
TITLE 68 INDIANA GAMING COMMISSION

Notice of First Public Comment Period

LSA Document #24-118

FINES REGARDING CHARITY GAMING

PURPOSE OF NOTICE

The Indiana Gaming Commission (commission) is soliciting public comment on adding rules at [68 IAC 21](#) concerning fines, fees, and civil penalties for charity gaming. 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 21-8-16.5](#); [68 IAC 21-13.5](#)

AUTHORITY: [IC 4-32.3-3-3](#)

OVERVIEW

Basic Purpose and Background

The purpose of this new rule is to bring current fine structures regarding licensed charity gaming 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 entities regulated under [IC 4-32.3](#).

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

Bob Opat
License Control Counsel
Indiana Gaming Commission
101 West Washington Street, Suite 1600 East Tower
Indianapolis, IN 46204
(317) 233-0906
ropat1@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 #24-118 Charity Gaming Fine Schedule
Bob Opat
License Control Counsel
Indiana Gaming Commission
101 West Washington Street, Suite 1600
Indianapolis, IN 46204
- (2) By electronic mail to rules@igc.in.gov, cc: ropat1@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

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: [20240410-IR-068240118RAA](#)

Notice of Public Hearing: [20240410-IR-068240118PHA](#)

PROPOSED RULE

SECTION 1. [68 IAC 21-8-16.5](#) IS ADDED TO READ AS FOLLOWS:

[68 IAC 21-8-16.5](#) "Rolling twelve (12) month period" defined

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3](#)

Sec. 16.5. "Rolling twelve (12) month period" means the three hundred sixty-five (365) days after the date a violation of [IC 4-32.3](#) or this article occurred.

(Indiana Gaming Commission; [68 IAC 21-8-16.5](#))

SECTION 2. [68 IAC 21-13.5](#) IS ADDED TO READ AS FOLLOWS:

Rule 13.5. Civil Penalties

[68 IAC 21-13.5-1](#) Imposition

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3-8-1](#); [IC 4-32.3-8-2](#)

Sec. 1. (a) A civil penalty imposed by the commission on a qualified organization, a manufacturer, a distributor, or an individual under [IC 4-32.3](#) or this article shall be assessed in the following amounts:

- (1) Seven hundred fifty dollars (\$750) for the first statutory or regulatory violation in a rolling twelve (12) month period.**
- (2) One thousand eight hundred seventy-five dollars (\$1,875) for the second statutory or regulatory violation in a rolling twelve (12) month period.**
- (3) Three thousand seven hundred fifty dollars (\$3,750) for each additional statutory or regulatory violation in a rolling twelve (12) month period.**

(b) Under [IC 4-32.3-8-1](#), if a violation is of a continuing nature, the commission may impose a civil penalty for each day the violation continues.

(Indiana Gaming Commission; [68 IAC 21-13.5-1](#))

[68 IAC 21-13.5-2](#) Assessment of civil penalty

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3-8-2](#)

Sec. 2. For purposes of assessing civil penalties, the commission shall comply with the following when determining the violation number and count of violations:

- (1) Only violations committed within a rolling twelve (12) month period after the date of the base violation being addressed may be considered for determining whether additional statutory or regulatory violations have occurred for purposes of section 1 of this rule.
- (2) The ordinal number of a violation accumulates as first, second, third, etc., independently for each statutory or regulatory violation in a rolling twelve (12) month period.
- (3) When multiple separate, but substantially similar or related, 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 4-32.3](#) 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.
- (4) When civil penalty assessment procedures outlined in subdivision (3) are being followed, the commission shall use the appropriate violation with the highest penalty listed on the schedule.

(Indiana Gaming Commission; [68 IAC 21-13.5-2](#))

68 IAC 21-13.5-3 Mitigating factors

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3-8-2](#)

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

- (1) Good faith efforts of the qualified organization, manufacturer, distributor, or individual to comply or prevent the violation.
- (2) Existence of written policies, training materials, and records or internal controls governing the conduct of workers and operators of a qualified organization.
- (3) Cooperation by the qualified organization, manufacturer, distributor, or individual with the commission during the investigation process.
- (4) The history of compliance of the qualified organization, manufacturer, distributor, or individual.
- (5) Remedial or corrective action taken by the qualified organization, manufacturer, distributor, or individual.
- (6) Any other factor raised by the qualified organization, manufacturer, distributor, or individual for commission consideration as a mitigating factor to the violation.

(Indiana Gaming Commission; [68 IAC 21-13.5-3](#))

68 IAC 21-13.5-4 Aggravating factors

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3-8-2](#)

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

- (1) Willful or intentional misconduct.
- (2) Violation of the same statute or rule in any of the preceding two (2) rolling twelve (12) month periods.
- (3) Obstruction or failure to comply with the commission's investigation.
- (4) Fraudulent conduct.
- (5) Whether the violation resulted in financial harm to a particular individual.
- (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 fine outlined under section 1 of this rule may be increased by the commission. The commission may assess a fine in any amount, up to and including the maximum amount identified in [IC 4-32.3-8-2](#).

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

(Indiana Gaming Commission; [68 IAC 21-13.5-4](#))

[68 IAC 21-13.5-5](#) Assessment of civil penalty not required

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-32.3-8-2](#)

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

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

- (1) A disciplinary letter.
- (2) A license, permit, registration, or certification:
 - (A) denial;
 - (B) modification;
 - (C) suspension; or
 - (D) revocation.
- (3) Referral for criminal prosecution.
- (4) Referral to another appropriate agency.

(Indiana Gaming Commission; [68 IAC 21-13.5-5](#))

[68 IAC 21-13.5-6](#) Notification of legal recourse

Authority: [IC 4-32.3-3-3](#)

Affected: [IC 4-22-2-19.6](#); [IC 4-32.3-8-2](#)

Sec. 6. (a) The commission shall notify in writing each qualified organization, manufacturer, distributor, or individual 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 licensee 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 to resolve an alleged violation.

(Indiana Gaming Commission; [68 IAC 21-13.5-6](#))

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An [html](#) version of this document.