



April 4, 2003

ENGROSSED HOUSE BILL No. 1369

DIGEST OF HB 1369 (Updated April 3, 2003 12:51 PM - DI 110)

Citations Affected: IC 7.1-2; IC 7.1-3; IC 7.1-5.

Synopsis: Wholesaler's permits, special licenses, and self service in suites. Requires the commission to provide procedures whereby 2 or more retailers and dealers may enter into a formal group purchasing agreement. Allows the alcohol and tobacco commission to issue a beer wholesaler's permit to: (1) a person who is not a resident of Indiana; or (2) a corporation, partnership, limited partnership, or limited liability company if no person having an interest in the corporation, partnership, limited partnership, or limited liability company is a resident of Indiana. Repeals a statute that prohibits a corporation that does business in Indiana from enabling a nonresident of Indiana to control or acquire an interest in a beer wholesaler's permit. Allows the holder of a retailer's permit to have an interest in a brewer's permit of a brewery that manufactures not more than 20,000 barrels in a calendar year. Provides that the holder of a beer, wine, and liquor retailer permit may allow the self-service of alcoholic beverages in a suite of a civic center, sports arena, stadium, exhibition hall, auditorium, theater, tract that contains a premises that is described in IC 7.1-3-1-14(e)(2), or convention center. Provides that if an applicant for an alcoholic beverage permit for a restaurant in a municipal riverfront development project already holds a retailer's permit for the premises, the applicant is not eligible for the special permit.

Effective: July 1, 2003.

Kuzman

(SENATE SPONSORS — SERVER, BRODEN)

January 14, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 24, 2003, amended, reported — Do Pass.

February 27, 2003, read second time, amended, ordered engrossed.

February 28, 2003, engrossed.

March 3, 2003, read third time, passed. Yeas 77, nays 16.

SENATE ACTION

March 4, 2003, read first time and referred to Committee on Commerce and Consumer Affairs.

April 3, 2003, amended, reported favorably — Do Pass.

EH 1369—LS 6981/DI 87+



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April 4, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1369

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

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

- 1 SECTION 1. IC 7.1-2-3-32 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) The
3 commission, by rule, ~~may~~ **shall** provide procedures whereby two (2) or
4 more retailers and dealers may enter into a formal group purchasing
5 agreement for the purpose of purchasing alcoholic beverages from
6 permittees authorized to sell alcoholic beverages to them.
7 (b) ~~If the commission exercises the power granted in subsection (a),~~
8 The rule shall make provisions for at least the following:
9 (1) the formal requirements of a group purchasing agreement;
10 (2) the vesting of title to the alcoholic beverages purchased under
11 a group purchasing agreement;
12 (3) the transportation by retailers and dealers of the alcoholic
13 beverages purchased under a group purchasing agreement;
14 (4) the purchase and transportation of alcoholic beverages by
15 retailers and dealers, whether they are parties to a group
16 purchasing agreement or not, as a result of a service interruption
17 or other emergency; and

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(5) the filing requirements of a group purchasing agreement or any amendments or additions thereto.

SECTION 2. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **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(e)(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(e)(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; 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.**

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1 SECTION 3. IC 7.1-3-20-16, AS AMENDED BY P.L.170-2002,
 2 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2003]: Sec. 16. (a) A permit that is authorized by this section
 4 may be issued without regard to the quota provisions of IC 7.1-3-22.

5 (b) The commission may issue a three-way permit to sell alcoholic
 6 beverages for on premises consumption only to an applicant who is the
 7 proprietor, as owner or lessee, or both, of a restaurant facility in the
 8 passenger terminal complex of a publicly owned airport which is
 9 served by a scheduled commercial passenger airline certified to
 10 enplane and deplane passengers on a scheduled basis by a federal
 11 aviation agency. A permit issued under this subsection shall not be
 12 transferred to a location off the airport premises.

