

# HOUSE BILL No. 1542

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-3; IC 7.1-5.

**Synopsis:** Various alcoholic beverage matters. Provides that the alcohol and tobacco commission (commission) may process an application for renewal of a permit for which a notice of violation has been issued by the office of the prosecutor of the commission, if authorized by the commission chairman or the chairman's designee. Provides that the commission shall allow a permittee to file an application for renewal not more than one year after the date the permit expires. Requires the commission to provide a letter of authority to operate upon the request of a permittee. Allows the commission to process a permit application while the location of the permit premises is pending and upon a showing of need by the applicant. Requires the commission to issue a temporary beer permit or temporary wine permit if: (1) the permit application is submitted not later than 48 hours before the event; and (2) the applicant meets all the requirements for a permit. Allows the commission to issue a temporary beer permit or temporary wine permit, with the authorization of the chairman or chairman's designee, if: (1) the application is submitted later than 48 hours before the event; and (2) all the requirements for a permit are met. Requires the holder of a supplemental caterer's permit to give the commission 48 hours notice of a catered event (instead of 15 days notice of a catered event). Removes an employee's permit from the permits that the commission shall deny if the applicant for the permit has a tax delinquency. Removes a provision that increases the penalty for an alcoholic beverage retailer or dealer to accept a gift from an alcoholic beverage manufacturer or other permittee from a Class A misdemeanor to a Level 6 felony if the value of a gift is at least \$750. Allows a senior  
(Continued next page)

**Effective:** July 1, 2015.

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## Dermody, GiaQuinta

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January 20, 2015, read first time and referred to Committee on Public Policy.

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Digest Continued

residence facility to, without an alcoholic beverage permit, possess and give or furnish an alcoholic beverage, by the bottle or by the glass, on the premises of the senior residence facility for consumption on the premises to: (1) a resident of the senior residence facility who is not a minor and who resides on the premises of the senior residence facility; or (2) a guest or family member of a resident who is not a minor and who is visiting the resident.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1542



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

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

1 SECTION 1. IC 7.1-3-1-3, AS AMENDED BY P.L.224-2005,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 3. (a) A permit of any type issued by the  
4 commission, except as provided in subsections (b) and (f) or unless  
5 otherwise provided in this title, shall be in force for one (1) calendar  
6 year only, including the day upon which it is granted. At the end of the  
7 one (1) year period the permit shall be fully expired and null and void.  
8 (b) Notwithstanding subsection (a), a permit that is subject to  
9 section 5.5 or 5.6 of this chapter is effective for two (2) calendar years,  
10 including the day upon which the permit is granted. However, a local  
11 board may recommend to the commission that the permit be issued or  
12 renewed for only a one (1) year period. The commission may issue or  
13 renew a permit for the period recommended by the local board.  
14 (c) A permittee who is granted a two (2) year permit under



1 subsection (b) or subsection (f) is liable for any annual fees assessed by  
 2 the commission. The annual fee is due on the annual anniversary date  
 3 upon which the permit was granted.

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

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

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

17 (1) A beer wholesaler's permit issued under IC 7.1-3-3-1.

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

19 (3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

20 **(g) Except as provided in subsection (h) the commission shall**  
 21 **timely process a permittee's application for renewal of a permit.**

22 **(h) If an applicant for renewal of a permit receives a notice of**  
 23 **violation issued by the office of the prosecutor, the commission**  
 24 **may process the application for renewal, if authorized by the**  
 25 **chairman or the chairman's designee.**

26 **(i) The commission shall allow an applicant for renewal of a**  
 27 **permit to file the application for renewal not more than one (1)**  
 28 **year after the date the permit expires.**

29 **(j) A permit is effective upon the final approval of the**  
 30 **commission. Upon final approval of a permit, and upon the request**  
 31 **of the permittee, the commission shall provide the permittee with**  
 32 **a letter of authority to operate. The letter of authority to operate**  
 33 **constitutes authorization for the permittee to perform the actions**  
 34 **allowed under the permit until the date the permittee receives the**  
 35 **permit issued by the commission.**

36 SECTION 2. IC 7.1-3-1-5 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. ~~Applications for~~  
 38 ~~Permits: Disclosures.~~ **(a) Except as provided in subsection (b), an**  
 39 **application for a permit to sell alcoholic beverages of any kind, and the**  
 40 **required publication of notice, shall disclose the name of the applicant**  
 41 **and the specific address where the alcoholic beverages are to be sold,**  
 42 **and any assumed business name under which the business will be**



1 conducted. The application and notice also shall disclose the names  
 2 and addresses of the president and secretary of the corporation, club,  
 3 association or organization who will be responsible to the public for the  
 4 sale of the alcoholic beverage if the applicant is a corporation, club,  
 5 association, or other type of organization.

