

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 20

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

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

SECTION 1. IC 7.1-3-20-27, AS AMENDED BY P.L.85-2017, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 27. (a) This section applies to the premises of a restaurant.

(b) Subject to subsection (c), the holder of a retailer's permit that is issued for the premises of a restaurant may sell or dispense, for on-premises consumption only, alcoholic beverages, for which the permittee holds the appropriate permit, from a ~~service window bar~~ located on the licensed premises that opens to an outside patio or terrace that is contiguous to the main building of the licensed premises of the restaurant.

(c) The holder of a retailer's permit that is issued for the premises of a restaurant may sell or dispense alcoholic beverages as provided under subsection (b) only if all the following conditions are met:

- (1) The patio or terrace area described in subsection (b) is:
 - (A) part of the licensed premises; and
 - (B) clearly delineated and completely enclosed on all sides by a barrier that is at least eighteen (18) inches in height.
- (2) ~~Access to the service window is limited by a barrier that reasonably deters free access by minors to the window. Minors are allowed on the licensed premises at an outside patio or terrace that contains a bar under subsection (b) only in~~



accordance with IC 7.1-5-7-11.

~~(3) A conspicuous sign is posted by the barrier described in subdivision (2) that states that minors are not allowed to cross the barrier to enter the area near the service window.~~

SECTION 2. IC 7.1-3-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) An application for:

(1) a permit for premises; or

(2) approval of a designated refreshment area under IC 7.1-3-31;

that is 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.

SECTION 3. IC 7.1-3-21-11, AS AMENDED BY P.L.194-2021, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) As used in this section, "craft manufacturer" means:

(1) a small brewery under IC 7.1-3-2-7(5);

(2) a farm winery under IC 7.1-3-12, including any additional locations of the farm winery operated under IC 7.1-3-12-5(b); or

(3) an artisan distillery under IC 7.1-3-27.

(b) As used in this section, "designated refreshment area" means a refreshment area designated under IC 7.1-3-31.

~~(b)~~ (c) As used in this section, "wall" means a wall of a building. The term does not include a boundary wall.

~~(c)~~ (d) Except as provided in subsections ~~(d)~~, ~~(h)~~, and ~~(i)~~; **(e), (i), and (j)**, the commission may not issue a permit for a premises **or approve a designated refreshment area** if **both of the following** apply:

(1) A wall of ~~the premises is situated within two hundred (200) feet from a wall of~~ a school or church **and is situated within two hundred (200) feet of:**

(A) a wall of the premises; or

(B) a boundary of the designated refreshment area.

(2) A permit has not been issued for the premises under the provisions of Acts 1933, Chapter 80.

~~(d)~~ (e) This section does not apply to the premises of a:

(1) grocery store, drug store, restaurant, hotel, catering hall, **designated refreshment area**, craft manufacturer, or location for which the use of a supplemental catering permit has been



approved if:

(A) a wall of the premises is situated within two hundred (200) feet from a wall of a church or school **is situated within two hundred (200) feet of:**

(i) a wall of the premises; or

(ii) a boundary of the designated refreshment area;

(B) the commission receives a written statement from 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 **or approval of the designated refreshment area;** and

(C) the commission determines that the church or school does not object to the issuance of the permit for the premises **or approval of the designated refreshment area;** or

(2) church or school that applies for a temporary beer or wine permit.

~~(e)~~ **(f)** The commission shall base its determination under subsection ~~(d)(1)(C)~~ **(e)(1)(C)** solely on the written statement of the authorized representative of the church or school.

~~(f)~~ **(g)** If the commission does not receive the written statement of the authorized representative of the church or school, the premises of the grocery store, drug store, restaurant, hotel, catering hall, **designated refreshment area**, craft manufacturer, or location for which the use of a supplemental catering permit has been approved may not obtain the waiver allowed under this section.

~~(g)~~ **(h)** If the commission determines that the church or school does not object, this section and ~~IC 7-1-3-21-10~~ **section 10 of this chapter** do not apply to the permit premises of the grocery store, drug store, restaurant, hotel, craft manufacturer, **or** catering hall, **or designated refreshment area** on a subsequent renewal or transfer of ownership.

