

STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION

IN RE THE TOBACCO CERTIFICATES

PERMIT OF:)	CERTIFICATE NO: TC14800001
)	MASTER NO: TC14800000
FRANKLINSMOKETIME)	PERMIT NO.: DL41-32220
And)	
FRANKLIN SMOKE TIME INC)	VIOLATION NOS:
1707 N. MORTON ST.)	EX-24-003477
FRANKLIN, IN 46131)	EX25-002085

PROPOSED ORDER ON SHOW-CAUSE HEARING OF AUGUST 21, 2025

A show-cause hearing was held on August 21, 2025. In addition to the undersigned, present at the hearing were Andrew Wignall, Prosecutor for the Indiana Alcohol and Tobacco Commission (IATC), and Ms. Kimberly Chew, court reporter. No one appeared at the hearing on behalf of FRANKLINSMOKETIME or FRANKLIN SMOKE TIME INC. (“Permittees” OR “Certificate Holders”) though they had been given proper notice of the hearing. Mr. Wignall requested admission of Indiana State Excise Police (“ISEP”) Incident Reports EX-24-003477 and EX25-000258 (collectively “Incident Reports”), which request was granted, and judicial notice was taken of the IATC’s records regarding the above-captioned certificates and permits.

1. On February 13, 2025, Mr. Wignall sent settlement offers for both violations to Permittees, which offers also set the violations for settlement conferences on March 10, 2025.
2. Neither Permittee appeared at the virtual settlement conference on March 10, 2025.

3. Mr. Wignall sent Permittee a letter on April 24, 2025, which advised Permittee of the possibility of a show-cause hearing and possible license revocation if Permittee failed to appear at any stage of the proceedings.

4. Permittee was notified via the email address on record with the IATC of a virtual

pre-hearing conference to be held on July 31, 2025.

5. On July 31, 2025, Permittee failed to appear for the pre-hearing conference; the undersigned then issued an order to appear for a show-cause hearing on August 21, 2025, at 11:00 A.M., which was sent to Permittees at their address of record with the IATC.

6. Permittee failed to appear at the show-cause hearing and the hearing was thus held in Permittee's absence.

7. Indiana Code § 7.1-5-6-4 provides:

(a) It is unlawful for a person to falsify, or cause to be falsified, an entry, statement, account, recital, or computation, or an application for a permit, or an instrument, or paper required to be filed in connection with the application, or in connection with the revocation, or proposed revocation, or a permit.

(b) It is unlawful for a person to enter, or cause to be entered, a false entry, statement, account, recital, computation, or representation of a fact in a book, document, account, order, paper, or statement required to be kept or filed, or made or furnished to the commission under the provisions of this title or a rule or regulation of the commission.

(c) A person who knowingly or intentionally violates this section commits a Level 6 felony.

Ind. Code Ann. § 7.1-5-6-4 (West)

8. At the time of the events herein, Indiana Code § 7.1-3-18.5-11 provided:

(a) If a certificate holder sells or distributes tobacco products or electronic cigarettes at a location:

(1) determined to be a public nuisance; or

(2) at which conduct or acts that are crimes or infractions under IC 35 occur; the commission may impose sanctions against the certificate holder under IC 7.1-2-3-33 and section 5 of this chapter.

Ind. Code Ann. § 7.1-3-18.5-11 (West)

9. I.C. § 35—46-6-3 provides:

(a) A person who knowingly or intentionally uses or distributes nitrous

(b) oxide with intent to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses of another person, unless the nitrous oxide is to be used for medical purposes, commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(b) Except as provided in subsection (c), a person who knowingly or intentionally sells, uses, or distributes flavored nitrous oxide commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(c) The prohibition on the sale of flavored nitrous oxide in subsection (b) does not apply to:

- (1) a retail or wholesale restaurant supply company that sells or distributes flavored nitrous oxide to a person for use in food and beverage preparation or other culinary purposes; or
- (2) a person that uses flavored nitrous oxide in food and beverage recipes or for other legitimate culinary purposes.

