

**Emergency Rule**  
LSA Document #08-690(E)

DIGEST

Temporarily adds the terms "casino", "casino gambling operation", "casino licensee", "gaming area", "institutional investor", "key person", "progressive jackpot", and "substantial owner" to references to riverboat licensees in [68 IAC 1](#). Temporarily updates provisions concerning patron counting systems in [68 IAC 2](#) and [68 IAC 15](#), including the establishment of minimum accuracy standards. Temporarily adds terms regarding deviations of rule provisions concerning standards of patron counts to [68 IAC 15](#). Effective September 29, 2008.

SECTION 1. "Casino" means any facility under the jurisdiction of the commission pursuant to [IC 4-33](#) or [IC 4-35](#).

SECTION 2. "Casino gambling operation" means the conducting of gaming and all related activities, including, without limitation, the purveying of food, beverages, retail goods and services, and transportation on a casino and at its support facilities.

SECTION 3. "Casino licensee" means any:

- (1) riverboat licensee;
- (2) operating agent; or
- (3) gambling game licensee under [IC 4-35](#).

SECTION 4. (a) This SECTION supercedes [68 IAC 1-1-42](#).

(b) "Gaming area" means the room or rooms on a casino in which gaming is conducted.

SECTION 5. (a) This SECTION supercedes [68 IAC 1-1-52](#).

(b) "Institutional investor" means any:

- (1) retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees;
- (2) investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a);
- (3) collective investment trust organized by banks under Part Nine (9) of the rules of the Comptroller of the Currency;
- (4) closed end investment trust;
- (5) chartered or licensed life insurance company or property and casualty insurance company;
- (6) banking, chartered, or licensed lending institution;
- (7) investment adviser registered under the Investment Advisors Act of 1940 (15 U.S.C. 80b); or
- (8) other entity the commission determines constitutes an institutional investor;

that acquires voting or nonvoting units in the ordinary course of its investment business and holds those units for investment purposes only and not for the purpose of causing, directly or indirectly, the election of a majority of the board of directors or any change in the corporate charter, bylaws, management, policies, or operations of the business entity in which it holds those securities.

SECTION 6. (a) This SECTION supercedes [68 IAC 1-1-57](#).

(b) "Key person" means any:

- (1) officer;
- (2) director;
- (3) executive;
- (4) employee;
- (5) trustee;
- (6) substantial owner;
- (7) independent contractor; or
- (8) agent;

of a business entity, having the power to exercise, either alone or in conjunction with others, management or operating authority over a business entity or affiliate or affiliates thereof.

**SECTION 7. (a) This SECTION supercedes [68 IAC 1-1-73](#).**

(b) "Progressive jackpot" means a value determined by application of an approved formula to the income of independent, local, or electronic gaming devices or live gaming devices. This value must be clearly displayed above the interlinked electronic gaming device, above or beside the live gaming device and metered incrementally by a progressive controller. A progressive electronic gaming device must prominently display a manufacturer-supplied glass indicating either that a progressive jackpot is to be paid or the current amount of the jackpot.

**SECTION 8. (a) This SECTION supercedes [68 IAC 1-1-86](#).**

(b) "Substantial owner" means any:

- (1) person who is not an institutional investor, who holds any direct, indirect, or attributed legal or beneficial interest, and whose combined direct, indirect, or attributed interest is five percent (5%) or more ownership interest in a business entity; or
- (2) institutional investor holding fifteen percent (15%) or more ownership interest in a business entity.

**SECTION 9. (a) This SECTION supercedes [68 IAC 2-7-1](#).**

(b) A manufacturer or distributor of associated equipment shall not distribute associated equipment to riverboat licensees unless it has been approved by the executive director.

(c) The commission may require the manufacturer or distributor of associated equipment to obtain a supplier's license under [68 IAC 2-2](#).

