

IC 7.1-3-19

Chapter 19. Procedures for Issuance and Renewal of Retailers' and Dealers' Permits

IC 7.1-3-19-1

Permits issued in discretion of commission

Sec. 1. Permits Issued in Discretion of Commission. The commission in its absolute discretion shall issue, suspend, or revoke, except as otherwise provided in this title, a retailer's or dealer's permit of any type.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-2

Jurisdiction restricted

Sec. 2. Jurisdiction Restricted. Except as otherwise provided in this title, no court shall have jurisdiction of an action to compel the issuance of a retailer's or dealer's permit of any type, or to revoke, annul, suspend, or enjoin an action, ruling, finding, or order of the commission suspending or revoking one (1) of these permits, and the consent of the State of Indiana is hereby expressly withdrawn and denied in such an action.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-3

Prerequisites

Sec. 3. Prerequisites. The commission, unless otherwise provided in this title, shall not grant an application and issue a retailer's or dealer's permit of any type until the publication of notice, the investigation before the local board, and the other proceedings required by this chapter have been completed.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-4

Time and place for investigation

Sec. 4. Time and Place for Investigation. The commission shall fix the time and place for investigating, before the appropriate local board, the fitness of the applicant, and the propriety of granting his application for the particular retailer's or dealer's permit involved. The investigation shall be held within the county in which the premises, described in the application, are situated and it shall be open to the public. The commission also shall notify the clerk of the circuit court of the appropriate county, from whom the applicant, and all others who inquire, shall be entitled to ascertain the time and place of the investigation before the local board. The clerk of the circuit court shall provide immediately to the county treasurer a copy of the time and place of investigations before the local board.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.106-1995, SEC.13.

IC 7.1-3-19-5

Publication of notice and investigation

Sec. 5. The commission shall cause one (1) notice of the pending investigation to be published in accordance with the provisions of IC 7.1-3-1-18. The publication of the notice shall be at least five (5) days before the investigation.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.224-2005, SEC.12; P.L.94-2008, SEC.44; P.L.196-2015, SEC.12.

IC 7.1-3-19-6

Combined publication of notices

Sec. 6. Combined Publication of Notices. The commission may combine in one (1) publication, notices of any number of applications by the same or different applicants if the combined publication contains the required information with respect to each application respectively and if the publication complies with all other requirements of this title.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-7

Contents of notice

Sec. 7. Contents of Notice. The notice shall advise the public of the name of the applicant, the type of permit applied for, the location of the premises as set forth in the application, and the time and place when and where the application will come up for investigation before the local board. The notice also shall advise that the local board will, at the time and place designated, investigate the application and receive information concerning the fitness of the applicant, and the propriety of issuing the permit applied for, at the named premises, to the applicant.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-8

Testimony

Sec. 8. Testimony. In the discretion of the designated member of the local board, sworn oral testimony may be heard, and affidavits or duly certified documents may be received. The local board also may utilize any and all sources of unsworn information.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-9

Questionnaires

Sec. 9. Questionnaires. Each member of the local board, at the conclusion of the investigation, shall answer in writing the questions contained in the questionnaire submitted by the commission in relation to the investigation. Each member of the local board shall sign the questionnaire in duplicate. Both copies of the questionnaire shall be given to the designated member who shall deliver them to the commission for its use in acting upon the application. The

commission also may order that further investigations on an application be made before the local board.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-9.5

Renewals

Sec. 9.5. (a) The commission shall provide procedures and forms to allow an applicant for the renewal of a retailer's or dealer's permit to file a simplified application.

(b) An applicant for renewal does not have to be present during the local board proceedings on the renewal unless notified by the commission or the local board. However, a local board may not take any action to deny the renewal of a retailer's or dealer's permit unless the applicant has been notified and given an opportunity to be present at an investigation before the local board.

(c) For the purpose of implementing this section, the commissioner may prorate permits of persons holding more than one (1) retailer's or dealer's permit so that those permits terminate at one (1) time and the renewed permits of that person shall have the same termination date.

(d) In a county containing a consolidated city, the renewal of a retailer's or dealer's permit is subject to this section and IC 7.1-3-1-5.6.

As added by Acts 1977, P.L.94, SEC.1. Amended by P.L.16-1983, SEC.4; P.L.52-1994, SEC.5.

IC 7.1-3-19-10

Commission's action

Sec. 10. Commission's Action. The commission may investigate in any manner it deems best to enable it to act upon the application in a particular case. The commission may grant or refuse the application accordingly as it deems the public interest will be served best. The action of the commission on the application for a retailer's or dealer's permit of any type shall be final.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-11

Review of recommendations; findings of fact

Sec. 11. (a) The commission shall follow the recommendation of a majority of the members of a local board to grant or deny an application for a retailer's or dealer's permit of any type, unless, after the commission's review of that recommendation, the commission determines that to follow the recommendation would be:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
- (2) contrary to a constitutional right, power, privilege, or immunity;
- (3) in excess of, or contrary to, statutory jurisdiction, authority, limitations or rights;

- (4) without observance of procedure required by law; or
- (5) unsupported by substantial evidence.

Such review shall be de novo.

