
TITLE 812 INDIANA AUCTIONEER COMMISSION

Proposed Rule
LSA Document #23-46

DIGEST

Adds [812 IAC 1-2](#), concerning convictions of concern and related provisions, implementing [IC 25-1-1.1-6](#). Effective 30 days after filing with the Publisher.

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

[812 IAC 1-2](#)

SECTION 1. [812 IAC 1-2](#) IS ADDED TO READ AS FOLLOWS:

Rule 2. Convictions of Concern

[812 IAC 1-2-1](#) Scope

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 25-1-1.1-6](#); [IC 25-6.1](#)

Sec. 1. This rule implements [IC 25-1-1.1-6](#) regarding convictions of concern that may disqualify an individual for licensure by the Indiana auctioneer commission, and includes in section 4 of this rule an explicit list of crimes that may disqualify an individual from receiving a license under [IC 25-6.1](#).

(Indiana Auctioneer Commission; [812 IAC 1-2-1](#))

[812 IAC 1-2-2](#) Issuance of license

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 25-1-1.1-6](#); [IC 25-6.1](#)

Sec. 2. An applicant for licensure who has a conviction of concern may still be granted a license based on the criteria stated in [IC 25-1-1.1-6\(h\)](#).

(Indiana Auctioneer Commission; [812 IAC 1-2-2](#))

[812 IAC 1-2-3](#) Authority to issue license on probation

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 25-1-1.1-6](#); [IC 25-1-11-19](#); [IC 25-6.1](#)

Sec. 3. This rule and [IC 25-1-1.1-6](#) do not limit the authority of the Indiana auctioneer commission to issue a license on probation if appropriate under [IC 25-1-11-19](#) or any other applicable statute.

(Indiana Auctioneer Commission; [812 IAC 1-2-3](#))

[812 IAC 1-2-4](#) Convictions of concern

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 6-3-6-11](#); [IC 7.1-5-1-3](#); [IC 7.1-5-7-8](#); [IC 9-26-1-1.1](#); [IC 9-30-5-4](#); [IC 9-30-5-5](#); [IC 11-8-8-17](#); [IC 11-8-8-18](#); [IC 16-42-19](#); [IC 25-2.1](#); [IC 25-6.1](#); [IC 25-26](#); [IC 35](#)

Sec. 4. The following are convictions of concern that may disqualify an applicant from licensure:

(1) Crimes involving sexual acts that can be considered without respect to age of conviction as follows:

(A) Child molesting ([IC 35-42-4-3](#)).

(B) Child seduction ([IC 35-42-4-7](#)).