~~(h)~~ **(i)** If the commission:

(1) receives a written statement from the authorized representative of a church or school as described in subsection ~~(d)(1)(B)~~; **(e)(1)(B)**; and

(2) determines the church or school does not object as described in subsection ~~(d)(1)(C)~~; **(e)(1)(C)**;

the commission may not consider subsequent objections from the church or school to the issuance of the same permit type at the same premises location.

~~(i)~~ **(j)** The commission may issue a permit for a premises **or approve a designated refreshment area** if the wall of the premises **or the boundary of the designated refreshment area** and the wall of a



church are separated by at least eighty-five (85) feet, including a two (2) lane road of at least thirty (30) feet in width.

SECTION 4. IC 7.1-3-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 31. Designated Refreshment Area

Sec. 1. As used in this chapter, "craft manufacturer" means a person who holds:

- (1) a small brewery permit under IC 7.1-3-2-7(5);
- (2) a farm winery permit under IC 7.1-3-12; or
- (3) an artisan distiller's permit under IC 7.1-3-27.

Sec. 2. As used in this chapter, "designated permittee" means a retailer permittee that:

- (1) has licensed premises within a refreshment area;
- (2) has submitted a completed application to the municipality to participate in the refreshment area as a designated permittee; and
- (3) is designated by the commission under section 9 of this chapter.

Sec. 3. As used in this chapter, "municipality" means a city or town.

Sec. 4. As used in this chapter, "refreshment area" means an outdoor area that a municipality designates as a refreshment area as provided in this chapter.

Sec. 5. As used in this chapter, "vendor" means a person issued a temporary vendor designation under section 10 of this chapter and either:

- (1) a temporary beer or wine permit; or
- (2) a supplemental catering permit.

Sec. 6. If a municipality designates a refreshment area under this chapter, a person may:

- (1) exit the licensed premises of a designated permittee or vendor with not more than two (2) open containers of an alcoholic beverage at a time; and
- (2) consume the alcoholic beverage within the refreshment area.

Sec. 7. (a) A designated refreshment area is subject to IC 7.1-3-21-11.

(b) A municipality may not establish more than seven (7) refreshment areas.

(c) A municipality shall designate at least one (1) designated permittee for each refreshment area.



Sec. 8. (a) To designate one (1) or more refreshment areas, the municipal legislative body must adopt an ordinance that includes at least the following:

- (1) A map of the refreshment area in sufficient detail to identify the refreshment area's boundaries.**
- (2) The boundaries of the refreshment area, by street addresses.**
- (3) The locations of the proposed designated permittees and vendors within the refreshment area.**
- (4) A statement that the refreshment area is consistent with the municipality's zoning ordinance.**
- (5) The number, spacing, and type of signage designating the refreshment area.**
- (6) The dates and the hours of operation for the refreshment area, which may not violate IC 7.1-3-1-14.**

(b) The ordinance may include any other provisions regarding the operation of the refreshment area, including:

- (1) the posting of signs by retailer permittees and other businesses within the refreshment area that indicate whether the retailer permittee or business is participating in the refreshment area and whether an individual may enter with an open container;**
- (2) requiring designated permittees and vendors to use only nonbreakable plastic bottles, plastic cups, or paper cups for alcoholic beverages consumed in the refreshment area;**
- (3) requiring bottles or cups to be affixed with a logo that identifies the container for use only in the refreshment area;**
- (4) providing a public safety plan for the refreshment area; or**
- (5) providing a sanitation plan for the refreshment area.**

Sec. 9. (a) The municipality shall submit the following to the commission:

- (1) The application for approval of the refreshment area.**
- (2) The completed applications received by the municipality from retailer permittees to participate in the refreshment area as designated permittees.**
- (3) The ordinance adopted by the municipality under section 8 of this chapter. The commission shall review the ordinance for compliance with this chapter.**

(b) If the ordinance is approved, the commission shall issue a refreshment area designation to each retailer permittee whose application was submitted by the municipality and approved by the commission. The commission may approve a refreshment area and



issue refreshment area designations to retailer permittees without publication of notice or investigation before a local board. The commission may not charge a fee for designating a retailer permittee.

