

# Indiana Code 4-32.3

## Effective July 1, 2019



INFORMATION FOR CHARITABLE GAMING  
ORGANIZATIONS REGARDING HOUSE ENROLLED  
ACT 1517 & SENATE ENROLLED ACT 393

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# HEA 1517 & SEA 393: Introduction

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- During the 2019 legislative session, House Enrolled Act 1517 (“HEA 1517”) and Senate Enrolled Act 393 (“SEA 393”) were enacted into law
- HEA 1517 repeals the current charity gaming article (IC art. 4-32.2) and replaces it with a reorganized, updated, and modernized charity gaming article (IC art. 4-32.3)
- SEA 393 allows the Commission to issue an annual casino game night license to certain bona fide civic organizations
- Together, HEA 1517 and SEA 393 will be codified under IC art. 4-32.3 and will become effective July 1, 2019

# HEA 1517: Repeal & Replace

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- Simplified and re-organized statute makes it easier for charity gaming organizations to navigate regulatory requirements
- Removes statutory barriers allowing for more efficient and innovative oversight
- Eliminates redundancies and cross-references
- Removes obsolete language and replaces with updated terminology (Ex. charity game night license is now called a casino game night license)
- Addresses common constituent complaints and creates better customer service by simplifying the licensing scheme
- Passed the House of Representatives 95-2 and passed the Senate 41-7
- Supported by veterans organizations

# Statutory Changes: Simplified Licensing Scheme

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- Cuts number of license types in half while continuing to allow all existing activities
- IC 4-32.3-4-5(a): The commission may issue an annual activity license to a qualified organization if the qualified organization:
  - (1) meets the requirements of this section;
  - (2) submits an application; and
  - (3) pays a fee set by the commission under IC 4-32.3-6.
- IC 4-32.3-4-6(a): The commission may issue a single activity license to a qualified organization if the qualified organization:
  - (1) submits an application; and
  - (2) pays the required fees under IC 4-32.3-6.

# Statutory Changes: Simplified Licensing Scheme

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- Renames the annual comprehensive charity gaming license to annual affiliate license
  - Same as annual comprehensive charity gaming license, except annual affiliate licensees are now eligible to conduct annual bingo activities and existence requirements have been reduced
  - IC 4-32.3-4-8(a): Only a:
    - (1) bona fide national organization; and
    - (2) bona fide national foundation;may apply for an annual affiliate license under this section.
- IC 4-32.3-4-10: Creates a new convention license
  - Allows legitimate out of state charities to hold raffles in conjunction with their convention experience
  - Enhanced service provided to charities that chose Indiana to conduct their business
  - Limited scope: if approved, may only conduct raffles at the convention location
  - IC 4-32.3-6-8: The fee for an organization applying for a convention raffle license is two hundred fifty dollars (\$250) due at the time of filing the application.

# Statutory Changes: Simplified Licensing Scheme

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- Allows qualified organizations to file consolidated financial statements annually, as opposed to numerous financial reports
- IC 4-32.3-6-4: A qualified organization's adjusted gross revenue is an amount equal to the difference between:
  - (1) the qualified organization's total gross revenue from allowable activities in the preceding year; minus
  - (2) the sum of any amounts deducted under IC 4-32.3-5-3(b)(5) in the preceding year.
- IC 4-32.3-6-7: Increases fee renewal cap from \$3M to \$5M to account for transition to consolidated reporting

# Statutory Changes: Conduct of Gaming

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- IC 4-32.3-4-3 increases threshold for exempt events
- Exempt events only require qualified organizations to file with the IGC a notice 14 days in advance of the event
- Allows events with prizes up to \$7,500 annually to be exempt from licensure, up from the current \$3,000
- \$2,500 payout limit per event, up from the current \$1,000 payout limit

# Statutory Changes: Conduct of Gaming

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- Clarifies that organizations may conduct up to three festivals annually
  - IC 4-32.3-4-7(e): A qualified organization may apply for up to three (3) festival licenses each calendar year.
- Relaxes time constraints on when festivals may occur
  - Previously, festivals were limited to 2 in one 6-month period, and only 1 additional festival in the next 6-month period
  - IC 4-32.3-4-7 allows organizations to conduct 3 festivals anytime during a calendar year, except consecutively