(d) The following definitions apply throughout this rule:

(1) "Associated equipment" means any of the following:

- (A) Any equipment, mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming.
- (B) Any game that would not otherwise be classified as a gaming device, including, but not limited to, links that connect to progressive electronic gaming devices.
- (C) Computerized systems that monitor electronic gaming devices.
- (D) Equipment that affects the proper reporting of gross revenue.
- (E) Devices for weighing and counting money.
- (F) Patron counting systems.
- (G) Any other equipment that the commission determines requires approval as associated equipment to ensure compliance with the Act and this title.

(2) "Riverboat license applicant" means an applicant for a riverboat owner's license that has been issued a certificate of suitability under [68 IAC 2-1-5](#).

**SECTION 10. (a) This SECTION supercedes [68 IAC 15-6-2](#).**

(b) Each riverboat licensee shall endeavor to track patron admissions into and out of the riverboat in a manner most likely to result in one hundred percent (100%) accuracy.

(c) Admissions to the riverboat must be conducted in the following manner:

(1) Should a riverboat licensee choose not to observe flexible scheduling, the requirements are as follows:

- (A) The embarkation period for each gaming excursion may not exceed a period of thirty (30) minutes.
- (B) The disembarkation period for each gaming excursion may not exceed a period of thirty (30) minutes. During the disembarkation period, no new patrons shall be allowed to board the riverboat.
- (C) The riverboat licensee may allow patrons to disembark during the embarkation period for the next gaming excursion or at anytime that the riverboat remains at the dock and gambling continues in accordance with [IC 4-33-9-2](#). The riverboat licensee is responsible for ensuring it is in compliance with subdivision (10) at all times. The admissions tax must be paid by the patron or the riverboat licensee for any patron who disembarks:
  - (i) during the embarkation period for the next gaming excursion; or
  - (ii) at any time during a gaming excursion after the conclusion of the thirty (30) minute disembarkation period.
- (D) The admissions tax must be paid by the carryover patron or the riverboat licensee for each

excursion that a patron remains on board.

- (2) Should a riverboat licensee choose to observe flexible scheduling the:
  - (A) embarkation and disembarkation are not limited to any period; and
  - (B) patrons shall be allowed to board or exit at will.
- (3) Whether or not a riverboat licensee chooses to observe flexible scheduling:
  - (A) all patrons boarding or exiting the riverboat must pass through approved patron counting equipment; and
  - (B) the riverboat licensee is responsible for ensuring that the approved patron counting equipment keeps an accurate count of the patrons who enter and exit the riverboat. Effective December 31, 2008, for purposes of this rule, "accurate count" means no less than ninety-seven percent (97%) accuracy.
- (4) Should a riverboat licensee choose not to observe flexible scheduling, a passenger count must be completed for each gambling excursion.
- (5) Should a riverboat licensee choose to observe flexible scheduling, a passenger count must be completed for the gaming day.
- (6) Should a riverboat licensee choose to observe twenty-four (24) hour gaming, a passenger count must be computed at the end of each gaming day and shall include those patrons remaining on board the riverboat at the time of each new gaming day. The following four (4) counts will be recorded at the close of the gaming day:
  - (A) If applicable, the actual admissions ticket count.
  - (B) The patron ingress count.
  - (C) The patron egress count.
  - (D) If applicable, the total onboard count.

At the close of the gaming day, boarding and exiting will be momentarily suspended to allow for the taking of the patron counts. The onboard count shall be added to the new gaming day's ingress patron count. The recording, resetting, and onboard additions to the ingress patron count shall be completed in the presence of and observed by an enforcement agent. For admission tax reporting for twenty-four (24) hour gaming, the count shall be adjusted to account for and include the onboard count.

