

IC 4-35-4

Chapter 4. Powers and Duties of the Indiana Gaming Commission

IC 4-35-4-1

Administration, regulation, and enforcement of slot machine wagering at racetracks

Sec. 1. (a) The commission shall regulate and administer gambling games conducted by a licensee under this article.

(b) The commission has the following powers and duties for the purpose of administering, regulating, and enforcing the system of gambling games at racetracks authorized 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 gambling game operations in Indiana.
 - (B) All persons at racetracks where gambling games are conducted.
- (4) The power to investigate and reinvestigate applicants and licensees and determine the eligibility of applicants for licenses.
- (5) The power to take appropriate administrative enforcement or disciplinary action against a licensee.
- (6) The power to investigate alleged violations of this article.
- (7) The power to conduct hearings.
- (8) The power to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other relevant documents.
- (9) The power to administer oaths and affirmations to the witnesses.
- (10) The power to prescribe forms to be used by licensees.
- (11) The power to revoke, suspend, or renew licenses issued under this article.
- (12) The power to hire employees to gather information, conduct investigations, and carry out other tasks under this article. The employees hired by the commission under this article may be the same as the commission's employees hired under IC 4-32.2 or IC 4-33.
- (13) The power to take any reasonable or appropriate action to enforce this article.

(c) The commission may by resolution assign to the executive director any duty imposed upon the commission by this article.

(d) The executive director shall perform the duties assigned to the executive director by the commission. The executive director may exercise any power conferred upon the commission by this article that is consistent with the duties assigned to the executive director under subsection (c).

As added by P.L.233-2007, SEC.21.

IC 4-35-4-2

Rules; violations; fees and penalties; voluntary exclusion program

Sec. 2. (a) The commission shall do the following:

(1) Adopt rules under IC 4-22-2 that the commission determines are necessary to protect or enhance the following:

(A) The credibility and integrity of gambling games authorized under 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 imposed under this article, and deposit the license fees in the state general fund.

(4) Levy and collect penalties for noncriminal violations of this article and deposit the penalties in the state general fund.

(5) Approve the design, appearance, aesthetics, and construction of gambling game facilities authorized under this article.

(6) 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.

(7) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(8) Establish the requirements for a power of attorney submitted under IC 4-35-5-9.

(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)(6) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(6).

(c) Rules adopted under subsection (a)(7) 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 facility at which gambling games are conducted or another 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.233-2007, SEC.21. Amended by P.L.142-2009, SEC.18; P.L.255-2015, SEC.24.

IC 4-35-4-3

Rules

Sec. 3. The commission shall adopt rules under IC 4-22-2 for the following purposes:

- (1) Administering this article.
- (2) Establishing the conditions under which gambling games at racetracks may be conducted.
- (3) Providing for the prevention of practices detrimental to the public interest.
- (4) Establishing rules concerning the inspection of gambling game facilities at racetracks and the review of the licenses necessary to conduct gambling games under this article.
- (5) Imposing penalties for noncriminal violations of this article.

As added by P.L.233-2007, SEC.21.

IC 4-35-4-4

Gaming agent duties

Sec. 4. The commission shall be present through the commission's gaming agents during the time gambling games are being conducted at a racetrack to do the following:

- (1) Certify the revenue received by a racetrack from gambling games.
- (2) Receive complaints from the public concerning the operation of gambling games.
- (3) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

As added by P.L.233-2007, SEC.21.

IC 4-35-4-5

Gaming agents; salaries and expenses; worker's compensation fee

Sec. 5. (a) As used in this section, "salaries and other expenses" does not include payments, rights, or benefits available to an employee under IC 22-3-2 through IC 22-3-7.

(b) Gaming agents and staff required to support the gaming agents are employees of the commission and are not considered to be employees of licensees.

(c) The commission shall employ gaming agents to perform duties imposed by this article. A licensee shall, under rules adopted by the commission under IC 4-22-2, reimburse the commission for:

- (1) training expenses incurred to train gaming agents;
- (2) salaries and other expenses of staff required to support the gaming agents; and
- (3) salaries and other expenses of the gaming agents required to be present during the time gambling games are being conducted at a racetrack.

(d) This subsection applies to a state fiscal year beginning after June 30, 2016. Each licensee shall annually pay a special worker's compensation coverage fee of twelve thousand dollars (\$12,000) to the commission to be used exclusively to assist the commission in offsetting potential state expenses incurred under IC 22-3-2 through IC 22-3-7 by gaming agents and staff required to support the gaming agents.

(e) This section is subject to section 5.1 of this chapter.

As added by P.L.233-2007, SEC.21. Amended by P.L.72-2016, SEC.3.

IC 4-35-4-5.1

Application of 2016 amendments

Sec. 5.1. (a) Section 5 of this chapter, as in effect before July 1, 2015, applies to an injury or occupational disease occurring before July 1, 2015.

