or wine permit, is denied by the commission, the applicant may seek judicial review of that action by following IC 4-21.5-5, except that the action for judicial review shall be filed in the circuit or superior court having jurisdiction in the county in which the licensed premises are located. However, this section shall not apply to a denial of a transfer of a permit to either another holder or location, or both.

*(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.59, SEC.6.) As amended by P.L.7-1987, SEC.10.*

### **IC 7.1-3-23-12**

#### **Cessation of qualifications**

Sec. 12. Cessation of Qualifications. The commission may revoke the permit of a permittee if he at any time ceases to possess any of the qualifications, including the alteration or cessation of the particular business or type of business then engaged in, which qualifies him to hold that permit, required for the issuance of that particular type of permit under this title.

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

### **IC 7.1-3-23-13**

#### **Location of premises**

Sec. 13. Location of Premises. The commission may void a permit issued upon an application not fully disclosing the true facts in respect to the location of the premises for which the permit applied for is to be applicable.

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

**IC 7.1-3-23-14****Revocation for refusal to allow examination**

Sec. 14. Revocation for Refusal to Allow Examination. The commission shall revoke the permit of a person, or refuse to issue a permit to a person, who refuses to permit the lawful examination of his books, papers, and records, or the investigation and examination of his premises by the commission.

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

**IC 7.1-3-23-15****Repealed**

*(Repealed by P.L.250-2003, SEC.18.)*

**IC 7.1-3-23-16****Revocation upon conviction**

Sec. 16. The commission may revoke a wholesaler's, retailer's, or dealer's permit of any type after final judgment of conviction for an offense defined in this title. The commission may revoke the permit of a wholesaler, retailer, or dealer upon a second violation of a provision of this title whether a judgment of conviction ensues or not.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.250-2003, SEC.12.*

**IC 7.1-3-23-17****Revocation for possession of wagering stamps**

Sec. 17. Revocation for Possession of Wagering Stamp. The commission shall revoke the permit of a retail permittee who purchases, holds, or has in his possession a wagering occupational tax stamp issued by the United States internal revenue authorities.

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

**IC 7.1-3-23-18****Revocation for illegal influence**

Sec. 18. Revocation for Illegal Influence. The commission shall deny the application, or revoke the permit, of an applicant or permittee who violates the provisions of IC 1971, 7.1-5-5-1.

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

**IC 7.1-3-23-19****Revocation for allowing minor on premises**

Sec. 19. Revocation for Allowing Minor on Premises. The commission shall revoke the permit of a person who violates a provision of IC 1971, 7.1-5-7-14, and that person shall be ineligible to obtain another permit thereafter.

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

**IC 7.1-3-23-20****Revocation for false information of interested parties**

Sec. 20. The commission shall deny the application, or revoke the

permit, of a person who:

(1) includes on the list of interested parties required to be filed by IC 7.1-3-21-8, a:

(A) fictitious name; or

(B) a person disqualified under this title from having an interest in an alcoholic beverage permit; or

(2) omits from the list the name of a person whose name should be on it.

The commission shall take the same action if the applicant or permittee fails to keep the list current as required by that section.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.40.*

### **IC 7.1-3-23-21**

#### **Revocation upon petition**

Sec. 21. Revocation upon Petition. The commission shall revoke the permit of a retail permittee upon the petition of sixty-six per cent (66%) of the registered voters of a township or precinct stating that the permittee within that township or precinct has been convicted, either before a court or the commission, of a violation of a provision of this title. However, this section shall not apply to the permit of a bona fide fraternal club.

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

### **IC 7.1-3-23-22**

#### **Contents of petition**

Sec. 22. Contents of Petition. The petition authorized by IC 1971, 7.1-3-23-21, shall be addressed to the commission and shall specify the name and business address of the permittee against whom the petition is directed. The petition shall bear on each page the name and address of the circulator of the petition, who shall be a registered voter in the particular township or precinct, together with the notarized attestation of the circulator that the signatures obtained on the petition were obtained only after a full and clear explanation of the purpose of the petition. The petition also shall bear the certification of the clerk of the circuit court of the county in which the township or precinct is located attesting that the signatures on the petition are those of duly registered voters of the particular township or precinct together with a statement by the clerk as to the total vote cast in that township or precinct for the office of secretary of state in the last preceding general election for that office.

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

### **IC 7.1-3-23-23**

#### **Revocation for prohibited interest; beer**

Sec. 23. (a) This section applies to a brewer that manufactures more than twenty thousand (20,000) barrels of beer in a calendar year.

