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# SENATE BILL No. 185

AM018501 has been incorporated into introduced printing.

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**Synopsis:** Alcohol and tobacco matters.

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2026

IN 185—LS 6454/DI 137



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Introduced

Second Regular Session of the 124th General Assembly (2026)

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 2025 Regular Session of the General Assembly.

## SENATE BILL No. 185

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 7.1-3-3-5, AS AMENDED BY P.L.163-2025,  
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit  
4 may purchase and import from the primary source of supply, possess,  
5 and sell at wholesale, beer and flavored malt beverages manufactured  
6 within or without this state.  
7 (b) A beer wholesaler permittee may possess, transport, sell, and  
8 deliver beer to:  
9 (1) another beer wholesaler authorized by the brewer to sell the  
10 brand purchased;  
11 (2) an employee; ~~and~~  
12 (3) a holder of a beer retailer's permit, beer dealer's permit,  
13 temporary beer permit, dining car permit, boat permit, airplane  
14 permit, or supplemental caterer's permit; ~~and~~  
15 (4) **a food manufacturer that is registered with the federal**

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**Food and Drug Administration, for the purpose of adding or integrating the beer into a product or recipe;**

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) The beer wholesaler's bona fide regular employees may purchase beer from the wholesaler in:

(1) bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints; or

(2) one (1) keg;

at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, or supplemental caterer's permit.

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

(g) A beer wholesaler may sell, donate, transport, and deliver beer to a qualified organization for:

(1) an allowable event under IC 7.1-3-6.1;

(2) a charity auction under IC 7.1-3-6.2; or

(3) an event under IC 7.1-3-6.3;

located within this state. The sale, donation to a qualified organization,

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1 transportation, and delivery of beer shall be made only from inventory  
 2 that has been located on the wholesaler's premises before the time of  
 3 invoicing and delivery.

4 SECTION 2. IC 7.1-3-18.5-1, AS AMENDED BY P.L.32-2019,  
 5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2026]: Sec. 1. (a) A person may not sell or otherwise  
 7 distribute in exchange for consideration a tobacco product or electronic  
 8 cigarette at retail **or wholesale** without a valid tobacco sales certificate  
 9 issued by the commission.

10 (b) A certificate may be issued only to a person who owns or  
 11 operates at least one (1) of the following:

12 (1) A premises consisting of a permanent building or structure,  
 13 **that does not contain sleeping or living quarters**, where the  
 14 tobacco product or electronic cigarette is sold or distributed.

15 (2) A premises upon which a cigarette vending machine is  
 16 located.

17 SECTION 3. IC 7.1-3-18.5-2, AS AMENDED BY P.L.107-2024,  
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2026]: Sec. 2. (a) A person who desires a certificate must  
 20 provide the following to the commission:

21 (1) The applicant's name and mailing address and the address of  
 22 the premises for which the certificate is being issued.

23 (2) Except as provided in section 6(c) of this chapter, a fee of  
 24 two hundred dollars (\$200).

25 (3) The name under which the applicant transacts or intends to  
 26 transact business.

27 (4) The address of the applicant's principal place of business or  
 28 headquarters, if any.

29 (5) The statement required under section 2.6 of this chapter.

30 (6) If the applicant is applying for a new certificate under section  
 31 3.2 of this chapter, a copy of each of the following:

32 (A) If the new ownership of the business is a business  
 33 entity, the articles of incorporation, articles of organization,  
 34 or any other formation documents of the business entity.

35 (B) If the new ownership of the business is an individual,  
 36 either:

37 (i) the sales or purchase agreement; or

38 (ii) an affidavit signed by the applicant concerning the  
 39 sale or purchase, on a form prescribed by the  
 40 commission, that includes the name and address of the  
 41 seller and purchaser.

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1 (C) The certificate held by the previous ownership of the  
2 business.

3 (b) A separate certificate is required for each location where the  
4 tobacco products or electronic cigarettes are sold or distributed. A retail  
5 establishment may not hold more than one (1) active tobacco sales  
6 certificate for a retail location at any time. **The commission shall not**  
7 **issue a certificate to a retail location where a tobacco sales**  
8 **certificate was revoked within one (1) year prior to the date of the**  
9 **application.**

10 (c) A certificate holder shall conspicuously display the holder's  
11 certificate on the holder's premises where the tobacco products or  
12 electronic cigarettes are sold or distributed.

