

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule¹

LSA DOCUMENT # 24-

DIGEST

Adds 68 IAC 24-7 regarding fighting sports. Statutory authority: IC 4-33-22-12.

68 IAC 24-7

SECTION 1. 68 IAC 24-7 IS ADDED TO READ AS FOLLOWS

Rule 24-7 FINES REGARDING FIGHTING SPORTS

68 IAC 24-7-1 General Provisions

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 1. The purpose of this article is to establish a civil penalty schedule for violations of IC 4-33-22 or 68 IAC.

(Indiana Gaming Commission; 68 IAC 24-7-1)

68 IAC 24-7-2 Civil Penalty Amount

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 2. A civil penalty of five hundred dollars (\$500) shall be imposed by the commission for each violation that occurs under IC 4-33-22 or 68 IAC 24.

(Indiana Gaming Commission; 68 IAC 24-7-2)

68 IAC 24-7-3 Related Violations

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 3. When multiple separate, but substantially similar or related, violations are committed by a single, distinguishable act or failure to act, only one (1) of those violations may be subject to a civil penalty for that act. This subdivision is intended to avoid duplicating civil penalty assessment for violation of multiple provisions of the statute or rule that may be essentially the same or closely related. This subdivision is not intended to limit in any way civil penalty assessment for violations that are the result of more than one (1) distinguishable unrelated act or failure to act or a reoccurring violation.

(Indiana Gaming Commission; 68 IAC 24-7-3)

68 IAC 24-7-4 Penalty Mitigation

Authority: IC 4-33-22-12

Affected: IC 4-33-22

¹ DRAFT Rule posted in compliance with IC 4-22-2-19.6(f). DRAFT Rule subject to change pursuant to promulgation process outlined under IC art. 4-22.

Sec. 4. (a) The amount of a civil penalty may be adjusted downward to reflect particular mitigating factors. Some factors that may be considered are the following:

- (1) Good faith efforts of the licensee to comply or prevent the violation.**
- (2) Existence of written policies governing conduct.**
- (3) Cooperation by the licensee with the commission during the investigation process.**
- (4) The licensee's history of compliance.**
- (5) Remedial or corrective action taken by the licensee.**
- (6) Any other factor raised by the licensee for commission consideration as a mitigating to the violation.**

(Indiana Gaming Commission; 68 IAC 24-7-4)

68 IAC 24-7-5 Penalty Elevation

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 5. (a) The amount of a civil penalty may be adjusted upward to reflect particular aggravating factors. Some factors that may be considered are the following:

- (1) Willful or intentional misconduct.**
- (2) Repeated violations in multiple rolling six month periods.**
- (3) Obstruction or failure to comply with the commission's investigation.**
- (4) Fraudulent conduct.**
- (5) Whether the violation resulted in injury or a victim.**
- (6) Failure to pay the full amount of any previously mitigated, agreed upon civil penalty.**
- (7) Any other factor determined by the commission to be an aggravating factor.**

(b) Should an aggravating factor be identified, the corresponding fine may be increased by the commission. The commission may assess a fine in any amount, up to and including double the per violation fine.

(c) The commission shall outline applicable aggravating factors in the notice described in Section 7.

(Indiana Gaming Commission; 68 IAC 24-7-5)

68 IAC 24-7-6 Assessment of Civil Penalty Not Required

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 6. (a) Nothing in this article shall require the commission to assess a civil penalty for a violation.

(b) The commission may initiate any of the following enforcement actions for a violation instead of or in addition to a civil penalty:

- (1) A disciplinary letter.**
- (2) A license:**
 - (A) denial;**
 - (B) restriction;**
 - (C) suspension;**
 - (D) refusal to renew; or**
 - (E) revocation.**
- (4) Referral for criminal prosecution.**
- (5) Referral to another appropriate agency.**
- (6) Corrective action plan.**

(Indiana Gaming Commission; 68 IAC 24-7-6)

68 IAC 24-7-7 Notification of Legal Recourse

Authority: IC 4-33-22-12

Affected: IC 4-33-22

Sec. 7. (a) The commission shall notify in writing each licensee on whom a civil penalty may be imposed. This notification shall include the date and nature of the violation, including legal citation.

(b) In response, the licensee may provide any mitigating factors for commission consideration. Pursuant to IC 4-22-2-19.6(b) and 68 IAC 13-1-18, the parties may enter into a settlement determine the fine or civil penalty to be paid for a violation.

(Indiana Gaming Commission; 68 IAC 24-7-7)

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