(b) The commission shall revoke the permit of a brewer or beer wholesaler who holds an interest in another permit in violation of

IC 7.1-5-9-3.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.88-1993, SEC.4.*

#### **IC 7.1-3-23-24**

##### **Revocation for prohibited interest; liquor**

Sec. 24. Revocation for Prohibited Interest. The commission shall revoke the permit of a distiller, rectifier, or liquor wholesaler who holds an interest in another permit in violation of IC 1971, 7.1-5-9-6. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-3-23-25**

##### **Revocation for violation of agreement**

Sec. 25. Revocation for Violation of Agreement. The commission, after notice and hearing, may suspend for no more than thirty (30) days, or revoke, an agreement and bond filed pursuant to IC 1971, 7.1-3-2-4, and 7.1-3-2-5, if the principal violates his agreement with the commission. The commission also may take action on the bond if it revokes the agreement. A principal whose agreement and bond is suspended or revoked by the commission may seek judicial review of that action as provided in this chapter. *(Formerly: Acts 1973, P.L.55, SEC.1.)*

#### **IC 7.1-3-23-26**

##### **Repealed**

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

#### **IC 7.1-3-23-26.1**

##### **Violations related to minors and alcohol server training; revocation or suspension of permit; fines; written findings and conclusions**

Sec. 26.1. (a) A retailer permittee or dealer permittee who violates IC 7.1-3-1.5-13, IC 7.1-5-7-4, or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have the permittee's permit suspended, or be fined and have the permittee's permit suspended, as determined by the commission; however, if the penalty imposed by the commission exceeds a fine and three (3) day suspension, the commission must issue written findings of fact and conclusions which show the necessity of the penalty. If the retailer or dealer permittee commits a subsequent violation of the provisions listed in this subsection within twelve (12) months of the first violation, the commission may fine the permittee, fine the permittee and suspend the permittee's permit, or revoke the permittee's permit; however, if the penalty exceeds a fine and suspension of more than fifteen (15) days, the commission must issue written findings of fact and conclusions which show the necessity of the penalty.

(b) The holder of an employee permit who violates IC 7.1-5-7-4 or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have the permittee's permit suspended, be both fined and have the permittee's permit suspended, or have the permittee's permit revoked, as

determined by the commission.

*As added by P.L.100-1983, SEC.4. Amended by P.L.161-2005, SEC.2.*

#### **IC 7.1-3-23-27**

##### **Revocation for violation of order**

Sec. 27. Revocation for Violation of Order. The commission may revoke the permit of a permittee for the violation of an order entered by it pursuant to IC 1971, 7.1-2-7. A revocation under this section may be made after not less than ten (10) days' notice to the permittee. The notice shall inform the permittee of the time and place of the hearing to be held in regard to the proposed revocation. The further procedure in regard to a revocation under this section shall be prescribed in the rules and regulations of the commission.

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

#### **IC 7.1-3-23-28**

##### **Revocation for violation of injunction**

Sec. 28. Revocation Re Violation of Injunction. The commission may suspend or revoke the permit of a permittee if the court finds that the permittee has violated any of the provisions of an injunction issued by it under the provisions of IC 1971, 7.1-3-3-17.

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

#### **IC 7.1-3-23-29**

##### **Revocation for taxes and bonds**

Sec. 29. Revocation Re Taxes and Bonds. The commission may revoke the permit of a manufacturer or wholesaler of alcoholic beverages for the failure to pay the taxes when required to do so by this title, or for the failure to keep in force the bond required of the applicant for his particular permit. The action of the commission in these matters shall be final.

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

#### **IC 7.1-3-23-30**

##### **Denial of wholesalers' permit**

Sec. 30. Denial of Wholesalers' Permit. The commission shall not deny, fail to renew, or revoke a wholesaler's permit of any type on arbitrary, capricious, or political grounds.

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

#### **IC 7.1-3-23-31**

##### **Appeal by applicant for wholesalers' permit**

Sec. 31. An applicant aggrieved by the action of the commission in denying, failing to renew, or revoking, a wholesaler's permit of any type, contrary to the provisions of IC 7.1-3-23-30, shall have the right to secure a review of that determination by petition to the superior court of Marion County under the same conditions and in the same manner and mode of procedure as provided in this chapter for other appeals. The court shall, from the evidence presented,

determine if the applicant has been denied a permit or renewal, or has had his permit revoked, on arbitrary, capricious, or political grounds and if the court determines that the permit or renewal was improperly denied or revoked, the court shall issue a writ of mandate ordering the commission to issue, renew, or reinstate the permit. However, either party shall have the right of appeal from the judgment of the superior court of Marion County as an appeal is taken in a civil action.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.141-2007, SEC.1.*

#### **IC 7.1-3-23-32**

##### **Notice to permittee in certain cases**

Sec. 32. Notice to Permittee in Certain Cases. The commission shall give notice of its proposed action to the applicant or permittee if the commission determines not to issue or renew a manufacturer's or wholesaler's permit, or if the commission determines to take action to revoke or suspend a manufacturer's or wholesaler's permit after it has been issued.

