

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1369

Citations Affected: IC 6-1.1-12.1-3; IC 7.1-2-3-16.5; IC 7.1-3; 10IC 7.1-5-9-10; IC 7.1-5-9-5.

Synopsis: Alcoholic beverage matters. Allows the alcohol and tobacco commission to issue a beer or wine wholesaler's permit to a corporation, a limited liability company, or a limited partnership if no stockholder or person having an interest is a resident of the county in which the licensed premises are to be situated. 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, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a paved auto racetrack more than two miles in length, or a 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. Allows a supplemental retailer to sell alcoholic beverages on Sunday from 10 a.m. to 3 a.m. Allows a beer, wine, or liquor wholesaler to obtain a deduction for the redevelopment or rehabilitation of real property in areas designated as economic revitalization areas. 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. Makes conforming amendments. **(This conference committee report does the following: (1) Removes a provision that requires, rather than allows, the commission to provide procedures for retailers and dealers to enter into a formal group purchasing agreement. (2) Allows all supplemental retailers to sell alcoholic beverages on Sunday from 10 a.m. to 3 a.m. (3) Allows a beer, wine, or liquor wholesaler to obtain a deduction for the redevelopment or rehabilitation of real property in an area designated as an economic revitalization area. Makes conforming amendments. (4) Allows the alcohol and tobacco commission to issue a beer or wine wholesaler's permit to a limited liability company, limited partnership, corporation, if no person having a membership interest has been a resident of the county in which the licensed premises are to be situated. This conference committee report removes provisions from EHB 1369 that allow the commission to issue a beer wholesaler's permit to: (1) a person who is not an Indiana resident; (2) a partnership in which each member of the partnership does not possess the same qualifications as those required of an individual permit applicant; (3) a corporation, limited liability company, or limited partnership of which less than 60% of the stock or interest is owned by persons who are Indiana residents.)**

Effective: July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1369 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-1.1-12.1-3, AS AMENDED BY P.L.90-2002,
- 3 SECTION 118, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must provide a
- 5 statement of benefits to the designating body. If the designating body
- 6 requires information from the applicant for economic revitalization
- 7 area status for use in making its decision about whether to designate an
- 8 economic revitalization area, the applicant shall provide the completed
- 9 statement of benefits form to the designating body before the hearing
- 10 required by section 2.5(c) of this chapter. Otherwise, the statement of
- 11 benefits form must be submitted to the designating body before the
- 12 initiation of the redevelopment or rehabilitation for which the person
- 13 desires to claim a deduction under this chapter. The department of local
- 14 government finance shall prescribe a form for the statement of benefits.
- 15 The statement of benefits must include the following information:
- 16 (1) A description of the proposed redevelopment or rehabilitation.
- 17 (2) An estimate of the number of individuals who will be employed
- 18 or whose employment will be retained by the person as a result of
- 19 the redevelopment or rehabilitation and an estimate of the annual
- 20 salaries of these individuals.
- 21 (3) An estimate of the value of the redevelopment or rehabilitation.
- 22 With the approval of the designating body, the statement of benefits

1 may be incorporated in a designation application. Notwithstanding any
 2 other law, a statement of benefits is a public record that may be
 3 inspected and copied under IC 5-14-3-3.

4 (b) The designating body must review the statement of benefits
 5 required under subsection (a). The designating body shall determine
 6 whether an area should be designated an economic revitalization area
 7 or whether a deduction should be allowed, based on (and after it has
 8 made) the following findings:

9 (1) Whether the estimate of the value of the redevelopment or
 10 rehabilitation is reasonable for projects of that nature.

11 (2) Whether the estimate of the number of individuals who will be
 12 employed or whose employment will be retained can be reasonably
 13 expected to result from the proposed described redevelopment or
 14 rehabilitation.

15 (3) Whether the estimate of the annual salaries of those individuals
 16 who will be employed or whose employment will be retained can
 17 be reasonably expected to result from the proposed described
 18 redevelopment or rehabilitation.

19 (4) Whether any other benefits about which information was
 20 requested are benefits that can be reasonably expected to result
 21 from the proposed described redevelopment or rehabilitation.

22 (5) Whether the totality of benefits is sufficient to justify the
 23 deduction.

24 A designating body may not designate an area an economic
 25 revitalization area or approve a deduction unless the findings required
 26 by this subsection are made in the affirmative.