Ind. Code Ann. § 35-46-6-3 (West)

10. The Incident Reports prove by a preponderance of the evidence that Permittee Franklin Smoke Time Inc, Permit No. DL41-32220, violated Indiana Code § 7.1-5-6-4., Providing a False Record to the Commission.

11. The Incident Reports prove by a preponderance of the evidence that Permittee Franklinsmoketime, Certificate TC14800001 and Master Certificate TC14800000, violated I.C. § 7.1-3-18.5.11 and I.C. § 35-46-6-3.

12 I.C. § 7.1.3.23.2 provides, in pertinent part:

(a) The commission may:

- (1) fine or suspend or revoke the permit or certificate of; or
- (2) fine and suspend or revoke the permit or certificate of; a permittee for the violation of a provision of this title or of a rule or regulation of the commission. The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature.

* * * *

Ind. Code Ann. § 7.1-3-23-2 (West)

13. 905 Ind. Admin. Code 1-37-9 provides:

- (a) At any stage of a proceeding, if a permittee fails to attend or participate in a prehearing conference, hearing, or other stage of the proceeding, the hearing judge may issue an order to show cause why the permit should not be revoked and set a hearing on said order within thirty (30) days. The order shall include the date, time, and place of the hearing and the reason for the order. Said order shall be sent by certified mail to the permittee.
- (b) At the hearing on the order to show cause, evidence will be taken on the issue of the permittee's failure to appear and sanctions may be imposed including a fine, suspension, or revocation.
- (c) After the hearing and any subsequent order, the hearing judge shall conduct any further proceedings necessary to complete the disposition of the violation.

905 Ind. Admin. Code 1-37-9 (West)

14. Based on the foregoing, Mr. Wignall requested that both the master certificate, TC16395000, and the location certificate, TC16395001, be revoked.

15. The undersigned finds that revocation is appropriate given the failure to pay the civil penalty, the failures to appear, and the admitted violations and relevant statutes.

16. Permittees are found in default for their failure to appear at the hearings as ordered.

17. 905 IAC 1-37-13 provides, in part:

* * * *

- (c) To preserve for judicial review, an objection to a proposed order of the hearing judge, a permittee must not be in default and must object to the proposed order in a writing that:
 - (1) identifies the basis of the objection with reasonable particularity; and
 - (2) is filed with the commission within fifteen (15) days after the proposed order is served on the permittee unless this period is extended with the written consent of the prosecutor or for good cause shown, as determined by the hearing judge.
- (d) A final order disposing of a proceeding or an order remanding a proposed order to the hearing judge for further proceedings shall be issued within seventy (70) days after the latter of the date that the order was issued unless the period is waived or extended with the written consent of all parties or for good cause shown, as determined by the commission.

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905 Ind. Admin. Code 1-37-13* * * *

IT IS HEREBY RECOMMENDED to the full Commission of the Indiana Alcohol and Tobacco Commission that both the master certificate and location certificate of Franklinsmoketime, TC14800000 and TC14800001 respectively, be revoked; IT IS FURTHER RECOMMENDED that Franklin Smoke Time Inc's Permit No. DL41-32220 be revoked.

DATED: 21 August 2025

Mark A. Jones
Mark A. Jones
Commissioner/Hearing Judge, IATC

cc: Andrew Wignall, IATC Prosecutor, via email to: awignall@atc.in.gov
Franklinsmoketime, via USPS certified mail, return receipt requested: 1707 N. Morton St., Franklin, IN 46131
Franklinsmoketime, via USPS: 1707 N. Morton St., Franklin, IN 46131
Gurpreet Kaur via USPS certified mail, return receipt requested: 5021 Wyndale Dr, Bargersville, IN 46106
Mark Palombaro via email to: mpalombaro@aol.com
Franklin Smoke Time Inc., via e-mail to: franklinsmoketime@gmail.com

Approved this 7th day of October, 2025



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER

MARK A. JONES, COMMISSIONER