

HOUSE BILL No. 1163

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-5-12.

Synopsis: Smoking restrictions for bars and taverns. Allows bars and taverns in which smoking is allowed to permit individuals who are less than 21 years of age to enter nonsmoking rooms or areas of the bars or taverns if the bars or taverns meet certain requirements.

Effective: July 1, 2014.

Harman

January 13, 2014, read first time and referred to Committee on Public Health.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1163

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 7.1-5-12-5, AS ADDED BY P.L.141-2012,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 5. (a) Except as provided in subsection (c) and
4 subject to section 13 of this chapter, smoking may be allowed in the
5 following:
6 (1) A horse racing facility operated under a permit under
7 IC 4-31-5 and any other permanent structure on land owned or
8 leased by the owner of the facility that is adjacent to the facility.
9 (2) A riverboat (as defined in IC 4-33-2-17) and any other
10 permanent structure that is:
11 (A) owned or leased by the owner of the riverboat; and
12 (B) located on land that is adjacent to:
13 (i) the dock to which the riverboat is moored; or
14 (ii) the land on which the riverboat is situated in the case of
15 a riverboat described in IC 4-33-2-17(2).
16 (3) A facility that operates under a gambling game license under



- 1 IC 4-35-5 and any other permanent structure on land owned or
 2 leased by the owner of the facility that is adjacent to the facility.
 3 (4) A satellite facility licensed under IC 4-31-5.5.
 4 (5) An establishment owned or leased by a business that meets the
 5 following requirements:
 6 (A) The business was in business and permitted smoking on
 7 December 31, 2012.
 8 (B) The business prohibits entry by an individual who is less
 9 than twenty-one (21) years of age.
 10 (C) The owner or operator of the business holds a beer, liquor,
 11 or wine retailer's permit.
 12 (D) The business limits smoking in the establishment to either:
 13 (i) cigar smoking; or
 14 (ii) smoking with a waterpipe or hookah device.
 15 (E) During the preceding calendar year, at least ten percent
 16 (10%) of the business's annual gross income was from:
 17 (i) the sale of cigars and the rental of onsite humidors; or
 18 (ii) the sale of loose tobacco for use in a waterpipe or
 19 hookah device.
 20 (F) The person in charge of the business posts in the
 21 establishment conspicuous signs that display the message that
 22 cigarette smoking is prohibited.
 23 (6) A premises owned or leased by and regularly used for the
 24 activities of a business that meets all of the following:
 25 (A) The business is exempt from federal income taxation
 26 under 26 U.S.C. 501(c).
 27 (B) The business:
 28 (i) meets the requirements to be considered a club under
 29 IC 7.1-3-20-1; or
 30 (ii) is a fraternal club (as defined in IC 7.1-3-20-7).
 31 (C) The business provides food or alcoholic beverages only to
 32 its bona fide members and their guests.
 33 (D) The business, during a meeting of the business's members,
 34 voted within the previous two (2) years to allow smoking on
 35 the premises.
 36 (E) The business:
 37 (i) provides a separate, enclosed, designated smoking room
 38 or area that is adequately ventilated to prevent migration of
 39 smoke to nonsmoking areas of the premises;
 40 (ii) allows smoking only in the room or area described in
 41 item (i); and
 42 (iii) does not allow an individual who is less than eighteen



- 1 (18) years of age to enter into the room or area described in
 2 item (i).
- 3 (7) A retail tobacco store used primarily for the sale of tobacco
 4 products and tobacco accessories that meets the following
 5 requirements:
- 6 (A) The owner or operator of the store held a valid tobacco
 7 sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.
 8 (B) The store prohibits entry by an individual who is less than
 9 eighteen (18) years of age.
 10 (C) The sale of products other than tobacco products and
 11 tobacco accessories is merely incidental.
 12 (D) The sale of tobacco products accounts for at least
 13 eighty-five percent (85%) of the store's annual gross sales.
 14 (E) Food or beverages are not sold for consumption on the
 15 premises, and there is not an area set aside for customers to
 16 consume food or beverages on the premises.
- 17 (8) A bar or tavern:
- 18 (A) for which a permittee holds:
- 19 (i) a beer retailer's permit under IC 7.1-3-4;
 20 (ii) a liquor retailer's permit under IC 7.1-3-9; or
 21 (iii) a wine retailer's permit under IC 7.1-3-14;
- 22 (B) that does not employ an individual who is less than
 23 eighteen (18) years of age;
- 24 (C) that:
- 25 (i) does not allow an individual who
 26 ~~(i)~~ is less than twenty-one (21) years of age and
 27 ~~(ii)~~ is not an employee of the bar or tavern
 28 to enter any area of the bar or tavern; ~~and or~~
 29 **(ii) allows an individual who is less than twenty-one (21)**
 30 **years of age to enter only the nonsmoking rooms or areas**
 31 **of a bar or tavern that meets the requirements under**
 32 **section 5.5 of this chapter; and**
- 33 (D) that is not located in a business that would otherwise be
 34 subject to this chapter.
- 35 (9) A cigar manufacturing facility that does not offer retail sales.
- 36 (10) A premises of a cigar specialty store to which all of the
 37 following apply:
- 38 (A) The owner or operator of the store held a valid tobacco
 39 sales certificate issued under IC 7.1-3-18.5 on June 30, 2012.
 40 (B) The sale of tobacco products and tobacco accessories
 41 account for at least fifty percent (50%) of the store's annual
 42 gross sales.