13 (c) The commission may issue a three-way, two-way, or one-way
 14 permit to sell alcoholic beverages for on premises consumption only to
 15 an applicant who is the proprietor, as owner or lessee, or both, of a
 16 restaurant within a redevelopment project consisting of a building or
 17 group of buildings that:

- 18 (1) was formerly used as part of a union railway station;
- 19 (2) has been listed in or is within a district that has been listed in
 20 the federal National Register of Historic Places maintained
 21 pursuant to the National Historic Preservation Act of 1966, as
 22 amended; and
- 23 (3) has been redeveloped or renovated, with the redevelopment or
 24 renovation being funded in part with grants from the federal,
 25 state, or local government.

26 A permit issued under this subsection shall not be transferred to a
 27 location outside of the redevelopment project.

28 (d) The commission may issue a three-way, two-way, or one-way
 29 permit to sell alcoholic beverages for on premises consumption only to
 30 an applicant who is the proprietor, as owner or lessee, or both, of a
 31 restaurant:

- 32 (1) on land; or
- 33 (2) in a historic river vessel;

34 within a municipal riverfront development project funded in part with
 35 state and city money. A permit issued under this subsection may not be
 36 transferred. **If an applicant already holds a retailer's permit for the**
 37 **premises, the applicant is not eligible for a permit under this**
 38 **section.**

39 (e) The commission may issue a three-way, two-way, or one-way
 40 permit to sell alcoholic beverages for on premises consumption only to
 41 an applicant who is the proprietor, as owner or lessee, or both, of a
 42 restaurant within a renovation project consisting of a building that:

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1 (1) was formerly used as part of a passenger and freight railway
2 station; and

3 (2) was built before 1900.

4 The permit authorized by this subsection may be issued without regard
5 to the proximity provisions of IC 7.1-3-21-11.

6 (f) The commission may issue a three-way permit for the sale of
7 alcoholic beverages for on premises consumption at a cultural center
8 for the visual and performing arts to a town that:

9 (1) is located in a county having a population of more than four
10 hundred thousand (400,000) but less than seven hundred thousand
11 (700,000); and

12 (2) has a population of more than twenty thousand (20,000) but
13 less than twenty-three thousand (23,000).

14 SECTION 4. IC 7.1-3-21-3 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Residency~~
16 ~~Requirements~~. The commission shall not issue:

17 (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit
18 of any type; **or**

19 (2) **a wine wholesaler's or liquor wholesaler's permit;**

20 to a person who has not been a continuous and bona fide resident of
21 this state for five (5) years immediately preceding the date of the
22 application for a permit.

23 SECTION 5. IC 7.1-3-21-4 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission
25 shall not issue:

26 (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit
27 of any type; **or**

28 (2) **a wine wholesaler's or liquor wholesaler's permit;**

29 to a partnership unless each member of the partnership possesses the
30 same qualifications as those required of an individual applicant for that
31 particular type of permit.

32 SECTION 6. IC 7.1-3-21-5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations~~.
34 The commission shall not issue:

35 (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit
36 of any type; **or**

37 (2) **a wine wholesaler's or liquor wholesaler's permit;**

38 to a corporation unless sixty percent (60%) of the outstanding common
39 stock is owned by persons who have been continuous and bona fide
40 residents of this state for five (5) years.

41 (b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor**
42 wholesaler's permit ~~of any type~~ to a corporation unless at least one (1)

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1 of the stockholders shall have been a resident, for at least one (1) year
 2 immediately prior to making application for the permit, of the county
 3 in which the licensed premises are to be situated.

4 (c) Each officer and stockholder of a corporation shall possess all
 5 other qualifications required of an individual applicant for that
 6 particular type of permit.

7 SECTION 7. IC 7.1-3-21-5.2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The
 9 commission shall not issue:

10 (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit
 11 of any type; or

12 (2) a wine wholesaler's or liquor wholesaler's permit;

13 to a limited partnership unless at least sixty percent (60%) of the
 14 partnership interest is owned by persons who have been continuous and
 15 bona fide residents of Indiana for five (5) years.

16 (b) The commission shall not issue ~~an alcoholic beverage~~ a liquor
 17 wholesaler's permit ~~of any type~~ to a limited partnership unless for at
 18 least one (1) year immediately before making application for the
 19 permit, at least one (1) of the persons having a partnership interest has
 20 been a resident of the county in which the licensed premises are to be
 21 situated.

