TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule
LSA Document #10-52

DIGEST

Amends 68 IAC 1-1-57 to update terminology. Amends 68 IAC 2-2-1 to account for IC 4-35 and update terminology. Amends 68 IAC 2-2-2 to update terminology. Amends 68 IAC 2-2-3 to avoid duplicating standards found in IC 4-33-7-1. Amends 68 IAC 2-2-4 to minimize expenses by reducing paperwork and to update terminology. Amends 68 IAC 2-2-5 to update terminology and comply with the administrative rules drafting manual. Adds 68 IAC 2-2-5.1 regarding the issuance of a temporary supplier's license. Adds 68 IAC 2-2-5.2 regarding insurance. Adds 68 IAC 2-2-5.3 regarding the procedure for the issuance of a permanent supplier's license. Amends 68 IAC 2-2-6 to update terminology. Amends 68 IAC 2-2-6.1 concerning license levels of supplier-related occupational licensees. Amends 68 IAC 2-2-7 by making only technical changes. Amends 68 IAC 2-2-8 to comply with updated license fee statutes and to clarify conditions for license expiration. Amends 68 IAC 2-2-9 to require supplier licensees to report changes in status of their occupational licensees. Amends 68 IAC 2-2-9.5 to update terminology, grant the executive director authority to approve records destruction, and avoid duplicating standards found in other sections. Amends 68 IAC 2-2-10 to allow the executive director to initiate disciplinary actions against suppliers. Amends 68 IAC 2-2-11 to include nonrenewals more fully in the provisions of the section. Amends 68 IAC 2-2-12 to update terminology and allow the executive director to approve deviations. Makes numerous technical changes. Repeals 68 IAC 7-1-5 through 68 IAC 7-1-8, 68 IAC 7-1-11, 68 IAC 7-1-12, and 68 IAC 7-1-14. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

68 IAC 1-1-57; 68 IAC 2-2-1; 68 IAC 2-2-2; 68 IAC 2-2-3; 68 IAC 2-2-4; 68 IAC 2-2-5; 68 IAC 2-2-5.1; 68 IAC 2-2-5.2; 68 IAC 2-2-5.3; 68 IAC 2-2-6; 68 IAC 2-2-6.1; 68 IAC 2-2-7; 68 IAC 2-2-8; 68 IAC 2-2-9; 68 IAC 2-2-9.5; 68 IAC 2-2-10; 68 IAC 2-2-11; 68 IAC 2-2-12; 68 IAC 7-1-5; 68 IAC 7-1-6; 68 IAC 7-1-7; 68 IAC 7-1-8; 68 IAC 7-1-11; 68 IAC 7-1-12; 68 IAC 7-1-14

SECTION 1. 68 IAC 1-1-57 IS AMENDED TO READ AS FOLLOWS:

68 IAC 1-1-57 "Key person" defined

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 57. "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 **an** affiliate ~~or affiliates~~ thereof.

(Indiana Gaming Commission; 68 IAC 1-1-57; filed Nov 10, 1994, 11:00 a.m.: 18 IR 475; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)

SECTION 2. 68 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-1 Supplier's license required

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-6; IC 4-33-6.5; IC 4-35-5

Sec. 1. (a) The following definitions apply throughout this rule:
(1) "Applicant" means an applicant for a supplier's license.
(2) ~~"Riverboat~~ **"Casino** 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.~~ **a person who has submitted an application for one (1) of the following:**
(A) A riverboat license under IC 4-33-6.
(B) An operating agent contract under IC 4-33-6.5.
(C) A gambling game license under IC 4-35-5.

(b) An application for a supplier's license shall not be processed by the commission unless the applicant has an agreement **with** or a statement of intent ~~with~~ **from** a ~~riverboat~~ **casino** licensee or a ~~riverboat~~ **casino** license applicant **stating** that the applicant will be supplying the ~~riverboat licensee~~ **casino with goods and services** upon **the applicant** receiving ~~the~~ **a** supplier's license. Nothing in this rule prevents a potential applicant from negotiating, prior to application for licensure, with a ~~riverboat~~ **casino** licensee or a ~~riverboat~~ **casino** license applicant to supply goods and services to ~~a riverboat licensee~~ **the casino** once **the potential applicant has obtained** a supplier's license. ~~has been obtained.~~

