

IC 4-33-4

Chapter 4. Powers and Duties of Indiana Gaming Commission

IC 4-33-4-1

Administration, regulation, and enforcement of riverboat gambling

Sec. 1. (a) The commission has the following powers and duties for the purpose of administering, regulating, and enforcing the system of riverboat gambling established under this article:

- (1) All powers and duties specified in this article.
- (2) All powers necessary and proper to fully and effectively execute this article.
- (3) Jurisdiction and supervision over the following:
 - (A) All riverboat gambling operations in Indiana.
 - (B) All persons on riverboats where gambling operations are conducted.
- (4) Investigate and reinvestigate applicants and license holders and determine the eligibility of applicants for licenses or operating agent contracts.
- (5) Select among competing applicants the applicants that promote the most economic development in a home dock area and that best serve the interests of the citizens of Indiana.
- (6) Take appropriate administrative enforcement or disciplinary action against a licensee or an operating agent.
- (7) Investigate alleged violations of this article.
- (8) Establish fees for licenses issued under this article.
- (9) Adopt appropriate standards for the design, appearance, aesthetics, and construction for riverboats and facilities.
- (10) Conduct hearings.
- (11) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other relevant documents.
- (12) Administer oaths and affirmations to the witnesses.
- (13) Prescribe a form to be used by an operating agent or a licensee involved in the ownership or management of gambling operations as an application for employment by potential employees.
- (14) Revoke, suspend, or renew licenses issued under this article.
- (15) Hire employees to gather information, conduct investigations, and carry out other tasks under this article.
- (16) Take any reasonable or appropriate action to enforce this article.

(b) Applicants and license holders shall reimburse the commission for costs related to investigations and reinvestigations conducted under subsection (a)(4).

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.5; P.L.92-2003, SEC.10.

IC 4-33-4-2

Rules

Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:

- (1) Administering this article.
- (2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
- (3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
- (4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.
- (5) Imposing penalties for noncriminal violations of this article.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1995, SEC.38; P.L.92-2003, SEC.11.

IC 4-33-4-3

Additional duties of the commission

Sec. 3. (a) The commission shall do the following:

- (1) Adopt rules that the commission determines necessary to protect or enhance the following:
 - (A) The credibility and integrity of gambling operations authorized by this article.
 - (B) The regulatory process provided in this article.
- (2) Conduct all hearings concerning civil violations of this article.
- (3) Provide for the establishment and collection of license fees and taxes imposed under this article.
- (4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.
- (5) Levy and collect penalties for noncriminal violations of this article.
- (6) Deposit the penalties in the state gaming fund established by IC 4-33-13.
- (7) Be present through the commission's gaming agents during the time gambling operations are conducted on a riverboat to do the following:
 - (A) Certify the revenue received by a riverboat.
 - (B) Receive complaints from the public.
 - (C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.
- (8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:
 - (A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
 - (B) an emergency rule is likely to address the need.
- (9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(10) Establish the requirements for a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1995, SEC.39; P.L.27-1997, SEC.2; P.L.273-1999, SEC.40; P.L.14-2000, SEC.13; P.L.92-2003, SEC.12; P.L.143-2003, SEC.1; P.L.37-2004, SEC.1; P.L.170-2005, SEC.3; P.L.142-2009, SEC.4.

IC 4-33-4-3.5

Employment of gaming agents

Sec. 3.5. The commission shall employ gaming agents to perform the duties imposed by this chapter. The licensed owners and operating agents shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

- (1) the training expenses incurred to train gaming agents;
- (2) the salaries and other expenses of staff required to support

the gaming agents; and

(3) the salaries and other expenses of the gaming agents required to be present during the time gambling operations are conducted on a riverboat.

As added by P.L.53-1995, SEC.1. Amended by P.L.92-2003, SEC.13; P.L.170-2005, SEC.4.