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

#### **IC 7.1-3-23-33**

##### **Right to a public hearing**

Sec. 33. Right to a Public Hearing. A person who receives a notice given pursuant to IC 1971, 7.1-3-23-32, shall have the right to a public hearing at the time and place fixed in the notice and he shall be permitted to be heard and offer evidence. The evidence may be written, in the form of affidavits, or parol. Unless the commission provides a reporter to take and transcribe the parol evidence, the notice shall inform the person that no reporter will be provided but that he has the right to have a reporter present at his own expense. The evidence, transcribed and verified by the reporter, or the written evidence offered and accepted by the commission, or both, shall be filed and become a part of the record of the proceedings.

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

#### **IC 7.1-3-23-34**

##### **Final action of commission**

Sec. 34. Final Action of Commission. The commission shall take final action within ten (10) days after the hearing and enter an appropriate order in the matter and shall notify the applicant, or permittee, of its action by registered mail.

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

#### **IC 7.1-3-23-35**

##### **Court review available**

Sec. 35. Court Review Available. The applicant, or permittee, within ten (10) days of the receipt of the commission's notice of final action, may appeal to the circuit or superior court of Marion County, from the final order of the commission denying, suspending, or



revoking his manufacturer's or wholesaler's permit of any type. However, an applicant for the original issue or renewal of a wholesaler's permit shall have the right to appeal to the superior court of Marion County but not to the circuit court of Marion County.

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

#### **IC 7.1-3-23-36**

##### **Initiation of appeal**

Sec. 36. Initiation of Appeal. The appeal shall be taken by the applicant, or permittee, by filing written notice of his intention to appeal from the final order of the commission to the appropriate court, and by filing a bond with the commission in the penal sum of one thousand dollars (\$1,000), conditioned that he will prosecute his appeal to effect, and will pay the costs of the proceedings upon appeal, and that he will pay all necessary expenses incurred by the commission as a result of the appeal if the order of the commission is affirmed.

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

#### **IC 7.1-3-23-37**

##### **Appeal bond**

Sec. 37. Appeal Bond. The appeal bond filed with the commission by an applicant, or permittee, shall be a corporate bond secured by a surety company duly authorized to do business in Indiana, or by freehold sureties, shown by verification or otherwise, to be worth in unencumbered real estate located within the county of the applicant, or permittee, appealing, over and above all indebtedness, twice the amount of the bond.

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

#### **IC 7.1-3-23-38**

##### **Transmission of record**

Sec. 38. Transmission of Record. The commission, within ten (10) days after the filing of the notice of appeal and the appeal bond with the commission, shall transmit the papers, files, written evidence and the transcript of the hearing, to the clerk of the court to which the appeal is taken. The entire contents of the record transmitted by the commission shall be duly verified by certificate of the commission.

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

#### **IC 7.1-3-23-39**

##### **Stay of suspension or revocation; general rule**

Sec. 39. Stay of Suspension or Revocation: General Rule. The final order of revocation or suspension entered by the commission shall be stayed for ten (10) days from the date of the final order whenever a manufacturer's or wholesaler's permit of any type is revoked or suspended for more than fifteen (15) days by order of the commission.

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

### **IC 7.1-3-23-40**

#### **Stay pending appeal**

Sec. 40. Stay Pending Appeal. The final order of suspension or revocation shall be stayed, when the proper procedures for taking an appeal have been complied with, until the appeal has been disposed of finally, or until the appeal has been dismissed for lack of prosecution.

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

### **IC 7.1-3-23-41**

#### **Trial**

Sec. 41. Trial. The action shall be entered upon the civil docket of the court to which the appeal is taken naming the appellant applicant, or permittee, as plaintiff, and the commission as defendant. No formal pleadings shall be required and the case shall be set for hearing by the court, without a jury, as soon as possible. The cause may be determined upon hearing upon the evidence offered before the commission and as certified by the commission, or additional evidence may be offered by either party. The court shall enter an order, after the hearing, sustaining or setting aside the final order of the commission. If the court sets aside an order of the commission denying a permit, the court, in its order, shall direct the issuance of the permit.

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

### **IC 7.1-3-23-42**

#### **Continued operations during stay**

Sec. 42. Continued Operations During Stay. A permittee during the period that the order of suspension or revocation is stayed under IC 1971, 7.1-3-23-39, or 7.1-3-23-40, shall be fully authorized and entitled to continue to do business under his permit as though his permit had not been suspended or revoked and without being liable in any manner, criminally or civilly, on the ground of operating his business without a proper permit.