6 **(b) An application for a permit may be processed by the**  
 7 **commission while the location of the permit premises is pending,**  
 8 **upon a showing of need by the permit applicant. Any permit issued**  
 9 **by the commission while the location of the permit premises is**  
 10 **pending shall be placed immediately into escrow upon approval of**  
 11 **the permit by the commission.**

12 SECTION 3. IC 7.1-3-1-29 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2015]: **Sec. 29. (a) For purposes of this section, "health facility"**  
 15 **does not include an intermediate care facility for the mentally**  
 16 **retarded.**

17 **(b) As used in this section, "senior residence facility" means a:**

18 **(1) health facility licensed under IC 16-28; or**

19 **(2) housing with services establishment (as defined in**  
 20 **IC 12-10-15-3).**

21 **(c) A senior residence facility may, without a permit issued**  
 22 **under this title, possess and give or furnish an alcoholic beverage,**  
 23 **by the bottle or by the glass, on the premises of the senior residence**  
 24 **facility for consumption on the premises to any of the following:**

25 **(1) A resident who:**

26 **(A) is not a minor; and**

27 **(B) resides on the premises of the senior residence facility.**

28 **(2) A guest or family member of a resident described in**  
 29 **subdivision (1) who:**

30 **(A) is not a minor; and**

31 **(B) is visiting the resident at the senior residence facility.**

32 **(d) Subject to subsection (e), this section may not be construed**  
 33 **to authorize a senior residence facility to sell alcoholic beverages**  
 34 **at the senior residence facility without a permit under this title.**

35 **(e) For purposes of this section, a senior residence facility that:**

36 **(1) charges a:**

37 **(A) room and board fee to residents; or**

38 **(B) fee for organizing activities for:**

39 **(i) residents of the senior residence facility; and**

40 **(ii) guests or family members of the residents;**

41 **(2) uses a portion of a fee described in subdivision (1) to:**

42 **(A) purchase alcoholic beverages; and**



1                   **(B) furnish the alcoholic beverages to individuals described**  
 2                   **in subsection (c); and**  
 3                   **(3) does not purchase and furnish the alcoholic beverages for**  
 4                   **profit;**  
 5                   **is not considered to be selling alcoholic beverages.**

6                   SECTION 4. IC 7.1-3-6-1 IS AMENDED TO READ AS  
 7                   FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. **(a)** Subject to  
 8                   sections 3.5 and 3.6 of this chapter, the commission may issue a  
 9                   temporary beer permit without publication of notice or investigation  
 10                  before a local board to a qualified person as provided in this chapter.  
 11                  In all other respects, a temporary beer permit shall be issued, revoked,  
 12                  and governed by the restrictions and limitations made in a provisional  
 13                  order or rule or regulation of the commission.

14                  **(b) The commission shall issue a temporary beer permit to an**  
 15                  **applicant if:**

16                   **(1) the applicant submits an application for a temporary beer**  
 17                   **permit to the commission not later than forty-eight (48) hours**  
 18                   **before the event for which the permit is requested; and**

19                   **(2) the applicant meets all requirements for a temporary beer**  
 20                   **permit.**

21                  **(c) If authorized by the chairman or the chairman's designee,**  
 22                  **and at the commission's discretion, a temporary beer permit may**  
 23                  **be issued to an applicant that:**

24                   **(1) submits an application for the temporary beer permit to**  
 25                   **the commission later than forty-eight (48) hours before the**  
 26                   **event for which the temporary beer permit is requested; and**

27                   **(2) the applicant meets all requirements for a temporary beer**  
 28                   **permit.**

29                  SECTION 5. IC 7.1-3-9.5-2 IS AMENDED TO READ AS  
 30                  FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. **(a)** The holder of a  
 31                  supplemental caterer's permit shall notify the commission in writing  
 32                  ~~fifteen (15) days~~ **not later than forty-eight (48) hours** in advance of  
 33                  each function that the permittee intends to cater with alcoholic  
 34                  beverages. The commission may waive the ~~fifteen (15) day~~ **forty-eight**  
 35                  **(48) hour** notice period required under this subsection, **if authorized**  
 36                  **by the chairman or the chairman's designee**, but may not waive the  
 37                  requirement for filing notice.

38                  **(b) The notice shall include the following:**

39                   **(1) The date, time, and location of the function to be catered.**

40                   **(2) If the function is open to the public, located in a county having**  
 41                   **a population of less than one hundred fifty thousand (150,000),**  
 42                   **and located in a different county from the county where the**



1 permittee holds the three-way permit required under section 1 of  
 2 this chapter, the signature of the following official on a document  
 3 stating the official's approval of the catering of alcoholic  
 4 beverages at the proposed date, time, and location:

5 (A) The president of the town council, if the location is in a  
 6 town.

