
SENATE BILL No. 426

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-29-5; IC 6-2.5-14.

Synopsis: Sales tax increment funding for tourism. Establishes the tourism supplemental revenue fund to be administered by the office of tourism development. Provides that money in the fund may be used by the office for the promotion and development of tourism in Indiana. Requires the department of state revenue (department) to require retail merchants to report on all sales and use tax returns an industry code listed in the North American Industry Classification System Manual to allow the department to classify certain merchants as tourism related merchants. For all calendar years beginning after December 31, 2008, and ending before January 1, 2020, requires the auditor of state to transfer from those funds receiving sales and use tax collections to the tourism supplemental revenue fund an amount equal to the lesser of: (1) 10% of the difference between the sales and use taxes collected from tourism related merchants in the previous calendar year, minus those taxes collected from tourism related merchants in the calendar year ending December 31, 2007; or (2) the amount deposited in the tourism supplemental fund in the immediately preceding calendar year plus \$3,000,000.

Effective: Upon passage; July 1, 2007.

Simpson

January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 426

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

- 1 SECTION 1. IC 5-29-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:
4 **Chapter 5. Indiana Tourism Supplemental Revenue Fund**
5 **Sec. 1. (a) The Indiana tourism supplemental revenue fund is**
6 **established for the following purposes:**
7 (1) **To provide money for the tourism information and**
8 **promotion fund established by IC 5-29-3-4.**
9 (2) **To provide money for any other activity of the office**
10 **related to the promotion and development of tourist resources**
11 **and facilities in Indiana.**
12 **(b) The fund consists of the following:**
13 (1) **Amounts transferred to the fund under IC 6-2.5-14-4(f).**
14 (2) **Other amounts appropriated by the general assembly.**
15 (3) **Donations, grants, and money received from any other**
16 **source.**
17 **(c) The office shall administer the fund. The expenses of**



1 administering the fund shall be paid from money in the fund.
 2 (d) The treasurer of state shall invest the money in the fund not
 3 currently needed to meet the obligations of the fund in the same
 4 manner as other public money may be invested. Interest that
 5 accrues from these investments shall be deposited in the fund.
 6 (e) Money in the fund at the end of a state fiscal year does not
 7 revert to the state general fund.
 8 (f) Money in the fund is appropriated continuously for the
 9 purposes stated in subsection (a).
 10 Sec. 2. The director may adopt rules under IC 4-22-2 to
 11 implement this chapter and to identify tourism related activities
 12 and initiatives for which money in the fund may be expended.
 13 SECTION 2. IC 6-2.5-14 IS ADDED TO THE INDIANA CODE
 14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2007]:
 16 Chapter 14. Tourism Related Retail Transactions
 17 Sec. 1. As used in this chapter, "base period amount" means the
 18 amount of state gross retail and use tax revenues certified by the
 19 department to the auditor of state under section 4(d) of this
 20 chapter.
 21 Sec. 2. As used in this chapter, "NAICS code" refers to the code
 22 used to classify a particular industry in the current edition of the
 23 North American Industry Classification System Manual - United
 24 States, published by the National Technical Information Service of
 25 the United States Department of Commerce.
 26 Sec. 3. As used in this chapter, "tourism related merchant"
 27 means a retail merchant that is classified as a tourism related
 28 merchant by the department under section 4(c) of this chapter.
 29 Sec. 4. (a) This section applies to all retail merchants required
 30 to file periodic returns with the department under IC 6-2.5-6.
 31 (b) The department shall require a retail merchant to report on
 32 each state gross retail and use tax return filed after June 30, 2007,
 33 and before January 1, 2019:
 34 (1) the NAICS code that most accurately describes the retail
 35 merchant's business; and
 36 (2) whether the code reported under subdivision (1) is a
 37 different code from that previously reported by the retail
 38 merchant on any return filed in the same calendar year.
 39 (c) This subsection applies to all calendar years beginning after
 40 December 31, 2007, and ending before January 1, 2020. Before
 41 January 15 of a calendar year, the department shall use the NAICS
 42 codes reported by retail merchants under subsection (b) during the