27 (c) Except as provided in subsections (a) through (b), the owner of
 28 property which is located in an economic revitalization area is entitled
 29 to a deduction from the assessed value of the property. If the area is a
 30 residentially distressed area, the period is not more than five (5) years.
 31 For all other economic revitalization areas designated before July 1,
 32 2000, the period is three (3), six (6), or ten (10) years. For all economic
 33 revitalization areas designated after June 30, 2000, the period is the
 34 number of years determined under subsection (d). The owner is entitled
 35 to a deduction if:

36 (1) the property has been rehabilitated; or

37 (2) the property is located on real estate which has been
 38 redeveloped.

39 The owner is entitled to the deduction for the first year, and any
 40 successive year or years, in which an increase in assessed value
 41 resulting from the rehabilitation or redevelopment occurs and for the
 42 following years determined under subsection (d). However, property
 43 owners who had an area designated an urban development area
 44 pursuant to an application filed prior to January 1, 1979, are only
 45 entitled to a deduction for a five (5) year period. In addition, property
 46 owners who are entitled to a deduction under this chapter pursuant to
 47 an application filed after December 31, 1978, and before January 1,
 48 1986, are entitled to a deduction for a ten (10) year period.

49 (d) For an area designated as an economic revitalization area after
 50 June 30, 2000, that is not a residentially distressed area, the designating
 51 body shall determine the number of years for which the property owner

1 is entitled to a deduction. However, the deduction may not be allowed
2 for more than ten (10) years. This determination shall be made:

- 3 (1) as part of the resolution adopted under section 2.5 of this
4 chapter; or
5 (2) by resolution adopted within sixty (60) days after receiving a
6 copy of a property owner's certified deduction application from the
7 county auditor. A certified copy of the resolution shall be sent to
8 the county auditor who shall make the deduction as provided in
9 section 5 of this chapter.

10 A determination about the number of years the deduction is allowed
11 that is made under subdivision (1) is final and may not be changed by
12 following the procedure under subdivision (2).

13 (e) Except for deductions related to redevelopment or rehabilitation
14 of real property in a county containing a consolidated city or a
15 deduction related to redevelopment or rehabilitation of real property
16 initiated before December 31, 1987, in areas designated as economic
17 revitalization areas before that date, a deduction for the redevelopment
18 or rehabilitation of real property may not be approved for the following
19 facilities:

- 20 (1) Private or commercial golf course.
21 (2) Country club.
22 (3) Massage parlor.
23 (4) Tennis club.
24 (5) Skating facility (including roller skating, skateboarding, or ice
25 skating).
26 (6) Racquet sport facility (including any handball or racquetball
27 court).
28 (7) Hot tub facility.
29 (8) Suntan facility.
30 (9) Racetrack.
31 (10) Any facility the primary purpose of which is:
32 (A) retail food and beverage service;
33 (B) automobile sales or service; or
34 (C) other retail;

35 unless the facility is located in an economic development target
36 area established under section 7 of this chapter.

37 (11) Residential, unless:

- 38 (A) the facility is a multifamily facility that contains at least
39 twenty percent (20%) of the units available for use by low and
40 moderate income individuals;
41 (B) the facility is located in an economic development target
42 area established under section 7 of this chapter; or
43 (C) the area is designated as a residentially distressed area.

44 (12) A package liquor store that holds a liquor dealer's permit
45 under IC 7.1-3-10 or any other entity that is required to operate
46 under a license issued under IC 7.1. This subdivision does not
47 apply to an applicant that:

- 48 (A) was eligible for tax abatement under this chapter before July
49 1, 1995; **or**
50 (B) is described in IC 7.1-5-7-11; **or**
51 (C) **operates an entity under:**

- 1 **(i) a beer wholesaler's permit under IC 7.1-3-3;**
 2 **(ii) a liquor wholesaler's permit under IC 7.1-3-8; or**
 3 **(iii) a wine wholesaler's permit under IC 7.1-3-13;**
 4 **for which the applicant claims a deduction under this**
 5 **chapter.**

6 (f) This subsection applies only to a county having a population of
 7 more than two hundred thousand (200,000) but less than three hundred
 8 thousand (300,000). Notwithstanding subsection (e)(11), in a county
 9 subject to this subsection a designating body may, before September 1,
 10 2000, approve a deduction under this chapter for the redevelopment or
 11 rehabilitation of real property consisting of residential facilities that are
 12 located in unincorporated areas of the county if the designating body
 13 makes a finding that the facilities are needed to serve any combination
 14 of the following:

- 15 (1) Elderly persons who are predominately low-income or
 16 moderate-income persons.
 17 (2) Disabled persons.