IC 4-33-4-3.6

Repealed

(Repealed by P.L.92-2003, SEC.63.)

IC 4-33-4-4

Entering premises of licensee

Sec. 4. The commission may enter an office, a riverboat, a facility, or other premises of an operating agent or a person holding an owner's, or supplier's license where evidence of the compliance or noncompliance with this article is likely to be found.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.14.

IC 4-33-4-5

Licensing standards

Sec. 5. The commission shall adopt standards for the licensing of the following:

(1) Persons regulated under this article.

(2) Electronic or mechanical gambling games.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-4-6

Records of licensee

Sec. 6. The commission shall require that the records, including financial statements, of an operating agent or a person holding an owner's, or supplier's license must be maintained in the manner prescribed by the commission.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.15.

IC 4-33-4-7

Ejection or exclusion from facilities

Sec. 7. (a) The commission may eject or exclude or authorize the ejection or exclusion of a person from riverboat gambling facilities if:

(1) the person's name is on the list of persons voluntarily excluding themselves from all riverboats in a program established under the rules of the commission;

(2) the person violates this article; or

(3) the commission determines that the person's conduct or reputation is such that the person's presence within the riverboat gambling facilities may:

(A) call into question the honesty and integrity of the

gambling operations; or

(B) interfere with the orderly conduct of the gambling operations.

(b) A person, other than a person participating in a voluntary exclusion program, may petition the commission for a hearing on the person's ejection or exclusion under this section.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.143-2003, SEC.2.

IC 4-33-4-8

Violations of article; fraudulent acts

Sec. 8. If a licensee, an operating agent, or an employee of a licensee or an operating agent violates this article or engages in a fraudulent act, the commission may do any combination of the following:

(1) Suspend, revoke, or restrict the license of the licensee, or suspend, revoke, or restrict the gambling operations of an operating agent.

(2) Require the removal of a licensee or an employee of a licensee.

(3) Impose a civil penalty of not more than five thousand dollars (\$5,000) against an individual who has been issued an occupational license for each violation of this article.

(4) Impose a civil penalty of not more than the greater of:

(A) ten thousand dollars (\$10,000); or

(B) an amount equal to the licensee's or operating agent's daily gross receipts for the day of the violation;

against an owner or operating agent for each violation of this article.

(5) Impose a civil penalty of not more than twenty-five thousand dollars (\$25,000) against a person who has been issued a supplier's license for each violation of this article.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.16; P.L.143-2003, SEC.3.

IC 4-33-4-9

Cashless wagering system

Sec. 9. The commission shall require an owner or operating agent conducting gambling games to use a cashless wagering system in which a player's money is converted to tokens, electronic cards, or chips that may be used only for wagering on the riverboat.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.17.

IC 4-33-4-10

Cruises; regulation of routes and stops

Sec. 10. If a riverboat cruises, the commission shall authorize the route of the riverboat and the stops, if any, that the riverboat may make while on a cruise.

As added by P.L.277-1993(ss), SEC.124. Amended by

P.L.192-2002(ss), SEC.10.

IC 4-33-4-11

Insurance

Sec. 11. The commission shall establish the minimum amount of insurance that must be maintained by:

- (1) an operating agent; or
- (2) owner and supplier licensees.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.18.

IC 4-33-4-12

Alcoholic beverages

Sec. 12. Except as provided by IC 7.1-3-17.5, IC 7.1 and the rules adopted by the alcohol and tobacco commission apply to:

- (1) an operating agent; and
- (2) a person holding an owner's license.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.15-1994, SEC.2; P.L.204-2001, SEC.8; P.L.92-2003, SEC.19.

IC 4-33-4-13

Determination of navigable waterways; approval of permanently moored craft

Sec. 13. (a) This section does not apply to a riverboat located in a historic hotel district.

