

## RESOLUTION 2008-160

### A RESOLUTION ADOPTING AN EMERGENCY RULE REGARDING THE CONDUCT OF CHARITY GAMING UNDER IC 4-32.2

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted to it under IC 4-32.2.

The Commission has considered the following factors:

1. Pursuant to IC 4-32.2-3-3 and IC 4-22-2-37.1, the Commission has the authority to adopt emergency rules.
2. IC 4-32.2-3-3 authorizes the Commission to adopt emergency rules if the commission determines that: (1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and (2) an emergency rule is likely to address the need.
3. On March 19, 2008, House Enrolled Act 1153 ("HEA 1153") was signed into law; that law became effective July 1, 2008. HEA 1153 made some significant changes to the charity gaming statute, including, but not limited to, the alteration of the annual raffle license, the annual PPT license, and exceptions to the application of some provisions for certain card games. HEA 1153 also requires the Commission to pass administrative rules regarding a qualified organization's oversight of euchre games.
4. On May 28, 2008, the Commission adopted an emergency rule regarding the conduct of charity gaming to address those needs. That rule will expire on or about December 19, 2008. The non-emergency promulgation process for this rule will not be completed before the emergency rule expires.
5. Administrative rules currently in effect are insufficient to provide adequate oversight of charity gaming as contemplated by HEA 1153.
6. The Commission finds that the need for an updated rule regarding the conduct of charity gaming is immediate and substantial such that rulemaking procedures under IC 4-22-2-24 through IC 4-22-2-36 are inadequate to address the need and that the attached emergency rule is likely to address the need.
7. While the emergency rule is in effect, the Commission will proceed with the non-emergency promulgation process, including IC 4-22-2-24 through 4-22-2-36.

**NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION,  
THAT THE FOLLOWING RESOLUTION IS ADOPTED:**

#### **SECTION 1: SCOPE**

This resolution applies to all qualified organizations, manufacturers, and distributors licensed pursuant to IC 4-32.2.

## **SECTION 2: DEFINITIONS**

The definitions set forth in IC 4-32.2 and 68 IAC 21 apply to this resolution.

## **SECTION 3: ADOPTION OF THE EMERGENCY RULE**

Pursuant to IC 4-22-2-37.1, the Commission adopts the attached rule as an emergency rule for the initial ninety (90) day period as well as for the optional ninety (90) day extension period. The Commission further adopts any stylistic, grammatical, typographical, or other non-substantive changes that the Commission or the Legislative Services Agency may make to this emergency rule. The Commission shall file the proposed emergency rule and submit it for publication with Legislative Services Agency.

## **SECTION 4: EFFECTIVE DATE**

The emergency rule adopted in section 3 of this resolution is to become effective upon filing with the Publisher.

## **SECTION 5: EXPIRATION DATE**

This resolution expires upon the final expiration of the emergency rule adopted herein.

## **COMMISSION ACTION**

**ADOPTED THIS THE 13<sup>TH</sup> DAY OF NOVEMBER, 2008.**

**THE INDIANA GAMING COMMISSION:**

  
\_\_\_\_\_  
**William Barrett, Chair**

**ATTEST:**

  
\_\_\_\_\_  
**Thomas Swihart, Secretary**

# TITLE 68 INDIANA GAMING COMMISSION

## Emergency Rule LSA Document #08-\_\_\_\_\_(E)

### DIGEST

Temporarily amends portions of 68 IAC 21 concerning the conduct of charity gaming activities by qualified organizations, manufacturers, and distributors licensed by the Indiana Gaming Commission, including provisions related to license denials. Amends 68 IAC 21-2-7 regarding activities that may be conducted under a license. Amends 68 IAC 21-3-2 regarding conducting an allowable event. Adds a non-code definition regarding winner take all events. Effective upon filing with the Publisher.

**SECTION 1. (a)** The definitions IC 4-32.2-2 and in this SECTION apply throughout this article.

**(b)** "Winner take all drawing" means a drawing, conducted under an annual PPT license, in which the qualified organization keeps no portion of the amounts wagered. The total amount awarded to the winner of a winner take all drawing may not exceed three hundred dollars (\$300).