13 (d) Any intentional misstatement or suppression of a material fact  
14 in an application filed under this section constitutes grounds for denial  
15 of the certificate.

16 (e) A certificate may be issued only to a person who meets the  
17 following requirements:

18 (1) If the person is an individual, the person must be at least  
19 twenty-one (21) years of age.

20 (2) The person must be authorized to do business in Indiana.

21 (3) The person has not had an interest in a certificate revoked **or**  
22 **suspended** by the commission for that business location within  
23 the preceding one (1) year.

24 (f) The fees collected under this section shall be deposited in the  
25 enforcement and administration fund under IC 7.1-4-10.

26 SECTION 4. IC 7.1-3-18.5-2.4, AS ADDED BY P.L.107-2024,  
27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2026]: Sec. 2.4. (a) Subject to available resources, the  
29 commission shall not issue a tobacco sales certificate, except as  
30 otherwise authorized in this title and subject to the other restrictions  
31 contained in this title, to the following persons:

32 (1) A person who does not have lawful status (as defined in  
33 IC 9-13-2-92.3).

34 (2) A person who has been convicted within five (5) years before  
35 the date of application of:

36 (A) a federal crime having a sentence of at least one (1)  
37 year;

38 (B) a Level 1, Level 2, Level 3, Level 4, or Level 5 felony;  
39 or

40 (C) a crime in a state other than Indiana having a penalty  
41 equal to the penalty for an Indiana Level 1, Level 2, Level



- 1 3, Level 4, or Level 5 felony.  
 2 However, this subdivision does not apply to a conviction that has  
 3 been expunged under IC 35-38-9.  
 4 (3) A person who does not meet at least one (1) of the following  
 5 descriptions:  
 6 (A) The person owns the premises to which the certificate  
 7 will be applicable.  
 8 (B) The person has a valid lease on the premises:  
 9 (i) at the time of the application for a certificate; and  
 10 (ii) for the duration of the period in which the person  
 11 sells or distributes in the manner described in section  
 12 1 of this chapter.  
 13 (C) The person has a franchise agreement with a franchisor:  
 14 (i) that owns the premises to which the certificate will  
 15 be applicable; or  
 16 (ii) that has a bona fide lease on the premises for the  
 17 full period for which the certificate is to be issued.  
 18 (4) A person whose place of business is conducted by a manager  
 19 or agent, unless the manager or agent possesses the same  
 20 qualifications required for the issuance of a tobacco sales  
 21 certificate to the person.  
 22 (5) A minor.  
 23 (6) A person non compos mentis.  
 24 (7) A person who has held a permit or certificate under this title  
 25 and who has had that permit or certificate revoked **or suspended**  
 26 within one (1) year prior to the date of application for a tobacco  
 27 sales certificate.  
 28 (8) A person who has made an application for a permit or  
 29 certificate of any type under this title which has been denied less  
 30 than one (1) year prior to the person's application for a tobacco  
 31 sales certificate unless the first application was denied by reason  
 32 of a procedural or technical defect.  
 33 (b) Subsection (a)(5) does not prevent a minor from being a  
 34 stockholder in a corporation.  
 35 SECTION 5. IC 7.1-3-18.5-3, AS AMENDED BY P.L.224-2005,  
 36 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2026]: Sec. 3. (a) A certificate issued by the commission  
 38 under this chapter must contain the following information:  
 39 (1) The certificate number.  
 40 (2) The certificate holder's name.  
 41 (3) The permanent location of the business or vending machine

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for which the certificate is issued.

(4) The expiration date of the certificate.

(b) A certificate is:

(1) valid for ~~three (3) years~~ **one (1) year** after the date of issuance, unless the commission suspends the certificate; and

(2) nontransferable.

SECTION 6. IC 7.1-3-18.5-9.2, AS ADDED BY P.L.107-2024, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 9.2. (a) An employee of a certificate holder must hold a valid:

(1) driver's license issued by the state of Indiana or another state; or

(2) identification card issued by the state of Indiana, another state, or the United States;

to sell tobacco products.

(b) An employee must have the employee's driver's license or identification card or a copy of the employee's driver's license or identification card:

(1) either:

(A) in the employee's possession; or

(B) on file with the employee's employer; and

(2) upon request, readily available to show to an excise officer or law enforcement;

when selling tobacco products.