7 (B) The mayor, if the location is in a city.

8 (C) The president of the board of county commissioners, if the  
 9 location is in unincorporated territory.

10 (c) If a permittee complies with all notice requirements of  
 11 subsection (b), the commission in its absolute discretion has the  
 12 authority, any other provision of this title to the contrary  
 13 notwithstanding, to approve the proposed date and location of the  
 14 function to be catered.

15 (d) The commission need not notify the permittee if the commission  
 16 approved the proposed date and location, and the permittee may  
 17 proceed as stated in the permittee's notice to the commission. The  
 18 commission shall notify the permittee by certified United States mail,  
 19 in advance of the function, if the commission does not approve the  
 20 proposed date or location.

21 (e) A permittee whose proposed date or location has been  
 22 disapproved by the commission still may cater the function on that date  
 23 and at that location, but the permittee may not cater alcoholic  
 24 beverages at that function on that date and at that location.

25 SECTION 6. IC 7.1-3-16-5 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Subject to section  
 27 5.5 of this chapter, the commission may issue a temporary wine permit  
 28 without publication of notice or investigation before a local board to a  
 29 qualified person as provided in this chapter. In all other respects, a  
 30 temporary wine permit shall be issued, revoked, and governed by the  
 31 restrictions and limitations made in a provisional order or rule or  
 32 regulation of the commission.

33 (b) **The commission shall issue a temporary wine permit to an**  
 34 **applicant if:**

35 (1) **the applicant submits an application for a temporary wine**  
 36 **permit to the commission not later than forty-eight (48) hours**  
 37 **before the event for which the permit is requested; and**

38 (2) **the applicant meets all requirements for a temporary wine**  
 39 **permit.**

40 (c) **If authorized by the chairman or the chairman's designee,**  
 41 **and at the commission's discretion, a temporary wine permit may**  
 42 **be issued to an applicant that:**



1           **(1) submits an application for the temporary wine permit to**  
 2           **the commission later than forty-eight (48) hours before the**  
 3           **event for which the temporary wine permit is requested; and**  
 4           **(2) the applicant meets all requirements for a temporary wine**  
 5           **permit.**

6           SECTION 7. IC 7.1-3-21-15, AS AMENDED BY P.L.293-2013(ts),  
 7           SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8           JULY 1, 2015]: Sec. 15. **(a) This section does not apply to an**  
 9           **employee's permit under IC 7.1-3-18-9.**

10           ~~(a)~~ **(b)** The commission shall not issue, renew, or transfer a  
 11           wholesaler, retailer, dealer, or other permit of any type if the applicant:

12           (1) is seeking a renewal and the applicant has not paid all the  
 13           property taxes under IC 6-1.1 and the innkeeper's tax under IC 6-9  
 14           that are due currently;

15           (2) is seeking a transfer and the applicant has not paid all the  
 16           property taxes under IC 6-1.1 and innkeeper's tax under IC 6-9 for  
 17           the assessment periods during which the transferor held the  
 18           permit;

19           (3) is seeking a renewal or transfer and is at least thirty (30) days  
 20           delinquent in remitting state gross retail taxes under IC 6-2.5 or  
 21           withholding taxes required to be remitted under IC 6-3-4; or

22           (4) is on the most recent tax warrant list supplied to the  
 23           commission by the department of state revenue.

24           ~~(b)~~ **(c)** The commission shall issue, renew, or transfer a permit that  
 25           the commission denied under subsection ~~(a)~~ **(b)** when the appropriate  
 26           one (1) of the following occurs:

27           (1) The person, if seeking a renewal, provides to the commission  
 28           a statement from the county treasurer of the county in which the  
 29           property of the applicant was assessed indicating that all the  
 30           property taxes under IC 6-1.1 and, in a county where the county  
 31           treasurer collects the innkeeper's tax, the innkeeper's tax under  
 32           IC 6-9 that were delinquent have been paid.

33           (2) The person, if seeking a transfer of ownership, provides to the  
 34           commission a statement from the county treasurer of the county  
 35           in which the property of the transferor was assessed indicating  
 36           that all the property taxes under IC 6-1.1 and, in a county where  
 37           the county treasurer collects the innkeeper's tax, the innkeeper's  
 38           tax under IC 6-9 have been paid for the assessment periods during  
 39           which the transferor held the permit.