**SECTION 2. (a)** This SECTION supercedes 68 IAC 21-1-13.

**(b)** "Gross revenue" means gross receipts. The term does not include wagers made in a winner take all drawing.

**SECTION 3. (a)** This SECTION supercedes 68 IAC 21-2-1.

**(b)** To obtain a license to conduct an allowable event, an organization must submit a written application on the form or forms prescribed by the commission. An application for a license to conduct an allowable event must be received not later than thirty (30) days before the date on which the allowable event is conducted.

**(c)** The application shall include the following information:

- (1)** The name and address of the organization.
- (2)** The names and addresses of the officers of the organization.
- (3)** The type of allowable event the organization proposes to conduct.
- (4)** The physical location where the organization will conduct the allowable event.
- (5)** The date or dates and time or times of the proposed allowable event.
- (6)** Sufficient facts for the commission to determine that the organization or the organization's incorporation or founding is a qualified organization as defined in IC 4-32.2-2-24, including any of the following:

**(A)** A notice issued by the commission under this rule in which the commission has determined the organization is a qualified organization.

**(B)** Evidence that the organization has been previously determined by the commission to be a qualified organization.

**(C)** The information outlined in section 2(a) of this rule.

**(7)** The name or names of each proposed operator and worker and sufficient facts to determine that person is qualified to be an operator or worker, including, but not limited to, the proposed operator's or worker's:

**(A)** address;

**(B)** date of birth;

**(C)** length of membership; and

**(D)** driver's license number or state identification number.

(8) A sworn statement signed by the presiding officer and secretary of the organization attesting to the eligibility of the organization for a license, including the nonprofit character of the organization.

(9) A current copy of the organization's membership roster or other proof of membership of each proposed operator or worker.

(10) A copy of the lease if the organization is renting the premises at which the gaming activity occurs.

(d) If an organization that has been determined by the commission to be a qualified organization does not conduct an allowable event for a period of at least five (5) years, the organization must provide to the commission the information outlined in section 2 of this rule before conducting an allowable event.

**SECTION 4. (a) This SECTION supercedes 68 IAC 21-2-5.**

(b) The commission may deny a license to an organization, manufacturer, distributor, or individual about whom the commission has reason to believe at least one (1) of the following:

(1) The organization has failed to provide sufficient information for the commission to determine that the organization is a qualified organization as defined in IC 4-32.2-2-24.

(2) The qualified organization has failed to provide information required by IC 4-32.2 and this article.

(3) The manufacturer or distributor has failed to provide information required by IC 4-32.2 and this article.

(4) The applicant has violated a statute, regulation, rule, local ordinance, or other law providing for the best interests of charity gaming.

(5) The applicant has engaged in fraud, deceit, or misrepresentation.

(6) The applicant has failed to pay timely any federal, state, or local tax obligation due.

**SECTION 5. (a) This SECTION supercedes 68 IAC 21-2-6.**

(b) All license fees must be paid at the time the application for licensure is submitted to the commission.

(c) The initial license fee and renewal fee for a:

(1) manufacturer is five thousand dollars (\$5,000); and

(2) distributor is five thousand dollars (\$5,000).

(d) The initial fee on each separate license held by a qualified organization is fifty dollars (\$50).

(e) If a period of at least five (5) years elapses between the dates on which a qualified organization lawfully conducts a particular allowable event, the license for conducting that particular allowable event for the first time following the five (5) year period shall be considered an initial license for purposes of IC 4-32.2-6-3 and this rule.

(f) The commission may assess a twenty-five dollar (\$25) fee for amendments to licenses previously issued.

(g) If a qualified organization withdraws its application for an initial license or a license renewal, in writing, prior to issuance of the license or grant of the renewal, the commission shall refund the applicable license fee or renewal fee to the qualified organization, minus a fifty dollar (\$50) processing charge.

(h) If a qualified organization rescinds a single event license prior to hosting the event or event for which a single event license had been procured, the commission shall refund the lesser of:

(1) the applicable license fee or renewal fee, minus a fifty dollar (\$50) processing charge; or

(2) fifty percent (50%) of the applicable license fee or renewal fee.

(i) If a qualified organization rescinds an annual event license prior to the effective date of the license, the commission shall refund the lesser of:

(1) the applicable license fee or renewal fee, minus a fifty dollar (\$50) processing charge; or

(2) fifty percent (50%) of the applicable license fee or renewal fee.

(j) Receipts from sales of any goods, services, or other property sold in direct connection with or because of any gambling aspect of an allowable event must be included in gross receipts as a related activity for purposes of the qualified organization's renewal fee.

