
TITLE 68 INDIANA GAMING COMMISSION

Notice of First Public Comment Period

LSA Document #24-115

PAID FANTASY SPORTS CIVIL PENALTIES

PURPOSE OF NOTICE

The Indiana Gaming Commission (commission) is soliciting public comment on adding rules at [68 IAC 26-11](#) concerning paid fantasy sports. The commission seeks comment on the affected citations listed and any other provisions of Title 68 that may be affected by this rulemaking.

CITATIONS AFFECTED: [68 IAC 26-11](#)

AUTHORITY: [IC 4-33-24-13](#)

OVERVIEW

Basic Purpose and Background

The purpose of this new rule is to bring current fine structures regarding licensed paid fantasy sports operator entities into compliance with new Indiana law for rules regarding fees, fines, and penalties. This rule is intended to make the fine schedule clear and transparent for parties regulated under [IC 4-33-24](#).

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Christopher Neal
Staff Attorney, Legal Division
Indiana Gaming Commission
101 West Washington Street, Suite 1600 East Tower
Indianapolis, IN 46204
(317) 233-0046
cneal2@igc.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENTS

At this time, the commission is soliciting public comments on the proposed rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #24-115 Paid Fantasy Sports Civil Penalties
Indiana Gaming Commission
101 West Washington Street, Suite 1600
Indianapolis, IN 46204
- (2) By electronic mail to rules@igc.in.gov, cc: cneal2@igc.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**
- (3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than May 3, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Indiana Gaming Commission, 101 West Washington Street, Suite 1600 East Tower, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the office of the Indiana Gaming Commission.

If the commission does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

ADDITIONAL DOCUMENTS

Regulatory Analysis: [20240403-IR-068240115RAA](#)

Notice of Public Hearing: [20240403-IR-068240115PHA](#)

PROPOSED RULE

SECTION 1. [68 IAC 26-11](#) IS ADDED TO READ AS FOLLOWS:

Rule 11. Civil Penalties

[68 IAC 26-11-1](#) Penalty amount

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-33-24](#)

Sec. 1. (a) For violations occurring under [IC 4-33-24-21](#) through [IC 4-33-24-25](#) or [68 IAC 26-5](#), a civil penalty in the amount of one thousand dollars (\$1,000) is assessed for each particular violation.

(b) For other violations occurring under [IC 4-33-24](#) or this article, a civil penalty in the amount of five hundred dollars (\$500) is assessed for each particular violation.

(Indiana Gaming Commission; [68 IAC 26-11-1](#))

[68 IAC 26-11-2](#) Assessment of civil penalty

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-33-24](#)

Sec. 2. For purposes of assessing civil penalties, the commission shall comply with the following:

(1) When substantially similar violations are committed by a single, distinguishable act or failure to act, only one (1) of those violations may be subject to a civil penalty for that act. This subdivision is intended to avoid duplicating civil penalty assessments for multiple violations of [IC 4-33-24](#) or this rule that may be essentially the same or closely related. This subdivision is not intended to limit in any way civil penalty assessments for violations that are the result of more than one (1) distinguishable unrelated act or failure to act, or a reoccurring violation.

(2) When civil penalty assessment procedures outlined in subdivision (1) are being followed, the commission shall use the appropriate violation with the highest penalty listed on the schedule.

(Indiana Gaming Commission; [68 IAC 26-11-2](#))

[68 IAC 26-11-3](#) Mitigating factors

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-33-24](#)

Sec. 3. The amount of a civil penalty may be adjusted downward to reflect mitigating factors. Some factors that may be considered are the following:

(1) Good faith efforts of the game operator to comply or prevent the violation.

- (2) Existence of written policies governing occupational game operator conduct.
- (3) Cooperation by the game operator with the commission during the investigation process.
- (4) The game operator's history of compliance.
- (5) Remedial or corrective action taken by the game operator.
- (6) The paid fantasy sports game operator self-reporting the violation.
- (7) Any other factor raised by the paid fantasy sports game operator for commission consideration as a mitigating factor to the violation.

(Indiana Gaming Commission; [68 IAC 26-11-3](#))

[68 IAC 26-11-4](#) Aggravating factors

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-33-24](#)

Sec. 4. (a) The amount of a civil penalty may be adjusted upward to reflect aggravating factors. Some factors that may be considered are the following:

- (1) Willful or intentional misconduct.
- (2) Repeat violations in multiple rolling six (6) month periods.
- (3) Obstructing or failing to comply with the commission's investigation.
- (4) Fraudulent conduct.
- (5) Whether the violation resulted in financial harm to a game participant.
- (6) Failure to pay the full amount of previously mitigated, agreed upon civil penalties.
- (7) Whether the violation negatively impacts the integrity or public trust of gaming in the state of Indiana.

(b) Whenever an aggravating factor is identified, the corresponding civil penalty may be increased by the commission. If the aggravating factor is applicable to violations, the commission may assess a fine in the amount of one thousand dollars (\$1,000) for each particular violation.

(c) The commission shall outline applicable aggravating factors in the notice described in section 6 of this rule.

(Indiana Gaming Commission; [68 IAC 26-11-4](#))

[68 IAC 26-11-5](#) Assessment of civil penalty not required

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-33-24](#)

Sec. 5. (a) Nothing in this article requires the commission to assess a civil penalty for a violation.

(b) The commission may initiate any of the following enforcement actions for a violation outlined instead of, or in addition to, a civil penalty:

- (1) A disciplinary letter.
- (2) A license:
 - (A) denial;
 - (B) restriction;
 - (C) suspension;
 - (D) refusal to renew; or
 - (E) revocation.
- (3) Referral for criminal prosecution.
- (4) Referral to another appropriate agency.
- (5) Corrective action plan.

(Indiana Gaming Commission; [68 IAC 26-11-5](#))

[68 IAC 26-11-6](#) Notification of legal recourse

Authority: [IC 4-33-24-13](#)

Affected: [IC 4-22-2-19.6](#); [IC 4-33-24](#)

Sec. 6. (a) The commission shall notify in writing each game operator on whom a civil penalty is being assessed. This notification includes the date and nature of the violation, including legal citation.

(b) In response to the notification described in subsection (a), the game operator may provide any mitigating factors for commission consideration. Under [IC 4-22-2-19.6\(b\)](#) and [68 IAC 13-1-18](#), the parties may enter into a settlement discussion to determine the fine or civil penalty to be paid for a violation.

(Indiana Gaming Commission; [68 IAC 26-11-6](#))

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