
HOUSE BILL No. 1038

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-31-3; IC 4-33-4; IC 4-35-4-13; P.L.246-2005, SECTION 259.

Synopsis: Transfer fees. Voids certain rules adopted by the Indiana horse racing commission (IHRC) and the Indiana gaming commission (IGC) concerning the transfer of ownership interests in pari-mutuel horse racing meeting permits and riverboat owner's licenses. Prohibits the IHRC and the IGC from: (1) imposing fees that are not authorized by statute upon the parties to a transfer of ownership interests; and (2) making the approval of a proposed transfer of ownership interests contingent upon the payment of any amount not authorized by statute. Codifies a noncode provision enacted in 2005 prohibiting the IGC from imposing transfer fees by rule. Repeals the 2005 noncode provision.

Effective: Upon passage.

Van Haften

January 7, 2009, read first time and referred to Committee on Public Policy.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1038



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

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

- 1 SECTION 1. IC 4-31-3-9 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE UPON PASSAGE]: Sec. 9. **Subject to section 14 of this**
- 3 **chapter**, the commission may:
- 4 (1) adopt rules under IC 4-22-2, including emergency rules under
- 5 IC 4-22-2-37.1, to implement this article, including rules that
- 6 prescribe:
- 7 (A) the forms of wagering that are permitted;
- 8 (B) the number of races;
- 9 (C) the procedures for wagering;
- 10 (D) the wagering information to be provided to the public;
- 11 (E) fees for the issuance and renewal of:
- 12 (i) permits under IC 4-31-5;
- 13 (ii) satellite facility licenses under IC 4-31-5.5; and
- 14 (iii) licenses for racetrack personnel and racing participants
- 15 under IC 4-31-6;
- 16 (F) investigative fees;
- 17 (G) fines and penalties; and



- 1 (H) any other regulation that the commission determines is in
- 2 the public interest in the conduct of recognized meetings and
- 3 wagering on horse racing in Indiana;
- 4 (2) appoint employees in the manner provided by IC 4-15-2 and
- 5 fix their compensation, subject to the approval of the budget
- 6 agency under IC 4-12-1-13;
- 7 (3) enter into contracts necessary to implement this article; and
- 8 (4) receive and consider recommendations from an advisory
- 9 development committee established under IC 4-31-11.

10 SECTION 2. IC 4-31-3-14 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: **Sec. 14. (a) The following rules are void:**

- 13 (1) 71 IAC 11-1-13(d), as added by the emergency rule
- 14 adopted by the commission in LSA Document #07-341.
- 15 (2) Any other emergency or formal rule adopted after May
- 16 31, 2007, making the commission's approval of a proposed
- 17 transfer of an ownership interest in a permit issued under
- 18 IC 4-31-5 subject to the commission's consideration of the
- 19 economic benefits realized by the person transferring the
- 20 ownership interest and the state's receipt of a voluntary or
- 21 involuntary payment from the person transferring the
- 22 ownership interest.
- 23 (b) The commission may not do the following:
- 24 (1) Impose, charge, or collect by rule a fee that is not
- 25 authorized by this article on any party to a proposed transfer
- 26 of an ownership interest in a permit issued under IC 4-31-5.
- 27 (2) Make the commission's approval of a proposed transfer of
- 28 an ownership interest in a permit issued under IC 4-31-5
- 29 contingent upon the payment of any amount that is not
- 30 authorized by this article.

31 SECTION 3. IC 4-33-4-21 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21. (a)** A licensed
 33 owner or any other person must apply for and receive the commission's
 34 approval before:

- 35 (1) an owner's license is:
- 36 (A) transferred;
- 37 (B) sold; or
- 38 (C) purchased; or
- 39 (2) a voting trust agreement or other similar agreement is
- 40 established with respect to the owner's license.

41 (b) **Subject to section 24 of this chapter**, the commission shall
 42 adopt rules governing the procedure a licensed owner or other person

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1 must follow to take an action under subsection (a). The rules must
 2 specify that a person who obtains an ownership interest in a license
 3 must meet the criteria of this article and any rules adopted by the
 4 commission. A licensed owner may transfer an owner's license only in
 5 accordance with this article and rules adopted by the commission.

6 (c) A licensed owner or any other person may not:

- 7 (1) lease;
- 8 (2) hypothecate; or
- 9 (3) borrow or loan money against;

10 an owner's license.

11 (d) A transfer fee is imposed on a licensed owner who purchases or
 12 otherwise acquires a controlling interest, as determined under the rules
 13 of the commission, in a second owner's license. The fee is equal to two
 14 million dollars (\$2,000,000). The commission shall collect and deposit
 15 a fee imposed under this subsection in the state general fund.

16 SECTION 4. IC 4-33-4-24 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: **Sec. 24. (a) The following rules are void:**

19 **(1) An emergency rule adopted by the commission on April**
 20 **21, 2005, under Indiana gaming commission resolution**
 21 **2005-17 concerning the imposition of a transfer fee on the**
 22 **transfer of an ownership interest in a riverboat owner's**
 23 **license or an operating permit.**

24 **(2) Any other rule adopted after April 1, 2005, that establishes**
 25 **a transfer fee for the transfer of an ownership interest in a**
 26 **riverboat owner's license or an operating permit.**

27 **(3) An emergency rule adopted by the commission after June**
 28 **7, 2007, under Indiana gaming commission resolution 2007-56**
 29 **in which the commission's approval of a proposed transfer of**
 30 **an ownership interest in a riverboat owner's license is made**
 31 **subject to the commission's consideration of the economic**
 32 **benefits realized by the person transferring the ownership**
 33 **interest and the state's receipt of a voluntary or involuntary**
 34 **payment from the person transferring the ownership interest.**

35 **(4) Any other emergency or formal rule adopted by the**
 36 **commission after May 31, 2007, concerning the subject matter**
 37 **described in subdivision (3).**

38 **(b) The commission may not do the following:**

39 **(1) Impose by rule a fee that is not authorized by this article**
 40 **on any party to a proposed transfer of an ownership interest**
 41 **in a riverboat owner's license or an operating permit.**

42 **(2) Make the commission's approval of a proposed transfer of**

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1 **an ownership interest in a riverboat owner's license or an**
 2 **operating permit contingent upon the payment of any amount**
 3 **that is not authorized by this article.**
 4 SECTION 5. IC 4-35-4-13 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: **Sec. 13. The commission may not do the**
 7 **following:**
 8 **(1) Impose, charge, or collect by rule a fee that is not**
 9 **authorized by this article on any party to a proposed transfer**
 10 **of an ownership interest in a license issued under IC 4-35-5.**
 11 **(2) Make the commission's approval of a proposed transfer of**
 12 **an ownership interest in a license issued under IC 4-35-5**
 13 **contingent upon the payment of any amount that is not**
 14 **authorized by this article.**
 15 SECTION 6. P.L.246-2005, SECTION 259, IS REPEALED
 16 [EFFECTIVE UPON PASSAGE].
 17 SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The publisher**
 18 **of the Indiana Administrative Code and Indiana Register shall**
 19 **remove any rule voided by this act from the Indiana**
 20 **Administrative Code.**
 21 **(b) This SECTION expires January 1, 2010.**
 22 SECTION 8. **An emergency is declared for this act.**

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