(c) The following persons or business entities are required to hold a supplier's license:
(1) The gaming operations manager if the manager is a business entity. If the gaming operations manager is an individual, the applicant shall hold ~~an~~ **a Level 1** occupational license. ~~Level 1 under 68 IAC 2-3-1.~~ All employees of a gaming operations manager who have any duty, authority, or function relating directly or indirectly to ~~the gaming~~ **a casino gambling** operation will be required to hold an occupational license in accordance with 68 IAC 2-3-1.
(2) All manufacturers of:
(A) electronic gaming devices;
(B) chips;
(C) tokens;
(D) cards;
(E) dice;
(F) roulette wheels;
(G) keno balls;
(H) keno ball or number selection devices;
(I) shuffling devices; and
(J) any other equipment that the commission determines directly affects gaming;
shall be licensed as a supplier. All suppliers ~~of electronic gaming devices, chips, tokens, cards, dice, roulette wheels, keno balls, keno ball or number selection devices, shuffling devices, and any other equipment that the commission determines directly affects gaming~~ **under this subdivision** shall be manufacturers of ~~said~~ **the** devices **listed in this subdivision.**
(3) A supplier of gaming equipment maintenance or repair.
(4) A supplier of security services, security systems, and surveillance systems.
(5) A lessor of a riverboat or dock facilities, or both, unless the lessor of the riverboat or dock facilities, or both, is a county, municipality, or political subdivision.
(6) A supplier of goods or services where payment is calculated on a percentage of a ~~riverboat~~ **casino** gambling operation's revenues.
(7) Any other purveyor of goods or services to a ~~riverboat~~ **casino** gambling operation **that** the commission deems necessary to ensure compliance with ~~the Act~~ **IC 4-33, IC 4-35,** and this title.

(d) The applicant's key persons, substantial owners, and any other persons deemed necessary to allow the commission to ensure the applicant meets the statutory criteria for licensure set forth in ~~the Act~~ **IC 4-33, IC 4-35,** and this title must complete and submit a Personal Disclosure Form 1 **application for occupational license** under 68 IAC 2-3-1.

(e) A supplier licensee shall continue to maintain suitability for licensure. The supplier licensee is subject to action by the commission, including, but not limited to:
(1) suspension;
(2) revocation;
(3) restriction; and
(4) nonrenewal;

under ~~the Act~~ **IC 4-33, IC 4-35,** and this title.

(f) A supplier licensee shall not distribute gaming supplies and equipment that do not conform to the standards for gaming supplies and equipment set forth in ~~the Act~~ **IC 4-33, IC 4-35,** and this title.

(g) ~~Riverboat~~ **Casino** licensees shall not purchase goods or services covered by this rule from a person who does not hold a supplier's license issued by the commission.

(h) A manufacturer of electronic gaming devices, chips, tokens, cards, dice, roulette wheels, keno balls, keno ball or number selection devices, shuffling devices, or any other equipment that the commission determines directly affects gaming shall not be paid by a ~~riverboat~~ **casino** licensee based:
(1) on a percentage of the revenue received from the use of the gaming equipment; or
(2) upon the amount of play or use that the gaming equipment receives.

(Indiana Gaming Commission; 68 IAC 2-2-1; filed Nov 10, 1994, 11:00 a.m.: 18 IR 488; errata filed Nov 1, 1995, 8:30 a.m.: 19 IR 353; filed Oct 22, 1997, 8:45 a.m.: 21 IR 922; errata filed Feb 6, 1998, 10:30 a.m.: 21 IR 2128; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1060; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA; filed Dec 23, 2008, 1:32 p.m.: 20090121-IR-068080327FRA)

SECTION 3. 68 IAC 2-2-2 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-2 Application fees

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 2. (a) All fees shall be submitted to the commission in the form of a certified check or cashier's check made payable to the state of Indiana.

(b) An applicant for a supplier's license must pay a nonrefundable application fee in the amount of five thousand dollars ($5,000). The application fee must be submitted with the supplier's license application.

(c) The application fee shall be utilized to conduct the background investigation of an applicant. ~~The application fee of an applicant may be increased to the extent that~~ **If** the cost of the background investigation relating to the applicant exceeds the application fee set forth in this rule, the ~~applicant shall be advised by the~~ executive director ~~in writing that an additional application fee is required. The letter~~ shall ~~direct~~ **inform** the applicant ~~to remit an amount~~ that ~~the executive director has determined is necessary to complete the investigation.~~ **it must pay an additional fee.** Once an applicant is directed to submit an application fee in excess of the five thousand dollar ($5,000) fee set forth in this rule, the investigative team conducting the investigation on that applicant shall not finalize the report on the applicant's suitability for licensure nor submit that report to the commission for consideration until the ~~increased~~ **applicant has paid the additional** fee. ~~is paid by the applicant.~~

(Indiana Gaming Commission; 68 IAC 2-2-2; filed Nov 10, 1994, 11:00 a.m.: 18 IR 489; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 4. 68 IAC 2-2-3 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-3 Supplier's license fees

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-7-1; IC 4-35

Sec. 3. (a) All fees shall be submitted to the commission in the form of a certified check or cashier's check made payable to the state of Indiana.

(b) The supplier licensee shall remit the supplier's license fee ~~of five thousand dollars ($5,000)~~ **described in**

IC 4-33-7-1(a) upon notification **by the commission** of suitability for licensure. ~~in accordance with section 5(e)(1) of this rule. The permanent supplier's license will not be issued until the five thousand dollar ($5,000) license fee has been received by the commission.~~

(c) The supplier's license:
(1) is valid for a period of one (1) year; ~~The supplier's license may be renewed annually upon payment of the five thousand dollar ($5,000) annual license fee. The supplier's license~~ **and**
(2) may be renewed annually upon compliance with section 8 of this rule.