(k) The commission may collect outstanding license fees resulting from underreported gaming income from an allowable event and related activities.

**SECTION 6. (a)** This SECTION supercedes 68 IAC 21-2-7.

(b) A full-sized photocopy of the event license is required to be prominently displayed at the facility where the event is being held. The original license must be available for inspection upon request at all times. In addition to the photocopy, a legible sign of adequate dimension of at least eight and one-half (8½) inches by eleven (11) inches must be prominently posted near each entrance and registration area at the event, in such a manner that it can be clearly read by all the players during an event, containing the following:

(1) The name of the qualified organization.

(2) Its license number.

(3) The expiration date of the license.

(c) Application for the following licenses may be made by a qualified organization:

(1) A bingo license that permits the licensee to conduct up to three (3) bingo events per calendar week. This license permits the licensee to:

(A) conduct door prize drawings;

(B) sell pull-tabs, punchboards, and tip boards; and

(C) conduct raffle events;

at each bingo event. An organization cannot have more than one (1) bingo event per day.

The bingo license is in effect for one (1) year from the date of issuance.

(2) A special bingo license that permits the licensee to conduct one (1) bingo event at only one

(1) time and location. This license permits the licensee to:

(A) conduct door prize drawings;

(B) sell pull-tabs, punchboards, and tip boards; and

(C) conduct raffle events;

at the bingo event.

(3) A charity game night license that permits the licensee to conduct one (1) charity game night at one (1) location. A qualified organization may not conduct more than four (4) charity game night events each calendar year. This license permits the licensee to conduct:

(A) card games;

(B) dice games;

(C) roulette wheels;

(D) spindle games;

(E) door prize drawings;

(F) raffle events; and

(G) sales of pull-tabs, punchboards, and tip boards;

at the charity game night event.

(4) An annual charity game night license that permits the licensee to conduct charity game night events on more than one (1) occasion during a period of one (1) year. This license permits the licensee to conduct:

(A) card games;

(B) dice games;

(C) roulette wheels;

(D) spindle games;

(E) door prize drawings;

(F) raffle events; and

(G) sales of pull-tabs, punchboards, and tip boards;

at each annual charity game night event.

(5) A raffle license that permits the licensee to conduct a raffle at only one (1) time and location. This license permits the licensee to:

(A) conduct door prize drawings; and  
(B) sell pull-tabs, punchboards, and tip boards;  
at the raffle event.

(6) An annual raffle license that permits the licensee to conduct raffle events at any time and any day during a calendar year on the premises owned or leased by the qualified organization and regularly used for the activities of the qualified organization. This license permits the licensee to:

(A) conduct door prize drawings; and  
(B) sell pull-tabs, punchboards, and tip boards;  
at each raffle event.

(7) A door prize license that permits the licensee to:

(A) conduct one (1) door prize event at only one (1) time and location;  
(B) sell pull-tabs, punchboards, and tip boards at the door prize event; and  
(C) conduct raffles;  
at the door prize event.

(8) An annual door prize license that permits the licensee to conduct door prize events on more than one (1) occasion during a period of one (1) year. This license permits the licensee to:

(A) conduct raffle events; and  
(B) sell pull-tabs, punchboards, and tip boards;  
at the door prize event.

(9) A festival license that permits the licensee to conduct:

(A) bingo events;  
(B) charity game nights;  
(C) one (1) raffle event;  
(D) door prize events; and  
(E) sales of pull-tabs, punchboards and tip boards;  
at the festival. Subject to IC 4-32.2-5-6(c), the festival can only be held once a calendar year and cannot exceed four (4) consecutive days. The raffle event conducted at a festival is not subject to any prize limitations.

(10) A PPT license that permits the licensee to do the following:

(A) Sell pull-tabs, punchboards, and tip boards at any time and any day during a calendar year on the premises owned or leased by the qualified organization and regularly used for the activities of the qualified organization.  
(B) Conduct a winner take all drawing in which the qualified organization retains no portion of the amount wagered. All winner take all drawings must be conducted in accordance with the following limitations:  
(i) Not more than one (1) daily drawing may be conducted each day.  
(ii) Not more than one (1) weekly drawing may be conducted each week.  
(iii) Not more than one (1) monthly drawing may be conducted each month.