22 (c) Each general partner and limited partner of a limited partnership
 23 must possess all other qualifications required of an individual applicant
 24 for that particular type of permit.

25 SECTION 8. IC 7.1-3-21-5.4 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The
 27 commission shall not issue:

28 (1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit
 29 of any type; or

30 (2) a wine wholesaler's or liquor wholesaler's permit;

31 to a limited liability company unless at least sixty percent (60%) of the
 32 membership interest is owned by persons who have been continuous
 33 and bona fide residents of Indiana for five (5) years.

34 (b) The commission shall not issue ~~an alcoholic beverage~~ a liquor
 35 wholesaler's permit ~~of any type~~ to a limited liability company unless for
 36 at least one (1) year immediately before making application for the
 37 permit, at least one (1) of the persons having a membership interest has
 38 been a resident of the county in which the licensed premises are to be
 39 situated.

40 (c) Each manager and member of a limited liability company must
 41 possess all other qualifications required of an individual applicant for
 42 that particular type of permit.

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1 SECTION 9. IC 7.1-5-9-10 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Retailer Owning~~
 3 ~~Interest in Another Permit Prohibited:~~ **(a) Except as provided in**
 4 **subsection (b),** it is unlawful for a holder of a retailer's permit of any
 5 type to acquire, hold, own, or possess an interest of any type in a
 6 manufacturer's or wholesaler's permit of any type.

7 **(b) It is lawful for a holder of a retailer's permit of any type to**
 8 **acquire, hold, own, or possess an interest of any type in a brewer's**
 9 **permit for a brewery that manufactures not more than twenty**
 10 **thousand (20,000) barrels of beer in a calendar year.**

11 SECTION 10. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1,
 12 2003].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1369, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows: Page 1, line 3, strike "may" and insert "**shall**".

Page 1, line 7, strike "If the commission exercises the power granted in subsection (a),".

Page 1, line 8, delete "the" and insert "The".

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **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(e)(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(e)(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; 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:

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- (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.**

SECTION 3. IC 7.1-3-20-16, AS AMENDED BY P.L.170-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: 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

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state and city money. A permit issued under this subsection may not be transferred. **If an applicant already holds a retailer's permit for the premises, the applicant is not eligible for a permit under this section.**

(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)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1369 as introduced.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

COPY



HOUSE MOTION

Mr. Speaker: I move that House Bill 1369 be amended to read as follows:

Page 4, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 4. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Residency Requirements~~. The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or

(2) a wine wholesaler's or liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of this state for five (5) years immediately preceding the date of the application for a permit.

SECTION 5. IC 7.1-3-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or

(2) a wine wholesaler's or liquor wholesaler's permit;

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.

SECTION 6. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations~~. The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or

(2) a wine wholesaler's or 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 this state for five (5) years.

(b) The commission shall not issue ~~an alcoholic beverage~~ **a wine wholesaler's or liquor wholesaler's permit of any type** 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.

SECTION 7. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The

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commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~; retailer's or dealer's permit of any type; or

(2) a wine wholesaler's or 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 ~~an alcoholic beverage~~ **a wine wholesaler's or liquor wholesaler's permit** of any type 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.

SECTION 8. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~; retailer's or dealer's permit of any type; or

(2) a wine wholesaler's or 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 ~~an alcoholic beverage~~ **a wine wholesaler's or liquor wholesaler's permit** of any type 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.

SECTION 9. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited:~~ **(a) Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.**

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

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permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year."

Page 5, delete lines 1 through 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1369 as printed February 25, 2003.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred House Bill No. 1369, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 3 through 7.

Page 5, line 4, delete "wine".

Page 5, line 5, delete "wholesaler's or".

Page 5, line 21, delete "wine".

Page 5, line 22, delete "wholesaler's or".

Page 5, line 39, delete "wine".

Page 5, line 40, delete "wholesaler's or".

and when so amended that said bill do pass.

(Reference is to HB 1369 as reprinted February 28, 2003.)

SERVER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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