- 1 (C) The store has a separate, enclosed, designated smoking
 2 room that is adequately ventilated to prevent migration of
 3 smoke to nonsmoking areas.
- 4 (D) Smoking is allowed only in the room described in clause
 5 (C).
- 6 (E) Individuals who are less than eighteen (18) years of age are
 7 prohibited from entering into the room described in clause (C).
- 8 (F) Cigarette smoking is not allowed on the premises of the
 9 store.
- 10 (G) The owner or operator of the store posts a conspicuous
 11 sign on the premises of the store that displays the message that
 12 cigarette smoking is prohibited.
- 13 (H) Food or beverages are not sold for consumption on the
 14 premises, and there is not an area set aside for customers to
 15 consume food or beverages on the premises.
- 16 (11) The premises of a business that is located in the business
 17 owner's private residence (as defined in IC 3-5-2-42.5) if the only
 18 employees of the business who work in the residence are the
 19 owner and other individuals who reside in the residence.
- 20 (b) The owner, operator, manager, or official in charge of an
 21 establishment or premises in which smoking is allowed under this
 22 section shall post conspicuous signs in the establishment that read
 23 "WARNING: Smoking Is Allowed In This Establishment" or other
 24 similar language.
- 25 (c) This section does not allow smoking in the following enclosed
 26 areas of an establishment or premises described in subsection (a)(1)
 27 through (a)(10):
- 28 (1) Any hallway, elevator, or other common area where an
 29 individual who is less than eighteen (18) years of age is permitted.
- 30 (2) Any room that is intended for use by an individual who is less
 31 than eighteen (18) years of age.
- 32 (d) The owner, operator, or manager of an establishment or premises
 33 that is listed under subsection (a) and that allows smoking shall provide
 34 a verified statement to the commission that states that the establishment
 35 or premises qualifies for the exemption. The commission may require
 36 the owner, operator, or manager of an establishment or premises to
 37 provide documentation or additional information concerning the
 38 exemption of the establishment or premises.
- 39 SECTION 2. IC 7.1-5-12-5.5 IS ADDED TO THE INDIANA
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2014]: **Sec. 5.5. (a) A bar or tavern in which**
 42 **smoking is allowed under section 5(8) of this chapter may allow an**



1 individual who is less than twenty-one (21) years of age to enter
2 into an area of the bar or tavern if all the following apply:

3 (1) The area in which smoking is allowed in the bar or tavern
4 is a separate, enclosed, designated smoking room or area.

5 (2) All the following must have a ventilation system that is
6 separate from the ventilation system for a smoking room or
7 area in the bar or tavern:

8 (A) A nonsmoking room or area.

9 (B) Any areas of common entry into the bar or tavern.

10 (C) Restrooms located in the bar or tavern.

11 The rooms or areas listed in clauses (A) through (C) may
12 share a ventilation system if the ventilation system is separate
13 from the ventilation system for a smoking room or area.

14 (3) An individual who is less than twenty-one (21) years of age
15 is not allowed to enter a smoking room or area in the bar or
16 tavern.

17 (4) An individual is not required to pass through a smoking
18 room or area to enter the nonsmoking room or area in the bar
19 or tavern.

20 (5) Any entrance to a nonsmoking room or area is at least
21 eight (8) feet from any entrance to a smoking room or area in
22 the bar or tavern.

23 (6) Any entrance to a:

24 (A) smoking room or area; or

25 (B) nonsmoking room or area;

26 must have a door that remains closed during all hours of
27 operation of the bar or tavern and that is opened only when
28 a patron or employee of the bar or tavern is entering or
29 leaving the room or area.

30 (7) If a smoking room or area and a nonsmoking room or area
31 in the bar or tavern share a common wall, the wall must
32 extend up to the next floor or the roof so that the rooms or
33 areas are completely separate from each other by the wall.

34 (8) Any entrance to a common restroom must be at least eight
35 (8) feet from any entrance to a smoking area or room in the
36 bar or tavern.

37 (b) A bar or tavern that has a smoking room or area and a
38 nonsmoking room or area may use one (1) or more common
39 kitchens to prepare food for patrons in both the smoking and
40 nonsmoking rooms and areas if:

41 (1) smoking is not allowed in the kitchen; and

42 (2) any entrance to the kitchen is at least eight (8) feet from



1 **any entrance to a smoking room or area in the bar or tavern.**