A winner must be determined for every winner take all drawing.

(11) A single event or an annual event license for a gambling event approved by the commission under IC 4-32.2-4-16, including, but not limited to, the following:

(A) A water race license that permits a qualified organization to conduct a water race using qualified personal property in the following manner:  
(i) Each item of the qualified personal property is marked with a number corresponding to the number on a chance purchased in a water race.  
(ii) The winner of the water race is determined by the number of the item of qualified personal property that crosses a designated finish line on the body of water first.  
(B) A license that permits a qualified organization to conduct a guessing game.  
(C) Any other gambling event approved by rule of the commission.

**SECTION 7. (a) This SECTION supercedes 68 IAC 21-3-2.**

**(b) Except for pull-tabs, punchboards, and tip boards obtained from the state lottery commission, all licensed supplies must originally be obtained from an entity that is licensed by the**

commission as a manufacturer or distributor.

(c) The purchase of Hoosier Lottery pull-tabs by the qualified organization is only permitted if the qualified organization is licensed by the state lottery commission to sell the items. The provisions of IC 4-32.2 do not apply to the purchase and sale of Hoosier Lottery pull-tabs by a qualified organization.

(d) Only one (1) organization can conduct an event on the same day at the same location.

(e) An allowable event must begin and end within a period of twenty-four (24) consecutive hours.

(f) The lease of a facility for an allowable event must be in writing and:

(1) between the qualified organization and the owner of the premises, as determined by the property owner of record on the property tax rolls of the county in which the property is located; or

(2) a valid sublease between the sublessor and sublessee, with written consent of the assignment by the property owner of record, as determined by the property tax rolls of the county in which the property is located.

(g) Except for a festival, an organization must not pay more than five hundred dollars (\$500) per event in total for personal property that may be used by the organization to conduct the event. This includes the rental of tables, chairs, and related equipment owned and leased by the lessor who is leasing the facility to the qualified organization for an allowable event. The rental of tangible personal property cannot be based on the revenue generated by the event. For a festival event, the five hundred dollar (\$500) limitation only applies to the rental of gambling-related equipment and supplies.

(h) A qualified organization may advertise an allowable event. An advertisement in printed media must contain the name and license number, in bold print, of the organization conducting the event. An advertisement in broadcast media must announce, at the end of the advertisement:

(1) the name of the organization conducting the event; and

(2) that the qualified organization's license number is on file.

A television announcement of the name and license number of the organization conducting the event may be in the form of an audio or a visual, or both. Temporary signage, such as fliers and marquee advertisements, must contain the name of the qualified organization conducting the event, but need not include the qualified organization's license number.

(i) An organization cannot sell a pull-tab, punchboard, or tip board ticket for more than one dollar (\$1). Pull-tabs cannot be sold in this state unless a flare accompanies the deal.

(j) An organization may not permit a person less than eighteen (18) years of age to play or participate in an allowable event. However, a person less than eighteen (18) years of age may play or participate in nongambling activities associated with an allowable event. A qualified organization is prohibited from allowing an individual less than eighteen (18) years of age to serve food or drinks to participants in the area where the gaming is occurring.

(k) A sign printed with a font size legible from a distance of at least ten (10) feet must be prominently posted near each entrance and registration area throughout the event stating that the operators and workers are not allowed to accept tips.

(l) An organization may employ not more than three (3) nonmember Indiana law enforcement officers or private detectives properly licensed in Indiana to perform security services during an allowable event. An organization may not use more than three (3) security personnel unless the organization has prior written approval of the executive director or the executive director's designee.

(m) Neither the operator nor a worker is permitted to participate in the allowable event that is being held. An operator is prohibited from being an operator for more than one (1) qualified organization in a calendar month. A manufacturer, distributor, or an officer or employee of a manufacturer or distributor is prohibited from being an operator or worker at any allowable event.

(n) To obtain express authorization for an exemption from a normal prize limit where permissible in IC 4-32.2, a qualified organization must submit a written application on a form prescribed by the commission stating the date, time, and location of the event at least forty-five (45) days before the date of the event. The authorization to exceed the normal prize limits must be prominently displayed at the time and location of the event.

