
PRELIMINARY DRAFT
No. 3349

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2008 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 4-31-3; IC 4-33-4; P.L.246-2005, SECTION 259.

Synopsis: Transfer fees. Voids certain rules adopted by the Indiana horse racing commission (IHRC) and the Indiana gaming commission (IGC) concerning the transfer of ownership interests in pari-mutuel horse racing meeting permits and riverboat owner's licenses. Prohibits the IHRC and the IGC from: (1) imposing fees that are not authorized by statute upon the parties to a transfer of ownership interests; and (2) making the approval of a proposed transfer of ownership interests contingent upon the payment of any amount not authorized by statute. Codifies a noncode provision enacted in 2005 concerning transfer fees. Repeals the 2005 noncode provision. Requires the treasurer of state to refund any amount paid under the authority of a rule voided by the bill.

Effective: Upon passage; July 1, 2008.



A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-31-3-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 9. **Subject to section 14 of this**
3 **chapter**, the commission may:

4 (1) adopt rules under IC 4-22-2, including emergency rules under
5 IC 4-22-2-37.1, to implement this article, including rules that
6 prescribe:

7 (A) the forms of wagering that are permitted;

8 (B) the number of races;

9 (C) the procedures for wagering;

10 (D) the wagering information to be provided to the public;

11 (E) fees for the issuance and renewal of:

12 (i) permits under IC 4-31-5;

13 (ii) satellite facility licenses under IC 4-31-5.5; and

14 (iii) licenses for racetrack personnel and racing participants
15 under IC 4-31-6;

16 (F) investigative fees;

17 (G) fines and penalties; and

18 (H) any other regulation that the commission determines is in
19 the public interest in the conduct of recognized meetings and
20 wagering on horse racing in Indiana;

21 (2) appoint employees in the manner provided by IC 4-15-2 and
22 fix their compensation, subject to the approval of the budget
23 agency under IC 4-12-1-13;

24 (3) enter into contracts necessary to implement this article; and

25 (4) receive and consider recommendations from an advisory
26 development committee established under IC 4-31-11.

27 SECTION 2. IC 4-31-3-14 IS ADDED TO THE INDIANA CODE
28 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
29 UPON PASSAGE]: Sec. 14. **(a) The following rules are void:**

30 **(1) 71 IAC 11-1-13(d), as added by the emergency rule**
31 **adopted by the commission in LSA Document #07-341.**



1 (2) Any other emergency or formal rule adopted after May
2 31, 2007, making the commission's approval of a proposed
3 transfer of an ownership interest in a permit issued under
4 IC 4-31-5 subject to the commission's consideration of the
5 economic benefits realized by the person transferring the
6 ownership interest and the state's receipt of a voluntary or
7 involuntary payment from the person transferring the
8 ownership interest.

9 (b) The commission may not do the following:

10 (1) Impose by rule a fee that is not authorized by this article
11 on any party to a proposed transfer of an ownership interest
12 in a permit issued under IC 4-31-5.

13 (2) Make the commission's approval of a proposed transfer of
14 an ownership interest in a permit issued under IC 4-31-5
15 contingent upon the payment of any amount that is not
16 authorized by this article.

17 SECTION 3. IC 4-33-4-21 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) A licensed
19 owner or any other person must apply for and receive the commission's
20 approval before:

- 21 (1) an owner's license is:
 - 22 (A) transferred;
 - 23 (B) sold; or
 - 24 (C) purchased; or
- 25 (2) a voting trust agreement or other similar agreement is
26 established with respect to the owner's license.

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

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

- 35 (1) lease;
- 36 (2) hypothecate; or
- 37 (3) borrow or loan money against;
38 an owner's license.

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

44 SECTION 4. IC 4-33-4-24 IS ADDED TO THE INDIANA CODE
45 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
46 UPON PASSAGE]: **Sec. 24. (a) The following rules are void:**



- 1 **(1) An emergency rule adopted by the commission on April**
 2 **21, 2005, pursuant to Indiana gaming commission resolution**
 3 **2005-17 concerning the imposition of a transfer fee on the**
 4 **transfer of an ownership interest in a riverboat owner's**
 5 **license or an operating permit.**
 6 **(2) Any other rule adopted after April 1, 2005, that establishes**
 7 **a transfer fee for the transfer of an ownership interest in a**
 8 **riverboat owner's license or an operating permit.**
 9 **(3) An emergency rule adopted by the commission after June**
 10 **7, 2007, pursuant to Indiana gaming commission resolution**
 11 **2007-56 in which the commission's approval of a proposed**
 12 **transfer of an ownership interest in a riverboat owner's**
 13 **license is made subject to the commission's consideration of**
 14 **the economic benefits realized by the person transferring the**
 15 **ownership interest and the state's receipt of a voluntary or**
 16 **involuntary payment from the person transferring the**
 17 **ownership interest.**
 18 **(4) Any other emergency or formal rule adopted by the**
 19 **commission after May 31, 2007, concerning the subject matter**
 20 **described in subdivision (3).**
 21 **(b) The commission may not do the following:**
 22 **(1) Impose by rule a fee that is not authorized by this article**
 23 **on any party to a proposed transfer of an ownership interest**
 24 **in a riverboat owner's license or an operating permit.**
 25 **(2) Make the commission's approval of a proposed transfer of**
 26 **an ownership interest in a riverboat owner's license or an**
 27 **operating permit contingent upon the payment of any amount**
 28 **that is not authorized by this article.**
 29 **SECTION 5. P.L.246-2005, SECTION 259, IS REPEALED**
 30 **[EFFECTIVE JULY 1, 2008].**
 31 **SECTION 6. [EFFECTIVE UPON PASSAGE] (a) The publisher**
 32 **of the Indiana Administrative Code and Indiana Register shall**
 33 **remove any rule voided by this act from the Indiana**
 34 **Administrative Code.**
 35 **(b) The treasurer of state shall refund any amount paid to the**
 36 **state under the authority of a rule voided by this act.**
 37 **(c) This SECTION expires January 1, 2009.**
 38 **SECTION 7. An emergency is declared for this act.**

