

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1149 be amended to read as follows:

- 1 Page 1, between lines 7 and 8, begin a new paragraph and insert:
2 **"Sec. 1. As used in this chapter, "business" means the following:**
3 **(1) A business entity authorized to do business in Indiana that**
4 **has state tax liability.**
5 **(2) A nonprofit organization that is exempt from federal**
6 **income taxation under Section 501(c) of the Internal Revenue**
7 **Code."**
8 Page 1, line 8, delete "Sec. 1." and insert "**Sec. 1.5.**"
9 Page 2, delete lines 24 through 42, begin a new paragraph and
10 insert:
11 **"Sec. 5. (a) This section does not apply to a place or area where**
12 **smoking was prohibited under:**
13 **(1) IC 16-41-37 (before its repeal); or**
14 **(2) an ordinance adopted before March 1, 2012.**
15 **(b) Notwithstanding section 12 of this chapter, a business may**
16 **allow smoking on the business's premises or in a room or area of**
17 **the business's premises if the business meets the following**
18 **requirements:**
19 **(1) The owner or operator of the business holds a valid license**
20 **issued by the commission under subsection (e).**
21 **(2) The business separates rooms and areas where smoking is**
22 **permitted from any areas where smoking is not permitted by**
23 **a solid, continuous wall that is connected to the floor and**
24 **ceiling.**
25 **(3) The business does not permit an individual who is less than**
26 **eighteen (18) years of age in any room or area where:**
27 **(A) smoking is permitted; or**
28 **(B) tobacco smoke migrates.**
29 **(4) The business does not permit tobacco smoke to migrate**
30 **from the premises of the business to a public place or place of**

- 1 employment that is not covered by the license issued under
 2 this section.
- 3 **(5) The business posts the following signs in a clear and**
 4 **conspicuous manner:**
- 5 **(A) Except as required in subdivision (2), at the entrance**
 6 **to and in any room or area where smoking is allowed signs**
 7 **in bold print that state:**
 8 **"WARNING: Smoking is Permitted in this Area.**
 9 **No person who is less than 18 years old may enter this**
 10 **area".**
- 11 **(B) At the entrance to and in any room or area where**
 12 **smoking is allowed and that is part of a tavern (as defined**
 13 **by IC 4-36-2-18) or any other business that sells alcoholic**
 14 **beverages and prohibits entry by individuals who are less**
 15 **than twenty-one (21) years of age, signs in bold print that**
 16 **state:**
 17 **"WARNING: Smoking is Permitted in this Area.**
 18 **No person who is less than 21 years old may enter this**
 19 **area".**
- 20 **(C) At the entrance to and in any room or area where**
 21 **smoking is not allowed signs in bold print that state:**
 22 **"Smoking is PROHIBITED by State Law in this Area".**
- 23 **(6) The business pays the fee required under section 5.5 of this**
 24 **chapter.**
- 25 **(7) The business provides any information required by the**
 26 **commission.**
- 27 **(c) The commission may adopt rules under IC 4-22-2 to**
 28 **administer this chapter.**
- 29 **(d) In addition to the penalty under sections 8, 9, and 9.5 of this**
 30 **chapter, if the owner or operator of a business has been adjudged**
 31 **to have committed at least three (3) prior unrelated infractions**
 32 **under this chapter in a consecutive twelve (12) month period, the**
 33 **commission may suspend or revoke the business's license issued**
 34 **under this section.**
- 35 **(e) The commission shall issue a license to an owner or operator**
 36 **of a business who:**
- 37 **(1) meets the requirements under subsection (b)(2) through**
 38 **(b)(7); and**
 39 **(2) does not have a suspended or revoked license under**
 40 **subsection (d).**
- 41 **(f) Except as provided in section 5.5(c) of this chapter, a license**
 42 **issued under this section expires one (1) year after the date of**
 43 **issuance.**
- 44 **(g) If a business operates at more than one (1) location, a license**
 45 **must be obtained for each location.**
- 46 **Sec. 5.5. (a) Except as provided in subsections (b), (c), and (d),**
 47 **the commission shall establish a sliding fee schedule based on the**

1 annual occupancy of the business. The maximum annual fee may
2 not exceed ten thousand dollars (\$10,000), and the minimum fee
3 may not be less than one thousand dollars (\$1,000).

4 (b) The annual license fee for a bona fide veterans organization
5 (as defined by IC 4-32.2-2-11) is twenty-five dollars (\$25).

6 (c) The annual license fee for a business that:
7 (1) is owned, managed, and operated by members of the same
8 immediate family; and

9 (2) does not have more than ten (10) employees;
10 is twenty-five dollars (\$25). For purposes of this subsection,
11 immediate family members consist of the parent, child, sibling,
12 adopted child, stepparent, stepchild, stepsister, stepbrother,
13 father-in-law, mother-in-law, sister-in-law, brother-in-law,
14 daughter-in-law, son-in-law, grandparent, and grandchild.

15 (d) The fee for a daily license for a qualified organization (as
16 defined by IC 4-32.2-2-24) that conducts an allowable event (as
17 defined by IC 4-32.2-2-2) that is required to be licensed by the
18 Indiana gaming commission under IC 4-32.2 is twenty-five dollars
19 (\$25)."

20 Delete pages 3 through 4.

21 Page 5, delete lines 1 through 4.

22 Page 5, line 25, delete "Post" and insert "Except as provided in
23 section 5(b)(5) of this chapter, post".

24 Page 5, delete lines 32 through 35.

25 Page 6, between lines 16 and 17, begin a new paragraph and insert:

26 "Sec. 9.5. (a) An owner or operator who holds a license issued
27 under section 5 of this chapter and who fails to comply with a
28 requirement necessary for the license commits a Class B infraction,
29 except as provided in subsection (b).

30 (b) A failure to comply as described in subsection (a) is a Class
31 A infraction if the owner or operator has been adjudged to have
32 committed at least three (3) prior unrelated infractions under this
33 section."

34 Page 7, line 10, delete "This" and insert "Subject to section 5, of
35 this chapter, this

36 Page 7, between lines 12 and 13, begin a new paragraph and insert:

37 "Sec. 13. The commission shall deposit all license fees collected
38 under this chapter as follows:

39 (1) Fifty percent (50%) of the fees collected into the
40 enforcement and administration fund established under
41 IC 7.1-4-10.

1 **(2) Fifty percent (50%) of the fees collected into the Indiana**
2 **tobacco use prevention and cessation trust fund established by**
3 **IC 4-12-4-10."**

(Reference is to EHB 1149 as printed February 24, 2012.)

Senator HOLDMAN