# Statutory Changes: Conduct of Gaming

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- Allows more bingo events with payout greater than \$10,000
  - Previously limited to 2 requests per year of greater than \$10,000
  - IC 4-32.3-5-15(d): The commission may, by express authorization, allow a qualified organization to conduct a bingo event in which the total prizes for the event may exceed ten thousand dollars (\$10,000).
- Eliminates prize limits for raffles
  - Repealed limits in IC 4-32.2

# Statutory Changes: Conduct of Gaming

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- Authorizes Indiana annual affiliate licensees to conduct bingo events, in addition to raffles
  - IC 4-32.3-4-8(d)(1): An annual affiliate license may authorize a qualified organization to conduct bingo events and raffles.
- Allows consecutive nights for casino game nights and bingo events
  - IC 4-32.3-4-14(a): Except for raffles, pull tabs, punchboards, and tip boards conducted under an annual activity license, raffles conducted under an annual affiliate license, or an allowable activity conducted under a festival license, a qualified organization may not conduct more than three (3) allowable activities during a calendar week and not more than one(1) allowable activity each day.

# Statutory Changes: Existence & Membership Requirements

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- Removes 3-year existence requirement for most qualified organizations
  - IC 4-32.3-2-31: Organizations still must be organized in Indiana, and meet all other requirements to become qualified
  - All charities must have 501(c) designation with the IRS
  - Allows more exempt organizations to conduct charitable gaming activities
- IC 4-32.3-2-31(a): "**Qualified organization**" refers to any of the following:
  - (1) A bona fide charitable organization, including civic, fraternal, and veteran's organizations, operating in Indiana that:
    - (A) has a constitution, articles, charter, or bylaws that contain a clause that provides that upon dissolution all remaining assets shall be used for the nonprofit's stated purposes; and
    - (B) satisfies at least one (1) of the following requirements:
      - (i) The organization is in existence in Indiana.
      - (ii) The organization is affiliated with a parent organization that is in existence in Indiana.
      - (iii) The organization has reorganized and is continuing its mission under a new name on file with the secretary of state of Indiana and with a new tax identification number after having satisfied the requirements set forth in either item (i) or (ii).
  - (2) A bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code).
  - (3) A state educational institution (as defined in IC 21-7-13-32).
  - (4) A bona fide national organization operating in Indiana.
  - (5) A bona fide national foundation.

# Statutory Changes: Existence & Membership Requirements

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- Charities can now utilize and attract more volunteers
- Reduces membership requirement to be an operator from one (1) year to sixty (60) days
  - IC 4-32.3-5-13: To be an operator of a qualified organization:
    - (1) An individual must be a member in good standing of the qualified organization for at least sixty (60) days; and
    - (2) the operator's authority to serve as an operator for the qualified organization must have been acknowledged by the qualified organization on a form prescribed by the commission.
- IC 4-32.3-5-14(a): with limited exceptions, worker membership requirement remains thirty (30) days
- Reduces time requirement to be considered a "full time employee" from 90 days to 30 days
  - Example: paid bartender of a veterans or fraternal organization who sells and redeems pull tabs
  - IC 4-32.3-2-17: "Full time employee" means an individual who:
    - (1) is and has been employed by a particular qualified organization for at least thirty (30) consecutive days as of the date of the qualified organization's allowable event; and
    - (2) works at least an average of thirty-two (32) hours per week or one thousand six hundred sixty-two (1,662) hours per year for the qualified organization in a capacity that is primarily unrelated to the qualified organization's charity gaming operations.

# Statutory Changes: Existence & Membership Requirements

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- Reduces existence requirement for bona fide national organizations applying for an annual affiliate license to one (1) year (previously three (3) years)
  - IC 4-32.3-2-8: “Bona fide national organization refers to an organization that:
    - (1) operates without profit to the organization’s members;
    - (2) is exempt from taxation under section 501 of the Internal Revenue Code;
    - (3) has a national membership; and
    - (4) has been continuously in existence in Indiana for at least one (1) year.
- Reduces existence requirement for Indiana affiliates to conduct charitable gaming activities under its parent organization’s annual affiliate license to sixty (60) days (previously one (1) year)
  - IC 4-32.3-5-8(e): An Indiana affiliate of the qualified organization may not conduct an activity under an annual affiliate license until the affiliate has been in existence in Indiana for at least sixty (60) days.