(Indiana Gaming Commission; 68 IAC 2-2-3; filed Nov 10, 1994, 11:00 a.m.: 18 IR 489; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1020; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 5. 68 IAC 2-2-4 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-4 Applications

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 4. (a) An applicant ~~for a supplier's license~~ must complete and submit the ~~required~~ information and written documents **that the commission requires** on **its application** forms. ~~prescribed by the commission.~~

(b) Application procedures shall be as follows:
~~(1) An applicant is seeking a privilege and assumes and accepts any and all risk of adverse publicity, notoriety, embarrassment, criticism, or other action or financial loss that may occur in connection with the application process or the public disclosure of information requested. The applicant expressly waives any claim for damages that may result from the application process.~~
~~(2) Any misrepresentation or omission made with respect to an application may be grounds for denial of the application.~~
~~(3)~~ **(1)** An applicant must submit ~~five (5)~~ **one (1)** bound and ~~three (3) unbound copies~~ **one (1) electronic copy** of the supplier's license application and requested ~~materials.~~ **attachments.**
~~(4) Substantial owners of the applicant must submit a photograph taken within three (3) months of its submission and must be fingerprinted at a time and place designated by the executive director.~~
~~(5) The applicant's key persons, substantial owners, and any other persons the commission directs under section 1(d) of this rule shall file a Personal Disclosure Form 1 in accordance with 68 IAC 2-3-4(d).~~
(2) Submission of all necessary occupational license forms as required by section 6.1 of this rule.
~~(6)~~ **(3)** An application shall be deemed filed when the completed application forms, including all required documents, all personal disclosure forms, materials, photographs, and application fee have been submitted. ~~A~~ **The commission will not begin its** background investigation ~~will not be initiated by the commission~~ until ~~a completed~~ **the** application is ~~received by the commission.~~ **filed.**
~~(7)~~ **(4)** The **applicant must file its** completed **supplier's license and occupational license** applications ~~must be filed~~ in the commission's office in Indianapolis, Indiana.
~~(8) An applicant is under a continuing duty to disclose any changes in the information submitted to the commission which may effect the commission action on applicant's suitability for licensure.~~

~~(c) The supplier's license application shall require that the applicant submit the following information and documents on forms prescribed by the commission:~~
~~(1) Name of applicant.~~
~~(2) Present and past business address.~~
~~(3) Federal identification number, Indiana taxpayer identification number, or Social Security number.~~
~~(4) The applicant's inventory list, price list, purchase agreement, and service agreement.~~
~~(5) Agreements or negotiations entered into between the applicant and a riverboat licensee or a riverboat license applicant.~~
~~(6) The type or classification of goods or services that the applicant will supply riverboat licensees or riverboat license applicants.~~
~~(7) Corporate, partnership, and business information regarding the applicant and the applicant's substantial owners.~~

~~(8) The applicant's key persons and substantial owners.~~
~~(9) A list of the jurisdictions in which the applicant holds a gaming related license.~~
~~(10) Civil litigation history of the applicant, the applicant's key persons, and the substantial owners.~~
~~(11) Details of any disciplinary action initiated by a regulatory agency concerning the applicant's or the applicant's substantial owners' security or debt offerings.~~
~~(12) Details of any debt adjustment, deference, or suspension.~~
~~(13) Description of all bonus, profit sharing, pension, retirement, deferred compensation, and similar plans in existence or to be created between the applicant and the applicant's substantial owners.~~
~~(14) Criminal history of the applicant or the applicant's substantial owners.~~
~~(15) Details of any denial, restriction, suspension, revocation, or nonrenewal of a license or certificate held by the applicant or applicant's substantial owners.~~
~~(16) Political contributions made by the applicant or the applicant's substantial owners in accordance with IC 4-33-5-1(a)(10).~~
~~(17) Confidential financial information.~~
~~(18) Confidential taxpayer information.~~
~~(19) Confidential trade secret information.~~
~~(20) Any other information or documents that the commission determines is necessary to ensure the applicant meets the criteria for licensure under the Act and this title.~~

~~(d)~~ **(c)** An **applicant may not withdraw an** application for a supplier's license ~~may not be withdrawn~~ without leave of the **executive director or** commission. **The executive director or commission shall grant** a request for leave to withdraw a supplier's license ~~shall be granted by the commission~~ if received prior to commission action on licensure under this rule unless ~~denial of the~~ **a** withdrawal is not in the best interest of the state of Indiana and the gaming industry.

(d) Any misrepresentation or omission made with respect to the supplier's license application may be grounds for denial of the application.