(b) After consulting with the United States Army Corps of Engineers, the commission may do the following:

- (1) Determine the waterways that are navigable waterways for purposes of this article.
- (2) Determine the navigable waterways that are suitable for the operation of riverboats under this article.
- (3) Approve a plan submitted under IC 4-33-6-23 for:
 - (A) the construction of a new permanently moored craft; or
 - (B) the conversion of a self-propelled excursion boat into a permanently moored craft.

(c) In determining the navigable waterways on which riverboats may operate, the commission shall do the following:

- (1) Obtain any required approvals from the United States Army Corps of Engineers for the operation of riverboats on those waterways.
- (2) Consider the economic benefit that riverboat gambling provides to Indiana.
- (3) Seek to ensure that all regions of Indiana share in the economic benefits of riverboat gambling.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1995, SEC.40; P.L.92-2003, SEC.20; P.L.15-2011, SEC.3.

IC 4-33-4-13.5

Marine structural and life safety standards for permanently moored craft

Sec. 13.5. The commission shall:

- (1) determine the appropriate marine structural and life safety standards for a permanently moored craft approved under section 13 of this chapter; and
- (2) establish maintenance requirements and an inspection schedule to enforce the standards.

This section does not require a licensed owner converting a self-propelled excursion boat into a permanently moored craft to substantially alter the marine structural and life safety systems of the excursion boat that were required to comply with IC 4-33-6-6 if the self-propelled excursion boat was in service before January 1, 2011.
As added by P.L.15-2011, SEC.4.

IC 4-33-4-14

Navigable waterways; extreme circumstances

Sec. 14. The commission may adopt emergency orders under IC 4-21.5-4 concerning navigability of waterways for extreme weather conditions or other extreme circumstances.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-4-15

Annual duties of gaming commission

Sec. 15. The commission shall annually do the following:

- (1) Review the patterns of wagering and wins and losses by persons on riverboat gambling operations under this article.
- (2) Make recommendations to the governor and the general assembly concerning whether limits on wagering losses should be imposed.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.21.

IC 4-33-4-16

Investigative procedures; complaints

Sec. 16. (a) The commission shall review and make a determination on a complaint by an operating agent or a person who has been issued an owner's license concerning an investigative procedure that the licensee alleges is unnecessarily disruptive of gambling operations.

(b) A licensee or an operating agent filing a complaint under this section must prove all of the following by clear and convincing evidence:

- (1) The investigative procedure had no reasonable law enforcement purpose.
- (2) The investigative procedure was so disruptive as to unreasonably inhibit gambling operations.

(c) For purposes of this section, the need to inspect and investigate a licensee or an operating agent shall be presumed at all times.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.92-2003, SEC.22.

IC 4-33-4-17

Licenses; application; denial; suspensions; revocation; restriction or refusal to renew; hearings

Sec. 17. (a) The commission shall decide promptly and in reasonable order all license applications.

(b) Notwithstanding any provision of this article, no owner's license may be granted for any riverboat that is not to be docked in the city described under IC 4-33-6-1(a)(1) until the earlier of:

- (1) the issuance of an owner's license for a riverboat that is to be docked in the city described under IC 4-33-6-1(a)(1); or
- (2) September 1, 1994.

(c) A party aggrieved by an action of the commission denying, suspending, revoking, restricting, or refusing the renewal of a license may request a hearing before the commission. A request for a hearing must be made to the commission in writing not more than ten (10) days after service of notice of the action of the commission.

(d) The commission shall serve notice of the commission's actions to a party by personal delivery or by certified mail. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(e) The commission shall conduct all requested hearings promptly and in reasonable order.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1994, SEC.13; P.L.92-2003, SEC.23.

IC 4-33-4-18

Background investigations

Sec. 18. (a) The state police department may assist the commission in conducting background investigations of applicants. The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

(b) The commission through its gaming agents shall conduct background investigations of applicants. Costs incurred conducting the investigations must be paid from fees collected from applicants.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.261-2003, SEC.4; P.L.170-2005, SEC.5.

