
TITLE 905 ALCOHOL AND TOBACCO COMMISSION

Proposed Rule
LSA Document #08-196

DIGEST

Adds [905 IAC 1-43.1](#) to establish gaming site permits as authorized by [IC 7.1-3-17.5-1](#). Repeals [905 IAC 1-43](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[905 IAC 1-43](#); [905 IAC 1-43.1](#)

SECTION 1. [905 IAC 1-43.1](#) IS ADDED TO READ AS FOLLOWS:

Rule 43.1. Gaming Site Permit

[905 IAC 1-43.1-1](#) Definitions

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-31-5](#); [IC 4-33-2-17](#); [IC 4-33-6](#); [IC 4-33-6.5](#); [IC 4-35-2-5](#); [IC 4-35-5](#); [IC 7.1-3-17.5](#); [IC 7.1-3-20-18](#)

Sec. 1. The following definitions apply throughout this rule:

- (1) "Bar" has the meaning set forth in [905 IAC 1-41-1](#).
- (2) "Gambling game" has the meaning set forth in [IC 4-35-2-5](#).
- (3) "Gambling game licensee" means the holder of a permit authorized by [IC 4-35-5](#).
- (4) "Gambling game operation" means a place of business that is part of or adjacent to a horse track, including without limitation, the purveying of:
 - (A) food;
 - (B) beverages;
 - (C) retail goods and services; and
 - (D) transportation;on a gambling gaming site.
- (5) "Gambling gaming site" means a facility authorized by [IC 4-35](#).
- (6) "Gaming site permit" means a permit issued under [IC 7.1-3-17.5](#) and this rule that permits:
 - (A) a riverboat licensee under [IC 4-33-6](#) or an operating agent under [IC 4-33-6.5](#) to purchase alcoholic beverages from authorized permittees and sell alcoholic beverages to authorized purchasers at a riverboat gambling operation; or
 - (B) a gambling game licensee under [IC 4-35](#) to purchase alcoholic beverages from authorized permittees and sell alcoholic beverages to authorized purchasers at a gambling game operation.
- (7) "Horse track" means a facility authorized by [IC 4-31-5](#).
- (8) "Hotel" has the meaning set forth in [IC 7.1-3-20-18](#).
- (9) "Riverboat" has the meaning set forth in [IC 4-33-2-17](#).
- (10) "Riverboat gambling operation" has the meaning set forth in [68 IAC 1-1-79](#).
- (11) "Riverboat licensee" has the meaning set forth in [68 IAC 1-1-80](#).
- (12) "Support facility" has the meaning set forth in [68 IAC 1-1-88](#) or upon approval of the commission.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-1](#))

[905 IAC 1-43.1-2](#) Fees

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 7.1-3](#)

Sec. 2. (a) All permit fees must be paid at the time the application for a permit is submitted to the commission.

(b) The initial license fee and renewal fee for the holder of a gaming site permit is twenty-five thousand dollars (\$25,000).

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-2](#))

[905 IAC 1-43.1-3](#) Scope of permit

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-33-7-4](#); [IC 7.1-3-4-6](#); [IC 7.1-3-9-9](#); [IC 7.1-3-14-4](#)

Sec. 3. (a) The holder of a gaming site permit is entitled to purchase alcoholic beverages only from a permittee entitled to sell to a retailer under the following:

- (1) [IC 4-33-7-4](#).
- (2) [IC 7.1-3-4-6](#).
- (3) [IC 7.1-3-9-9](#).
- (4) [IC 7.1-3-14-4](#).

(b) The holder of a gaming site permit may sell only to a person authorized to purchase alcoholic beverages at retail.

(c) The holder of a gaming site permit is entitled to possess and sell alcoholic beverages only for on-premises consumption in either of the following areas of the permit premises so long as the alcoholic beverages are not carried off the permit premises by a patron at any time:

- (1) The riverboat and support facility.
- (2) The gambling game site.

(d) No alcoholic beverages may be removed or carried by a patron between the riverboat and riverboat support facility after 3:30 a.m.

(e) No alcoholic beverages may be removed or carried by a patron between the horse track and gambling game site after 3:30 a.m.

(f) The holder of a gaming site permit shall not be entitled to sell alcoholic beverages at a place other than the licensed premises.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-3](#))

[905 IAC 1-43.1-4](#) Permit qualifications

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-31-5](#); [IC 4-33-6](#); [IC 7.1-3-4-2](#); [IC 7.1-5-7-13](#)

Sec. 4. (a) The commission shall not issue a gaming site permit to an individual who is disqualified under the special disqualifications of [IC 7.1-3-4-2](#).

(b) The commission shall not issue a gaming site permit to a person who does not hold either a:

- (1) riverboat owner's license under [IC 4-33-6](#); or
- (2) gambling game license under [IC 4-31-5](#).

(c) Service of alcoholic beverages on either the riverboat gambling operation or the gambling game operation shall only be by employees of the riverboat licensee or the gambling game licensee who hold a valid employee permit issued by the commission.