- (C) Criminal deviate conduct ([IC 35-42-4-2](#)) (before its repeal).
- (D) Incest ([IC 35-46-1-3](#)).
- (E) Making an unlawful proposition ([IC 35-45-4-3](#)).
- (F) Prostitution ([IC 35-45-4-2](#)).
- (G) Rape ([IC 35-42-4-1](#)).
- (H) Sexual misconduct with a minor ([IC 35-42-4-9\(a\)](#)).
- (2) Crimes of violence that can be considered without respect to age of conviction as follows:
 - (A) Aggravated battery ([IC 35-42-2-1.5](#)).
 - (B) Attempted murder ([IC 35-41-5-1](#)).
 - (C) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony ([IC 35-43-2-1](#)).
 - (D) Child exploitation as a Level 5 felony under [IC 35-42-4-4\(b\)](#) or a Level 4 felony under [IC 35-42-4-4\(c\)](#).
 - (E) Child molesting ([IC 35-42-4-3](#)).
 - (F) Criminal deviate conduct ([IC 35-42-4-2](#)) (before its repeal).
 - (G) Involuntary manslaughter ([IC 35-42-1-4](#)).
 - (H) Kidnapping ([IC 35-42-3-2](#)).
 - (I) Murder ([IC 35-42-1-1](#)).
 - (J) Operating a vehicle while intoxicated. Penalties; death or catastrophic injury; death of a law enforcement animal ([IC 9-30-5-5](#)).
 - (K) Operating a vehicle while intoxicated. Classification of offense; serious bodily injury ([IC 9-30-5-4](#)).
 - (L) Rape ([IC 35-42-4-1](#)).
 - (M) Reckless homicide ([IC 35-42-1-5](#)).
 - (N) Resisting law enforcement ([IC 35-44.1-3-1](#)).
 - (O) Robbery ([IC 35-42-5-1](#)).
 - (P) Sexual misconduct with a minor as a Level 1 felony under [IC 35-42-4-9\(a\)\(2\)](#) or a Level 2 felony under [IC 35-42-4-9\(b\)\(2\)](#).
 - (Q) Unlawful possession of firearm by serious violent felon ([IC 35-47-4-5](#)).
 - (R) Voluntary manslaughter ([IC 35-42-1-3](#)).
- (3) Agricultural terrorism ([IC 35-47-12-2](#) (before its repeal) or [IC 35-46.5-2-2](#)).
- (4) Arson ([IC 35-43-1-1](#)).
- (5) Assisting a criminal ([IC 35-44.1-2-5](#)).
- (6) Assisting suicide ([IC 35-42-1-2.5](#)).
- (7) Attempt under [IC 35-41-5-1](#) to commit an offense listed in this section.
- (8) Attempting to purchase handgun by ineligible person ([IC 35-47-2.5-15](#)) (before its repeal).
- (9) Attendance at fighting contest ([IC 35-46-3-10](#)).
- (10) Auto theft ([IC 35-43-4-2.5](#)) (before its repeal).
- (11) Battery ([IC 35-42-2-1](#)).
- (12) Bestiality ([IC 35-46-3-14](#)).
- (13) Burglary ([IC 35-43-2-1](#)).
- (14) Carjacking ([IC 35-42-5-2](#)) (before its repeal).
- (15) Carrying a handgun without being licensed; exceptions; person convicted of domestic battery ([IC 35-47-2-1](#)).
- (16) Check deception ([IC 35-43-5-5](#)) (before its repeal).
- (17) Check fraud ([IC 35-43-5-12](#)) (before its repeal).
- (18) Child exploitation; possession of child pornography; exemptions; defenses ([IC 35-42-4-4](#)).
- (19) Child sexual trafficking ([IC 35-42-3.5-1.3](#)).
- (20) Child solicitation ([IC 35-42-4-6](#)).
- (21) Computer trespass; computer hoarding programs ([IC 35-43-2-3](#)).
- (22) Conspiracy under [IC 35-41-5-2](#) to commit an offense listed in this section.
- (23) Contributing to the delinquency of a minor ([IC 35-46-1-8](#)).
- (24) Conversion ([IC 35-43-4-3](#)).
- (25) Counterfeiting; false or fraudulent sales receipts; forgery; application fraud ([IC 35-43-5-2](#)).
- (26) Criminal confinement ([IC 35-42-3-3](#)).
- (27) Criminal organization recruitment ([IC 35-45-9-5](#)).
- (28) Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation ([IC 35-42-2-2](#)).
- (29) Criminal stalking ([IC 35-45-10-5](#)).
- (30) Criminal transfer of a firearm ([IC 35-47-2.5-16](#)).
- (31) Criminal trespass; denial of entry; denial by posting with purple marks; permission to enter; exceptions ([IC 35-43-2-2](#)).