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

### **IC 7.1-3-23-43**

#### **Suspension of permit for failure to pay seller of permit**

Sec. 43. (a) The commission may suspend the permit of a permit holder if:

- (1) the permit holder has not paid the person who sold the permit to the permit holder in accordance with the terms of the sale;
- (2) the seller of the permit receives a judgment against the permit holder in an action to obtain payment for the permit in accordance with the terms of the sale; and
- (3) the seller of the permit sends a certified copy of the judgment to the commission.

(b) Before suspending a certificate under this section, the commission shall provide written notice to the permit holder and

conduct a hearing. The commission shall provide written notice of the suspension to the permit holder.

(c) If a person who sells a permit:

(1) sends a judgment to the commission under subsection (a);  
and

(2) subsequently receives full payment of the judgment;  
the seller shall notify the commission in a manner prescribed by the commission that the seller has received full payment of the judgment not later than ten (10) days after receiving the payment.

*As added by P.L.224-2005, SEC.18.*

## **IC 7.1-3-24**

### **Chapter 24. Transfer of Permits; Deceased or Bankrupt Permittees**

#### **IC 7.1-3-24-1**

##### **General rule**

Sec. 1. General Rule. The holder of a permit of any type may not sell, assign or transfer that permit to another person except as expressly authorized by this title. The holder of a permit of any type may not transfer that permit from one (1) location to another unless authorized in special instances to be fixed by rule or regulation of the commission.

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

#### **IC 7.1-3-24-2**

##### **Ordinary transfers authorized**

Sec. 2. Ordinary Transfers Authorized. The transfer of a permit from one (1) holder to another holder, or from one (1) location to another location, may be made if the permit has at least three (3) months of unexpired term remaining.

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

#### **IC 7.1-3-24-3**

##### **Ordinary transfers; restrictions**

Sec. 3. A transfer authorized by section 2 of this chapter is subject to the following restrictions:

(1) It shall be made upon the terms and under the rules and regulations that the commission may prescribe.

(2) The application for the transfer shall conform in respect to notice and publication and investigation before the local board as in the case of an original application for a permit.

(3) It shall be subject to the advance payment of the advance cost fee under IC 7.1-4-4.1-6.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.41.*

#### **IC 7.1-3-24-4**

##### **Posting of bond**

Sec. 4. Posting of Bond. The chairman shall require bond to be furnished in the case of the sale, assignment, or transfer of a permit if bond is required to be furnished in the case of an original application for that particular type of permit.

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

#### **IC 7.1-3-24-5**

##### **Deceased permittee**

Sec. 5. Deceased Permittee. A duly appointed and qualified administrator or executor of the estate of a deceased permittee, may, with the approval of the court, continue the business conducted by the deceased permittee under the permit held by him if the administrator or executor, either himself or by an agent, also to be

approved by the court, applies for and obtains the written consent of the chairman.

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

#### **IC 7.1-3-24-6**

##### **Qualifications of successors**

Sec. 6. Qualifications of Successors. The administrator or executor, or agent, must have the same qualifications to hold the permit of the deceased permittee that this title otherwise requires of an applicant for that particular type of permit. That the administrator, executor, or agent has these qualifications shall be established by a finding of the court having jurisdiction and a copy of these findings shall accompany the application for the written consent of the chairman.

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

#### **IC 7.1-3-24-7**

##### **Surviving spouse or heir**

Sec. 7. Surviving Spouse or Heir. The surviving spouse or heir of a deceased permittee may be permitted to continue the business conducted by the deceased permittee, without probate proceedings, if the consent of the department of local government finance is procured, and if the court having probate jurisdiction shall find that the surviving spouse or heir of the deceased permittee possesses the qualifications required of an applicant for that particular type of permit. A surviving spouse or heir who desires to carry on the business of the deceased permittee, as authorized by this section, must apply for and receive the written consent of the chairman. A copy of the court's findings on the qualifications of the applicant must accompany the application for written consent.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.90-2002, SEC.308.*

#### **IC 7.1-3-24-8**

##### **Bankrupt permittee**

Sec. 8. Bankrupt Permittee. A receiver or trustee in bankruptcy of the business or property of a permittee, acting under the jurisdiction of a court of record of this state, or a United States court, may continue the business conducted by the permittee, with the approval of the court having jurisdiction, by applying for and receiving the written consent of the chairman and if he is otherwise duly qualified to hold the permit as if he were himself applying for it. The qualifications of the applicant may be established by a finding of the court having jurisdiction. A copy of the court's findings on the qualifications shall accompany the application for written consent.