(c) If an employee holds a valid license or identification card as described in subsection (a) but is unable to show the license, identification card, or a copy to an excise officer under subsection (b) because:

(1) the employee has left the license, identification card, or copy in another location; or

(2) the license, identification card, or copy has otherwise been lost or mislaid;

the employee may, within five (5) days of the employee's inability to show the license, identification card, or copy to the excise officer, produce to the excise officer or to the office of the commission satisfactory evidence of a license or identification card issued to the individual that was valid at the time the individual was unable to show the license, identification card, or copy.

(d) If an employee who is unable to show a license, identification card, or copy to an excise officer fails to produce satisfactory evidence within five (5) days in the manner described in subsection (c), the

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commission may impose a civil penalty on the certificate holder under IC 7.1-3-23-3.

**(e) If a certificate holder's employees violate this section three (3) or more times in a one (1) year period, the commission shall suspend the certificate holder's certificate for a period of five (5) days.**

SECTION 7. IC 7.1-5-10-23, AS AMENDED BY P.L.32-2019, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 23. It is a Class C infraction for a permittee, **certificate holder**, or an employee or agent of a permittee **or certificate holder** to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person who is or reasonably appears to be less than forty (40) years of age an alcoholic beverage **or tobacco product** for consumption off the licensed premises without first requiring the person to produce:

- (1) a driver's license;
- (2) an identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government; or
- (3) a government issued document;

bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.

SECTION 8. IC 7.1-7-5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 7. **(a) As used in this section, "foreign adversary" means a foreign government listed in 15 CFR 791.4.**

**(b) A retailer may not sell and a distributor may not distribute an e-liquid that is manufactured in or imported from a foreign adversary.**

SECTION 9. IC 35-45-6-1, AS AMENDED BY P.L.186-2025, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or

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1 merely associated in fact.

2 (d) "Pattern of racketeering activity" means engaging in at least  
3 two (2) incidents of racketeering activity that have the same or similar  
4 intent, result, accomplice, victim, or method of commission, or that are  
5 otherwise interrelated by distinguishing characteristics that are not  
6 isolated incidents. However, the incidents are a pattern of racketeering  
7 activity only if at least one (1) of the incidents occurred after August  
8 31, 1980, and if the last of the incidents occurred within five (5) years  
9 after a prior incident of racketeering activity.

10 (e) "Racketeering activity" means to commit, to attempt to commit,  
11 to conspire to commit a violation of, or aiding and abetting in a  
12 violation of any of the following:

- 13 (1) A provision of IC 23-19, or of a rule or order issued under  
14 IC 23-19.
- 15 (2) A violation of IC 35-45-9.
- 16 (3) A violation of IC 35-47.
- 17 (4) A violation of IC 35-49-3.
- 18 (5) Murder (IC 35-42-1-1).
- 19 (6) Battery as a Class C felony before July 1, 2014, or a Level 5  
20 felony after June 30, 2014 (IC 35-42-2-1).
- 21 (7) Kidnapping (IC 35-42-3-2).
- 22 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 23 (9) Child exploitation (IC 35-42-4-4).
- 24 (10) Robbery (IC 35-42-5-1).
- 25 (11) Carjacking (IC 35-42-5-2) (before its repeal).
- 26 (12) Arson (IC 35-43-1-1).
- 27 (13) Burglary (IC 35-43-2-1).
- 28 (14) Theft (IC 35-43-4-2).
- 29 (15) Receiving stolen property (IC 35-43-4-2) (before its  
30 amendment on July 1, 2018).
- 31 (16) Forgery (IC 35-43-5-2).
- 32 (17) An offense under IC 35-43-5.
- 33 (18) Bribery (IC 35-44.1-1-2).
- 34 (19) Official misconduct (IC 35-44.1-1-1).
- 35 (20) Conflict of interest (IC 35-44.1-1-4).
- 36 (21) Perjury (IC 35-44.1-2-1).
- 37 (22) Obstruction of justice (IC 35-44.1-2-2).
- 38 (23) Intimidation (IC 35-45-2-1).
- 39 (24) Promoting prostitution (IC 35-45-4-4).
- 40 (25) Professional gambling (IC 35-45-5-3).
- 41 (26) Maintaining a professional gambling site

