



PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1544 be amended to read as follows:

- 1 Page 1, between lines 13 and 14, begin a new paragraph and insert:
2 "SECTION 2. IC 7.1-2-3-26, AS AMENDED BY P.L.86-2018,
3 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2023]: Sec. 26. The commission shall investigate a violation
5 of a provision of ~~IC 7.1-3-3-17~~ and IC 7.1-5-5-9 and shall have the
6 power to enforce conformance with a provision of an injunction issued
7 under the authority of these sections.
8 SECTION 3. IC 7.1-3-3-0.5 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2023]: **Sec. 0.5. It is the intent of the general assembly that a**
11 **person who is qualified to hold:**
12 **(1) a beer wholesaler's permit;**
13 **(2) a wine wholesaler's permit; and**
14 **(3) a liquor wholesaler's permit;**
15 **may hold any or all of the wholesaler permits set forth in this**
16 **section.**
17 SECTION 4. IC 7.1-3-3-4, AS AMENDED BY THE TECHNICAL
18 CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS
19 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:
20 Sec. 4. (a) The premises to be used as a warehouse by an applicant
21 shall be described in the application for the permit. ~~The commission~~

shall not issue a beer wholesaler's permit to an applicant for any other warehouse or premises than that described in the application. The commission shall issue only one (1) beer wholesaler's permit to an applicant, but a permittee may be permitted to transfer the permittee's warehouse to another location within the county that is not required to be within the corporate limits of an incorporated city or town; upon application to; and approval of; the commission.

(b) As used in this subsection, "immediate relative" means the father, the mother, a brother, a sister, a son, or a daughter of a wholesaler permittee. ~~Notwithstanding subsection (a);~~ If a wholesaler permittee is:

- (1) dead;
- (2) legally adjudged to be mentally incapacitated; or
- (3) at least seventy-five (75) years of age and has held an interest in the wholesaler's permit for at least ten (10) years;

the commission may allow the transfer of the wholesaler permit only to an immediate relative of the wholesaler permittee who concurrently holds a majority share in a valid wholesaler permit. In the case of a permit transfer from a wholesaler permittee under ~~subsection (b)(3);~~ **subdivision (3)**, the immediate relative to whom the permit is transferred must concurrently hold a majority share in a valid wholesaler permit and must have held an interest in the wholesaler permit for at least ten (10) years.

SECTION 5. IC 7.1-3-3-17 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 17: The circuit or superior court of the county in which the licensed premises of a beer wholesaler are located shall have jurisdiction to enjoin the cancellation or termination of a franchise or agreement between a beer wholesaler and a brewer in violation of IC 7.1-5-5-9: The action may be brought by a beer wholesaler or brewer who is or might be adversely affected by the cancellation or termination. The court, in granting an injunction under this section, shall provide that the brewer shall not supply the customers or territory of the beer wholesaler through servicing the customers or territory through another beer wholesaler or by any other means while the injunction is in effect. An injunction issued under this section shall require the posting of proper bond against damages for an injunction improvidently granted and a showing that the danger of irrevocable loss or damage is immediate. The beer wholesaler shall continue to service the accounts of the brewer in good faith during the term of the injunction.~~

SECTION 6. IC 7.1-3-3-19 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 19: The commission may not issue a beer wholesaler's permit to a person who holds a wine wholesaler's permit and a liquor wholesaler's permit.~~

SECTION 7. IC 7.1-3-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The commission

may issue a wine wholesaler's permit to sell wine, or wine and brandy, at wholesale to a person who:

- (1) ~~notwithstanding IC 7.1-5-9-4~~, holds a beer wholesaler's permit;
- (2) holds a liquor wholesaler's permit; or
- (3) does not hold an alcoholic beverage wholesaler's permit, but meets the qualifications to hold either a beer or a liquor wholesaler's permit.

(b) The holder of a wine wholesaler's permit under subsection (a)(1) or (a)(2):

- (1) is considered the same as a person who holds a wine wholesaler's permit under subsection (a)(3) for purposes of conducting activities and operations under the wine wholesaler's permit; and
- (2) may operate the beer or liquor wholesale business independently of the wine wholesale business."

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"(b) A wine wholesaler has the authority granted a beer wholesaler's permit under IC 7.1-3-3 and a liquor wholesaler's permit granted under IC 7.1-3-8."

Page 2, line 21, strike "(b)" and insert "(c)".

Page 2, line 40, strike "(c)" and insert "(d)".

Page 3, line 8, delete "(d)" and insert "(e)".

Page 3, after line 15, begin a new paragraph and insert:

"(f) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export liquor (as defined in IC 7.1-1-3-21) unless the wine wholesaler also holds a liquor wholesaler's permit under IC 7.1-3-8-1."

SECTION 9. IC 7.1-3-23-23, AS AMENDED BY P.L.79-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 23. (a) This section applies to a brewer that manufactures, in aggregate, more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana.

(b) The commission shall revoke the permit of a brewer ~~or beer wholesaler~~ who holds an interest in another permit in violation of IC 7.1-5-9-3.

SECTION 10. IC 7.1-3-23-24 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 24. The commission shall revoke the permit of a liquor wholesaler who holds an interest in another permit in violation of IC 7.1-5-9-6.~~

SECTION 11. IC 7.1-3-23-28 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 28. The commission may suspend or revoke the permit of a permittee if the court finds that the permittee has violated any of the provisions of an injunction issued by it under the provisions of IC 7.1-3-3-17.~~

SECTION 12. IC 7.1-3-25 IS REPEALED [EFFECTIVE JULY 1,

2023]. (Product Transfer Between Wholesalers).

