

RESOLUTION 2006-60

A RESOLUTION ADOPTING AN EMERGENCY RULE REGARDING PATRON EXCLUSION

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. Pursuant to IC 4-33-4-3 and IC 4-22-2-37.1, the Commission has the authority to adopt emergency rules.
2. The procedure for exclusion of patrons is currently incomplete. 68 IAC 6-1-5 states that a "person who has been placed on any exclusion list may petition the commission, in writing, and request that his or her name be removed from the exclusion list. The procedure outlined in this rule shall govern petitions for removal from the exclusion list." However, there is no procedure outlined in the rule for removal from the exclusion list.
3. During the past six months, two patrons have contacted Commission staff asking to be removed from the exclusion list. Due to a provision allowing for petitions for removal from the exclusion list but an absence of any procedure following up on that provision, Commission staff has had no option but to tell the patrons that their requests must be put on hold indefinitely, thereby creating an emergent situation regarding the exclusion list. This emergency rule will provide a logical, consistent manner in which Commission staff will review and process requests for removal from the exclusion list.
4. The attached emergency amendments to 68 IAC 6-1 also provide the Commission with two additional mechanisms for dealing with violations of the exclusion list besides trespassing charges pressed by the licensees, to wit, forfeiture of any jackpots or prizes and a civil fine for an exclusion violation. In recent months, Commission staff has been alerted to incidents of excluded patrons boarding licensed casinos and winning jackpots or other prizes. Because the existing rule has no forfeiture or fine provision, the Commission has no ability to seize ill-gotten prizes and has only limited ability to discourage excluded patrons from violating their exclusions.
5. In addition to incidents of excluded patrons winning prizes, Commission staff recently was alerted to a situation at one of the state's licensed casinos where an excluded patron's jackpot was mistakenly withheld by casino personnel because of confusion over whether the forfeiture rules applied to excluded patrons as well as Voluntary Exclusion Program participants. This situation has alerted Commission staff to the emergent need for a clear rule on forfeiture.
6. Pursuant to IC 4-33-4-3(a)(8), the Commission finds that the need for an amendment to the rule regarding the exclusion list is immediate and substantial such that the rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need, and that the attached emergency rule is likely to address that need.

7. While the proposed emergency rule is in effect, the Commission will proceed with the formal rulemaking procedures set forth in IC 4-22-2 so that the new rule may be formally adopted before the emergency rule expires.
8. Once adopted by the Commission, the Commission staff will follow appropriate procedures to publish the emergency rule. The emergency rule will become effective upon filing with the Legislative Services Agency, and will continue to be effective for ninety (90) days thereafter. If necessary, the Commission will renew the effectiveness of the emergency rule for an additional ninety (90) days pending completion of the formal promulgation process.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE

This resolution applies to Commission members, employees and agents, each riverboat licensee, each occupational licensee, each riverboat patron, and any other individual who may be involved with an excluded patron or the exclusion list at any time.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF THE EMERGENCY RULE

Pursuant to IC 4-22-2-37.1, the Commission adopts the attached rule regarding patron exclusion as an emergency rule for the initial ninety (90) day period as well as for the optional ninety (90) day extension period. The Commission further adopts any stylistic, grammatical, typographical, or other non-substantive changes that the Commission or the Legislative Services Agency may make to this emergency rule. The Commission shall submit the rule to the Publisher of the Indiana Register and the Indiana Administrative Code for the assignment of a document control number and then shall submit the emergency rule to the Legislative Services Agency for filing.

SECTION 4: EFFECTIVE DATE

The emergency rule adopted in section 3 of this resolution is to become effective upon acceptance for filing by the Legislative Services Agency.

SECTION 5: EXPIRATION DATE

This resolution expires upon the final expiration of the emergency rule adopted herein.

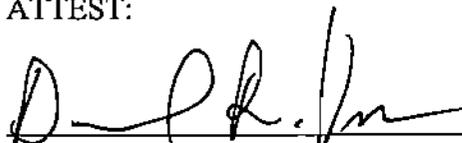
ADOPTED, THIS THE 14TH DAY OF SEPTEMBER, 2006.

THE INDIANA GAMING COMMISSION:



William W. Barrett, Chair

ATTEST:



Donald R. Vowels, Secretary