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1 immediately preceding calendar year to compile and update a list
2 or data base of those retail merchants that qualified as tourism
3 related merchants during the immediately preceding calendar
4 year. The department shall classify a retail merchant as a tourism
5 related merchant if the retail merchant reported one (1) of the
6 following NAICS codes, or a more specific NAICS code that
7 includes within it one (1) of the following NAICS codes, on the
8 retail merchant's periodic returns for the immediately preceding
9 calendar year:
10 (1) 44121.
11 (2) 44122.
12 (3) 44512.
13 (4) 4453.
14 (5) 447.
15 (6) 45111.
16 (7) 45322.
17 (8) 45392.
18 (9) 4542.
19 (10) 481211.
20 (11) 4853.
21 (12) 4855.
22 (13) 4859991.
23 (14) 53211.
24 (15) 53212.
25 (16) 532292.
26 (17) 7111.
27 (18) 711211.
28 (19) 711212.
29 (20) 7113.
30 (21) 71211.
31 (22) 71212.
32 (23) 71213.
33 (24) 71219.
34 (25) 71311.
35 (26) 7132.
36 (27) 7139.
37 (28) 71391.
38 (29) 71393.
39 (30) 71399.
40 (31) 7139904.
41 (32) 7139905.
42 (33) 72111.

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- 1 (34) 72112.
- 2 (35) 72119.
- 3 (36) 721211.
- 4 (37) 721214.
- 5 (38) 72131.
- 6 (39) 72211.
- 7 (40) 72221.
- 8 (41) 7223.
- 9 (42) 72241.

(d) Before February 1, 2008, the department shall:

- (1) determine the total amount of state gross retail and use taxes remitted to the department by tourism related merchants during the calendar year ending December 31, 2007; and
- (2) certify to the auditor of state the amount determined under subdivision (1) as the base period amount.

The department shall make the determination required under subdivision (1) on the basis of the returns filed by those retail merchants that comprise the list or data base compiled under subsection (b).

(e) This subsection applies to all calendar years beginning after December 31, 2008, and ending before January 1, 2020. Before February 1 of a calendar year, the department shall determine and certify to the auditor of state an amount equal to the lesser of:

- (1) the amount equal to ten percent (10%) of the difference between:
 - (A) the total amount of state gross retail and use taxes remitted to the department by tourism related merchants during the immediately preceding calendar year; minus
 - (B) the base period amount; or
- (2) the sum of:
 - (A) the amount deposited in the Indiana tourism supplemental revenue fund established by IC 5-29-5-1 by the auditor of state under subsection (f) in the immediately preceding calendar year; plus
 - (B) three million dollars (\$3,000,000).

(f) This subsection applies to all calendar years beginning after December 31, 2008, and ending before January 1, 2020. Before February 15 of a calendar year, the auditor of state shall transfer to and deposit in the Indiana tourism supplemental revenue fund established by IC 5-29-5-1 the amount certified by the department under subsection (e). The auditor of state shall make the transfer

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1 required under this subsection from the funds that receive state
2 gross retail and use tax collections under IC 6-2.5-10-1, in the same
3 proportion from each fund as the proportion in which state gross
4 retail and use taxes are deposited into that fund.

5 Sec. 5. The department may adopt rules under IC 4-22-2 to
6 implement this chapter.

7 Sec. 6. This chapter expires January 1, 2020.

8 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this
9 SECTION, "department" refers to the department of state
10 revenue.

11 (b) Notwithstanding IC 6-2.5-14-5, as added by this act, the
12 department shall adopt any rules to implement IC 6-2.5-14, as
13 added by this act, in the same manner as emergency rules are
14 adopted under IC 4-22-2-37.1. Any rules adopted under this
15 SECTION must be adopted not later than June 30, 2007. A rule
16 adopted under this SECTION expires on the earlier of:

17 (1) the date a rule is adopted by the department under
18 IC 4-22-2-24 through IC 4-22-2-36 to implement IC 6-2.5-14,
19 as added by this act; or

20 (2) January 1, 2009.

21 (c) This SECTION expires January 1, 2009.

22 SECTION 4. An emergency is declared for this act.

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