18 A designating body may adopt an ordinance approving a deduction
 19 under this subsection only one (1) time. This subsection expires
 20 January 1, 2011.

21 SECTION 2. IC 7.1-2-3-16.5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this
 23 section, "facility" includes the following:

- 24 (1) A facility to which IC 7.1-3-1-25(a) applies.
 25 (2) A tract that contains a premises that is described in
 26 ~~IC 7.1-3-1-14(c)(2)~~. **IC 7.1-3-1-14(c)(2)**.
 27 (3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.
 28 (4) A tract that contains an entertainment complex.

29 (b) As used in this section, "tract" has the meaning set forth in
 30 IC 6-1.1-1-22.5.

31 (c) A facility may advertise alcoholic beverages:

- 32 (1) in the facility's interior; or
 33 (2) on the facility's exterior.

34 (d) The commission may not exercise the prohibition power
 35 contained in section 16(a) of this chapter on advertising by a brewer,
 36 distiller, rectifier, or vintner in or on a facility.

37 (e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may
 38 provide advertising to a permittee that is a brewer, distiller, rectifier, or
 39 vintner in exchange for compensation from that permittee.

40 SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.136-2000,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2003]: Sec. 14. (a) It is lawful for an appropriate permittee,
 43 unless otherwise specifically provided in this title, to sell alcoholic
 44 beverages each day Monday through Saturday from 7 a.m., prevailing
 45 local time, until 3 a.m., prevailing local time, the following day. Sales
 46 shall cease wholly on Sunday at 3 a.m., prevailing local time, and not
 47 be resumed until the following Monday at 7 a.m., prevailing local time.

48 (b) It is lawful for the holder of a supplemental retailer's permit
 49 ~~which is not specified in subsection (c)~~ to sell the appropriate alcoholic
 50 beverages on Sunday from ~~noon~~; **10 a.m.**, prevailing local time, until
 51 ~~12:30 a.m.~~; **3 a.m.**, prevailing local time, the following day.

1 (c) It is lawful for the holder of a supplemental retailer's permit to sell
 2 the appropriate alcoholic beverages on Sunday from 11:00 a.m.,
 3 prevailing local time; until 12:30 a.m., prevailing local time; the
 4 following day if the holder of the permit meets the following criteria:

- 5 (1) the holder of the permit is a hotel; or
 6 (2) the holder of the permit meets the requirements of 905
 7 IAC 1-41-2(a).

8 (d) Notwithstanding subsections (b) and (c), if December 31 (New
 9 Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental
 10 retailer's permit to sell the appropriate alcoholic beverages on Sunday,
 11 December 31 from the time provided in subsection (b) or (c) until 3
 12 a.m. the following day.

13 (e) (c) It is lawful for the holder of a permit under this article to sell
 14 alcoholic beverages at athletic or sports events held on Sunday upon
 15 premises that:

- 16 (1) are described in section 25(a) of this chapter;
 17 (2) are a facility used in connection with the operation of a paved
 18 track more than two (2) miles in length that is used primarily in the
 19 sport of auto racing; or
 20 (3) are being used for a professional or an amateur tournament;
 21 beginning one (1) hour before the scheduled starting time of the event
 22 or, if the scheduled starting time of the event is 1 p.m. or later,
 23 beginning at noon.

24 (f) (d) It is lawful for the holder of a valid beer, wine, or liquor
 25 wholesaler's permit to sell to the holder of a valid retailer's or dealer's
 26 permit at any time.

27 SECTION 4. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2003]: **Sec. 12. (a) This section applies to:**

- 30 (1) the holder of a three-way permit that is issued to a civic
 31 center, a sports arena, a stadium, an exhibition hall, an
 32 auditorium, a theater, a tract that contains a premises that is
 33 described in IC 7.1-3-1-14(c)(2), or a convention center; or
 34 (2) the holder of a catering permit while catering alcoholic
 35 beverages at a civic center, a sports arena, a stadium, an
 36 exhibition hall, an auditorium, a theater, a tract that contains
 37 a premises that is described in IC 7.1-3-1-14(c)(2), or a
 38 convention center.

39 (b) As used in this section, "suite" means an area in a building or
 40 facility referred to in subsection (a) that:

- 41 (1) is not accessible to the general public;
 42 (2) has accommodations for not more than seventy-five (75)
 43 persons; and
 44 (3) is accessible only to persons who possess a ticket:
 45 (A) to an event in a building or facility referred to in
 46 subsection (a); and
 47 (B) that entitles the person to occupy the area while viewing
 48 the event described in clause (A).