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- 1 (IC 35-45-5-3.5(b)).
- 2 (27) Promoting professional gambling (IC 35-45-5-4).
- 3 (28) Dealing in or manufacturing cocaine or a narcotic drug
- 4 (IC 35-48-4-1).
- 5 (29) Dealing in methamphetamine (IC 35-48-4-1.1).
- 6 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 7 (31) Dealing in a schedule I, II, or III controlled substance
- 8 (IC 35-48-4-2).
- 9 (32) Dealing in a schedule IV controlled substance
- 10 (IC 35-48-4-3).
- 11 (33) Dealing in a schedule V controlled substance
- 12 (IC 35-48-4-4).
- 13 (34) Dealing in marijuana, hash oil, hashish, or salvia
- 14 (IC 35-48-4-10).
- 15 (35) Money laundering (IC 35-45-15-5).
- 16 (36) A violation of IC 35-47.5-5.
- 17 (37) A violation of any of the following:
- 18 (A) IC 23-14-48-9.
- 19 (B) IC 30-2-9-7(b).
- 20 (C) IC 30-2-10-9(b).
- 21 (D) IC 30-2-13-38(f).
- 22 (38) Practice of law by a person who is not an attorney
- 23 (IC 33-43-2-1).
- 24 (39) An offense listed in IC 35-48-4 involving the manufacture
- 25 or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a
- 26 synthetic drug lookalike substance (as defined in
- 27 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under
- 28 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled
- 29 substance analog (as defined in IC 35-48-1.1-8), or a substance
- 30 represented to be a controlled substance (as described in
- 31 IC 35-48-4-4.6).
- 32 (40) Dealing in a controlled substance resulting in death
- 33 (IC 35-42-1-1.5).
- 34 (41) Organized retail theft (IC 35-43-4-2.2).
- 35 **(42) Sale of alcohol without a permit (IC 7.1-5-10-5).**
- 36 SECTION 10. IC 35-46-1-10.2, AS AMENDED BY
- 37 P.L.163-2025, SECTION 63, IS AMENDED TO READ AS
- 38 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 10.2. (a) A person may
- 39 not be charged with a violation under this section and a violation under
- 40 IC 7.1-7-6-5.
- 41 (b) A retail establishment that sells or distributes a tobacco

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1 product to a person less than twenty-one (21) years of age commits a  
 2 Class C infraction. For a sale to take place under this section, the buyer  
 3 must pay the retail establishment for the tobacco product.

4 (c) Notwithstanding IC 34-28-5-4(c), a civil judgment for an  
 5 infraction committed under this section must be imposed as follows:

6 (1) If the retail establishment at that specific business location  
 7 has not been issued a citation or summons for a violation of this  
 8 section in the previous one (1) year, a civil penalty of up to four  
 9 hundred dollars (\$400).

10 (2) If the retail establishment at that specific business location  
 11 has had one (1) citation or summons issued for a violation of this  
 12 section in the previous one (1) year, a civil penalty of up to eight  
 13 hundred dollars (\$800).

14 (3) If the retail establishment at that specific business location  
 15 has had two (2) citations or summonses issued for a violation of  
 16 this section in the previous one (1) year, a civil penalty of up to  
 17 one thousand four hundred dollars (\$1,400).

18 (4) If the retail establishment at that specific business location  
 19 has had three (3) or more citations or summonses issued for a  
 20 violation of this section in the previous one (1) year, a civil  
 21 penalty of up to two thousand dollars (\$2,000).

22 A retail establishment may not be issued a citation or summons for a  
 23 violation of this section more than once every twenty-four (24) hours  
 24 for each specific business location.

25 (d) It is not a defense that the person to whom the tobacco product  
 26 was sold or distributed did not smoke, chew, inhale, or otherwise  
 27 consume the tobacco product.

28 (e) The following defenses are available to a retail establishment  
 29 accused of selling or distributing a tobacco product to a person who is  
 30 less than twenty-one (21) years of age:

31 (1) The buyer or recipient produced a driver's license bearing the  
 32 purchaser's or recipient's photograph showing that the purchaser  
 33 or recipient was of legal age to make the purchase.

34 (2) The buyer or recipient produced a photographic identification  
 35 card issued under IC 9-24-16-1 or a similar card issued under the  
 36 laws of another state or the federal government showing that the  
 37 purchaser or recipient was of legal age to make the purchase.

