



February 18, 2013

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## HOUSE BILL No. 1070

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DIGEST OF HB 1070 (Updated February 13, 2013 9:18 pm - DI 92)

**Citations Affected:** IC 6-9.

**Synopsis:** Cloverdale food and beverage tax. Authorizes the Cloverdale town council to impose a 1% food and beverage tax on taxable food and beverage transactions in the town. Specifies the uses to which receipts from the food and beverage tax may be applied.

**Effective:** July 1, 2013.

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**Baird, Cherry**

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January 7, 2013, read first time and referred to Committee on Ways and Means.  
February 18, 2013, reported — Do Pass.

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HB 1070—LS 6303/DI 92+



February 18, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1070

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 6-9-43 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2013]:  
4 **Chapter 43. Cloverdale Food and Beverage Tax**  
5 **Sec. 1. This chapter applies to the town of Cloverdale.**  
6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**  
7 **chapter.**  
8 **Sec. 3. (a) The fiscal body of the town may adopt an ordinance**  
9 **to impose an excise tax, known as the town food and beverage tax,**  
10 **on transactions described in section 4 of this chapter.**  
11 **(b) If the fiscal body of the town adopts an ordinance under**  
12 **subsection (a), it shall immediately send a certified copy of the**  
13 **ordinance to the commissioner of the department of state revenue.**  
14 **(c) If the fiscal body of the town adopts an ordinance under**  
15 **subsection (a), the town food and beverage tax applies to**  
16 **transactions that occur after the last day of the month that**  
17 **succeeds the month in which the ordinance is adopted.**

HB 1070—LS 6303/DI 92+



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

- 4           **(1) for consumption at a location, or on equipment, provided**
- 5           **by a retail merchant;**
- 6           **(2) in the town in which the tax is imposed; and**
- 7           **(3) by a retail merchant for consideration.**

8           **(b) Transactions described in subsection (a)(1) include**  
9 **transactions in which food or beverage is:**

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

25           **(c) A town food and beverage tax imposed under section 3 of**  
26 **this chapter does not apply to the furnishing, preparing, or serving**  
27 **of any food or beverage in a transaction that is exempt, or to the**  
28 **extent exempt, from the state gross retail tax imposed by IC 6-2.5.**

29           **Sec. 5. A town food and beverage tax imposed under section 3**  
30 **of this chapter equals one percent (1%) of the gross retail income**  
31 **received by the retail merchant from the transaction. For purposes**  
32 **of this chapter, the gross retail income received by the retail**  
33 **merchant from such a transaction does not include the amount of**  
34 **tax imposed on the transaction under IC 6-2.5.**

35           **Sec. 6. The town food and beverage tax that may be imposed**  
36 **under this chapter shall be imposed, paid, and collected in the same**  
37 **manner that the state gross retail tax is imposed, paid, and**  
38 **collected under IC 6-2.5. However, the return to be filed for the**  
39 **payment of the tax may be made on separate returns or may be**  
40 **combined with the return filed for the payment of the state gross**  
41 **retail tax, as prescribed by the department of state revenue.**

42           **Sec. 7. If a tax is imposed under section 3 of this chapter, the**

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1 amounts received from the tax shall be paid monthly by the  
2 treasurer of state to the town fiscal officer upon warrants issued by  
3 the auditor of state.

4 Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the  
5 town fiscal officer shall establish a food and beverage tax receipts  
6 fund.

7 (b) The town fiscal officer shall deposit in this fund all amounts  
8 received under this chapter.

9 (c) Any money earned from the investment of money in the fund  
10 becomes a part of the fund.

11 Sec. 9. (a) Except as provided in subsection (b), money in the  
12 food and beverage tax receipts fund established under section 8 of  
13 this chapter shall be used by the town for the financing,  
14 construction, operation, or maintenance of the following:

- 15 (1) Sanitary sewers or wastewater treatment facilities.
- 16 (2) Drainage or flood control facilities.
- 17 (3) Water treatment, storage, or distribution facilities.

18 (b) The fiscal body of the town may pledge money in the food  
19 and beverage tax receipts fund to pay bonds issued, loans obtained,  
20 and lease payments or other obligations incurred by or on behalf  
21 of the town or a special taxing district in the town to provide the  
22 facilities described in subsection (a).

23 (c) Subsection (b) applies only to bonds, loans, lease payments,  
24 or other obligations that are issued, obtained, or incurred after the  
25 date on which the town food and beverage tax is imposed under  
26 section 3 of this chapter.

27 (d) A pledge under subsection (b) is enforceable under  
28 IC 5-1-14-4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1070, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN T, Chair

Committee Vote: yeas 20, nays 1.

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