SECTION 13. IC 7.1-3-25.5 IS REPEALED [EFFECTIVE JULY 1, 2023]. (Distribution Agreements Between a Beer Wholesaler and a Primary Source of Supply).

SECTION 14. IC 7.1-5-5-9, AS AMENDED BY P.L.139-2021, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) This section does not apply to product management (as described in 905 IAC 1-5.2-15) by a permittee.

(b) It is unlawful for a permittee to coerce, or attempt to coerce, or persuade another permittee to enter into an agreement, or to take an action, which would violate a provision of this title or of the rules and regulations of the commission.

~~(c) This subsection does not apply to the cancellation or termination of an agreement under IC 7.1-3-25.5-4. It is unlawful for a beer wholesaler or a primary source of supply to cancel or terminate an agreement or contract between a beer wholesaler and a primary source of supply for the sale of beer, unfairly and without due regard for the equities of the other party.~~

~~(d)~~ (c) A person who knowingly or intentionally violates subsection (b) ~~or (c)~~ commits a Class B misdemeanor.

SECTION 15. IC 7.1-5-9-3, AS AMENDED BY P.L.79-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) This section applies to a brewer that manufactures, in aggregate, more than ninety thousand (90,000) barrels of beer in a calendar year for sale or distribution within Indiana.

(b) It is unlawful for the holder of a brewer's ~~or beer wholesaler's~~ permit to have an interest in a liquor permit of any type under this title.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

SECTION 16. IC 7.1-5-9-4, AS AMENDED BY P.L.159-2014, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) ~~Except as provided in IC 7.1-3-3-4,~~ An applicant for a beer wholesaler's permit shall have no interest in the following:

(1) A permit to manufacture or to sell at retail alcoholic beverages of any kind.

~~(2) Any other permit to wholesale alcoholic beverages.~~

~~(3)~~ (2) Through stock ownership or otherwise, a partnership, limited liability company, or corporation that holds (A) a permit to manufacture or to sell at retail alcoholic beverages of any kind. ~~or (B) any other permit to wholesale alcoholic beverages of any kind.~~

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor.

SECTION 17. IC 7.1-5-9-6 IS REPEALED [EFFECTIVE JULY 1, 2023]. Sec. 6: (a) It is unlawful for the holder of a liquor wholesaler's

1 permit to have an interest in a beer permit of any type under this title:
 2 (b) A person who knowingly or intentionally violates this section
 3 commits a Class B misdemeanor.

4 SECTION 18. IC 7.1-5-10-12, AS AMENDED BY P.L.194-2021,
 5 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2023]: Sec. 12. (a) Except as provided in subsections (b)
 7 through (d) and subsection (g), it is unlawful for a permittee to sell,
 8 offer to sell, purchase or receive, an alcoholic beverage for anything
 9 other than cash. A permittee who extends credit in violation of this
 10 section shall have no right of action on the claim.

11 (b) A permittee may credit to a purchaser the actual price charged
 12 for a package or an original container returned by the original
 13 purchaser as a credit on a sale and refund to a purchaser the amount
 14 paid by the purchaser for a container, or as a deposit on a container, if
 15 it is returned to the permittee.

16 (c) A manufacturer may extend usual and customary credit for
 17 alcoholic beverages sold to a customer who maintains a place of
 18 business outside this state when the alcoholic beverages are actually
 19 shipped to a point outside this state.

20 (d) An artisan distiller, a distiller, a farm winery, **or a brewery**
 21 **described in IC 7.1-3-2-7(5), and a beer**, liquor, or wine wholesaler
 22 may extend credit on **beer**, liquor, flavored malt beverages, and wine
 23 sold to a permittee for a period of fifteen (15) days from the date of
 24 invoice, date of invoice included. However, if the fifteen (15) day
 25 period passes without payment in full, the:

- 26 (1) wholesaler;
- 27 (2) farm winery that sells and delivers under IC 7.1-3-12-5(a)(14);
- 28 **or**
- 29 (3) artisan distillery that sells and delivers under
- 30 IC 7.1-3-27-8(a)(11); **or**

31 **(4) brewery that sells and delivers under IC 7.1-3-2-7(5)(A);**
 32 shall sell to that permittee on a cash on delivery basis only.

33 (e) A person who knowingly or intentionally violates this section
 34 commits a Class B misdemeanor.

35 (f) Nothing in this section may be construed to prohibit a hotel,
 36 restaurant, caterer, or a club that is not open to the general public from
 37 extending credit to a consumer purchasing alcohol for personal use at
 38 any time.

39 (g) Nothing in this section may be construed to prohibit a retailer or
 40 dealer from accepting a:

- 41 (1) credit card;
- 42 (2) debit card;
- 43 (3) charge card; or
- 44 (4) stored value card;

45 from a consumer purchasing alcohol for personal use.

46 SECTION 19. IC 35-52-7-54 IS REPEALED [EFFECTIVE JULY

- 1 1, 2023]. ~~Sec. 54. IC 7.1-5-9-6 defines a crime concerning interests."~~
- 2 Renumber all SECTIONS consecutively.
(Reference is to HB 1544 as printed January 31, 2023.)

Representative Lucas