

## ARTICLE 2. COMMISSION

### Rule 1. Purpose

#### 71 IAC 2-1-1 Purpose

Authority: IC 4-31-3-9

Affected: IC 4-31-3

Sec. 1. (a) The commission, created by IC 4-31-3, is charged with implementing, administering, and enforcing the Act. It is the intent of the commission these rules be interpreted in the best interests of the public and the state of Indiana.

(b) Through these rules, the commission intends to encourage:

- (1) agriculture;
- (2) the horse breeding industry;
- (3) the horse training industry;
- (4) the breeding and racing of quality horses;
- (5) tourism; and
- (6) employment opportunities;

in the state of Indiana related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing to ensure that pari-mutuel wagering on horse races in Indiana will be conducted with the highest of standards and the greatest level of integrity. (*Indiana Horse Racing Commission; 71 IAC 2-1-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jul 19, 2010, 12:22 p.m.: 20100728-IR-071100480ERA*)

### Rule 2. General Authority

#### 71 IAC 2-2-1 General authority

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) The commission shall regulate each race meeting and the persons who participate in each race meeting.

(b) Pursuant to the authority granted in the Act, the commission may delegate to the executive director and the judges all powers and duties necessary to fully implement the purposes of the Act.

(c) The commission or the executive director may waive a rule upon a showing of good cause by an association or licensee, or if compliance with a rule is impractical or unduly burdensome, provided that the grant of the requested waiver would ensure that pari-mutuel wagering on horse races in Indiana would continue to be conducted with the highest standards and the greatest level of integrity. (*Indiana Horse Racing Commission; 71 IAC 2-2-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2068; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

### Rule 3. Membership and Meetings

#### 71 IAC 2-3-1 Membership and meetings

Authority: IC 4-31-3-9

Affected: IC 4-21.5; IC 4-31-3-1; IC 4-31-3-10; IC 5-14-1.5

Sec. 1. (a) The commission consists of five (5) members appointed as prescribed by IC 4-31-3-1.

(b) The commission shall appoint a director (executive director) and an assistant director as prescribed by IC 4-31-3-10.

(c) The commission shall meet at the call of the chair or as otherwise provided by statute. Notice of the meetings must be given, and the meetings must be conducted in accordance with the Indiana Open Door Law, IC 5-14-1.5.

(d) A majority of the commission constitutes a quorum. When a quorum is present, three (3) affirmative votes are required for the commission to take an action.

(e) Except as otherwise provided by the Act, the commission rules and orders are subject to the Administrative Orders and Procedures Act, IC 4-21.5.

(f) A commission member may not act in the name of the commission on any matter without three (3) affirmative votes of the commission. (*Indiana Horse Racing Commission; 71 IAC 2-3-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2069; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

#### **Rule 4. Annual Report**

##### **71 IAC 2-4-1 Annual report**

Authority: IC 4-31-3-9

Affected: IC 4-31-3-8

Sec. 1. The commission shall submit an annual report as prescribed by the Act. (*Indiana Horse Racing Commission; 71 IAC 2-4-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

#### **Rule 5. Employees**

##### **71 IAC 2-5-1 Employees**

Authority: IC 4-31-3-9

Affected: IC 4-31-3; IC 4-31-13-7

Sec. 1. (a) The commission shall employ an executive director and an assistant executive director who shall employ other employees necessary to implement, administer, and enforce the Act.

(b) The executive director and assistant executive director shall maintain the records of the commission and shall perform other duties as required by the commission. Except as otherwise provided by these rules, if a rule of the commission places a duty on the executive director, the executive director may delegate that duty to another employee of the commission. The commission, the executive director and the assistant executive director may not employ or continue to employ a person:

(1) who owns a financial interest in an association in this jurisdiction;

(2) who accepts remuneration from an association in this jurisdiction, unless otherwise approved by the commission or the executive director;

(3) who is an owner, lessor, or lessee of a horse that is entered in a race in this jurisdiction; or

(4) who accepts or is entitled to a part of the purse or purse supplement to be paid on a horse in a race held in this jurisdiction.

(c) Commission employees shall not wager directly or indirectly, at any live racing meeting, on any simulcast races received at a track if the employee is employed at or has any official responsibilities at any time at that track.

(d) Commission employees shall not wager directly or indirectly on any gambling game located on association grounds if the employee is employed at or has any official responsibilities at any time at that track.

(e) The commission shall appoint the judges at each racing meeting. (*Indiana Horse Racing Commission; 71 IAC 2-5-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2825, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2069; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2424; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed May 12, 2008, 1:29 p.m.: 20080521-IR-071080353ERA*)

#### **Rule 6. Power of Entry**

##### **71 IAC 2-6-1 Power of entry**

Authority: IC 4-31-3-9

Affected: IC 4-31-3; IC 4-31-13

Sec. 1. (a) A member or employee of the commission, a judge, a peace officer, or a designee of such a person may enter any area on association grounds or other place of business of an association at any time to enforce or administer the Act or commission rules.