- (32) Cruelty to a law enforcement animal ([IC 35-46-3-11](#)).
- (33) Cruelty to a search and rescue dog ([IC 35-46-3-11.3](#)).
- (34) Cruelty to a service animal ([IC 35-46-3-11.5](#)).
- (35) Dealing in a controlled substance by a practitioner ([IC 35-48-4-1.5](#)).
- (36) Dealing in a controlled substance resulting in death ([IC 35-42-1-1.5](#)).
- (37) Dealing in a counterfeit substance ([IC 35-48-4-5](#)).
- (38) Dealing in a schedule I, II, or III controlled substance ([IC 35-48-4-2](#)).
- (39) Dealing in a schedule IV controlled substance ([IC 35-48-4-3](#)).
- (40) Dealing in a schedule V controlled substance ([IC 35-48-4-4](#)).
- (41) Dealing in a substance represented to be a controlled substance ([IC 35-48-4-4.5](#)) (before its repeal).
- (42) Dealing in a synthetic drug or synthetic drug lookalike substance ([IC 35-48-4-10.5](#)) (before its repeal).
- (43) Dealing in cocaine or narcotic drug ([IC 35-48-4-1](#)).
- (44) Dealing in marijuana, hash oil, hashish, or salvia ([IC 35-48-4-10](#)).
- (45) Dealing in methamphetamine ([IC 35-48-4-1.1](#)).
- (46) Dealing in paraphernalia ([IC 35-48-4-8.5](#)).
- (47) Deception ([IC 35-43-5-3](#)).
- (48) Disrupting operation of aircraft; Class B felony ([IC 35-47-6-1.6](#)).
- (49) Dissemination of matter or conducting performance harmful to minors ([IC 35-49-3-3](#)).
- (50) Distribution of regulated explosives to persons convicted of felony ([IC 35-47.5-5-4](#)).
- (51) Domestic battery ([IC 35-42-2-1.3](#)).
- (52) Dumping controlled substance waste ([IC 35-48-4-4.1](#)).
- (53) Duties of driver of motor vehicle involved in accident; sentencing ([IC 9-26-1-1.1](#)).
- (54) Evasion of tax; offenses; prosecution ([IC 6-3-6-11](#)).
- (55) Exploitation of dependent or endangered adult; financial exploitation of endangered adult; violation classification ([IC 35-46-1-12](#)).
- (56) False government issued identification ([IC 35-43-5-2.5](#)).
- (57) Feticide ([IC 35-42-1-6](#)).
- (58) Firearm, explosive, or deadly weapon; possession in commercial or chartered aircraft ([IC 35-47-6-1](#)).
- (59) Fraud ([IC 35-43-5-4](#)).
- (60) Fraud on financial institutions ([IC 35-43-5-8](#)) (before its repeal).
- (61) Harassment; "obscene message" defined ([IC 35-45-2-2](#)).
- (62) Human trafficking ([IC 35-42-3.5-1.4](#)).
- (63) Inappropriate communication with a child ([IC 35-42-4-13](#)).
- (64) Insurance fraud ([IC 35-43-5-7.2](#)).
- (65) Interference with custody ([IC 35-42-3-4](#)).
- (66) Invasion of privacy; offense; penalties ([IC 35-46-1-15.1](#)).
- (67) Manufacture of paraphernalia ([IC 35-48-4-8.1](#)).
- (68) Manufacturing methamphetamine ([IC 35-48-4-1.2](#)).
- (69) Medicaid fraud ([IC 35-43-5-7.1](#)) (before its repeal).
- (70) Money laundering; defenses ([IC 35-45-15-5](#)).
- (71) Neglect of a dependent; child selling ([IC 35-46-1-4](#)).
- (72) Nitrous oxide distribution; nonmedical purposes ([IC 35-46-6-3](#)).
- (73) Offense against computer users ([IC 35-43-1-8](#)).
- (74) Offense against intellectual property ([IC 35-43-1-7](#)).
- (75) Offenses concerning Social Security numbers ([IC 35-44.2-4-2](#)).
- (76) Offenses relating to registration labeling and prescription forms ([IC 35-48-4-14](#)).
- (77) Operating a vehicle while intoxicated ([IC 9-30-5](#)).
- (78) Participation in criminal organization; offense ([IC 35-45-9-3](#)).
- (79) Possession of a controlled substance or controlled substance analog; obtaining a schedule V controlled substance ([IC 35-48-4-7](#)).
- (80) Possession of animal fighting paraphernalia ([IC 35-46-3-8.5](#)).
- (81) Possession of cocaine or narcotic drug ([IC 35-48-4-6](#)).
- (82) Possession of marijuana, hash oil, hashish, or salvia ([IC 35-48-4-11](#)).
- (83) Possession of methamphetamine ([IC 35-48-4-6.1](#)).
- (84) Possession of paraphernalia ([IC 35-48-4-8.3](#)).
- (85) Possession or sale of drug precursors ([IC 35-48-4-14.5](#)).
- (86) Promoting an animal fighting contest ([IC 35-46-3-9.5](#)).
- (87) Promotion of human labor trafficking ([IC 35-42-3.5-1](#)).