IC 4-33-4-19

Revocation of licenses

Sec. 19. The commission shall revoke the license of a licensee who operates a riverboat upon Patoka Lake if that licensee violates any of the following:

- (1) IC 14-26-2-7.
- (2) IC 14-26-2-23.
- (3) IC 14-28-1.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1995, SEC.41; P.L.152-2006, SEC.1.

IC 4-33-4-20

Void licenses

Sec. 20. If the United States Army Corps of Engineers rescinds an approval required under section 13 of this chapter, a license issued under this article is void and the holder of the license may not conduct or continue gambling operations under this article.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-4-21

Licenses; transfer, sale, purchase, or voting trust; rules of procedure; prohibitions

Sec. 21. (a) A licensed owner or any other person must apply for and receive the commission's approval before:

(1) an owner's license is:

(A) transferred;

(B) sold; or

(C) purchased; or

(2) a voting trust agreement or other similar agreement is established with respect to the owner's license.

(b) Subject to section 24 of this chapter, the commission shall adopt rules governing the procedure a licensed owner or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a license must meet the criteria of this article and any rules adopted by the commission. A licensed owner may transfer an owner's license only in accordance with this article and rules adopted by the commission.

(c) A licensed owner or any other person may not:

(1) lease;

(2) hypothecate; or

(3) borrow or loan money against;

an owner's license.

(d) A transfer fee is imposed on a licensed owner who purchases or otherwise acquires a controlling interest, as determined under the rules of the commission, in a second owner's license. The fee is equal to two million dollars (\$2,000,000). The commission shall collect and deposit a fee imposed under this subsection in the state general fund.

As added by P.L.20-1995, SEC.7. Amended by P.L.224-2003, SEC.42; P.L.182-2009(ss), SEC.59.

IC 4-33-4-21.2

Display and maintenance of toll free telephone number

Sec. 21.2. (a) The Indiana gaming commission shall require a licensed owner or an operating agent to conspicuously display the number of the toll free telephone line described in IC 4-33-12-6 in the following locations:

(1) On each admission ticket to a riverboat if tickets are issued.

- (2) On a poster or placard that is on display in a public area of each riverboat where gambling games are conducted.
- (b) The toll free telephone line described in IC 4-33-12-6 must be:
 - (1) maintained by the division of mental health and addiction under IC 12-23-1-6; and
 - (2) funded by the addiction services fund established by IC 12-23-2-2.
- (c) The commission may adopt rules under IC 4-22-2 necessary to carry out this section.

As added by P.L.54-1995, SEC.1. Amended by P.L.215-2001, SEC.5; P.L.192-2002(ss), SEC.11; P.L.92-2003, SEC.24.

IC 4-33-4-22

Rules concerning hours of operation

Sec. 22. (a) The commission may not adopt a rule or resolution limiting the ordinary business hours in which a licensed owner that has implemented flexible scheduling under IC 4-33-6-21 may conduct gambling operations.

(b) This section may not be construed to limit the commission's power to:

- (1) enforce this article under IC 4-33-4-1(a)(6), IC 4-33-4-1(a)(7), or IC 4-33-4-8; or
- (2) respond to an emergency, as determined by the commission.

As added by P.L.224-2003, SEC.43. Amended by P.L.97-2004, SEC.14.

IC 4-33-4-23

Licensed owners annual reports; incentive payments

Sec. 23. (a) An operating agent or a person holding an owner's license must report annually to the commission the following:

- (1) The total dollar amounts and recipients of incentive payments made.
- (2) Any other items related to the payments described in subdivision (1) that the commission may require.

(b) The commission shall prescribe, with respect to the report required by subsection (a):

- (1) the format of the report;
- (2) the deadline by which the report must be filed; and
- (3) the manner in which the report must be maintained and filed.

As added by P.L.199-2005, SEC.1.