(Indiana Gaming Commission; 68 IAC 2-2-4; filed Nov 10, 1994, 11:00 a.m.: 18 IR 490; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1020; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 6. 68 IAC 2-2-5 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-5 Licensing process

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 5. ~~(a)~~ An application for a supplier's license shall be subject to the following ~~procedures in order to obtain a supplier's license:~~ **process:**

(1) **Applicant must submit a complete** application, **including an application fee and all required attachments.**
~~(2) Issuance of a temporary supplier's license.~~
~~(3) Investigation of~~ **(2)** The **commission shall begin investigating the** applicant.
~~(4) Action by~~ **(3)** The commission **may issue a temporary supplier's license in accordance with section 5.1 of this rule.**
(4) Upon completing its investigation of the applicant, the commission shall vote to grant or deny the application.
(5) ~~Issuance of~~ **If the commission grants the application, it shall issue** a permanent supplier's license.
(6) **The commission may require** different or additional licensing procedures ~~the commission requires of the applicant~~ to ensure compliance with ~~the Act~~ **IC 4-33, IC 4-35,** and this title.

~~(b) Procedures for a temporary supplier's license shall be as follows:~~
~~(1) An applicant for a supplier's license must submit a completed application, an application fee, and an agreement or statement of intent on a form prescribed by the commission, indicating that the riverboat licensee or riverboat license applicant will utilize the applicant for the provision of goods and services listed in section 1 of this rule to the riverboat licensee.~~

~~(2) Once the commission has received the completed application, the application fee, and the agreement or statement of intent, the commission shall obtain the applicant's fingerprints at a time and place directed by the executive director. If the application or a criminal history check completed by an enforcement agent, or both, does not reveal that the applicant:~~

~~(A) has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States; and~~

~~(B) meets the statutory criteria set forth in IC 4-33-7-3;~~

~~the commission shall issue the applicant a temporary license.~~

~~(3) The temporary supplier's license shall:~~

~~(A) be on a form prescribed by the commission; and~~

~~(B) meet the specifications set forth in section 6 of this rule.~~

~~(4) An applicant who receives a temporary license may supply the riverboat licensee with goods and services until a permanent license is issued or the temporary license is withdrawn.~~

~~(5) A temporary supplier's license shall not be transferred. If an applicant fails to begin or ceases providing a riverboat licensee with goods or services, the applicant shall:~~

~~(A) advise the commission immediately; and~~

~~(B) return the temporary license to the commission.~~

~~The failure to advise the commission that the applicant has failed to begin or has ceased providing a riverboat licensee with goods and services may be grounds to deny licensure in the future.~~

~~(6) Requirements for the withdrawal of a temporary supplier's license shall include the following:~~

~~(A) The executive director, upon written notice to the applicant and the riverboat licensee who has signed a statement of intent, may withdraw a temporary supplier's license if the executive director determines that the background investigation reveals nonsuitability for licensure.~~

~~(B) If an applicant's temporary supplier's license is withdrawn, the applicant shall not be permitted to provide any riverboat licensee with any of the goods or services listed in section 1 of this rule.~~

~~(C) If an applicant's temporary supplier's license is withdrawn by the executive director, the executive director shall immediately forward the application to the commission for commission action.~~

~~(D) The applicant may seek to voluntarily withdraw the application before the commission action on withdrawal of a temporary supplier's license.~~

~~(7) An applicant must comply with all requests for information, documents, or other materials relating to the applicant and the application during the investigation conducted by the commission.~~

~~(c) The applicant shall meet the following standards, qualifications, or criteria to be issued a supplier's license:~~

~~(1) The applicant and the applicant's substantial owners must possess the qualifications set forth in IC 4-33-7-3.~~

~~(2) The applicant, in the case of an individual, or the applicant's substantial owners must be twenty-one (21) years of age.~~

~~(3) The applicant and the applicant's substantial owners must demonstrate a level of skill, experience, knowledge, and ability necessary to supply the goods or services applicant seeks permission to provide.~~

~~(4) The applicant or the applicant's substantial owners must not have been convicted of any offense for a violation of a gaming law in any jurisdiction.~~

~~(5) The applicant or the applicant's substantial owners must not appear on the exclusion list of any jurisdiction for having violated a rule of gaming.~~

~~(6) An applicant who will supply the riverboat with alcoholic beverages or other goods or services requiring an additional permit or certificate from any state government or the federal government must hold the appropriate permit or certificate from the alcoholic beverage commission or the appropriate governmental entity.~~

~~(7) The applicant or the applicant's substantial owners must be in substantial compliance with all state and federal tax laws.~~

~~(8) An applicant must meet any other standard that the commission deems necessary to ensure compliance with the Act and this title after publication of the standard.~~

~~(d) The commission may place restrictions or conditions on a temporary supplier's license. The applicant must comply with these restrictions or conditions before the commission issues a permanent supplier's license. These restrictions or conditions may include, but are not limited to, the following:~~

~~(1) That the supplier licensee begin supplying a riverboat gambling operation within a reasonable period of time.~~

~~(2) That the supplier licensee demonstrate to the commission that the goods or services the supplier licensee will provide to a riverboat gambling operation are in compliance with the Act and this title.~~

~~(3) That the supplier licensee has adequate insurance in accordance with IC 4-33-4-11 and subsection (f).~~

~~The supplier licensee must continue to meet all conditions or restrictions for licensure after the issuance of the~~