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

#### **IC 7.1-3-24-9**

##### **No local board proceedings in certain cases**

Sec. 9. No Local Board Proceedings in Certain Cases. A

proceeding before the local board, an advertisement, or a hearing shall not be necessary in a transfer authorized by IC 1971, 7.1-3-24-5, 7.1-3-24-7, or 7.1-3-24-8.

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

#### **IC 7.1-3-24-10**

##### **Reissuance of permits**

Sec. 10. Reissuance of Permits. A permit held by a deceased or bankrupt permittee may be reissued as other permits are authorized in this title to be reissued if the permit is not transferred by sale or otherwise with the consent of the chairman before its expiration. The reissuance shall be made only upon the approval of the court having jurisdiction of the trust of the applicant if the reissuance is to be made to an administrator, executor, or his agent, or a receiver or trustee in bankruptcy. A sale or assignment of the permit shall first be approved by the court, and only to a person qualified to hold it under this title. Before the transfer shall legally entitle the purchaser or assignee to operate under it, the applicant must show the chairman that he is duly competent and qualified, the same as though he were the original applicant for it. If the applicant is duly competent and qualified the chairman may approve the sale or transfer and the commission may issue a permit to the purchaser or assignee. The commission shall not reissue a permit to any premises other than those to which the permit was applicable when held by the decedent or bankrupt.

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

#### **IC 7.1-3-24-11**

##### **Surrender of permits**

Sec. 11. The administrator or executor of the estate of a deceased permittee may surrender the permit to the commission and it shall be canceled. No part of the fee for the permit shall be refunded.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.42.*

#### **IC 7.1-3-24-12**

##### **Permittee of mentally incompetent**

Sec. 12. The provisions of this chapter relating to the sale or transfer of a permit belonging to a deceased permittee apply in the case of the appointment of a guardian for a mentally incompetent person. A permit belonging to a mentally incompetent person may be disposed of and transferred in the same manner and to the same extent as that provided in the case of a deceased permittee.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.33-1989, SEC.6.*

## **IC 7.1-3-25**

### Chapter 25. Product Transfer Between Wholesalers

#### **IC 7.1-3-25-1**

##### **"Existing wholesaler"**

Sec. 1. As used in this chapter, "existing wholesaler" means a beer wholesaler who distributes a product at the time a successor primary source of supply acquires rights to a product under section 5 of this chapter.

*As added by P.L.224-2005, SEC.19.*

#### **IC 7.1-3-25-2**

##### **"Product"**

Sec. 2. As used in this chapter, "product" means an existing brand of:

- (1) beer (as defined in IC 7.1-1-3-6); or
- (2) flavored malt beverage (as defined in IC 7.1-1-3-16.7).

*As added by P.L.224-2005, SEC.19.*

#### **IC 7.1-3-25-3**

##### **"Successor"**

Sec. 3. As used in this chapter, "successor" means a primary source of supply that acquires rights to a product under section 5 of this chapter.

*As added by P.L.224-2005, SEC.19.*

#### **IC 7.1-3-25-4**

##### **"Successor's designee"**

Sec. 4. As used in this chapter, "successor's designee" means one (1) or more beer wholesalers designated by a successor to replace the existing wholesaler, for all or part of the existing wholesaler's territory, in the distribution of the existing product.

*As added by P.L.224-2005, SEC.19.*

#### **IC 7.1-3-25-4.5**

##### **Transfer of products meeting sales percentage threshold prohibited**

Sec. 4.5. (a) Except as provided in subsection (b), a successor, upon acquiring products, shall:

- (1) reappoint the existing wholesaler for:
  - (A) all acquired products; and
  - (B) the territories covered by the existing wholesaler for the products; or
- (2) comply with this chapter to transfer the products to another wholesaler.

(b) If the products acquired by a successor represent at least fifteen percent (15%) of an existing wholesaler's dollar sales in the twelve (12) months preceding the closing of the transaction in which the successor acquires the products, the successor:

- (1) shall reappoint the existing wholesaler for:

- (A) all acquired products; and
  - (B) the territories covered by the existing wholesaler for the products; and
  - (2) may not transfer the product to another wholesaler.
- As added by P.L.11-2009, SEC.1.*

#### **IC 7.1-3-25-5**

##### **Successor requirements**

Sec. 5. A successor:

- (1) who acquires the rights to manufacture or distribute an existing product; and
- (2) who:
  - (A) does not reappoint the existing wholesaler to distribute the product;
  - (B) reduces the existing wholesaler's territory for the product; or
  - (C) offers to compensate the existing wholesaler in an amount less than the fair market value determined under section 7 of this chapter;

must comply with this chapter. A successor's designee must also comply with this chapter.