(o) An organization may dispose of any unused bingo supplies, punchboards, pull-tabs, tip

boards, and any other licensed supplies specified by the commission by shredding, burning, or otherwise destroying them. The organization must notify the commission that such items are to be destroyed thirty (30) days in advance of the destruction and must provide the following information:

- (1) The date the items were destroyed.
- (2) The manner of destruction.
- (3) A description of the items destroyed.
- (4) The quantity of items destroyed.
- (5) The serial numbers of the items destroyed.
- (6) The trade name of the items.
- (7) The reason for destruction.

Destruction of any unused licensed supplies must be certified by one (1) officer of the qualified organization.

(p) If an organization has lost any licensed supplies through theft, fire, flood, or other disaster, the organization must notify the commission in writing of the loss and provide the following information within ten (10) days of discovering the loss:

- (1) The date the items were lost.
- (2) The manner of loss and a description of the items lost.
- (3) The serial numbers of the items lost.
- (4) The trade name of the items.
- (5) Copies of all insurance forms submitted for the loss.
- (6) Any police department or fire department reports created in connection to the loss.
- (7) Any other information required by the commission or the executive director.

(q) A serial number consisting of at least five (5) alpha characters or numeric characters, or both, must be printed on each concealed face bingo card manufactured and sold.

(r) Seal and flare card winners must provide:

- (1) their printed name, signature, and date of birth; and
- (2) some form of identification, such as a driver's license or state issued identification card,

to redeem a prize valued at more than fifty dollars (\$50).

(s) A charitable organization may not conduct an allowable event on or through the Internet.

(t) An organization may:

- (1) accept only United States currency and coin from players when conducting an allowable event; and
- (2) not extend credit to any player.

(u) Publication of notice required by IC 4-32.2-4-5(c) and IC 4-32.2-4-7.5(c) shall be made not later than fifteen (15) days after the applicant has received a prelicense review letter issued by the commission.

(v) A qualified organization holding a license issued under IC 4-32.2-4-5 and IC 4-32.2-4-7.5 shall publish notice as required by IC 4-32.2-4-5(c) and IC 4-32.2-4-7.5(c) if the location at which the organization conducts gaming pursuant to these licenses changes. Notification must meet the requirements of IC 4-32.2-4-5(d) and IC 4-32.2-4-7.5(d). In the event the commission receives at least ten (10) written and signed protest letters, the commission may hold a hearing in accordance with IC 5-14-1.5.

(w) Protest letters referenced in IC 4-32.2-4-5(e) and IC 4-32.2-4-7.5(e) opposing the issuance of an initial annual bingo or annual charity game night license, respectively, must be received by the commission not later than fifteen (15) days after the last publication required by IC 4-32.2-4-5(c) and IC 4-32.2-4-7.5(c), respectively.

(x) The total prizes awarded for a winner take all drawing may not exceed three hundred dollars (\$300) for each drawing. All prizes awarded for a winner take all drawing must be U.S. currency.

(y) A qualified organization conducting a winner take all drawing must maintain a ledger in which the qualified organization records:

- (1) the date of each drawing;
- (2) the winner's:
  - (A) name;
  - (B) signature;
  - (C) date of birth,

(3) some form of identification, such as a driver's license or state issued identification card; and

(4) the amount awarded to each individual.

The ledger must be printed legibly and must be available for inspection upon request.

(z) A qualified organization conducting a raffle, door prize, or winner take all drawing must conduct its own winning draws.

(aa) A qualified organization is prohibited from conducting any allowable event at a bar or tavern, or at a facility connected to a bar or tavern, that is not owned by a qualified organization.

(ab) Except as outlined in IC 4-32.2-5-14, a person dealing a card game must be either a worker or an operator.

(ac) A euchre event must be conducted as follows:

(1) A patron participating in a euchre game conducted under a charity game night license issued under IC 4-32.2-4-7 or IC 4-32.2-4-7.5 must deal every time he or she has the opportunity to do so in the regular course of the game of euchre.

(2) No patron participating in a euchre game conducted under a charity game night license issued under IC 4-32.2-4-7 or IC 4-32.2-4-7.5 may receive prizes other than those awarded to the winners of the game.

(3) A qualified organization conducting a euchre game under a charity game night license issued under IC 4-32.2-4-7 or IC 4-32.2-4-7.5 must have one (1) operator for each six (6) tables of four (4) players. Determination of prize payouts, resolution of disputes, and responsibility for all buy-ins and cash outs of chips must be done by an operator.

**SECTION 8. (a) This document expires on March 18, 2009.**