~~permanent supplier's license. If a supplier licensee fails to adhere to these conditions or restrictions or fails to maintain suitability for licensure, the commission may initiate a disciplinary action under 68 IAC 13.~~

~~(e) Action of the commission shall be as follows:~~
~~(1) After the completion of the background investigation, if the commission finds that an applicant is suitable to receive a supplier's license, the commission shall direct the executive director to issue the applicant a permanent supplier's license upon the payment of the annual licensing fee. The permanent license shall be on a form prescribed by the commission and shall meet the specifications set forth in section 6 of this rule. If the applicant's annual licensing fee is not received by the commission within ten (10) days after the date of the mailing of the notification of the applicant's suitability for licensure to the applicant, the executive director shall:~~
~~(A) withdraw the applicant's temporary supplier's license; and~~
~~(B) notify the commission that the temporary supplier's license has been withdrawn.~~
~~(2) If the commission determines that the applicant is not suitable to receive a supplier's license, the commission shall direct the executive director to issue the applicant a notice of denial by personal delivery or certified mail.~~

~~(f) A supplier licensee must obtain or maintain, or both, insurance in a minimum amount determined by the commission. The supplier licensee shall obtain or maintain, or both, the following types of insurance:~~
~~(1) Liability.~~
~~(2) Casualty.~~
~~(3) Capital loss.~~
~~(4) Fire.~~
~~(5) Theft.~~
~~(6) Worker's compensation insurance.~~
~~(7) Any other type of insurance the commission deems necessary to ensure the supplier licensee is adequately insured.~~
~~After the commission issues a temporary supplier's license to the applicant, the commission shall direct the executive director to advise the applicant, in writing, of the amount of insurance that the applicant must obtain or maintain, or both. Failure to comply with this subsection may result in the revocation of a temporary supplier's license or the denial of the issuance of a permanent supplier's license.~~

~~(g) The supplier licensee is under a continuing duty to maintain the minimum amount of insurance specified by the commission under subsection (f). The commission may initiate a disciplinary action under 68 IAC 13 if the supplier licensee fails to maintain the requisite insurance.~~

(Indiana Gaming Commission; 68 IAC 2-2-5; filed Nov 10, 1994, 11:00 a.m.: 18 IR 490; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1021; errata filed Apr 9, 1996, 12:15 p.m.: 19 IR 2044; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 7. 68 IAC 2-2-5.1 IS ADDED TO READ AS FOLLOWS:

68 IAC 2-2-5.1 Temporary license

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-7-3; IC 4-35

Sec. 5.1. (a) After the commission receives a completed application, an application fee, and an agreement or statement of intent indicating that a casino licensee or casino license applicant will utilize the applicant for the provision of goods and services listed in section 1 of this rule, the commission shall obtain the applicant's fingerprints at a time and place directed by the executive director.

(b) If the application or a criminal history check completed by an enforcement agent, or both, does not reveal that the applicant:
(1) has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States; or
(2) fails to meet the statutory criteria set forth in IC 4-33-7-3;
the commission may issue the applicant a temporary license.

(c) The temporary supplier's license shall:
(1) be on a form prescribed by the commission; and
(2) meet the specifications set forth in section 6 of this rule.

(d) An applicant who receives a temporary license may supply a casino licensee with goods and services until:
(1) a permanent license is issued; or
(2) the temporary license is withdrawn.

(e) A temporary supplier's license shall not be transferred.

(f) If an applicant fails to provide or ceases providing a casino licensee with goods or services, the applicant shall:
(1) advise the commission immediately; and
(2) return the temporary license to the commission.
Failure to advise the commission that the applicant has failed to begin or has ceased providing a casino licensee with goods and services is grounds for the commission to withdraw the temporary supplier's license and deny licensure in the future.

(g) Procedures for the withdrawal of a temporary supplier's license include, but are not limited to, the following:
(1) The executive director, upon written notice to the applicant and the casino licensee who has signed a statement of intent, may withdraw a temporary supplier's license if the executive director determines that the background investigation reveals that the applicant is not suitable for licensure.
(2) If an applicant's temporary supplier's license is withdrawn, the applicant shall not be permitted to provide any casino licensee with any goods or services listed in section 1 of this rule.
(3) If the executive director withdraws an applicant's temporary supplier's license, the executive director shall immediately forward the application to the commission for commission action.
(4) The applicant may seek to voluntarily withdraw its application for a supplier's license in accordance with section 4(c) of this rule before the commission acts in response to a withdrawal of the applicant's temporary supplier's license.

(h) An applicant must comply with all requests for information, documents, or other materials relating to the applicant and the application during the temporary license period, during which time the commission will conduct its investigation.

(i) The commission may place restrictions or conditions on a temporary supplier's license. The applicant shall comply with any restrictions or conditions prior to the commission issuing a permanent supplier's license. These restrictions or conditions may include, but are not limited to, the following:
(1) That the supplier licensee begin supplying a casino gambling operation within a prescribed period of time.
(2) That the supplier licensee demonstrate to the commission that the goods or services the supplier licensee will provide to a casino gambling operation are in compliance with IC 4-33, IC 4-35, and this title.