*As added by P.L.224-2005, SEC.19.*

#### **IC 7.1-3-25-6**

##### **Notice to wholesaler of change in territory**

Sec. 6. The successor shall notify the existing wholesaler of the successor's intent not to appoint the existing wholesaler for all or a part of the existing wholesaler's territory for the product not later than sixty (60) days after the closing of the transaction in which the successor acquires the product. The successor shall mail the notice by certified mail, return receipt requested, to the existing wholesaler. The successor shall include in the notice the names, addresses, and telephone numbers of the successor's designees.

*As added by P.L.224-2005, SEC.19. Amended by P.L.11-2009, SEC.2.*

#### **IC 7.1-3-25-7**

##### **Determination of fair market value of wholesaler's distribution rights**

Sec. 7. A successor's designee shall negotiate with the existing wholesaler to determine the fair market value of the existing wholesaler's right:

- (1) to distribute the product in the existing wholesaler's territory immediately before the successor acquired rights to the product under section 5 of this chapter; and
- (2) as determined in an arms length transaction entered into without duress or threat of termination of the initial wholesaler's right described in subdivision (1).

*As added by P.L.224-2005, SEC.19.*



### **IC 7.1-3-25-8**

#### **Territory continues until compensation received**

Sec. 8. The existing wholesaler shall continue to distribute the product until payment of the compensation agreed to under section 7 of this chapter or awarded under section 11 of this chapter is received.

*As added by P.L.224-2005, SEC.19.*

### **IC 7.1-3-25-9**

#### **Arbitration**

Sec. 9. (a) The successor's designee and the existing wholesaler shall negotiate in good faith. If the parties fail to reach an agreement not later than thirty (30) days after the existing wholesaler receives the notice under section 6 of this chapter, the successor's designee or the existing wholesaler may send a written notice to the:

- (1) other party; and
- (2) American Arbitration Association or its successor in interest;

declaring the party's intention to proceed with final and binding arbitration administered by the American Arbitration Association under the American Arbitration Association's Commercial Arbitration Rules.

(b) Notice of intent to arbitrate shall be sent, as provided in subsection (a), not later than thirty-five (35) days after the existing wholesaler receives notice under section 6 of this chapter. The arbitration proceedings shall conclude not later than forty-five (45) days after the date the notice of intent to arbitrate is mailed to a party.

*As added by P.L.224-2005, SEC.19.*

### **IC 7.1-3-25-10**

#### **Location of arbitration proceedings; general provisions**

Sec. 10. (a) The arbitration shall be conducted in the city within Indiana that:

- (1) is closest to the existing wholesaler; and
- (2) has a population of more than fifty thousand (50,000).

(b) The arbitration shall be conducted before one (1) impartial arbitrator to be selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.

*As added by P.L.224-2005, SEC.19.*

### **IC 7.1-3-25-11**

#### **Monetary award only**

Sec. 11. The arbitrator's award must be monetary only and may not enjoin or compel conduct. The arbitration is instead of all other remedies and procedures.

*As added by P.L.224-2005, SEC.19.*

### **IC 7.1-3-25-12**

**Arbitration costs; decision of arbitrator binding**

Sec. 12. (a) The cost of the arbitrator and any other direct costs of the arbitration shall be equally divided by the parties engaged in the arbitration. All other costs shall be paid by the party incurring them.

(b) The arbitrator shall render a decision not later than thirty (30) days after the conclusion of the arbitration unless this time period is extended by mutual agreement of the parties or by the arbitrator. The decision of the arbitration is final and binding on the parties. Under no circumstances may the parties appeal the decision of the arbitrator.

(c) A party who fails to participate in the arbitration hearings waives all rights the party would have had in the arbitration and is considered to have consented to the determination of the arbitrator.  
*As added by P.L.224-2005, SEC.19.*

**IC 7.1-3-25-13**

**Failure to receive compensation**

Sec. 13. If the existing wholesaler does not receive payment of the compensation under section 7 or 11 of this chapter not later than thirty (30) days after the date of the settlement or arbitration award:

- (1) the existing wholesaler shall remain the distributor of the product in the existing wholesaler's territory to at least the same extent that the existing wholesaler distributed the product immediately before the successor acquired rights to the product; and
- (2) the existing wholesaler is not entitled to the settlement or arbitration award.

*As added by P.L.224-2005, SEC.19.*

**IC 7.1-3-25-14**

**Good faith settlements not prohibited**

Sec. 14. Nothing in this chapter shall be construed to limit or prohibit good faith settlements voluntarily entered into by the parties.  
*As added by P.L.224-2005, SEC.19.*

**IC 7.1-3-25-15**

**Not applicable to wholesaler's breach of distribution agreement**

Sec. 15. Nothing in this chapter shall be construed to give the existing wholesaler or a successor wholesaler any right to compensation if the existing wholesaler or successor wholesaler is terminated by the primary source of supply or predecessor source supplier either for failure to comply with any provision in the agreement to distribute the product or in accordance with IC 7.1-5-5-9.

