

Emergency Rule
LSA Document #13-128(E)

DIGEST

Temporarily amends [68 IAC 2-7-1](#) through [68 IAC 2-7-3](#) and [68 IAC 2-7-5](#) through [68 IAC 2-7-10](#) concerning licensing of distributors of associated equipment. Statutory authority: [IC 4-33-4](#). Effective March 22, 2013.

SECTION 1. The definitions in [IC 4-33](#), [68 IAC 1](#), and [68 IAC 2](#) apply to this document.

SECTION 2. (a) This SECTION supersedes [68 IAC 2-7-1](#).

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

(c) For purposes of this document, "licensed distributor" means a distributor of associated equipment that the commission has required to obtain a supplier's license.

(d) The standards and requirements for a supplier's license under [68 IAC 2-2](#) shall apply to a manufacturer or distributor of associated equipment that the commission requires to be licensed, except as otherwise indicated in this document.

(e) A distributor of associated equipment that applies for a supplier's license shall submit a distributor agreement in lieu of the letter of intent required by [68 IAC 2-2-1\(b\)](#). The distributor agreement with the manufacturer of associated equipment shall state, at a minimum, the following:

- (1) That the distributor will work directly with the manufacturer, and not through a third party, to distribute associated equipment to Indiana casinos.
- (2) If the manufacturer is not going to obtain or retain a supplier's license, that the distributor, and not the manufacturer, will distribute the specified associated equipment to Indiana casinos.
- (3) The commercially useful functions that the distributor will perform regarding the associated equipment that the distributor seeks to provide to Indiana casinos.
- (4) The skills that the distributor possesses to be the exclusive provider of the associated equipment to Indiana casinos, including without limitation:
 - (A) certifications;
 - (B) experience; and
 - (C) technical knowledge of its employees;that are relevant to the associated equipment that the distributor seeks to provide to Indiana casinos.
- (5) The distributor's employees and contractors who will perform the work under the distributor agreement.
- (6) The circumstances under which the manufacturer's employees and contractors may perform work in Indiana casinos regarding the specified associated equipment.
- (7) That the distributor will satisfy the requirements of this document.

(f) A licensed distributor of associated equipment must be responsible for, at a minimum, the following functions:

- (1) Executing and invoicing sales to Indiana casinos.
- (2) Marketing associated equipment directly to Indiana casinos.
- (3) Delivery of the associated equipment and necessary parts to Indiana casinos.
- (4) Being the initial contact for Indiana casinos to obtain installation, maintenance, and service of the associated equipment.
- (5) Otherwise serving a commercially useful function regarding the associated equipment that it provides to Indiana casinos. To determine whether a licensed distributor is performing a commercially useful function under this SECTION, the commission may consider the following:
 - (A) The amount of work performed by the licensed distributor and its employees.
 - (B) The person responsible for scheduling the installation, maintenance, or service.
 - (C) The amount of control the licensed distributor has over the work of the manufacturer's employees or independent contractors that perform installation, maintenance, and service of the associated equipment.
 - (D) Standard industry practices.

(E) Other relevant factors.

(g) The commission may disapprove a distributor agreement if it does not meet the standards of this document.

SECTION 3. (a) This SECTION supersedes [68 IAC 2-7-2](#).

(b) A manufacturer or distributor of associated equipment shall not distribute associated equipment to a casino licensee unless the executive director has approved the associated equipment.

(c) If a licensed distributor is responsible for distributing the associated equipment to Indiana casinos, it shall be the direct contact with the commission and the independent laboratory under this SECTION.

(d) An applicant for approval of associated equipment shall submit the following information on forms prescribed by the commission:

- (1) The name, business address, and business telephone number of the manufacturer or distributor.**
- (2) The federal identification number, Indiana taxpayer identification number, or last four (4) digits of the Social Security number of the manufacturer or distributor.**
- (3) If the manufacturer or distributor is a business entity, the information set forth in subdivisions (1) and (2) must be provided for the business entity's key persons and substantial owners.**
- (4) A list of the jurisdictions that have approved the associated equipment. A copy of the document of approval from each jurisdiction must be attached to the application.**
- (5) Any additional information deemed necessary by the commission to enable a complete understanding of the operation and function of the associated equipment.**

(e) If the executive director requires the manufacturer or distributor of associated equipment to submit the associated equipment to an independent laboratory, the manufacturer or distributor of the associated equipment shall provide the following information to the independent laboratory:

- (1) The information set forth in subsection (d).**
- (2) A complete, comprehensive, and technically accurate description and explanation of the associated equipment and its intended use in both technical and lay language. The document must be signed under penalty of perjury.**
- (3) Detailed operating procedures of the associated equipment.**
- (4) Details of the:**
 - (A) tests performed on the associated equipment;**
 - (B) conditions and standards under which the tests were performed; and**
 - (C) person that conducted the test.**

(f) The independent laboratory shall provide the following information with documentation to the executive director regarding the associated equipment:

- (1) Details of the tests performed on the associated equipment.**
- (2) Results of the tests performed on the associated equipment.**
- (3) Detailed operating procedures of the associated equipment.**
- (4) Percentage calculations of the associated equipment.**
- (5) Other information that the executive director deems necessary to ensure compliance with [IC 4-33](#), [IC 4-35](#), and this title.**

(g) If the manufacturer or distributor seeking approval of associated equipment holds a supplier's license, it shall provide only the information specified in subsections (d)(1), (d)(4), (d)(5), and (e).