IC 4-33-4-24

Prohibition of fee for proposed transfer of ownership

Sec. 24. The commission may not do the following:

- (1) Impose by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a riverboat owner's license or an operating permit.
- (2) Make the commission's approval of a proposed transfer of an ownership interest in a riverboat owner's license or an

operating permit contingent upon the payment of any amount that is not authorized by this article.
As added by P.L.182-2009(ss), SEC.60.

IC 4-33-4-24.2

Model power of attorney

Sec. 24.2. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling operations on a riverboat under IC 4-33-21. The executive director may provide a copy of the model power of attorney to any interested party.

As added by P.L.142-2009, SEC.5.

IC 4-33-4-25

Appointment of temporary trustee

Sec. 25. (a) The commission may appoint a person to serve as a temporary trustee for a particular riverboat if the commission makes the following findings:

- (1) That circumstances requiring a trustee to assume control of the riverboat are likely to occur.
- (2) That the commission has not approved a power of attorney identifying any other person to serve as the trustee for the riverboat.
- (3) That there is not enough time to consider and approve a power of attorney with respect to the riverboat before the circumstances found likely to occur under subdivision (1) will occur.

(b) A person appointed under this section must be qualified to perform any duty described in this section or IC 4-33-21.

(c) A trustee appointed by the commission under this section shall serve until any of the following occurs:

- (1) The commission adopts a resolution under IC 4-33-21-3 authorizing a trustee appointed by an approved power of attorney to conduct gambling operations under IC 4-33-21 on the riverboat.
- (2) The commission revokes the trustee's authority to conduct gambling operations under IC 4-33-21-12.
- (3) A new licensed owner or operating agent assumes control of the riverboat.

(d) A trustee appointed by the commission under this section shall exercise the trustee's powers in accordance with:

- (1) the model power of attorney established by the executive director under section 24.2 of this chapter; and
- (2) IC 4-33-21.

As added by P.L.142-2009, SEC.6.

IC 4-33-4-26

Civil penalties for violations concerning a power of attorney

Sec. 26. The commission may impose a civil penalty upon a person who:

- (1) fails to submit a power of attorney before a deadline imposed by this article;
- (2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16; or
- (3) violates any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee under the power of attorney.

As added by P.L.142-2009, SEC.7.

IC 4-33-4-27

Withholding delinquent child support from winnings; fee; notice; priority of order over other claims

Sec. 27. (a) The bureau shall provide information to a licensed owner, an operating agent, or a trustee concerning persons who are delinquent in child support.

(b) If a licensed owner, an operating agent, or a trustee is required to file Form W-2G or a substantially equivalent form with the United States Internal Revenue Service for a person who is delinquent in child support, before payment of cash winnings to the person, the licensed owner, operating agent, or trustee:

(1) may deduct and retain an administrative fee in the amount of the lesser of:

- (A) three percent (3%) of the amount of delinquent child support withheld under subdivision (2)(A); or
- (B) one hundred dollars (\$100); and

(2) shall:

(A) withhold the amount of delinquent child support owed from the cash winnings;

(B) transmit to the bureau:

- (i) the amount withheld for delinquent child support; and
- (ii) identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the licensed owner, operating agent, or trustee; and

(C) issue the obligor a receipt in a form prescribed by the bureau with the total amount withheld for delinquent child support and the administrative fee.

(c) The bureau shall notify the obligor at the address provided by the licensed owner, operating agent, or trustee that the bureau intends to offset the obligor's delinquent child support with the cash winnings.

(d) The bureau shall hold the amount withheld from cash winnings of an obligor for ten (10) business days before applying the amount as payment to the obligor's delinquent child support.

(e) The delinquent child support required to be withheld under this section and an administrative fee described under subsection (b)(1) have priority over any secured or unsecured claim on cash

winnings except claims for federal or state taxes that are required to be withheld under federal or state law.

As added by P.L.80-2010, SEC.1.