

Emergency Rule
LSA Document #08-754(E)

DIGEST

Temporarily adds provisions to establish a gaming site permit as authorized by [IC 7.1-3-17.5-1](#). Effective October 4, 2008.

SECTION 1. This document supercedes [905 IAC 1-43](#).

SECTION 2. As used in this document, the following definitions apply:

- (1) "Bar" has the meaning set forth in [905 IAC 1-41-1](#).
- (2) "Gaming site permit" means a permit issued under [IC 7.1-3-17.5](#) and this document 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.
- (3) "Gambling game" has the meaning set forth in [IC 4-35-2-5](#).
- (4) "Gambling game license" means the holder of a permit authorized by [IC 4-35-5](#).
- (5) "Gambling game operation" means a place of business which is part of, or adjacent to a horse track, including without limitation, the purveying of food, beverages, retail goods and services, and transportation on a gambling gaming site.
- (6) "Gambling gaming site" means a facility authorized by [IC 4-35](#).
- (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 license" 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.

SECTION 3. (a) All permit fees must be paid at the time the application for 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).

SECTION 4. (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 [IC 7.1-3-4-6](#), [IC 7.1-3-9-9](#), [IC 7.1-3-14-4](#), and [IC 4-33-7-4](#).

(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 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) riverboat and support facility; or
- (2) 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.

SECTION 5. (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 riverboat owner's license under [IC 4-33-6](#) or a 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 at least eighteen (18) years of age and who is 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.

SECTION 6. (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 riverboat license issued under [IC 4-33](#) and [68 IAC 2-1](#) is not renewed or if the gambling game license is *[sic]* 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:

(1) held a retailer's permit before July 7, 2008; and

(2) has a premises that does not qualify for a retailer's permit under [905 IAC 1-43.1-14](#) *[sic]*.

SECTION 7. 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.

SECTION 8. (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 plan 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 plan 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 plan the areas constituting riverboat support facility.

SECTION 9. (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](#), [68 IAC 5](#) with the written approval of the Indiana gaming commission.

(2) The provisions of [IC 4-35](#), [IC 4-31](#), [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](#), [905 IAC 1-17](#) with the written approval of the commission.

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

SECTION 10. (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 plan 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 law enforcement department which has jurisdiction over the venue of the permit premises, the board of county commissioners, the county council, or the 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 which may be enumerated by [IC 4-33](#) and 68 IAC.
- (7) Other related reasons which may be enumerated by [IC 4-35](#), [IC 4-31](#), and 71 IAC.
- (8) Any other factor which may be considered under [IC 7.1](#) or this document.

(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.

SECTION 11. If the Indiana gaming commission suspends or revokes either the riverboat owner's license, issued under [IC 4-33](#) and 68 IAC, or the gambling game license, issued under 4-35 [[IC 4-35](#)], the gaming site permit is also suspended or revoked at the same time.

SECTION 12. A gaming site permit shall be subject to [IC 7.1](#) and this document, 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.

SECTION 13. (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 which 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 an area of the permit premises where gambling is conducted or in 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 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. An "in-room vending unit" means a closed container that is located in a guest room of a hotel and 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 use of a key, magnetic card, or 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 be twenty-one (21) years of age or older and hold an employee's permit issued by he *[sic]* commission under [IC 7.1-3-18-9](#).**

SECTION 14. SECTION 1 through SECTION 13 of this document *[SECTIONS 1 through 13 of this document]* will take effect on October 4, 2008.

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