(d) A person who is:

- (1) at least eighteen (18) years of age; and

(2) an employee of the riverboat licensee or the gambling game licensee; may be present in the area where gambling is conducted if an employee meets requirements set forth in [IC 7.1-5-7-13](#); however, an employee who is less than twenty-one (21) years of age may not perform any function involving gambling by the patrons.

(e) The holder of a gaming site permit shall file with the commission a manager's questionnaire for each and every manager who will manage any part of the permit premises.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-4](#))

[905 IAC 1-43.1-5](#) Permit term, issuance, renewal, and extension

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-33](#); [IC 4-35-5](#); [IC 7.1-3](#)

Sec. 5. (a) The gaming site permit shall be in force for one (1) calendar year only, including the day upon which it is granted. At the end of the one (1) year period, the permit shall be fully expired and null and void.

(b) An application for renewal or extension of the gaming site permit shall not be considered if the:

(1) riverboat license issued under [IC 4-33](#) and [68 IAC 2-1](#); or

(2) gambling game license issued under [IC 4-35-5](#);

is not renewed.

(c) An extension of the gaming site permit may be granted at the discretion of the commission if an application for renewal of a gaming site permit has been filed but has not been granted as of the date of expiration of the gaming site permit.

(d) The commission may renew a retailer's permit of a gaming site permittee who held a retailer's permit before July 7, 2008.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-5](#))

[905 IAC 1-43.1-6](#) Processing of applications; investigation of applicants

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-33](#); [IC 7.1](#)

Sec. 6. The issuance and renewal of the gaming site permit shall follow the procedures set forth in [IC 7.1](#) and this title for retailers in the filing, processing, and investigation of the propriety of the applicant and the licensed premises for the alcoholic beverage permit.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-6](#))

[905 IAC 1-43.1-7](#) Floor plans

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-33-6](#); [IC 4-33-6.5](#); [IC 7.1](#)

Sec. 7. (a) The floor plans must be submitted to and approved by the commission before a gaming site permit is issued by the commission. The approval process shall include an initial inspection and final inspection of the floor plans and the actual permit premises by the commission's enforcement officers. The floor plans shall reflect all semipermanent and permanent areas where alcoholic beverages will be stored or dispensed. Service of alcoholic beverages shall only be from those areas designated on the floor plans approved by the commission.

(b) The holder of a gaming site permit, who is also a riverboat licensee under [IC 4-33-6](#) or an operating agent under [IC 4-33-6.5](#), shall clearly designate in the floor plans, the areas constituting riverboat support facility.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-7](#))

[905 IAC 1-43.1-8](#) Sale, assignment, and transfer of permit

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-31](#); [IC 4-33](#); [IC 4-35](#); [IC 7.1-3-24](#)

Sec. 8. (a) The holder of a gaming site permit may sell, assign, or transfer that permit to another holder or to another location subject to the following:

- (1) The provisions of [IC 4-33](#) and [68 IAC 5](#) with the written approval of the Indiana gaming commission.
- (2) The provisions of [IC 4-35](#), [IC 4-31](#), and [71 IAC 11-1-13](#) with the written approval of the Indiana gaming commission and the Indiana horse racing commission.
- (3) The provisions of [IC 7.1-3-24](#) and [905 IAC 1-17](#) with the written approval of the commission.

(b) The commission may transfer a retailer's permit of a gaming site permittee who held a permit before July 7, 2008.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-8](#))

[905 IAC 1-43.1-9](#) Nature of business; times when sales are legal

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-31](#); [IC 4-33-2-10](#); [IC 4-35](#); [IC 7.1](#)

Sec. 9. (a) The nature of the business conducted by the person who holds a gaming site permit issued by the commission must be the business of an authorized gambling operation under [IC 4-33-2-10](#) or [IC 4-35](#) in order for alcoholic beverages to be dispensed within the defined permit premises.

(b) In order for the permittee to sell and serve alcoholic beverages at the permit premises during an event not related to an authorized gambling operation, prior written approval must be obtained from the commission. This approval must be obtained at least fifteen (15) days prior to the nonauthorized gambling operation event or activity.

(c) In order for the permittee to sell and serve alcoholic beverages at a location other than a bar clearly designated on the floor plans on file with the commission, prior written approval must be obtained at least fifteen (15) days prior to the event.

(d) When evaluating a request to sell and serve alcoholic beverages for activities other than authorized gambling activity, the commission shall consider the following:

- (1) The nature of the activity to be conducted on the premises and whether such activity is incompatible with the sale of alcoholic beverages.
- (2) The times during which the permittee seeks to make alcoholic beverages available.
- (3) Whether the permittee has adequate security for the activity.
- (4) Whether the permittee has been granted any required approval by the:
 - (A) law enforcement department that has jurisdiction over the venue of the permit premises;
 - (B) board of county commissioners;
 - (C) county council; or
 - (D) town executive;for the activity.