(c) Designated permittees and vendors shall comply with the applicable public health and safety requirements established by ordinance for the refreshment area.

Sec. 10. (a) Except as provided in subsection (b), a person who is not a designated permittee for the area must obtain a permit described in section 5 of this chapter and a temporary vendor designation to participate in an event or festival held within a refreshment area. The commission may only charge a fee for the temporary beer or wine permit. The commission may issue the permit and designation without publication of notice or investigation before a local board.

(b) A craft manufacturer may participate in an event or festival held within a refreshment area as provided in the craft manufacturer's scope of permit.

Sec. 11. A municipal legislative body may adopt an ordinance dissolving a refreshment area at any time. The municipal legislative body shall notify the chair of the commission that the refreshment area is dissolved. Upon receipt of the notice, the commission shall revoke all refreshment area designations issued within the dissolved refreshment area.

Sec. 12. A designated permittee or vendor within the refreshment area may allow a person to exit the designated permittee's or vendor's licensed premises with not more than two (2) open containers of an alcoholic beverage at a time. The contents of an open container may not exceed the following:

- (1) Beer or flavored malt beverage of not more than sixteen (16) ounces.
- (2) Wine, cider, or hard seltzer of not more than twelve (12) ounces.
- (3) A mixed drink of not more than ten (10) ounces containing not more than two (2) ounces of liquor.

Sec. 13. A person may consume an alcoholic beverage purchased from a designated permittee or vendor anywhere within the refreshment area boundaries, subject to the right of any retailer permittee or business within the refreshment area to refuse to allow individuals to enter the licensed premises or business with an alcoholic beverage.

Sec. 14. A person may not consume an alcoholic beverage within



a refreshment area that was purchased outside of the refreshment area.

Sec. 15. If a designated permittee in a refreshment area includes outdoor dining:

- (1) the designated permittee may serve alcoholic beverages in open containers during the hours of operation and in the areas authorized by the retailer permit;
- (2) glass containers may be allowed in the outdoor dining areas but may not be removed from those areas into the refreshment area; and
- (3) no fencing or other enclosure of the outdoor dining area is required.

Sec. 16. A sign must be posted at each exit of a designated permittee and on the licensed premises of a vendor that informs the public of the following:

- (1) Any open alcoholic beverage containers purchased within the refreshment area must remain within the refreshment area.
- (2) Possessing an open container of alcoholic beverages in a motor vehicle may constitute a Class C infraction under IC 9-30-15.
- (3) The dates the refreshment area will be open if the refreshment area has date restrictions.

Sec. 17. In accordance with IC 7.1-2-3-3, the commission shall prescribe the form for a retailer permittee to apply for approval from the commission as a designated permittee.

SECTION 5. IC 7.1-5-7-11, AS AMENDED BY P.L.105-2022, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.



- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2.1-36).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.
- (19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.
- (20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.
- (21) An automobile racetrack.
- (22) An indoor theater under IC 7.1-3-20-26.
- (23) A senior residence facility campus (as defined in IC 7.1-3-1-29(c)) at which alcoholic beverages are given or furnished as provided under IC 7.1-3-1-29.
- (24) A hotel other than a part of a hotel that is a room in a restaurant in which a bar is located over which alcoholic beverages are sold or dispensed by the drink.
- (25) The location of an allowable event to which IC 7.1-3-6.1 applies.
- (26) The location of a charity auction to which IC 7.1-3-6.2 applies.
- (27) A tour of a brewery as provided in IC 7.1-3-20-16.4, if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.
- (28) A farm winery and any additional locations of the farm winery under IC 7.1-3-12, if the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age and the minor is accompanied by the adult in any area that the adult may be present whether or not the area:
 - (A) is separated in any manner from where the wine is manufactured, sold, or consumed within the farm winery premises; or
 - (B) operates under a retailer's permit.