*As added by P.L.224-2005, SEC.19.*

## **IC 7.1-3-26**

### **Chapter 26. Direct Wine Seller's Permit**

#### **IC 7.1-3-26-1**

##### **Applicability**

Sec. 1. This chapter does not apply to the serving or selling of:

- (1) wine in accordance with IC 7.1-3-12; or
- (2) brandy in accordance with IC 7.1-3-7.5.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-2**

##### **"Applicant"**

Sec. 2. As used in this chapter, "applicant" means a person that applies to the commission for a direct wine seller's permit.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-3**

##### **"Consumer"**

Sec. 3. As used in this chapter, "consumer" means an individual with an Indiana address who purchases wine from a seller.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-4**

##### **"Seller"**

Sec. 4. As used in this chapter, "seller" means the holder of a direct wine seller's permit issued under this chapter.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-5**

##### **Direct wine seller permit required for direct sales to consumers**

Sec. 5. A person located within Indiana or outside Indiana that wants to sell and ship wine directly to a consumer must be the holder of a direct wine seller's permit and comply with this chapter.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-6**

##### **Consumer qualifications**

Sec. 6. A seller may sell and ship wine directly only to a consumer who meets all of the following requirements:

- (1) The consumer is at least twenty-one (21) years of age.
- (2) The consumer has an Indiana address.
- (3) The consumer intends to use wine purchased under this chapter for personal use only and not for resale or other commercial purposes.
- (4) Except as provided in subdivision (5), the consumer has provided to the seller in one (1) initial face-to-face transaction at the seller's place of business appearing on the seller's application for a direct wine seller's permit or any locations authorized by IC 7.1-3-12-5 all the following:

(A) Name, telephone number, Indiana address, or consumer's

Indiana business address.

(B) Proof of age by a state issued driver's license or state issued identification card showing the consumer to be at least twenty-one (21) years of age.

(C) A verified statement, made under penalties for perjury, that the consumer satisfies the requirements of subdivisions (1) through (3).

(5) If:

(A) before April 1, 2006, the consumer has engaged in a transaction with a seller in which the seller sold wine to the consumer and, after April 1, 2006, but before December 31, 2006, the consumer provides the seller with a verified statement, made under penalties for perjury, that the consumer is at least twenty-one (21) years of age; and

(B) the seller provides the name and Indiana address of the consumer to the commission before January 15, 2007;

the seller may sell directly to the consumer in accordance with this chapter.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-7**

##### **Qualifications of applicant for direct wine seller permit**

Sec. 7. (a) The commission may issue a direct wine seller's permit to an applicant who meets all of the following requirements:

(1) The applicant is domiciled and has its principal place of business in the United States.

(2) The applicant is engaged in the manufacture of wine.

(3) The applicant holds and acts within the scope of authority of an alcoholic beverage license or permit to manufacture wine that is required:

(A) in Indiana or the state where the applicant is domiciled; and

(B) by the Tax and Trade Bureau of the United States Department of the Treasury.

(4) The applicant qualifies with the secretary of state to do business in Indiana and consents to the personal jurisdiction of the commission and the courts of Indiana.

(5) The applicant files a surety bond with the commission in accordance with IC 7.1-3-1, or deposits cash in an escrow account with the commission, in the amount required of an applicant for a vintner's permit under IC 7.1-3-1-7.

(6) The applicant:

(A) does not hold a permit or license to wholesale alcoholic beverages issued by any authority; and

(B) is not owned in whole or in part or controlled by a person who holds a permit or license to wholesale alcoholic beverages.

(7) The applicant sells not more than one million (1,000,000) gallons of wine per year in Indiana, excluding wine shipped to an out-of-state address.

(8) The applicant:

(A) has not distributed wine through a wine wholesaler in Indiana within the one hundred twenty (120) days immediately preceding the applicant's application for a direct wine seller's permit and does not distribute wine through a wine wholesaler in Indiana during the term of the direct wine seller's permit; or

(B) has operated as a farm winery under IC 7.1-3-12.

(9) The applicant is not the parent, subsidiary, or affiliate of another entity manufacturing any alcoholic beverage.

(10) The applicant completes documentation regarding the applicant's application required by the commission.

(b) The commission may issue a direct wine seller's permit to an applicant who:

(1) meets the requirements under subsection (a); and

(2) holds a permit issued under this title that allows the sale of an alcoholic beverage at retail.