(5) Whether the Indiana gaming commission or the Indiana horse racing commission has placed any limitations on the use of the permit premises for the activity.

(6) Other related reasons that may be enumerated by the following:

(A) [IC 4-33](#) and 68 IAC.

(B) [IC 4-31](#), [IC 4-35](#), and 71 IAC.

(7) Any other factor that may be considered under [IC 7.1](#) or this rule.

(e) The holder of a gaming site permit may sell and serve alcoholic beverages on any day of the year except Christmas Day and primary, general, and special election days until the voting polls are closed.

(f) It is lawful for the holder of a gaming site permit to sell and serve alcoholic beverages from 7 a.m. prevailing local time to 3 a.m. prevailing local time the following day, Monday through Saturday. On Sunday, it is lawful to sell and serve alcoholic beverages from 11 a.m. prevailing local time to 12:30 a.m. prevailing local time the following day.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-9](#))

[905 IAC 1-43.1-10](#) Suspension or revocation of permit; procedures

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 4-33-3](#); [IC 4-35](#); [IC 7.1](#)

Sec. 10. (a) If the Indiana gaming commission suspends or revokes either the:

(1) riverboat owner's license issued under [IC 4-33](#) and 68 IAC; or

(2) gambling game license issued under [IC 4-35](#);

the gaming site permit is also suspended or revoked at the same time.

(b) A gaming site permit shall be subject to [IC 7.1](#) and this rule, which govern the sale of alcoholic beverages. The permittee may be fined, suspended, or revoked for a violation of these statutes or rules unless otherwise provided in [IC 7.1](#). Procedures for fines, suspension, or revocation for violation of the alcoholic beverage statutes or rules shall be the same procedures as are followed for those persons who are issued retailer's permits.

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-10](#))

[905 IAC 1-43.1-11](#) Prohibition of minors; minimum food service

Authority: [IC 7.1-3-17.5-5](#)

Affected: [IC 7.1-1-3-25](#); [IC 7.1-3-18-9](#); [IC 7.1-5-7-12](#); [IC 7.1-5-7-13](#)

Sec. 11. (a) In the permit premises of a gaming site permit, the separation of the bar area from the dining area, where minors may be seated, may be a structure or barrier that reasonably deters free access and egress without the requirement for doors or gates, or such other means, including signage that will clearly designate that minors are restricted from being in the designated bar areas. Minors under twenty-one (21) years of age are prohibited from being in the designated bar areas of the permit premises unless otherwise provided in [IC 7.1-5-7-12](#) and [IC 7.1-5-7-13](#).

(b) The holder of a gaming site permit shall be responsible for assuring that any individual who is a minor under twenty-one (21) years of age is not allowed in:

(1) an area of the permit premises where gambling is conducted; or

(2) the bar areas of the permit premises.

(c) Minimum food service, as defined in [905 IAC 1-20-1](#), except hot soups, must be available on the premises during any time that alcoholic beverages are available for sale on the riverboat gambling operation or the gambling game operation.

(d) If a hotel is a part of the permit premises of a gaming site permit, the following limitations shall apply to in-room vending units. "In-room vending unit" means a closed container that is located in a guest room of a hotel and is used for the storage and dispensing of food or beverage (alcoholic or

nonalcoholic).

- (1) The holder of a gaming site permit may dispense alcoholic beverages in individual portions to registered hotel guests through in-room vending units.
- (2) Access to the interior of an in-room vending unit must be:
 - (A) restricted by a locking device, the opening of which requires the use of a:
 - (i) key;
 - (ii) magnetic card; or
 - (iii) similar device; or
 - (B) controlled at all times by the holder of a gaming site permit.
- (3) Alcoholic beverages may be dispensed through in-room vending units only:
 - (A) on days and at times when the sale of alcoholic beverages is permitted under this title; and
 - (B) to persons who are permitted to purchase alcoholic beverages under this title.
- (4) A permittee to whom this section applies may provide a key, magnetic card, or similar device required to gain access to the interior of an in-room vending unit only to a person who is:
 - (A) a registered hotel guest; and
 - (B) twenty-one (21) years of age or older.
- (5) In order to prevent the illegal furnishing of an alcoholic beverage to a minor, a permittee to whom this section applies shall determine that the registered hotel guest is not a minor (as defined in [IC 7.1-1-3-25](#)) prior to providing a key, magnetic card, or similar device required to gain access to the interior of an in-room vending unit to that registered hotel guest.
- (6) Each employee of a permittee to whom this section applies who handles alcoholic beverages for dispensing through an in-room vending unit must:
 - (A) be twenty-one (21) years of age or older; and
 - (B) hold an employee's permit issued by the commission under [IC 7.1-3-18-9](#).

(Alcohol and Tobacco Commission; [905 IAC 1-43.1-11](#))

SECTION 2. [905 IAC 1-43](#) IS REPEALED.

[Notice of Public Hearing](#)

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