# Statutory Changes: Elimination of Burdensome and Unnecessary Regulations

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- Removes requirement to collect/record information on pull tab winners of \$250 or more (repealed)
  - Organizations must still verify the identity of the winner using any reasonable means necessary
- Decreases retention of records from six years to three years
  - IC 4-32.3-9-5: A marketing sheet published in connection with a wagering game must be maintained for the lesser of:
    - (1) three (3) years after the year in which the marketing sheet was published; or
    - (2) the end of an audit in which the marketing sheet and similar records are audited.
  - IC 4-32.3-2-23: "Marketing sheet" means additional information published about a wagering game that describes winnings.

# Statutory Changes: Elimination of Burdensome and Unnecessary Regulations

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- Reduces current requirement of posting notice in newspaper for annual casino game night license and annual bingo license from two times to one time
  - IC 4-32.3-4-13(b): A qualified organization that applies for an initial annual activity license to conduct annual bingo events or casino game night activities shall publish notice that the application has been filed by publication at least one (1) time in one (1) newspaper in the county where the allowable activity will be conducted.
- Exempt events and candidate's committees no longer require separate and segregated checking account
  - IC 4-32.3-5-5(b): Except for a candidate's committee ... and an exempt event, a qualified organization shall deposit funds received from an allowable activity in a separate and segregated account set up for that purpose.

# Statutory Changes: Expedited Application Process

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- Common request from charitable organizations
- Enhanced customer service to be provided solely at the request of an organization that finds itself in a bind
- If request is accepted, the commission will expedite the review of the application to ten (10) business days. IC 4-32.3-6-2(a).
  - Request must be submitted not later than ten (10) business days before the date on which the allowable activity is to be conducted.
- IC 4-32.3-6-2(b): The expedited application fee is:
  - (1) One hundred dollars (\$100) if the qualified organization is applying for an initial license; or
  - (2) One hundred dollars (\$100) or ten percent (10%) of the organization's renewal fee, whichever amount is greater, if the organization is seeking a reissuance of a license.

# What has stayed the same

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- General powers and duties of the Commission (IC 4-32.3-3)
- Authority of the Commission to determine an organization's suitability and fitness for licensure (IC 4-32.3-4-2)
- Investigatory authority of the Commission (IC 4-32.3-7)
- Disciplinary process to address bad actors (IC 4-32.3-8)
  - IC 4-32.3-8-1(a): The commission may suspend or revoke the license of or levy a civil penalty against a qualified organization, a manufacturer, a distributor, or an individual under this article for any of the following:
    - (1) Violation of:
      - (A) a provision of this article, IC 35-45-5-3, IC 35-45-5-3.5, IC 35-45-5-4, or a rule of the commission; or
      - (B) any other local ordinance, state or federal statute, or administrative rule or regulation that would cause the commission to determine that the person is not of good moral character or reputation.
    - (2) Failure to accurately account for licensed supply.
    - (3) Failure to accurately account for sales proceeds from an event or activity licensed or permitted under this article.
    - (4) Commission of a fraud, deceit, or misrepresentation.
    - (5) Conduct prejudicial to public confidence in the commission.
    - (6) To ensure the integrity of charitable gaming in Indiana.

# New Application Forms

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- CG-Annual License Application (CG-AL)
- CG-Single License Application (CG-SL)
- CG-Festival License Application (CG-FES)
- CG-Annual Affiliate License Application (CG-AAL)
  - Formerly known as the CG-ACL (Annual Comprehensive License)
- CG-Expedited Application (CG-EXP)
- CG-Convention License Application (CG-CVN)

# New Financial Reporting Forms

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- CG-Annual License Financial Report or CG-AL FR (formerly CG-8)
- CG-Annual License Gross Receipts Report or CG-AL GR (formerly CG-21)
- CG-Single License Financial Report or CG-SL FR (formerly CG-9)
- CG-Single License Gross Receipts Report or CG-SL GR (formerly CG-22)
- CG-Annual Affiliate Financial Report or CG-AAL FR (formerly CG-30)
- CG-Annual Affiliate Gross Receipts Report or CG-AAL GR (formerly CG-32)

# For more information:

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Visit the Charity Gaming Division's website <https://www.in.gov/igc/2339.htm> for updates, announcements, educational materials, and to subscribe for email updates

Contact us at [CharityGaming@igc.in.gov](mailto:CharityGaming@igc.in.gov) or (317) 232-4646