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# HOUSE BILL No. 1094

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-3-25; IC 7.1-4; IC 7.1-5-11-1.5.

**Synopsis:** Direct sale and shipment of wine. Allows a vintner located outside Indiana to sell and ship wine directly to an Indiana resident for personal use if the vintner holds an out-of-state shipper's permit. Requires the holder of an out-of-state shipper's permit to pay the sales tax and excise tax on wine sold and shipped directly to an Indiana resident.

**Effective:** July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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## HOUSE BILL No. 1094



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

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

1 SECTION 1. IC 7.1-3-25 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2005]:

4 **Chapter 25. Direct Sale and Shipment of Wine**

5 **Sec. 1. As used in this chapter, "seller" refers to a person who**  
6 **holds a permit:**

- 7 (1) **issued by a state other than Indiana; and**
- 8 (2) **that is the equivalent of a vintner's permit issued under**  
9 **this title.**

10 **Sec. 2. If a seller obtains an out-of-state shipper's permit under**  
11 **this chapter, the seller may sell and directly ship not more than**  
12 **twenty-four (24) bottles of wine each month from a location outside**  
13 **Indiana to a person in Indiana who meets the requirements in**  
14 **section 3 of this chapter.**

15 **Sec. 3. A person in Indiana who is at least twenty-one (21) years**  
16 **of age and does not hold a valid wholesaler permit under this title**  
17 **may:**



- 1 (1) order or purchase wine in person or by mail, facsimile
- 2 (fax) transmission, telephone, or computer network (as
- 3 defined in IC 35-43-2-3) from a seller who holds an
- 4 out-of-state shipper's permit under this chapter; and
- 5 (2) receive direct shipments of wine for personal use and not
- 6 for resale.

7 **Sec. 4. To obtain an out-of-state shipper's permit, a seller must**  
 8 **provide to the commission:**

- 9 (1) a completed application on a form prescribed by the
- 10 commission;
- 11 (2) a one hundred dollar (\$100) registration fee;
- 12 (3) a copy of a permit issued to the seller:
- 13 (A) by a state other than Indiana; and
- 14 (B) that is equivalent to a vintner's permit issued under
- 15 this title; and
- 16 (4) any other information required by the commission.

17 **Sec. 5. An out-of-state shipper's permit remains in effect for one**  
 18 **(1) calendar year, including the day the permit is granted as set**  
 19 **forth in IC 7.1-3-1-3.**

20 **Sec. 6. A seller who holds an out-of-state shipper's permit shall:**

- 21 (1) ensure that a container of wine shipped to a person in
- 22 Indiana is conspicuously labeled with the words:
- 23 "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
- 24 21 OR OLDER REQUIRED FOR DELIVERY.";
- 25 (2) report to the commission annually the information set
- 26 forth in section 9 of this chapter;
- 27 (3) annually pay to the department of state revenue all sales
- 28 taxes and excise taxes due on the sales to residents of Indiana
- 29 in the preceding calendar year, calculating the amount of the
- 30 taxes as if the sales were in Indiana at the location where the
- 31 delivery was made;
- 32 (4) allow the commission or the department of state revenue
- 33 to perform an audit of the seller's records on request; and
- 34 (5) be considered to have consented to the jurisdiction of the
- 35 commission, any other state agency, and Indiana courts
- 36 concerning enforcement of this chapter and any related laws
- 37 or rules.

38 **Sec. 7. A seller who holds an out-of-state shipper's permit may**  
 39 **annually renew the permit by submitting the following to the**  
 40 **commission:**

- 41 (1) A completed application for renewal on a form prescribed
- 42 by the commission.

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(2) A renewal fee of fifty dollars (\$50).  
Sec. 8. The fees collected under this chapter shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

Sec. 9. A seller who holds an out-of-state shipper's permit must submit a report to the commission not later than January 31 of each year, on a form prescribed by the commission, containing the following information concerning shipments made under this chapter:

(1) The identity, quantity, and price of all wine shipped into Indiana during the previous calendar year.

(2) Other information required by the commission to implement this chapter.

Sec. 10. The commission and the department of state revenue may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 11. The commission may revoke an out-of-state shipper's permit for the failure to pay the excise taxes when required to do so by this title. The action of the commission is final.

SECTION 2. IC 7.1-4-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Persons Liable for Tax:~~ The wine excise tax shall be paid by the holder of **the following:**

(1) A vintner's permit, a farm winery permit, a wine wholesaler's permit, a dining car wine permit, or a boat wine permit on the alcoholic beverage to which the tax is applicable and which has been manufactured or imported by ~~him~~ **the permit holder** into ~~this state:~~ **Indiana.**

(2) **An out-of-state shipper's permit on the wine to which the tax is applicable and that has been shipped by the permit holder into Indiana.**

However, the same article shall be taxed only once for wine excise tax purposes.

SECTION 3. IC 7.1-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Power of Commission and Department:~~ The chairman and the department shall have the power to examine the books, papers, records, and premises of a manufacturer, wholesaler, retailer, ~~or~~ **dealer, or holder of an out-of-state shipper's permit** under this title for the purpose of determining whether the excise taxes imposed by this title have been paid fully and whether the provisions of the title are being complied with.

SECTION 4. IC 7.1-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Collection of Annual License Fees:~~ The chairman shall collect the required annual license

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1 fee paid in connection with the issuance of a brewer's permit, a beer  
 2 wholesaler's permit, a temporary beer permit, a dining car permit of any  
 3 type, a boat permit of any type, a distiller's permit, a rectifier's permit,  
 4 a liquor wholesaler's permit, a vintner's permit, a farm winery permit,  
 5 a farm winery brandy distiller's permit, a wine wholesaler's permit, a  
 6 wine bottler's permit, a temporary wine permit, **an out-of-state**  
 7 **shipper's permit**, a salesman's permit, and a carrier's alcoholic permit.

8 SECTION 5. IC 7.1-5-11-1.5 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) **Except as**  
 10 **provided in subsection (b)**, it is unlawful for a person in the business  
 11 of selling alcoholic beverages in another state or country to ship or  
 12 cause to be shipped an alcoholic beverage directly to an Indiana  
 13 resident who does not hold a valid wholesaler permit under this title.  
 14 This includes the ordering and selling of alcoholic beverages over a  
 15 computer network (as defined by IC 35-43-2-3(a)).

16 **(b) A seller (as defined by IC 7.1-3-25-1) may sell and ship wine**  
 17 **from a location outside Indiana directly to an Indiana resident who**  
 18 **does not hold a valid wholesaler permit if the seller:**

19 **(1) holds an out-of-state shipper's permit; and**

20 **(2) satisfies the other requirements;**

21 **under IC 7.1-3-25.**

22 ~~(b)~~ (c) Upon a determination by the commission that a person has  
 23 violated subsection (a) **or (b)**, a wholesaler **or an Indiana resident**  
 24 may not accept a shipment of:

25 **(1) alcoholic beverages from ~~the~~ a person who has violated**  
 26 **subsection (a); or**

27 **(2) wine from a seller who has violated subsection (b);**

28 for a period of up to one (1) year as determined by the commission.

29 ~~(c)~~ (d) The commission shall adopt rules under IC 4-22-2 to  
 30 implement this section.

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