*As added by P.L.165-2006, SEC.34. Amended by P.L.54-2008, SEC.3.*

#### **IC 7.1-3-26-8**

##### **Permit expiration, renewal, and fee**

Sec. 8. (a) The term of a direct wine seller's permit begins:

(1) the date approved by the commission for an initial application; and

(2) on July 1 to renew a permit;

and expires on June 30 of the following year. A direct wine seller's permit may be renewed in accordance with rules adopted by the commission.

(b) The annual direct wine seller's permit fee is one hundred dollars (\$100).

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-9**

##### **Direct wine seller; authorized activities**

Sec. 9. A direct wine seller's permit entitles a seller to sell and ship wine to a consumer by receiving and filling orders that the consumer transmits by electronic or other means if all of the following conditions are satisfied before the sale or by the times set forth as follows:

(1) The consumer provides the direct wine seller with the following:

(A) The verification required by section 6(4) of this chapter in an initial face-to-face transaction.

(B) Notwithstanding clause (A), if the consumer provided the information specified in section 6(5)(A) of this chapter after April 1, 2006, but before December 31, 2006, and the seller provides the name and Indiana address of the consumer under section 6(5)(B) of this chapter to the commission before January 15, 2007, the consumer is not

- required to comply with section 6(4) of this chapter.
- (2) The direct wine seller meets the following requirements:
- (A) Maintains for two (2) years all records of wine sales made under this chapter. If the records are requested by the commission, a direct wine seller shall:
    - (i) make the records available to the commission during the direct wine seller's regular business hours; or
    - (ii) at the direction of the commission, deliver copies to the commission.
  - (B) Stamps, prints, or labels on the outside of the shipping container the following: "CONTAINS WINE. SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY."
  - (C) Causes the wine to be delivered by the holder of a valid carrier's alcoholic beverage permit under IC 7.1-3-18.
  - (D) Directs the carrier to verify that the individual personally receiving the wine shipment is at least twenty-one (21) years of age.
  - (E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.
  - (F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-10**

##### **Direct sales of brandy prohibited**

Sec. 10. It is unlawful for the holder of a farm winery brandy distiller's permit to ship or cause to be shipped brandy produced under this title to a consumer.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-11**

##### **Consumer information**

Sec. 11. A consumer shall provide a direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, Indiana address, telephone number, and other information required by the commission.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-12**

##### **Annual limit on seller's direct wine sales in Indiana**

Sec. 12. During a permit year, a direct wine seller may not direct ship in Indiana more than twenty-seven thousand (27,000) liters of wine.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-13**

##### **Delivery to consumer or individual at least 21 years of age**

Sec. 13. A wine shipment purchased under this chapter must be delivered to:

(1) the consumer, who shall take personal delivery of the shipment at the:

- (A) consumer's residence;
- (B) consumer's business address;
- (C) carrier's business address; or
- (D) address displayed on the shipping container; or

(2) an individual who is at least twenty-one (21) years of age, who shall take personal delivery of the shipment at the:

- (A) consumer's residence;
- (B) consumer's business address;
- (C) carrier's business address; or
- (D) address designated by the consumer and displayed on the shipping container.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-14**

##### **Annual limit on wine received by a consumer**

Sec. 14. A consumer may not receive more than two hundred sixteen (216) liters of wine in total from one (1) or more direct wine sellers in a calendar year.

*As added by P.L.165-2006, SEC.34.*

#### **IC 7.1-3-26-15**

##### **Violations; penalties**

Sec. 15. (a) Except as provided in subsections (b) and (c), a seller who violates this chapter commits a Class A infraction.

(b) Except as provided in subsection (d), a seller who:

- (1) knowingly or intentionally violates this chapter; and
- (2) has one (1) prior unrelated conviction or judgment for an infraction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction;

commits a Class A misdemeanor.

(c) Except as provided in subsection (d), a seller who:

- (1) knowingly or intentionally violates this chapter; and
- (2) has at least two (2) prior unrelated convictions or judgments for infractions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction;

commits a Class D felony.

(d) A person who violates section 6(5) of this chapter commits a Class A infraction. The commission may consider an infraction committed under this subsection in its determination of whether to renew a seller's permit.

*As added by P.L.165-2006, SEC.34.*

**IC 7.1-3-26-16**

**Direct wine sellers; defense**

Sec. 16. If a direct wine seller is charged under section 15 of this chapter with selling to a consumer who does not meet the requirements of section 6 of this chapter, it is a defense to the charge if the direct wine seller obtained from the consumer the verified statement required under section 6(4)(C) or 6(5)(A) of this chapter and produces a copy of the verified statement.

*As added by P.L.165-2006, SEC.34. Amended by P.L.1-2007, SEC.68.*