(Indiana Gaming Commission; 68 IAC 2-2-5.1)

SECTION 8. 68 IAC 2-2-5.2 IS ADDED TO READ AS FOLLOWS:

68 IAC 2-2-5.2 Insurance

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 5.2. A supplier licensee must obtain or maintain, or both, insurance in a minimum amount determined by the commission. The supplier licensee shall obtain or maintain, or both, the following

types of insurance:
(1) Liability.
(2) Casualty.
(3) Capital loss.
(4) Fire.
(5) Theft.
(6) Worker's compensation insurance.
(7) Any other type of insurance the commission deems necessary to ensure the supplier licensee is adequately insured.

After the commission issues a temporary supplier's license to the applicant, the commission shall direct the executive director to advise the applicant, in writing, of the amount of insurance that the applicant must obtain or maintain, or both. The supplier licensee is under a continuing duty to maintain the prescribed amount of insurance. Failure to comply with this section may result in the revocation of a temporary supplier's license, the denial of the issuance of a permanent supplier's license, or a disciplinary action under 68 IAC 13.

(Indiana Gaming Commission; 68 IAC 2-2-5.2)

SECTION 9. 68 IAC 2-2-5.3 IS ADDED TO READ AS FOLLOWS:

68 IAC 2-2-5.3 Issuance of a permanent license

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-7-3; IC 4-35

Sec. 5.3. (a) The applicant shall meet the following standards, qualifications, or criteria to be issued a permanent supplier's license:
(1) The applicant must qualify to receive a supplier's license under IC 4-33-7-3.
(2) The applicant's key persons and substantial owners must qualify to receive Level 1 occupational licenses under IC 4-33-8 and 68 IAC 2-3.
(3) The applicant, in the case of an individual, or the applicant's substantial owners must be twenty-one (21) years of age.
(4) The applicant must demonstrate a level of:
(A) skill;
(B) experience;
(C) knowledge; and
(D) ability;
necessary to supply the goods or services that the applicant seeks to provide.
(5) The applicant must not have been convicted of any offense for a violation of a gaming law in any jurisdiction.
(6) The applicant must not appear on the exclusion list of any jurisdiction for having violated a rule of gaming.
(7) An applicant who will supply a casino with alcoholic beverages or other goods or services requiring an additional permit or certificate from any state government or the federal government must hold the appropriate permit or certificate from the appropriate governmental entity.
(8) The applicant or the applicant's substantial owners must be in substantial compliance with all state and federal tax laws.
(9) An applicant must meet any other standard that the commission deems necessary to ensure compliance with IC 4-33, IC 4-35, and this title.

(b) The supplier licensee must continue to meet all conditions or restrictions for licensure after the issuance of the permanent supplier's license. If a supplier licensee fails to:
(1) adhere to these conditions or restrictions; or
(2) maintain suitability for licensure;
the executive director or commission may initiate a disciplinary action under 68 IAC 13.

(c) Action of the commission to issue a permanent supplier's license shall be as follows:
(1) After the completion of the background investigation, if the commission finds that an applicant is

suitable to receive a supplier's license, the commission shall direct the executive director to issue the applicant a permanent supplier's license upon the payment of the license fee under section 3 of this rule. The permanent license shall be on a form prescribed by the commission and shall meet the specifications set forth in section 6 of this rule. If the applicant's license fee is not received by the commission within ten (10) days after the date of the mailing of the notification of the applicant's suitability for licensure to the applicant, the executive director shall:

(A) withdraw the applicant's temporary supplier's license; and

(B) notify the commission that the temporary supplier's license has been withdrawn.

(2) If the commission determines that the applicant is not suitable to receive a supplier's license, the commission shall direct the executive director to issue the applicant a notice of denial by personal delivery or certified mail.

(Indiana Gaming Commission; 68 IAC 2-2-5.3)

SECTION 10. 68 IAC 2-2-6 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-6 Supplier's license requirements

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 6. (a) The temporary and permanent supplier's licenses shall be on forms prescribed by the commission and shall display the following:

(1) The applicant's name and business address.

~~(2) The classification of the goods or services the licensee will supply.~~

~~(3)~~ **(2)** The supplier's license number assigned by the commission.

~~(4)~~ **(3)** The signature of the executive director of the commission.

~~(5)~~ **(4)** The date the supplier's license was issued. ~~and~~

(5) The date that the license will expire.

(6) Any other information the commission deems necessary to identify the supplier licensee, and any conditions or restrictions that are placed on the supplier license.

(b) A fee of ten dollars ($10) shall be:

(1) paid to the commission for any necessary replacement of a temporary or permanent supplier's license; ~~The fee shall be~~ **and**

(2) assessed each time a supplier licensee obtains a replacement temporary or permanent license.

(c) The temporary and permanent supplier's licenses shall remain the property of the commission at all times. The **commission may:**

(1) revoke;

(2) suspend;

(3) cancel; or

(4) restrict;

the supplier's license ~~may be revoked, suspended, canceled, or restricted by the commission~~ under 68 IAC 13.