49 The term does not include a restaurant, lounge, or concession area,
 50 even if access to the restaurant, lounge, or concession area is
 51 limited to certain ticket holders.

1 (c) **A permittee may allow the self-service of individual servings**
 2 **of alcoholic beverages in a suite.**

3 (d) **A person who:**

4 (1) **possesses a ticket described in subsection (b)(3); and**

5 (2) **is at least twenty-one (21) years of age;**

6 **may obtain an alcoholic beverage in a suite by self-service.**

7 (e) **A permittee may do any of the following:**

8 (1) **Demand that a person occupying a suite provide:**

9 (A) **a written statement under IC 7.1-5-7-4; and**

10 (B) **identification indicating that the person is at least**
 11 **twenty-one (21) years of age.**

12 (2) **Supervise the self-service of alcoholic beverages.**

13 (3) **Have an employee in the suite who holds an employee**
 14 **permit under IC 7.1-3-18-9 to serve some or all of the alcoholic**
 15 **beverages.**

16 SECTION 5. IC 7.1-3-20-16, AS AMENDED BY P.L.170-2002,
 17 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]: Sec. 16. (a) A permit that is authorized by this section
 19 may be issued without regard to the quota provisions of IC 7.1-3-22.

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

28 (c) 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 within a redevelopment project consisting of a building or
 32 group of buildings that:

33 (1) **was formerly used as part of a union railway station;**

34 (2) **has been listed in or is within a district that has been listed in**
 35 **the federal National Register of Historic Places maintained**
 36 **pursuant to the National Historic Preservation Act of 1966, as**
 37 **amended; and**

38 (3) **has been redeveloped or renovated, with the redevelopment or**
 39 **renovation being funded in part with grants from the federal, state,**
 40 **or local government.**

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

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

47 (1) **on land; or**

48 (2) **in a historic river vessel;**

49 **within a municipal riverfront development project funded in part with**
 50 **state and city money. A permit issued under this subsection may not be**
 51 **transferred. If an applicant already holds a retailer's permit for the**

1 **premises, the applicant is not eligible for a permit under this**
 2 **section.**

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

- 7 (1) was formerly used as part of a passenger and freight railway
 8 station; and
 9 (2) was built before 1900.

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

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

- 15 (1) is located in a county having a population of more than four
 16 hundred thousand (400,000) but less than seven hundred thousand
 17 (700,000); and
 18 (2) has a population of more than twenty thousand (20,000) but
 19 less than twenty-three thousand (23,000).

20 SECTION 6. IC 7.1-3-21-5 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Corporations:~~
 22 The commission shall not issue an alcoholic beverage wholesaler's,
 23 retailer's or dealer's permit of any type to a corporation unless sixty
 24 percent (60%) of the outstanding common stock is owned by persons
 25 who have been continuous and bona fide residents of this state for five
 26 (5) years.

27 (b) The commission shall not issue ~~an alcoholic beverage~~ **a liquor**
 28 wholesaler's permit ~~of any type~~ to a corporation unless at least one (1)
 29 of the stockholders shall have been a resident, for at least one (1) year
 30 immediately prior to making application for the permit, of the county
 31 in which the licensed premises are to be situated.

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

35 SECTION 7. IC 7.1-3-21-5.2 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. (a) The
 37 commission shall not issue an alcoholic beverage wholesalers, retailer's
 38 or dealer's permit of any type to a limited partnership unless at least
 39 sixty percent (60%) of the partnership interest is owned by persons who
 40 have been continuous and bona fide residents of Indiana for five (5)
 41 years.

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

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

51 SECTION 8. IC 7.1-3-21-5.4 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The
2 commission shall not issue an alcoholic beverage wholesalers, retailer's
3 or dealer's permit of any type to a limited liability company unless at
4 least sixty percent (60%) of the membership interest is owned by
5 persons who have been continuous and bona fide residents of Indiana
6 for five (5) years.

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

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

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

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

26 SECTION 10. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1,
27 2003]

(Reference is to EHB 1369 as printed April 4, 2003.)

Conference Committee Report
on
Engrossed House Bill 1369

Signed by:

Representative Kuzman
Chairperson

Senator Server

Representative Alderman

Senator Lewis

House Conferees

Senate Conferees