40           (3) The person provides to the commission a statement from the  
 41           commissioner of the department of state revenue indicating that  
 42           the person's tax warrant has been satisfied, including any



1 delinquency in innkeeper's tax if the state collects the innkeeper's  
2 tax for the county in which the person seeks the permit.

3 (4) The commission receives a notice from the commissioner of  
4 the department of state revenue under IC 6-8.1-8-2(k).

5 (5) The commission receives a notice from the commissioner of  
6 the department of state revenue stating that the state gross retail  
7 and withholding taxes described in subsection ~~(a)(3)~~ **(b)(3)** have  
8 been remitted to the department.

9 ~~(e)~~ **(d)** An applicant may not be considered delinquent in the  
10 payment of listed taxes if the applicant has filed a proper protest under  
11 IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant  
12 shall be considered delinquent in the payment of those taxes if the  
13 applicant does not remit the taxes owed to the state department of  
14 revenue after the later of the following:

15 (1) The expiration of the period in which the applicant may appeal  
16 the listed tax to the tax court, in the case of an applicant who does  
17 not file a timely appeal of the listed tax.

18 (2) When a decision of the tax court concerning the applicant's  
19 appeal of the listed tax becomes final, in the case of an applicant  
20 who files a timely appeal of the listed tax.

21 ~~(d)~~ **(e)** The commission may require that an applicant for the  
22 issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or  
23 other permit of any type furnish proof of the payment of a listed tax (as  
24 defined by IC 6-8.1-1-1), tax warrant, or taxes imposed by IC 6-1.1.

25 SECTION 8. IC 7.1-5-5-10, AS AMENDED BY P.L.159-2014,  
26 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2015]: Sec. 10. (a) It is unlawful for a person who holds a  
28 retailer's or dealer's permit of any type to receive or accept from a  
29 manufacturer of alcoholic beverages, or from a permittee authorized to  
30 sell and deliver alcoholic beverages, a rebate, sum of money, accessory,  
31 furniture, fixture, loan of money, concession, privilege, use, title,  
32 interest, or lease, rehabilitation, decoration, improvement or repair of  
33 premises.

34 (b) A person who knowingly or intentionally violates this section  
35 commits a Class A misdemeanor. ~~However, the offense is a Level 6~~  
36 ~~felony if the value received or accepted is at least seven hundred fifty~~  
37 ~~dollars (\$750).~~

38 SECTION 9. IC 7.1-5-7-11, AS AMENDED BY P.L.10-2010,  
39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2015]: Sec. 11. (a) The provisions of sections 9 and 10 of this  
41 chapter shall not apply if the public place involved is one (1) of the  
42 following:



- 1 (1) Civic center.
- 2 (2) Convention center.
- 3 (3) Sports arena.
- 4 (4) Bowling center.
- 5 (5) Bona fide club.
- 6 (6) Drug store.
- 7 (7) Grocery store.
- 8 (8) Boat.
- 9 (9) Dining car.
- 10 (10) Pullman car.
- 11 (11) Club car.
- 12 (12) Passenger airplane.
- 13 (13) Horse racetrack facility holding a recognized meeting permit
- 14 under IC 4-31-5.
- 15 (14) Satellite facility (as defined in IC 4-31-2-20.5).
- 16 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
- 17 public.
- 18 (16) That part of a hotel or restaurant which is separate from a
- 19 room in which is located a bar over which alcoholic beverages are
- 20 sold or dispensed by the drink.
- 21 (17) Entertainment complex.
- 22 (18) Indoor golf facility.
- 23 (19) A recreational facility such as a golf course, bowling center,
- 24 or similar facility that has the recreational activity and not the sale
- 25 of food and beverages as the principal purpose or function of the
- 26 person's business.
- 27 (20) A licensed premises owned or operated by a postsecondary
- 28 educational institution described in IC 21-17-6-1.
- 29 (21) An automobile racetrack.
- 30 (22) An indoor theater under IC 7.1-3-20-26.
- 31 **(23) A senior residence facility (as defined in IC 7.1-3-1-29(b))**
- 32 **at which alcoholic beverages are given or furnished as**
- 33 **provided under IC 7.1-3-1-29.**
- 34 (b) For the purpose of this subsection, "food" means meals prepared
- 35 on the licensed premises. It is lawful for a minor to be on licensed
- 36 premises in a room in which is located a bar over which alcoholic
- 37 beverages are sold or dispensed by the drink if all the following
- 38 conditions are met:
- 39 (1) The minor is eighteen (18) years of age or older.
- 40 (2) The minor is in the company of a parent, guardian, or family
- 41 member who is twenty-one (21) years of age or older.
- 42 (3) The purpose for being on the licensed premises is the



1 consumption of food and not the consumption of alcoholic  
2 beverages.