(d) The supplier licensee shall provide a true and accurate copy of the license to each ~~riverboat~~ **casino** licensee to whom the supplier licensee provides goods and services. The ~~riverboat~~ **casino** licensee shall maintain a true and accurate copy of each supplier's license issued to the suppliers from whom the ~~riverboat~~ **casino** licensee obtains goods and services.

(e) The supplier licensee ~~shall~~ **must** return the supplier's license **and all applicable occupational licenses** to the commission if the supplier licensee ceases to provide any ~~riverboat~~ **casino licensee** with the goods or services for which the supplier licensee is licensed to supply or distribute, or both.

(Indiana Gaming Commission; 68 IAC 2-2-6; filed Nov 10, 1994, 11:00 a.m.: 18 IR 492; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 11. 68 IAC 2-2-6.1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-6.1 Occupational licensing

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 6.1. ~~The commission may require that employees~~ **(a) All key persons and substantial owners of supplier licensees and supplier license applicants must obtain a Level 1 occupational license.**

(b) An employee, independent contractor, agent, or subagent of a supplier licensee ~~that will be on a riverboat to install, service, or repair equipment, devices, or systems supplied by the supplier licensee~~ **shall** obtain ~~an~~ **a Level 2** occupational license ~~Level 3~~ under ~~68 IAC 2-3-1.~~ **68 IAC 2-3 if the executive director or the executive director's designee determines it is necessary. In making that determination, the executive director or the executive director's designee shall consider the:**

(1) frequency and duration of the individual's work in a casino or access to devices or systems that relate to the conduct or integrity of gaming; and

(2) tasks that the individual will perform as part of the individual's job duties in a casino or while accessing devices or systems that relate to the conduct or integrity of gaming.

(c) If a supplier licensee experiences an unexpected vacancy in a position that requires a Level 1 license, the executive director may grant emergency relief by permitting the supplier licensee to fill the vacancy, for up to thirty (30) days, with an individual who has not submitted a license application. For the executive director to grant emergency relief, the following must occur:

(1) The supplier licensee must submit a written request that includes, at a minimum:

(A) the name of the replacement;

(B) the professional qualifications of the replacement;

(C) the gaming licensure history of the replacement, including a detailed description of any disciplinary actions or investigations in another jurisdiction; and

(D) a detailed explanation of why the replacement must begin his or her job duties prior to submitting an application.

(2) The executive director shall determine whether:

(A) continued vacancy of the position is likely to have a significant detrimental effect on the:

(i) profitability of;

(ii) integrity of; or

(iii) tax revenues gained from;

gaming; and

(B) based on the information available at the time, the replacement is likely to be deemed suitable for licensure following submission of an application and a full investigation.

(d) Except as outlined in this section, occupational licensing of an employee, **independent contractor, agent, or subagent** of a supplier licensee ~~that will be present on a riverboat on a regular basis may be required to obtain an occupational license.~~ **shall be governed by 68 IAC 2-3.**

(Indiana Gaming Commission; 68 IAC 2-2-6.1; filed May 22, 1997, 11:10 a.m.: 20 IR 2698; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 12. 68 IAC 2-2-7 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-7 Reapplication for denied license

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 7. A person whose application for a supplier's license has been denied may not reapply for a supplier's license for a period of one (1) year from the date on which the commission voted to deny his or her application, ~~without leave of~~ **unless** the commission **grants leave.** The commission may grant leave for reapplication if the applicant can demonstrate that the reason the original application was denied no longer exists or bars suitability for licensure.

(Indiana Gaming Commission; 68 IAC 2-2-7; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 13. 68 IAC 2-2-8 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-8 Renewal

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-7-8; IC 4-35

Sec. 8. (a) A ~~supplier's~~ **supplier licensee must renew its** license ~~must be renewed~~ annually. **If a supplier licensee fails to request renewal of the license before the expiration of one (1) year from issuance, then the license expires.**

(b) A supplier licensee must:
(1) request renewal of the license on a form prescribed by the commission; ~~The supplier licensee must~~ **and**
(2) complete the form and provide the commission with any information or documents that the commission deems necessary.
The form requesting renewal of the supplier's license must be submitted with the annual **renewal** fee under ~~section 3 of this rule.~~ **IC 4-33-7-8.** The commission may perform a background investigation on any supplier licensee seeking renewal of the license. The cost of any investigation shall be charged to the supplier licensee.

(c) The commission may refuse to renew a supplier's license if the supplier licensee no longer meets the requirements set forth in this rule and IC 4-33-7.

(Indiana Gaming Commission; 68 IAC 2-2-8; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 14. 68 IAC 2-2-9 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-9 Duty to maintain suitability; duty to disclose; transfer of supplier's license

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33-7; IC 4-35-6

Sec. 9. (a) All supplier licensees have a continuing duty to maintain suitability for licensure. A supplier's license does not create a property right, but is a revocable privilege granted by the state contingent upon continuing suitability for licensure.