38 (3) The appearance of the purchaser or recipient was such that  
 39 an ordinary prudent person would believe that the purchaser or  
 40 recipient was not less than thirty (30) years of age.

41 (f) It is a defense that the accused retail establishment sold or

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delivered the tobacco product to a person who acted in the ordinary course of employment or a business concerning tobacco products for the following activities:

- (1) Agriculture.
- (2) Processing.
- (3) Transporting.
- (4) Wholesaling.
- (5) Retailing.

(g) As used in this section, "distribute" means to give a tobacco product to another person as a means of promoting, advertising, or marketing the tobacco product to the general public.

(h) Unless a person buys or receives a tobacco product under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes a tobacco product is not liable for a violation of this section unless the person less than twenty-one (21) years of age who bought or received the tobacco product is issued a citation or summons under section 10.5 of this chapter.

(i) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle tobacco education and enforcement fund (IC 7.1-6-2-6).

(j) A person who violates subsection (b) at least ~~six (6)~~ **three (3)** times in any one (1) year commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 11. IC 35-46-1-11.7, AS AMENDED BY P.L.163-2025, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 11.7. (a) A retail establishment in which tobacco products account for at least eighty-five percent (85%) of the retail establishment's gross sales may not allow an individual who is less than twenty-one (21) years of age to enter the retail establishment.

(b) An individual who is less than twenty-one (21) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment the following:

- (1) A sign in boldface type that states "NOTICE: It is unlawful for a person less than 21 years old to enter this store."
- (2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the Indiana

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- 1 department of health.
- 2 (d) A person who violates this section commits a Class C
- 3 infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an
- 4 infraction committed under this section must be imposed as follows:
- 5 (1) If the person has not been cited for a violation of this section
- 6 in the previous one (1) year, a civil penalty of up to four hundred
- 7 dollars (\$400).
- 8 (2) If the person has had one (1) violation in the previous one (1)
- 9 year, a civil penalty of up to eight hundred dollars (\$800).
- 10 (3) If the person has had two (2) violations in the previous one
- 11 (1) year, a civil penalty of up to one thousand four hundred
- 12 dollars (\$1,400).
- 13 (4) If the person has had three (3) or more violations in the
- 14 previous one (1) year, a civil penalty of up to two thousand
- 15 dollars (\$2,000).
- 16 A person may not be cited more than once every twenty-four (24)
- 17 hours.
- 18 (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected
- 19 under this section must be deposited in the Richard D. Doyle tobacco
- 20 education and enforcement fund established under IC 7.1-6-2-6.
- 21 (f) A person who violates subsection (a) at least ~~six (6)~~ **three (3)**
- 22 times in any one (1) year period commits habitual illegal entrance by
- 23 a minor, a Class B infraction.
- 24 SECTION 12. IC 35-46-6-3, AS AMENDED BY P.L.163-2025,
- 25 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2026]: Sec. 3. (a) A person who knowingly or intentionally
- 27 uses or distributes nitrous oxide with intent to cause a condition of
- 28 intoxication, euphoria, excitement, exhilaration, stupefaction, or
- 29 dulling of the senses of another person, unless the nitrous oxide is to be
- 30 used for medical purposes, commits a Class B misdemeanor. However,
- 31 the offense is a Class A misdemeanor if the person has a prior
- 32 unrelated conviction under this section.
- 33 (b) Except as provided in subsection (c), a person who knowingly
- 34 or intentionally sells, uses, or distributes flavored nitrous oxide
- 35 commits a Class B misdemeanor. However, the offense is a Class A
- 36 misdemeanor if the person has a prior unrelated conviction under this
- 37 section.
- 38 (c) The prohibition on the sale, **use, or distribution** of flavored
- 39 nitrous oxide in subsection (b) does not apply to:
- 40 (1) a retail or wholesale restaurant supply company that sells or
- 41 distributes flavored nitrous oxide to a person for use in food and

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- 1 beverage preparation or other culinary purposes; ~~or~~  
2 (2) a person that uses flavored nitrous oxide in food and  
3 beverage recipes or for other legitimate culinary purposes; ~~or~~  
4 **(3) a law enforcement agency that is disposing of flavored**  
5 **nitrous oxide by donation to a nonprofit organization.**  
6 SECTION 13. An emergency is declared for this act.

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