- (7) The riverboat licensee shall submit patron count procedures to the executive director at least sixty (60) days before the commencement of gambling operations. The riverboat licensee shall submit changes to patron count procedures to the executive director at least thirty (30) days before the commencement of the new procedures. The patron count procedures shall include, but not be limited to, the following:
  - (A) A description of the type of equipment that will be utilized to complete a patron count.
  - (B) The form that will be utilized to report the patron count.
  - (C) The procedure that will be utilized to ensure patron boarding occurs only during the appropriate embarkation period should a riverboat licensee choose not to observe flexible scheduling.
  - (D) Emergency procedures that will be utilized in case the primary patron counting equipment malfunctions.
  - (E) The manner in which the riverboat licensee will ensure that the total number of patrons does not exceed the capacity of the riverboat as set forth in the certificate of inspection issued by the United States Coast Guard or certificate of compliance issued by the commission pursuant to [IC 4-33-6-6](#).
  - (F) Any other information deemed necessary by the executive director or the commission to ensure compliance with the Act and this title.
- (8) The riverboat licensee shall notify the enforcement agent immediately if the primary patron counting system malfunctions.
- (9) The following individuals are entitled to a tax-free pass and do not have to pass through the patron counting equipment when boarding the riverboat:
  - (A) Occupational licensees of the riverboat licensee.
  - (B) Other employees of the riverboat licensee who are boarding the riverboat in the performance of official duties.
  - (C) Commission:
    - (i) members;
    - (ii) staff; and
    - (iii) agents.
  - (D) Official guests approved by commission:
    - (i) members;
    - (ii) staff; and
    - (iii) agents.
  - (E) Vendors who have completed the appropriate vendor log in accordance with section 4 of this

rule.

(F) Any other person authorized by the executive director or the commission to ensure compliance with the Act and this title.

(10) All persons boarding the riverboat on a tax-free pass must have an appropriate badge.

(11) At no time shall the riverboat licensee allow the total number of patrons to exceed the capacity of the riverboat as set forth in the certificate of inspection issued by the United States Coast Guard or certificate of compliance issued by the commission pursuant to [IC 4-33-6-6](#).

(d) As of December 31, 2008, patron counting systems must tally the number of patrons passing through an identified point of ingress and egress at a rate of no less than ninety-seven percent (97%) accuracy, as measured by standards approved by the executive director and established by an independent lab designated by the executive director. If a riverboat licensee uses a patron counting system other than turnstiles, the riverboat licensee must use its patron counting system at an established clear point of entry beyond which underage patrons must not pass.

(e) All patron counting systems used by riverboat licensees must be approved by the executive director prior to implementation. The riverboat licensee must provide the following information to the executive director for purposes of approval:

(1) Documentation illustrating the riverboat licensee's due diligence in establishing that the patron counting system meets or exceeds a minimum of ninety-seven percent (97%) accuracy. This information shall include, but shall not be limited to, the following:

(A) Evidence that the patron counting system has been subject to a field test, conducted by an independent lab designated by the executive director, at the appropriate riverboat; and

(B) Evidence that the patron counting system meets minimum accuracy standards during peak and nonpeak hours.

(2) Information regarding the riverboat licensee's patron counting system processes, including:

(A) security measures;

(B) procedures for controlling ingress and egress onto the riverboat property; and

(C) procedures for controlling riverboat capacity.

(3) Evidence demonstrating the riverboat licensee's ability to continually verify the accuracy of the patron counting system on an ongoing basis and documentation illustrating the testing methodology. Patron counting system testing methodology must be approved by the executive director.

(4) Any other information deemed necessary by the commission to ensure compliance with the Act and this title.

(f) A riverboat licensee must test or cause to be tested the patron counting system at least annually. The riverboat's annual patron counting methodology must be approved by the executive director.

(g) The executive director may require a manufacturer or distributor of patron counting equipment to submit the equipment to an independent lab designated by the executive director, as outlined in [68 IAC 2-7-2](#). Unless otherwise provided, all patron counting systems shall meet the requirements and provisions outlined in [68 IAC 2-7](#).

SECTION 11. The executive director or the commission may approve deviations from the provisions of this article upon written request if the executive director or the commission determines that the:

(1) requirement or procedure is impractical or burdensome; and

(2) alternative means of satisfying the requirement or procedure:

(A) fulfills the purpose of the article;

(B) is in the best interest of the public and gaming in Indiana; and

(C) does not violate [IC 4-33](#) or [IC 4-35](#).

SECTION 12. SECTIONS 1 through 11 of this document take effect September 29, 2008.

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