

PROPOSED AMENDMENT

SB 149 # 12

DIGEST

Tobacco. Allows an individual owner applying for tobacco sales certificate (certificate) under certain circumstances to provide to the alcohol and tobacco commission (commission) an affidavit signed by the applicant concerning the sale or purchase, instead of the sales or purchase agreement. Limits the prohibition on a retail establishment holding more than one active certificate so that it applies to holding more than one active certificate for a retail location at any time. Modifies the list of persons to whom the commission may not issue a certificate. Provides that if the majority of the ownership of a business that is a certificate holder is sold or transferred, the certificate and the permit number held by the previous owner are void 90 days after the date of sale or transfer. (The bill currently makes the certificate and permit number void as of the date of sale or transfer.) Specifies that 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. Allows an employee who is unable to show a license, identification card, or a copy to an excise officer to provide certain evidence within five days. Permits the commission to impose a civil penalty on the certificate holder if an employee fails to timely produce this evidence. Deletes a section that provides that a minor who falsely represents the minor's age for the purpose of purchasing a tobacco product is subject to a civil penalty and must attend a smoking cessation class. Deletes a provision that provides that the certificate of a tobacco and vaping business that illegally operates within 1,000 feet of school property is permanently revoked, but retains a provision prohibiting a person from operating a tobacco and vaping business within 1,000 feet of school property. Makes stylistic changes.

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- 1 Page 2, line 3, after "individual," insert "**either:**
- 2 **(i) the sales or purchase agreement; or**
- 3 **(ii) an affidavit signed by the applicant concerning the**
- 4 **sale or purchase, on a form prescribed by the**
- 5 **commission, that includes the name and address of the**
- 6 **seller and purchaser."**
- 7 Page 2, delete line 4.
- 8 Page 2, line 10, after "certificate" insert "**for a retail location**".
- 9 Page 3, line 4, delete "who:" and insert "**who does not meet at least**
- 10 **one (1) of the following descriptions:**
- 11 **(A) The person owns the premises to which the certificate**
- 12 **will be applicable.**
- 13 **(B) The person has a valid lease on the premises:**
- 14 **(i) at the time of the application for a certificate; and**
- 15 **(ii) for the duration of the period in which the person**

1 sells or distributes in the manner described in section 1
2 of this chapter.

3 (C) The person has a franchise agreement with a
4 franchisor:

5 (i) that owns the premises to which the certificate will be
6 applicable; or

7 (ii) that has a bona fide lease on the premises for the full
8 period for which the certificate is to be issued."

9 Page 3, delete lines 5 through 23.

10 Page 3, line 24, delete "(6)" and insert "(4)".

11 Page 3, line 28, delete "(7)" and insert "(5)".

12 Page 3, line 29, delete "(8)" and insert "(6)".

13 Page 3, line 30, delete "(9)" and insert "(7)".

14 Page 3, line 34, delete "(10)" and insert "(8)".

15 Page 3, line 39, delete "(a)(7)" and insert "(a)(5)".

16 Page 4, line 7, delete "as of" and insert "ninety (90) days after".

17 Page 4, delete lines 9 through 42, begin a new paragraph and insert:

18 "SECTION 4. IC 7.1-3-18.5-9.2 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2024]: **Sec. 9.2. (a) An employee of a
21 certificate holder must hold a valid:**

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

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

26 to sell tobacco products.

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

30 (1) either:

31 (A) in the employee's possession; or

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

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

35 when selling tobacco products.

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

40 (1) the employee has left the license, identification card, or

1 **copy in another location; or**
2 **(2) the license, identification card, or copy has otherwise been**
3 **lost or mislaid;**
4 **the employee may, within five (5) days of the employee's inability**
5 **to show the license, identification card, or copy to the excise officer,**
6 **produce to the excise officer or to the office of the commission**
7 **satisfactory evidence of a license or identification card issued to the**
8 **individual that was valid at the time the individual was unable to**
9 **show the license, identification card, or copy.**

10 **(d) If an employee who is unable to show a license, identification**
11 **card, or copy to an excise officer fails to produce satisfactory**
12 **evidence within five (5) days in the manner described in subsection**
13 **(c), the commission may impose a civil penalty on the certificate**
14 **holder under IC 7.1-3-23-3."**

15 Page 5, delete lines 1 through 15.

16 Page 6, line 7, delete "and, if the person holds a tobacco sales
17 certificate, the" and insert ".".

18 Page 6, delete line 8.

19 Renumber all SECTIONS consecutively.

(Reference is to SB 149 as printed January 31, 2024.)