

# PROPOSED AMENDMENT

## SB 149 # 9

### DIGEST

Tobacco sales. Removes the new permit schedule and fees. Removes the tobacco sales certificate disqualification for a person "not of good repute in the community", and reduces the disqualification period for a person convicted of certain offenses from 10 years to five years. Replaces a reference to "alien" with "person who does not have lawful status". Specifies that certain franchisees are not disqualified if their franchisor owns or leases the property. Removes a requirement that the employee of a certificate holder possess an ID card or driver's license issued by Indiana. Specifies that an employee who holds a valid license or identification card but does not have the card in the employee's possession may provide an excise officer with a written explanation for the absence and provide a copy of the license or identification card within a reasonable time period. Removes the criminal penalty for using false identification and provides that the alcohol and tobacco commission may impose a civil penalty. Prohibits certain tobacco and vaping businesses from operating within 1,000 feet of school property. Makes conforming amendments.

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- 1 Page 1, line 7, delete "the".
  - 2 Page 1, delete lines 8 through 9.
  - 3 Page 1, line 10, delete "2024,".
  - 4 Page 1, run in lines 7 through 10.
  - 5 Page 1, delete lines 11 through 12.
  - 6 Page 2, line 33, delete "The" and insert "**Subject to available**
  - 7 **resources, the**".
  - 8 Page 2, delete line 37, begin a new line block indented and insert:
  - 9 "**(1) A person who does not have lawful status (as defined in**
  - 10 **IC 9-13-2-92.3)**".
  - 11 Page 2, delete lines 38 through 39.
  - 12 Page 2, line 40, delete "(3)" and insert "**(2)**".
  - 13 Page 2, line 40, delete "ten (10)" and insert "**five (5)**".
  - 14 Page 3, delete lines 9 through 12, begin a new line block indented
  - 15 and insert:
  - 16 "**(3) A person who:**
  - 17 **(A) does not own the premises to which the certificate will**
  - 18 **be applicable;**
  - 19 **(B) does not have a bona fide lease on the premises for the**

1                   **full period for which the certificate is to be issued; or**  
 2                   **(C) does not have a franchise agreement with a franchisor:**  
 3                   **(i) that owns the premises to which the certificate will be**  
 4                   **applicable; or**  
 5                   **(ii) that has a bona fide lease on the premises for the full**  
 6                   **period for which the certificate is to be issued."**

7                   Page 3, line 13, delete "(5)" and insert "(4)".

8                   Page 3, line 17, delete "(6)" and insert "(5)".

9                   Page 3, line 23, delete "(7)" and insert "(6)".

10                  Page 3, line 27, delete "(8)" and insert "(7)".

11                  Page 3, line 28, delete "(9)" and insert "(8)".

12                  Page 3, line 29, delete "(10)" and insert "(9)".

13                  Page 3, line 33, delete "(11)" and insert "(10)".

14                  Page 3, line 38, delete "(a)(8)" and insert "(a)(7)".

15                  Page 3, delete lines 40 through 42.

16                  Page 4, delete lines 1 through 14.

17                  Page 4, line 29, delete "under IC 9-24-3; or" and insert "**by a**  
 18                  **governmental entity; or"**.

19                  Page 4, line 30, delete "under IC 9-24-16;" and insert "**by a**  
 20                  **governmental entity;"**.

21                  Page 4, delete lines 38 through 42, begin a new paragraph and  
 22                  insert:

23                  "**(c) If an employee holds a valid license or identification card as**  
 24                  **described in subsection (a) but is unable to show the license or**  
 25                  **identification card to an excise officer because the employee has**  
 26                  **left the license or identification card in another location, or because**  
 27                  **the license or identification card has otherwise been lost or mislaid,**  
 28                  **the employee may sign a document:**

29                         **(1) certifying that the employee holds a valid license or**  
 30                         **identification card as required by subsection (a);**

31                         **(2) explaining the reason that the employee does not have the**  
 32                         **license or identification card in the employee's possession, and**  
 33                         **what steps the employee is taking to retrieve the license or**  
 34                         **identification card, or to apply for a replacement license or**  
 35                         **identification card; and**

36                         **(3) promising to provide an excise officer with a copy of the**  
 37                         **license or identification card within a reasonable time period,**  
 38                         **as determined by the excise officer."**

39                  Page 5, delete lines 1 through 3, begin a new paragraph and insert:  
 40                  "SECTION 6.IC 7.1-5-7-1.5 IS ADDED TO THE INDIANA CODE

1 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
2 1, 2024]: **Sec. 1.5. (a) The commission may impose a civil penalty on**  
3 **a minor who, for the purpose of obtaining a tobacco product,**  
4 **knowingly or intentionally:**

5 (1) **makes a false statement of age; or**

6 (2) **presents false evidence of age.**

7 (b) **The civil penalty may not exceed:**

8 (1) **two hundred fifty dollars (\$250) for a first violation; or**

9 (2) **five hundred dollars (\$500) for a second or subsequent**  
10 **violation.**

11 **In addition, the commission shall require the minor to attend a**  
12 **smoking cessation class approved by the commission. The minor**  
13 **shall pay the costs of the class. If the minor fails to complete a**  
14 **smoking cessation class within a time period established by the**  
15 **commission, the commission may impose an additional civil penalty**  
16 **equal to the civil penalty imposed for a violation of this section.**

17 (c) **The civil penalty shall be deposited in the Richard D. Doyle**  
18 **youth tobacco education and enforcement fund established by**  
19 **IC 7.1-6-2-6."**

20 Page 5, delete lines 9 through 30, begin a new paragraph and insert:

21 "SECTION 8. IC 35-46-1-11.4, AS ADDED BY P.L.49-2020,  
22 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2024]: Sec. 11.4. (a) ~~This section~~ **Subsection (b)** does not  
24 apply to a tobacco and vaping business:

25 (1) **operating as a tobacco and vaping business before July 1,**  
26 **2020; or**

27 (2) **that began operating as a tobacco and vaping business after**  
28 **June 30, 2020, and before July 1, 2024,** if at the time the tobacco  
29 and vaping business began operating the tobacco and vaping  
30 business was not located in an area prohibited under this section.

31 (b) **A person may not operate a tobacco and vaping business within**  
32 **one thousand (1,000) feet of a public or private elementary or**  
33 **secondary school, as measured between the nearest point of the**  
34 **premises occupied by the tobacco and vaping business and the nearest**  
35 **point of a building used by the school for instructional purposes.**

36 (c) **Subsection (d) does not apply to a tobacco and vaping**  
37 **business:**

38 (1) **operating as a tobacco and vaping business before July 1,**  
39 **2024; or**

40 (2) **that began operating as a tobacco and vaping business**

1           **after June 30, 2024, if at the time the tobacco and vaping**  
2           **business began operating the tobacco and vaping business was**  
3           **not located in an area prohibited under this section.**

4           **(d) A person may not operate a tobacco and vaping business**  
5           **within one thousand (1,000) feet of school property, measured from**  
6           **the nearest point of the premises occupied by the tobacco and**  
7           **vaping business.**

8           ~~(e)~~ **(e) A person who violates this section commits a Class C**  
9           **misdemeanor and, if the person holds a tobacco sales certificate, the**  
10           **certificate is permanently revoked."**

11           Renumber all SECTIONS consecutively.  
              (Reference is to SB 149 as introduced.)