

IC 6-9-43

Chapter 43. Cloverdale Food and Beverage Tax

IC 6-9-43-1

Applicability

Sec. 1. This chapter applies to the town of Cloverdale.

As added by P.L.157-2013, SEC.1.

IC 6-9-43-2

Applicable definitions

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

As added by P.L.157-2013, SEC.1.

IC 6-9-43-3

Imposition of tax by ordinance

Sec. 3. (a) The fiscal body of the town may adopt an ordinance to impose an excise tax, known as the town food and beverage tax, on transactions described in section 4 of this chapter.

(b) If the fiscal body of the town adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If the fiscal body of the town adopts an ordinance under subsection (a), the town food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

As added by P.L.157-2013, SEC.1.

IC 6-9-43-4

Taxable transactions

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

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

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

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods that require cooking by the consumer (as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code to prevent food borne illnesses)); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins,

or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

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

As added by P.L.157-2013, SEC.1.

IC 6-9-43-5

Tax rate

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

As added by P.L.157-2013, SEC.1.

IC 6-9-43-6

Collection procedures

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

As added by P.L.157-2013, SEC.1.

IC 6-9-43-7

Distribution of tax revenue

Sec. 7. If a tax is imposed under section 3 of this chapter, the amounts received from the tax shall be paid monthly by the treasurer of state to the town fiscal officer upon warrants issued by the auditor of state.

As added by P.L.157-2013, SEC.1.

IC 6-9-43-8

Deposit of tax revenue

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

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

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

As added by P.L.157-2013, SEC.1.

IC 6-9-43-9

Use of tax revenue

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

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

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

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

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

As added by P.L.157-2013, SEC.1.