(b) If the commission determines not to follow the recommendation of a local board, after the commission's review of that recommendation according to the standards set forth in subsection (a), the commission shall make written findings of fact on each material issue on which the commission's determination is based.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.64-1990, SEC.3.

IC 7.1-3-19-11.5

Appeal hearing; notice to local board; publication of notice

Sec. 11.5. (a) As used in this section, "applicant" or "application" means an applicant or an application for:

- (1) a new permit; or
- (2) the transfer or renewal of an existing permit.

(b) This section applies if a permit applicant or a person who remonstrates at a local board hearing against the approval of the application files with the commission:

- (1) an objection to the commission's action on the application; and
- (2) a request for an appeal hearing before the commission.

(c) The commission shall do the following:

- (1) Provide notice to the local board, by first class mail, of the date of an appeal hearing set by the commission. Notice under this subdivision must be provided not later than ten (10) days before the date of the hearing.
- (2) Publish notice in the city, town, or county where the proposed permit premises is located of the date of an appeal hearing set by the commission. Notice under this subdivision must be published not later than ten (10) days before the date of the hearing.

As added by P.L.94-2008, SEC.45.

IC 7.1-3-19-12

Return of fee

Sec. 12. Return of Fee. The chairman shall deduct the sum of twenty-five dollars (\$25) from the license fee paid by the applicant for each application considered, but if the applications are combined in one (1) application, the chairman shall deduct the sum of thirty-five dollars (\$35) from the license fee, and return the balance of the fee to the applicant if the commission refuses to grant the application. The amount deducted from the fee shall be the property of the state and shall be disposed of as provided in article 4 of this title.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-13

New permits in residential districts; duty of commission

Sec. 13. New Permits in Residential Districts: Duty of Commission. The commission shall have the duty in considering an application for a new retailer's permit of any type, or a new liquor dealer's permit, to determine whether the business to be conducted by the applicant pursuant to the proposed permit will be located within a residential district, and if so, whether the conduct of the business pursuant to the proposed permit will unreasonably impair and interfere with the peace, comfort, or enjoyment of life and property of the occupants of the residential district, or any of them. The commission shall deny the application if it finds in the affirmative on both questions.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-14

New permits in residential districts; notice

Sec. 14. New Permits in Residential Districts: Notice. The commission shall have the duty in making the determinations provided in IC 1971, 7.1-3-19-13, to publish notice that an application for a permit is pending and that a public hearing will be held on the application at a time and place to be stated in the notice. The notice shall state that at the hearing, residents of the residential district may appear and be heard in favor of, or in opposition to, the granting of the permit and may, if they desire to, present a verified written remonstrance against the granting of the permit.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-15

New permits in residential districts; hearing

Sec. 15. New Permits in Residential Districts: Hearing. The commission shall consider the matters which may be brought out at the hearing and the sentiments of the residents in making the determinations required by IC 1971, 7.1-3-19-13. Further, if at the hearing, there is presented to the commission a verified written remonstrance bearing the signatures of at least fifty-one percent (51%) of the registered voters of the residential district, the commission shall be bound to find in the affirmative and to deny the application.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-19-16

New permits in residential districts; exceptions

Sec. 16. New Permits in Residential Districts: Exceptions. The provisions of IC 7.1-3-19-13, 7.1-3-19-14, and 7.1-3-19-15, do not apply to the renewal of existing retailer's permits, nor to the renewal of existing liquor dealer's permits, nor to a nationally chartered veteran's organization which has occupied the same premises for ten (10) years prior to making application for a club permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.5.

IC 7.1-3-19-17

Formal written commitments with municipal legislative body; adopt ordinance; recommendations to local board; deny or revoke permit

Sec. 17. (a) This section applies to a permit issued under IC 7.1-3-20-16(d), IC 7.1-3-20-16(g), IC 7.1-3-20-16(k), or IC 7.1-3-20-16(l) if a local unit has adopted an ordinance requiring a formal written commitment as a condition of eligibility for a permit, as described in subsection (b).

(b) As a condition of eligibility for a permit, the applicant must enter into a formal written commitment with the municipal legislative body regarding the character or type of business that will be conducted on the permit premises. The municipal legislative body must adopt an ordinance approving the formal written commitment. A formal written commitment is binding on the permit holder and on any lessee or proprietor of the permit premises. When an application for renewal of a permit is filed, the applicant shall forward a copy of the application to the municipal legislative body. The municipal legislative body shall receive notice of any filings, hearings, or other proceedings on the application for renewal from the applicant.

(c) A formal written commitment may be modified by the municipal legislative body with the agreement of the permit holder.

(d) Except as provided in subsection (f), the amount of time that a formal written commitment is valid may not be limited or restricted.

(e) A formal written commitment is terminated at the time a permit is lost, revoked, or not renewed.

(f) If the character or type of business violates the formal written commitments, the municipality may adopt a recommendation to the local board and the commission to:

- (1) deny the permit holder's application to renew the permit; or
- (2) revoke the permit holder's permit.

(g) The commission shall consider evidence at the hearing on the issue of whether the business violated the formal written commitments. If the commission determines there is sufficient evidence that the commitments have been violated by the permittee, the commission may:

- (1) deny the application to renew the permit; or
- (2) revoke the permit;

as applicable.

As added by P.L.121-2015, SEC.1.