
PRELIMINARY DRAFT
No. 4400

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2021 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 6-9-54.

Synopsis: Hobart food and beverage tax. Authorizes the city of Hobart to impose a food and beverage tax.

Effective: July 1, 2021.



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-54 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2021]:

4 **Chapter 54. Hobart Food and Beverage Tax**

5 **Sec. 1. This chapter applies to the city of Hobart.**

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

8 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
9 **impose an excise tax, known as the city food and beverage tax, on**
10 **transactions described in section 4 of this chapter. The fiscal body**
11 **of the city may adopt an ordinance under this subsection only after**
12 **the fiscal body has previously held at least one (1) separate public**
13 **hearing in which a discussion of the proposed ordinance to impose**
14 **the city food and beverage tax is the only substantive issue on the**
15 **agenda for that public hearing.**

16 **(b) If the city fiscal body adopts an ordinance under subsection**
17 **(a), the city fiscal body shall immediately send a certified copy of**
18 **the ordinance to the department of state revenue.**

19 **(c) If the city fiscal body adopts an ordinance under subsection**
20 **(a), the city food and beverage tax applies to transactions that**
21 **occur after the later of the following:**

22 **(1) The day specified in the ordinance.**

23 **(2) The last day of the month following sixty (60) days after**
24 **the date on which the ordinance is adopted.**

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

28 **(1) for consumption at a location or on equipment provided by**
29 **a retail merchant;**

30 **(2) in the city; and**

31 **(3) by a retail merchant for consideration.**



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

3 (1) served by a retail merchant off the merchant's premises;

4 (2) food sold in a heated state or heated by a retail merchant;

5 (3) made of two (2) or more food ingredients, mixed or
6 combined by a retail merchant for sale as a single item (other
7 than food that is only cut, repackaged, or pasteurized by the
8 seller, and eggs, fish, meat, poultry, and foods containing these
9 raw animal foods requiring cooking by the consumer as
10 recommended by the federal Food and Drug Administration
11 in chapter 3, subpart 3-401.11 of its Food Code so as to
12 prevent food borne illnesses); or

13 (4) food sold with eating utensils provided by a retail
14 merchant, including plates, knives, forks, spoons, glasses,
15 cups, napkins, or straws (for purposes of this subdivision, a
16 plate does not include a container or package used to
17 transport the food).

18 (c) The city food and beverage tax does not apply to the
19 furnishing, preparing, or serving of a food or beverage in a
20 transaction that is exempt, or to the extent the transaction is
21 exempt, from the state gross retail tax imposed by IC 6-2.5.

22 Sec. 5. The city food and beverage tax rate:

23 (1) must be imposed in an increment of twenty-five
24 hundredths percent (0.25%); and

25 (2) may not exceed one percent (1%);

26 of the gross retail income received by the merchant from the food
27 or beverage transaction described in section 4 of this chapter. For
28 purposes of this chapter, the gross retail income received by the
29 retail merchant from a transaction does not include the amount of
30 tax imposed on the transaction under IC 6-2.5.

31 Sec. 6. A tax imposed under this chapter shall be imposed, paid,
32 and collected in the same manner that the state gross retail tax is
33 imposed, paid, and collected under IC 6-2.5. However, the return
34 to be filed with the payment of the tax imposed under this chapter
35 may be made on a separate return or may be combined with the
36 return filed for the payment of the state gross retail tax, as
37 prescribed by the department of state revenue.

38 Sec. 7. The amounts received from the tax imposed under this
39 chapter shall be paid monthly by the treasurer of state to the city
40 fiscal officer upon warrants issued by the auditor of state.

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

44 (b) The city fiscal officer shall deposit in the fund all amounts
45 received under this chapter.

46 (c) Money earned from the investment of money in the fund



1 becomes a part of the fund.

2 **Sec. 9. Money in the food and beverage tax receipts fund must**
3 **be used by the city for one (1) or more of the following purposes:**

4 (1) For economic development purposes, including the pledge
5 of money under IC 5-1-14-4 for bonds, leases, or other
6 obligations for economic development purposes.

7 (2) Construction, renovation, improvement, equipping, or
8 maintenance of city capital improvements.

9 (3) Parks and recreation.

10 (4) The pledge of money under IC 5-1-14-4 for bonds, leases,
11 or other obligations incurred for a purpose described in
12 subdivisions (2) and (3).

13 Revenue derived from the imposition of a tax under this chapter
14 may be treated by the city as additional revenue for the purpose of
15 fixing its budget for the budget year during which the revenues are
16 to be distributed to the city.

17 **Sec. 10. With respect to obligations for which a pledge has been**
18 **made under section 9 of this chapter, the general assembly**
19 **covenants with the holders of the obligations that this chapter will**
20 **not be repealed or amended in a manner that will adversely affect**
21 **the imposition or collection of the tax imposed under this chapter**
22 **if the payment of any of the obligations is outstanding.**