SECTION 4. (a) This SECTION supersedes [68 IAC 2-7-3](#).

(b) The executive director may require transportation of not more than two (2) working models of associated equipment to a designated independent laboratory for evaluation. The evaluation may result in dismantling the associated equipment and destroying the electronic components.

(c) The executive director may:

- (1) require the manufacturer or distributor seeking approval of the associated equipment to provide specialized equipment or the services of an independent technical expert to evaluate the equipment; and**

(2) contract with an independent laboratory to conduct the evaluation.

(d) The manufacturer or distributor seeking approval of the associated equipment must pay the cost of the evaluation.

SECTION 5. (a) This SECTION supersedes [68 IAC 2-7-5](#).

(b) After the executive director approves the associated equipment, the executive director shall advise the manufacturer and licensed distributor, in writing, of the approval.

SECTION 6. (a) This SECTION supersedes [68 IAC 2-7-7](#).

(b) The executive director may revoke the approval of associated equipment if the executive director determines that the associated equipment:

- (1) does not perform in the manner described in the application;
- (2) is defective or malfunctions frequently;
- (3) has a detrimental impact on the conduct of a casino gambling operation;
- (4) adversely affects computation of taxes for reasons including, but not limited to:
 - (A) inaccurate computation;
 - (B) defects; and
 - (C) malfunctions; or
- (5) was not delivered, installed, maintained, or serviced by an entity that has the appropriate license.

(c) Upon receipt of notice that the executive director has revoked an approval under this document, the casino licensee or casino license applicant shall do the following:

- (1) Cease using the associated equipment for which approval has been revoked by the date established by the executive director.
- (2) Notify the executive director, in writing, if it cannot cease using the associated equipment by the established date and seek an extension of time.

The executive director shall advise the casino licensee or casino license applicant, in writing, if the suggested time frame is not suitable.

(d) The executive director may initiate a disciplinary action against a casino licensee or casino license applicant that continues to use associated equipment for which approval has been revoked unless the executive director grants an extension of time under subsection (c).

SECTION 7. (a) This SECTION supersedes [68 IAC 2-7-8](#).

(b) The manufacturer or distributor of associated equipment shall do the following:

- (1) Notify the executive director, in writing, of problems, defects, or malfunctions of associated equipment that the commission has approved.
- (2) Advise the executive director, in writing, if another jurisdiction has revoked the approval of associated equipment approved by the commission.

(c) Casino licensees or casino license applicants shall do the following:

- (1) Notify the executive director, in writing, of problems, defects, or malfunctions of the associated equipment that has been approved by the commission and is used by the casino licensee or casino license applicant in the state of Indiana or another jurisdiction.
- (2) Notify the executive director, in writing, if another jurisdiction has revoked its approval of associated equipment approved by the commission and used in Indiana by the casino licensee or casino license applicant.

SECTION 8. (a) This SECTION supersedes [68 IAC 2-7-9](#).

(b) The manufacturer or distributor of associated equipment shall maintain the following records:

- (1) The applications for approval of associated equipment submitted to the commission.
- (2) Detailed operating procedures of the associated equipment.
- (3) Approvals of associated equipment received from other jurisdictions.
- (4) A complete, comprehensive, and technically accurate description and explanation of the associated equipment and its intended use in both technical and lay language.
- (5) Alterations or revisions, with requisite approvals, that have been conducted on associated

equipment used by casino licensees or casino license applicants.

(6) The revocation of an approval for associated equipment issued by any gaming jurisdiction.

(7) Documentation that indicates problems, defects, or malfunctions of the associated equipment.

(8) Details of tests performed on the associated equipment by the manufacturer or distributor of the associated equipment.

(9) Other records that the executive director deems necessary to ensure compliance with [IC 4-33](#), [IC 4-35](#), and this title.

(c) Casino licensees or casino license applicants shall maintain the records listed in subsection (b) that are in its possession.

(d) The manufacturer or distributor of the associated equipment, the casino licensee, or the casino license applicant shall maintain the records required by this document for a period of five (5) years.

SECTION 9. (a) This SECTION supersedes [68 IAC 2-7-10](#).

(b) The manufacturer or distributor of associated equipment who is served with a notice of denial or revocation of approval under this document may request a hearing under [68 IAC 7](#).

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