

HOUSE BILL No. 1282

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-35.

Synopsis: RTA food and beverage tax. Authorizes a county that has established a regional transportation authority (RTA) to impose a 1% food and beverage tax to fund the authority.

Effective: July 1, 2004.

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January 15, 2004, read first time and referred to Committee on Ways and Means.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1282



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 6-9-35 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2004]:
- 4 **Chapter 35. Regional Transportation Authority Food and**
- 5 **Beverage Tax**
- 6 **Sec. 1. This chapter applies to a county that has established a**
- 7 **regional transportation authority under IC 36-9-3-2.**
- 8 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
- 9 **chapter.**
- 10 **Sec. 3. (a) The fiscal body of a county may adopt an ordinance**
- 11 **to impose an excise tax, known as the regional transportation**
- 12 **authority food and beverage tax, on a transaction described in**
- 13 **section 4 of this chapter.**
- 14 **(b) If a fiscal body adopts an ordinance under subsection (a), it**
- 15 **shall immediately send a certified copy of the ordinance to the**
- 16 **commissioner of the department of state revenue.**
- 17 **(c) If a fiscal body adopts an ordinance under subsection (a), the**



1 regional transportation authority food and beverage tax applies to
2 transactions that occur after the last day of the month that
3 succeeds the month in which the ordinance was adopted.

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

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

11 (b) Transactions described in subsection (a)(1) include
12 transactions in which food or beverage is:

- 13 (1) served by a retail merchant off the merchant's premises;
- 14 (2) food sold in a heated state or heated by a retail merchant;
- 15 (3) two (2) or more food ingredients mixed or combined by a
- 16 retail merchant for sale as a single item (other than food that
- 17 is only cut, repackaged, or pasteurized by the seller, and eggs,
- 18 fish, meat, poultry, and foods containing these raw animal
- 19 foods requiring cooking by the consumer as recommended by
- 20 the federal Food and Drug Administration in chapter 3,
- 21 subpart 3-401.11 of its Food Code so as to prevent food borne
- 22 illnesses); or
- 23 (4) food sold with eating utensils provided by a retail
- 24 merchant, including plates, knives, forks, spoons, glasses,
- 25 cups, napkins, or straws (for purposes of this subdivision, a
- 26 plate does not include a container or packaging used to
- 27 transport the food).

28 (c) A food and beverage tax imposed under this chapter does not
29 apply to furnishing, preparing, or serving any food or beverage in
30 a transaction that is exempt or to the extent the transaction is
31 exempt from the state gross retail tax imposed under IC 6-2.5.

32 Sec. 5. The tax imposed on a transaction described in section 4
33 of this chapter equals one percent (1%) of the gross retail income
34 received by the merchant from the transaction. For purposes of
35 this chapter, the gross retail income received by the retail
36 merchant from such a transaction does not include the amount of
37 tax imposed on the transaction under IC 6-2.5.

38 Sec. 6. The tax that may be imposed under this chapter shall be
39 imposed, paid, and collected in the same manner that the state
40 gross retail tax is imposed, paid, and collected under IC 6-2.5.
41 However, the return to be filed for the payment of the tax may be
42 made on separate returns or may be combined with the return filed

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1 for the payment of the state gross retail tax, as prescribed by the
 2 department of state revenue.
 3 Sec. 7. The treasurer of state shall pay monthly the amounts
 4 received from the tax imposed under this chapter to the regional
 5 transportation authority established in the county upon warrants
 6 issued by the auditor of state.
 7 Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the
 8 regional transportation authority shall establish a food and
 9 beverage tax receipts fund.
 10 (b) The authority shall deposit in the food and beverage tax
 11 receipts fund all amounts received under this chapter.
 12 (c) Any money earned from the investment of money in the food
 13 and beverage tax receipts fund becomes a part of the fund.
 14 (d) Money in the food and beverage tax receipts fund shall be
 15 used by the authority solely to finance, construct, improve, equip,
 16 operate, maintain, and promote public transportation within the
 17 jurisdiction of the authority.

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