- (88) Promotion of human sexual trafficking ([IC 35-42-3.5-1.1](#)).
- (89) Public indecency ([IC 35-45-4-1](#)).
- (90) Public intoxication prohibited; failure to enforce by a law enforcement officer ([IC 7.1-5-1-3](#)).
- (91) Purchase or possession of animals for fighting contests ([IC 35-46-3-8](#)).
- (92) Registration violations; penalty ([IC 11-8-8-17](#)).
- (93) Residential entry ([IC 35-43-2-1.5](#)).
- (94) Sale, distribution, or exhibition of obscene matter ([IC 35-49-3-1](#)).
- (95) Sale to minors prohibited; furnishing property for the purpose of enabling minors to consume alcohol prohibited ([IC 7.1-5-7-8](#)).
- (96) Sex offender Internet offense ([IC 35-42-4-12](#)).
- (97) Sex offender residency restrictions ([IC 35-42-4-11](#)).
- (98) Sexual battery ([IC 35-42-4-8](#)).
- (99) Sexual misconduct with a service provider ([IC 35-44.1-3-10](#)).
- (100) Sexually violent predator; duty to notify ([IC 11-8-8-18](#)).
- (101) Strangulation ([IC 35-42-2-9](#)).
- (102) Stun guns; purchase, possession, and sale; use in commission of crime; use on law enforcement officer ([IC 35-47-8-5](#)).
- (103) Synthetic drug or synthetic drug lookalike substance ([IC 35-48-4-11.5](#)) (before its repeal).
- (104) Tampering with a water supply; poisoning ([IC 35-43-1-5](#)).
- (105) Terrorism ([IC 35-47-12-1](#) (before its repeal) or [IC 35-46.5-2-1](#)).
- (106) Terroristic mischief ([IC 35-47-12-3](#) (before its repeal) or [IC 35-46.5-2-3](#)).
- (107) Theft ([IC 35-43-4-2](#)).
- (108) Unlawful employment by a sexual predator ([IC 35-42-4-10](#)).
- (109) Unlawful entry of school property by a serious sex offender ([IC 35-42-4-14](#)).
- (110) Unlawful delivery, manufacture, distribution, or possession of a substance represented to be a controlled substance; factors ([IC 35-48-4-4.6](#)).
- (111) Unlawful possession of a firearm by a domestic batterer ([IC 35-47-4-6](#)).
- (112) Unlawful possession of a firearm by a serious violent felon ([IC 35-47-4-5](#)).
- (113) Unlawful purchase of a handgun ([IC 35-47-2.5-14](#)) (before its repeal).
- (114) Unlawful transfer of fetal tissue ([IC 35-46-5-1.5](#)).
- (115) Vicarious sexual gratification; sexual conduct in presence of a minor ([IC 35-42-4-5](#)).
- (116) Violation of civil rights ([IC 35-46-2-1](#)).
- (117) Violation of [IC 25-2.1-12](#) (unauthorized practice of accounting) under [IC 25-2.1-13-3](#).
- (118) Violation of [IC 25-6.1-7-1](#) (unauthorized practice of auctioneering) under [IC 25-6.1-7-1](#).
- (119) Violation of [IC 25-6.1-7-2](#) (violation of auctioneering statute) under [IC 25-6.1-7-2](#).
- (120) Violation of any state drug law related to wholesale legend drug distribution ([IC 25-26-14](#)).
- (121) Violation of Indiana Legend Drug Act ([IC 16-42-19](#)).
- (122) Visiting a common nuisance; maintaining a common nuisance ([IC 35-45-1-5](#)).
- (123) Voyeurism; public voyeurism; aerial voyeurism ([IC 35-45-4-5](#)).
- (124) Welfare fraud ([IC 35-43-5-7](#)) (before its repeal).
- (125) Worker's compensation fraud ([IC 35-43-5-21](#)) (before its repeal).

(Indiana Auctioneer Commission; [812 IAC 1-2-4](#))

[812 IAC 1-2-5](#) Convictions of concern in another jurisdiction

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 25-1-1.1-6](#); [IC 25-6.1](#)

Sec. 5. A crime in any other jurisdiction for which the elements of the crime for which conviction was entered are substantially similar to the elements of a crime included on the list in section 4 of this rule shall also be a crime that may disqualify an individual from receiving a license and therefore included on the list.

(Indiana Auctioneer Commission; [812 IAC 1-2-5](#))

[812 IAC 1-2-6](#) Prelicensure determinations; fee

Authority: [IC 25-1-1.1-6](#); [IC 25-6.1-2-5](#)

Affected: [IC 25-1-1.1-6](#); [IC 25-6.1](#)

Sec. 6. The fee for a petition under [IC 25-1-1.1-6\(g\)](#) for a determination as to whether an individual's misdemeanor or felony conviction may disqualify the individual from receiving a license or certification is twenty-five dollars (\$25).

(Indiana Auctioneer Commission; [812 IAC 1-2-6](#))

[Notice of Public Hearing](#)

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