(b) An association, or an officer, employee or agent of an association may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or these rules. (*Indiana Horse Racing Commission; 71 IAC 2-6-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

**Rule 7. Subpoenas**

**71 IAC 2-7-1 Subpoenas**

Authority: IC 4-31-3-9

Affected: IC 4-21.5-3; IC 4-31

Sec. 1. (a) A member of the commission, the executive director, the judges, the presiding officer of a commission proceeding, or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence, and other documents.

(b) A member of the commission, the executive director, a presiding officer of a commission proceeding, or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(c) If a person fails to comply with a subpoena issued on behalf of the commission, the commission or executive director may invoke the aid of the appropriate court in requiring compliance with the subpoena. For a person compelled to appear before the commission under this section, the commission shall pay expenses in accordance with the statutory provisions for state employees. The commission reserves the right to bill the expenses to parties requiring the appearance of the subpoenaed person. (*Indiana Horse Racing Commission; 71 IAC 2-7-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2069; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

**Rule 8. Records**

**71 IAC 2-8-1 Records**

Authority: IC 4-31-3-9

Affected: IC 4-31; IC 5-14-3

Sec. 1. (a) Except as otherwise provided by the Act, commission records are subject to the Access to Public Records Act, IC 5-14-3.

(b) Except as otherwise authorized by statute, all original records of the commission shall be maintained in the main offices of the commission. No person may remove an original record from the offices of the commission without the approval of the executive director.

(c) To inspect commission records, a person must make a written request to the executive director on a form prescribed by the commission and must pay all costs, including preparing or copying the record and postage, if applicable. (*Indiana Horse Racing Commission; 71 IAC 2-8-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2070; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

**Rule 9. Allocation of Race Dates and Permits**

**71 IAC 2-9-1 Allocation of race dates and permits**

Authority: IC 4-31-3-9

Affected: IC 4-31-5

Sec. 1. (a) The commission shall allocate race dates and permits to each association in accordance with the Act and after consideration of the factors in 71 IAC 11-1-7. An association shall apply to the commission not later than November 1 of each year for race dates to be conducted in the next year. The application must contain the information required by statute and commission

licensing procedures. After the request is filed, the commission may require the association to submit additional information.

(b) The burden of proof is on the association to demonstrate that the assignment and allocation of the race dates will be in the public interest and will achieve the purposes of the Act.

(c) The association shall be obligated to conduct pari-mutuel racing, except in the case of emergencies, on each race date allocated. Any change in race dates must be approved by the commission. In the case of emergencies, the judges may authorize cancellation of all or a portion of any race day.

(d) Racing dates shall be issued by the commission no later than December 31 of each year. (*Indiana Horse Racing Commission; 71 IAC 2-9-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1496; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2825, eff Jul 1, 1995; emergency rule filed Jun 8, 1999, 9:30 a.m.: 22 IR 3121, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3124, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

## **Rule 10. Exclusion of Patrons**

### **71 IAC 2-10-1 Exclusion of patrons and licensed and unlicensed persons**

Authority: IC 4-31-3-9

Affected: IC 4-31-13-1

Sec. 1. (a) The judges, executive director, or commission may order an individual ejected or excluded from all or part of any premises under the regulatory jurisdiction of the commission if the judges, executive director, or commission determines that:

(1) the individual may be ejected or excluded under IC 4-31-13-1(a)(3); and

(2) the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(b) An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the judges or commission. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the judges or commission. A hearing on an exclusion shall be conducted in the same manner as other hearings conducted by the judges or commission.

(c) Unless otherwise provided, exclusions under this section shall be for all of the premises under the regulatory jurisdiction of the commission, including satellite facilities. (*Indiana Horse Racing Commission; 71 IAC 2-10-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1125; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2070; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2151; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

## **Rule 11. Penalties**

### **71 IAC 2-11-1 Penalties**

Authority: IC 4-31-3-9

Affected: IC 4-31-12-16; IC 4-31-13-1

Sec. 1. In assessing penalties, the commission shall consider the severity of the violation and may consider the licensee's record, including the number and recency of past rulings in Indiana or other racing jurisdictions with special notice taken of the same or related offenses. The licensee's criminal record may also be considered. (*Indiana Horse Racing Commission; 71 IAC 2-11-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1126; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

## **Rule 12. Procedures for Submitting Petitions for Promulgation or Repeal of Rules**

### **71 IAC 2-12-1 Procedures**

Authority: IC 4-31-3-9

Affected: IC 4-22-2-3; IC 4-31-3

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COMMISSION

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Sec. 1. (a) A request for promulgation, amendment, or repeal of a rule shall set forth in its entirety, and in writing, the requested rule or the suggested amendment or the repeal of any rule in effect. Such petition shall set forth fully the view of the petitioner and any reason the petitioner has in support of such views.

(b) All petitions filed with the commission more than ten (10) days prior to a regularly scheduled meeting date may be placed on the agenda of the commission, at the discretion of the commission, at its next regularly scheduled meeting. (*Indiana Horse Racing Commission; 71 IAC 2-12-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1126; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

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