(b) ~~Riverboat~~ **Casino** licensees shall notify the commission that a supplier licensee is in violation of the requirements of **IC 4-33, IC 4-35, or** this rule ~~or the Act~~ if the ~~riverboat~~ **casino** licensee is aware of a violation.

(c) A supplier licensee ~~shall~~ **must** notify the commission of any changes in the information submitted in the application or any ~~other~~ condition that renders the supplier licensee ineligible to hold a supplier's license.

(d) **A supplier licensee must immediately notify the executive director or the executive director's designee of any change in its relationship with or the employment status of its employees, independent contractors, agents, or subagents who are subject to occupational licensing under section 6.1 of this rule.**

(e) The commission shall not transfer a supplier's license ~~shall not be transferred~~ unless the transfer complies with 68 IAC 5.

(Indiana Gaming Commission; 68 IAC 2-2-9; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 15. 68 IAC 2-2-9.5 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-9.5 Records

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 9.5. (a) This rule applies to all supplier licensees and ~~supplier's license~~ applicants.

(b) All supplier licensees and ~~supplier's license~~ applicants shall maintain, in a place secure from theft, loss, or destruction, adequate records of business operations. These records shall be held for at least five (5) years and shall include, but not be limited to, the following:
(1) All correspondence with or reports to the commission or to any local, state, or federal government agency.
(2) All financial statements or financial records of the supplier **licensee or applicant.**
(3) All records pertaining to products or services supplied by the supplier licensee **or applicant** to ~~Indiana riverboat~~ **casino** licensees or ~~Indiana riverboat~~ **casino** license applicants.
(4) All correspondence with ~~riverboats~~ **casinos** licensed under IC 4-33 or **IC 4-35.**
(5) Documentation relating to order, shipment, or receipt or provision of merchandise or services sold or provided under ~~the Act~~ **IC 4-33, IC 4-35,** or this title.
~~(5)~~ **(6)** Personnel files on each employee of the supplier licensee **or applicant,** including sales representatives.

(c) All supplier licensees and ~~supplier's license~~ applicants must produce the original or a copy, or both, of any records requested by the commission, enforcement agents, or persons authorized by the commission.

(d) No original book, record, or document that is required to be maintained by this section may be destroyed without prior approval of the **executive director or the** commission.

~~(e) If a supplier licensee or supplier's license applicant fails to comply with this section, the commission may initiate disciplinary action under 68 IAC 13-1.~~

(Indiana Gaming Commission; 68 IAC 2-2-9.5; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1061; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 16. 68 IAC 2-2-10 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-10 Disciplinary action

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 10. (a) The commission may take any action against a supplier licensee at any time, including, but not limited to:
(1) revocation;
(2) restriction; or
(3) suspension;
of a supplier's license at any time that the commission determines the supplier licensee is in violation of **IC 4-33, IC 4-35, or** this rule. ~~or the Act.~~

(b) If the **executive director or the** commission determines that a supplier licensee is in violation of **IC 4-33, IC 4-35, or** this rule, ~~or IC 4-33,~~ the **executive director or the** commission may initiate a disciplinary proceeding to:
(1) revoke;
(2) restrict; or
(3) suspend;
the supplier's license under 68 IAC 13.

(Indiana Gaming Commission; 68 IAC 2-2-10; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 17. 68 IAC 2-2-11 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-11 Request for hearing on notice of denial or nonrenewal of supplier's license

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 11. (a) An applicant or ~~a~~ supplier licensee who is served with a notice of denial or nonrenewal under this rule may request a hearing under 68 IAC 7.

(b) If the applicant does not request a hearing, the notice of denial or nonrenewal becomes the final order of the commission denying the application for a supplier's license **or not renewing the supplier's license.**

(Indiana Gaming Commission; 68 IAC 2-2-11; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 18. 68 IAC 2-2-12 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-12 Deviation from provisions

Authority: IC 4-33-4; IC 4-35-4
Affected: IC 4-33; IC 4-35

Sec. 12. The **executive director or the** commission may ~~waive, restrict or alter any licensing requirement or procedure~~ **approve deviations from the provisions of this rule upon written request** if the **executive director or** commission determines that the:

(1) procedure or requirement is impractical or burdensome; and ~~such waiver, restriction, or alteration is~~

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

(A) fulfill the purpose of this rule;

(B) are in the best interest of the public and the gaming industry; and ~~is not outside the technical requirements necessary to serve the purpose of the requirement or procedure.~~

(C) do not violate IC 4-33 or IC 4-35.

(Indiana Gaming Commission; 68 IAC 2-2-12; filed Nov 10, 1994, 11:00 a.m.: 18 IR 493; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 19. THE FOLLOWING ARE REPEALED: 68 IAC 7-1-5; 68 IAC 7-1-6; 68 IAC 7-1-7; 68 IAC 7-1-8; 68 IAC 7-1-11; 68 IAC 7-1-12; 68 IAC 7-1-14.

Notice of Public Hearing

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