(b) Section 5 of this chapter, as amended during the 2016 session of the general assembly, applies to an injury or occupational disease occurring after June 30, 2015.

As added by P.L.72-2016, SEC.4.

IC 4-35-4-6

Contract with Indiana horse racing commission authorized

Sec. 6. The commission may enter into a contract with the Indiana horse racing commission for the provision of services necessary to administer this article.

As added by P.L.233-2007, SEC.21.

IC 4-35-4-7

Licensing standards

Sec. 7. (a) The commission shall adopt standards for the licensing

of the following:

- (1) Persons regulated under this article.
- (2) Gambling games.
- (3) Limited mobile gaming systems and mobile gaming devices.
- (b) Where applicable, 68 IAC applies to racetracks conducting gambling games under this article.

As added by P.L.233-2007, SEC.21. Amended by P.L.229-2013, SEC.31; P.L.255-2015, SEC.25.

IC 4-35-4-8

Records of licensee

Sec. 8. The commission shall require that the records, including financial statements, of a licensee must be maintained in the manner prescribed by the commission.

As added by P.L.233-2007, SEC.21.

IC 4-35-4-9

Ejection or exclusion from facilities

Sec. 9. (a) The commission may eject or exclude or authorize the ejection or exclusion of a person from a facility at which gambling games are conducted if:

- (1) the person's name is on the list of persons voluntarily excluding themselves from all facilities at which gambling games are conducted 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 a facility at which gambling games are conducted may:
 - (A) call into question the honesty and integrity of the gambling games at racetracks; or
 - (B) interfere with the orderly conduct of the gambling games at racetracks.

(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.233-2007, SEC.21.

IC 4-35-4-10

Violations of article; fraudulent acts

Sec. 10. If a licensee or an employee of a licensee 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.
- (2) Require the removal of a licensee or an employee of a licensee.
- (3) 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 daily gross receipts for the day of the violation;
against a licensee for each violation of this article.
- (4) 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.233-2007, SEC.21.

IC 4-35-4-11

Investigative procedures; complaints

Sec. 11. (a) The commission shall review and make a determination on a complaint by a licensee concerning an investigative procedure that the licensee alleges is unnecessarily disruptive of gambling games at racetracks.

(b) A licensee 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 games at racetracks.

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

As added by P.L.233-2007, SEC.21.

IC 4-35-4-12

Display of toll free telephone number

Sec. 12. (a) The commission shall require a licensee 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 facility at which gambling games are conducted, if tickets are issued.
- (2) On a poster or placard that is on display in a public area of each facility at which gambling games at racetracks are conducted.

(b) The commission may adopt rules under IC 4-22-2 necessary to carry out this section.

As added by P.L.233-2007, SEC.21.

IC 4-35-4-13

Prohibition of fee for proposed transfer of ownership

Sec. 13. The commission may not do the following:

- (1) Impose, charge, or collect by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a license issued under IC 4-35-5.
- (2) Make the commission's approval of a proposed transfer of an ownership interest in a license issued under IC 4-35-5 contingent upon the payment of any amount that is not authorized by this article.

As added by P.L.182-2009(ss), SEC.61.

IC 4-35-4-13.2

Model power of attorney

Sec. 13.2. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling games at a racetrack under IC 4-35-12. 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.19.

IC 4-35-4-14

Appointment of temporary trustee

Sec. 14. (a) The commission may appoint a temporary trustee for a particular gambling game facility at a racetrack if the commission makes the following findings:

- (1) That circumstances requiring a trustee to assume control of the gambling game facility 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 gambling game facility.
- (3) That there is not enough time to consider and approve a power of attorney with respect to the gambling game facility 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 4-35-12.

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

- (1) The commission adopts a resolution under IC 4-35-12-3 authorizing a trustee appointed in an approved power of attorney submitted by the permit holder to conduct gambling games under IC 4-35-12.
- (2) The commission revokes the trustee's authority to conduct gambling games as provided by IC 4-35-12-12.
- (3) A new permit holder assumes control of the racetrack, gambling game facility, and related properties.

(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 13.2 of this chapter; and
- (2) IC 4-35-12.

As added by P.L.142-2009, SEC.20. Amended by P.L.255-2015, SEC.26.

IC 4-35-4-15

Civil penalties for violations concerning a power of attorney

Sec. 15. The commission may impose a civil penalty upon a

person who:

- (1) fails to submit a power of attorney before the deadline specified in IC 4-35-5-9;
- (2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-35-5-9; 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.21.

IC 4-35-4-16

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

Sec. 16. (a) The bureau shall provide information to a permit holder or trustee concerning persons who are delinquent in child support.

(b) If a permit holder or 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 from gambling games, the permit holder 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 permit holder 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 permit holder 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 the 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.6.