- (29) An artisan distillery under IC 7.1-3-27, if:
- (A) the person who holds the artisan distiller's permit also holds a farm winery permit under IC 7.1-3-12, or IC 7.1-3-20-16.4(a) applies to the person; and
 - (B) the minor is in the company of a parent, legal guardian or custodian, or family member who is at least twenty-one (21) years of age.

(30) An art instruction studio under IC 7.1-5-8-4.6.

(31) The licensed premises of a food hall under IC 7.1-3-20-29 and the food and beverage vending space of a food hall vendor permittee under IC 7.1-3-20-30. However, sections 9 and 10 of this chapter apply to a bar within the food and beverage vending space of a food hall vendor permittee under IC 7.1-3-20-30 that serves alcoholic beverages intended to be consumed while sitting or standing at the bar.

(32) A refreshment area designated under IC 7.1-3-31.

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

- (1) The minor is eighteen (18) years of age or older.
- (2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
- (3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 6. IC 7.1-5-8-5, AS AMENDED BY P.L.121-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

- (1) described in IC 7.1-1-2-3(a)(4); and
- (2) not sold or offered for sale.

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

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

- (1) has an area of at least four (4) acres and not more than six (6) acres;
- (2) is located within one (1) mile of the White River;



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

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

(d) This section does not apply to a person who brings wine into an art instruction studio or consumes wine that is brought into the art instruction studio in accordance with section 4.6 of this chapter.

(e) This section does not apply to a craft manufacturer (as defined in IC 7.1-3-30-1) at an event held on the licensed premises of a host permittee (as defined in IC 7.1-3-30-1) under a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30.

(f) This section does not apply to a person who brings an alcoholic beverage:

(1) purchased from:

(A) a vendor (as defined in IC 7.1-3-31-5); or

(B) a designated permittee (as defined in IC 7.1-3-31-2); and

(2) into a licensed premises:

(A) of a permittee who may or may not be a designated permittee (as defined in IC 7.1-3-31-2); and

(B) that is located within a refreshment area designated under IC 7.1-3-31.

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

SECTION 7. IC 7.1-5-8-6, AS AMENDED BY P.L.121-2022, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) It is a Class C misdemeanor for a person to knowingly carry liquor into a restaurant or place of public entertainment for the purpose of consuming it, displaying it, or selling, furnishing, or giving it away to another person on the premises, or for the purpose of having it served to himself or another person, then and there. It is a Class C misdemeanor to knowingly consume liquor brought into a public establishment in violation of this section.

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

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

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

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



Revenue Code; and

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

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

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

(A) in sealed bottles or cases; and

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

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

(A) in sealed bottles or cases; and

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

(d) This section does not apply to a craft manufacturer (as defined in IC 7.1-3-30-1) at an event held on the licensed premises of a host permittee (as defined in IC 7.1-3-30-1) under a temporary craft manufacturer hospitality permit issued under IC 7.1-3-30.

(e) This section does not apply to a person who brings an alcoholic beverage:

(1) purchased from:

(A) a vendor (as defined in IC 7.1-3-31-5); or

(B) a designated permittee (as defined in IC 7.1-3-31-2); and

(2) into a licensed premises:

(A) of a permittee who may or may not be a designated permittee (as defined in IC 7.1-3-31-2); and

(B) that is located within a refreshment area designated under IC 7.1-3-31.

SECTION 8. IC 7.1-5-8-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 13. (a) As used in this section, "designated permittee" has the meaning set forth in IC 7.1-3-31-2.**

(b) As used in this section, "vendor" has the meaning set forth in IC 7.1-3-31-5.

(c) A designated permittee or vendor who intentionally sells, furnishes, or gives a person for consumption in a refreshment area designated under IC 7.1-3-31:

(1) an open container of an alcoholic beverage that exceeds the content limitations in IC 7.1-3-31-12; or

(2) three (3) or more open containers of alcoholic beverages



**at a time;
commits a Class C infraction.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 20 — CC 1

