

HOUSE BILL No. 1760

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-34.

Synopsis: White County food and beverage tax. Establishes a 1% food and beverage tax for White County. Creates a convention and visitor's bureau authority to use the tax revenue to promote tourism.

Effective: July 1, 2003.

Klinker, McClain, Herrell

January 21, 2003, read first time and referred to Committee on Ways and Means.

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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.

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HOUSE BILL No. 1760



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2003]:
 4 **Chapter 34. White County Food and Beverage Tax**
 5 **Sec. 1. This chapter applies to a county having a population of**
 6 **more than twenty-five thousand (25,000) but less than twenty-five**
 7 **thousand five hundred (25,500).**
 8 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
 9 **chapter.**
 10 **Sec. 3. (a) The fiscal body of the county may adopt an ordinance**
 11 **to impose an excise tax, known as the county food and beverage**
 12 **tax, on a transaction described in section 4 of this chapter.**
 13 **(b) If the fiscal body adopts an ordinance under subsection (a),**
 14 **it shall immediately send a certified copy of the ordinance to the**
 15 **commissioner of the department of state revenue.**
 16 **(c) If the fiscal body adopts an ordinance under subsection (a),**
 17 **the county food and beverage tax applies to transactions that occur**



1 after the last day of the month that succeeds the month in which
2 the ordinance was adopted.

3 Sec. 4. (a) Except as provided in subsection (c), a tax imposed
4 under section 3 of this chapter applies to any transaction in which
5 food or beverage is furnished, prepared, or served:

- 6 (1) for consumption at a location, or on equipment, provided
7 by a retail merchant;
8 (2) in the county in which the tax is imposed; and
9 (3) by a retail merchant for consideration.

10 (b) Transactions described in subsection (a)(1) include, but are
11 not limited to, transactions in which food or beverage is:

- 12 (1) served by a retail merchant off the merchant's premises;
13 (2) sold by a retail merchant who ordinarily bags, wraps, or
14 packages the food or beverage for immediate consumption on
15 or near the retail merchant's premises, including food or
16 beverage sold on a "take out" or "to go" basis; or
17 (3) sold by a street vendor.

18 (c) The county food and beverage tax does not apply to the
19 furnishing, preparing, or serving of any food or beverage in a
20 transaction that is exempt, or to the extent exempt, from the state
21 gross retail tax imposed by IC 6-2.5.

22 Sec. 5. The county food and beverage tax imposed on a food or
23 beverage transaction described in section 4 of this chapter equals
24 one percent (1%) of the gross retail income received by the
25 merchant from the transaction. For purposes of this chapter, the
26 gross retail income received by the retail merchant from such a
27 transaction does not include the amount of tax imposed on the
28 transaction under IC 6-2.5.

29 Sec. 6. The tax that may be imposed under this chapter shall be
30 imposed, paid, and collected in the same manner that the state
31 gross retail tax is imposed, paid, and collected under IC 6-2.5.
32 However, the return to be filed for the payment of the taxes may be
33 made on separate returns or may be combined with the return filed
34 for the payment of the state gross retail tax, as prescribed by the
35 department of state revenue.

36 Sec. 7. (a) If a tax is levied under section 3 of this chapter, the
37 county fiscal body shall establish a convention and visitor's bureau
38 authority, composed of five (5) members appointed as follows:

- 39 (1) Two (2) members, one (1) of whom must be a member of
40 the White County Convention and Visitor's Bureau appointed
41 by the executive of the largest municipality in the county.
42 (2) Two (2) members, one (1) of whom must be a designated

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1 agent of Indiana Beach, Inc., appointed by the county
2 executive body.

3 (3) One (1) member appointed by the county fiscal body.

4 (b) Not more than three (3) members of the convention and
5 visitor's bureau authority may be affiliated with the same political
6 party. All members must reside in the county.

7 (c) The term of appointment to the authority is two (2) years.
8 However, when the initial appointments are made, each appointing
9 authority shall appoint one (1) member for a one (1) year term and
10 the remaining members for two (2) year terms. Subsequent
11 appointments are for two (2) years. A vacancy on the authority
12 shall be filled for the unexpired term by the authority that made
13 the prior appointment.

14 (d) The affirmative vote of at least three (3) members of the
15 authority is required for the authority to take an action.

16 Sec. 8. The amounts received from the county food and beverage
17 tax imposed under this chapter shall be paid monthly by the
18 treasurer of state to the convention and visitor's bureau authority
19 upon warrants issued by the auditor of state.

20 Sec. 9. (a) If a tax is imposed under section 3 of this chapter, the
21 convention and visitor's bureau authority shall establish a food and
22 beverage tax receipts fund.

23 (b) The county treasurer shall deposit in this fund all amounts
24 received under this chapter.

25 (c) Any money earned from the investment of money in the fund
26 becomes a part of the fund.

27 (d) Money in this fund shall be used by the authority solely to
28 promote tourism in the county. The convention and visitor's
29 bureau authority may enter into lease or contractual
30 arrangements, or both, with governmental, nonprofit, or other
31 private entities for the purpose of promoting tourism.

32 Sec. 10. (a) In order to compensate retail merchants for
33 collecting and timely remitting the food and beverage tax under
34 this chapter, every retail merchant that collects and timely remits
35 the food and beverage tax is entitled to deduct and retain from the
36 amount of those taxes required to be remitted under section 6 of
37 this chapter a retail merchant's food and beverage collection
38 allowance.

39 (b) The retail merchant's food and beverage collection
40 allowance under this section equals five percent (5%) of the retail
41 merchant's food and beverage tax liability accrued under this
42 chapter during a reporting period.

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