

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule

LSA DOCUMENT # 22-69

DIGEST

Adds 68 IAC 28 concerning new requirements for licensees and other persons subject to the jurisdiction of the commission. Effective 30 days after filing with the Publisher. Statutory authority: IC 4-33-4-3; IC 4-35-4-2.

68 IAC 28

SECTION 1. 68 IAC 28 IS ADDED TO READ AS FOLLOWS

ARTICLE 28. ADDITIONAL REQUIREMENTS FOR LICENSEES

Rule 1. General Provisions

68 IAC 28-1-1 Applicability

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33; IC 4-35

Sec. 1. This article applies to licensees, applicants, individuals, or persons subject to the jurisdiction and oversight of the commission pursuant to IC 4-33 and IC 4-35.

(Indiana Gaming Commission; 68 IAC 28-1-1)

68 IAC 28-1-2 Definitions

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33; IC 4-35

Sec. 2. All definitions contained within IC 4-33, IC 4-35, and 68 IAC apply to this article.

(Indiana Gaming Commission; 68 IAC 28-1-2)

68 IAC 28-1-3 Deviation from provisions

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33; IC 4-35

Sec. 3. The executive director may approve deviations from the provisions of this article upon written request if the executive director determines that:

(1) the requirement or procedure is impractical or burdensome; and

(2) the alternative means of satisfying the requirement or procedure:

(A) fulfills the purpose of IC 4-33 and IC 4-35;

(B) is in the best interest of the public and gaming in Indiana; and

(C) does not violate IC 4-33 and IC 4-35.

(Indiana Gaming Commission; 68 IAC 28-1-3)

Rule 2. Requirements

68 IAC 28-2-1 Level 1 licensure requirement

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC IC 4-33-8; IC 4-35-6.5

Sec. 1. (a) Any holder of an equity interest in a casino owner's licensee or applicant that is not publicly traded, or any holder of an equity interest in its substantial owner, with voting rights, regardless of equity percentage, is required to hold an occupational license Level 1. If the equity interest is held by an entity, the individual persons of that entity are subject to licensure as determined by the commission.

(b) The executive director may require Level 1 licensure of any person who holds an equity interest in a casino owner's licensee or applicant that is not publicly traded or that of its substantial owners, if the executive director determines that licensure is in the best interest of the public and the gaming industry in Indiana.

(Indiana Gaming Commission; 68 IAC 28-2-1)

68 IAC 28-2-2 Confidentiality

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 2. (a) The name and business address of a person with an equity interest in a casino owner's licensee or applicant, and its substantial owners, is not confidential.

(b) If the person holding the equity interest is an entity, the names of individual members or shareholders holding equity in the entity is not confidential.

(c) If the person holding the equity interest is a trust, the name of the trustee and any beneficiary is not confidential.

(d) If the person holding the equity interest is a partnership, the names of all partners, both general and limited, is not confidential.

(e) Notwithstanding any other law, upon written request from a person, the commission shall provide the aforementioned information to the person.

(Indiana Gaming Commission; 68 IAC 28-2-2)

68 IAC 28-2-3 Ledger requirement

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 3. (a) A casino owner's licensee or applicant, and its substantial owners, shall maintain a ledger, which shall at all times reflect:

- (1) the ownership of every class of security issued by the casino owner's licensee;**
- (2) the names, addresses, and number of shares held by all equity holders;**

- (3) the rights and privileges acquired by the holders of different classes of authorized securities, including debentures;**
- (4) the terms on which securities are to be offered;**
- (5) the terms and conditions of all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security device;**
- (6) the options existing or to be created; and**
- (7) any further financial data which the executive director or the commission may deem necessary or appropriate for the protection of the state of Indiana or licensed gambling, or both.**

(b) The ledger shall be available for inspection by the commission or the executive director, or the executive director's designee, at all reasonable times without notice. (Indiana Gaming Commission; 68 IAC 28-2-3)

68 IAC 28-2-4 Required charter provisions

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC IC 4-33-6; IC 4-35-5

Sec. 4. (a) A casino owner's licensee or applicant that is not publicly traded, and its substantial owners, shall adopt charter provisions which create the absolute right of the casino owner's licensee to repurchase or redeem any security, share, or other interest in the licensee, in the event:

- (1) a holder of equity in the casino owner's licensee is found to be unsuitable and is required to dispose of the holder's interest in a casino owner's license; or**
- (2) the casino owner's licensee or applicant determines ongoing association with the holder of the equity interest undermines the casino owner's licensee's suitability or ongoing compliance with commission statute and rules.**

(b) The casino owner's licensee or applicant that is not publicly traded, and its substantial owners, shall file with the commission such adopted charter provisions necessary to establish the right of the commission and the casino owner's licensee or applicant to repurchase or redeem securities, shares, or other interests in the casino owner's licensee or applicant, and its substantial owners, and the conditions for divestiture.

(c) In the event of repurchase or redemption in accordance with this section, the casino owner's licensee or applicant, and its substantial owners, shall immediately offer the security to the issuing corporation for purchase. The corporation shall repurchase or redeem the security so offered, for cash, within ten (10) days after the date of the offer.

(d) Beginning upon the date when the casino owner's licensee or applicant, or its substantial owners, or the commission, serves notice of repurchase pursuant to this section, the equity holder subject to the repurchase shall not:

- (1) receive any dividend or interest upon any such security;**

(2) exercise, directly or through any trustee or nominee, any voting right conferred by such security; or

(3) receive any remuneration in any form from the corporation, for services rendered or otherwise.

(Indiana Gaming Commission; 68 IAC 28-2-4)

68 IAC 28-2-5 Expenditures not allocated to casino gambling operation; voting rights

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 5. (a) Corporate expenditures not allocated to the casino gambling operation and in excess of two hundred fifty thousand dollars (\$250,000) of a casino owner's licensee or applicant, or its substantial owners, shall be reported to the commission quarterly.

(b) A casino owner's licensee or applicant, and its substantial owners, shall report the transfer or assignment of any voting rights to the commission within ten (10) days.

(c) A casino owner's licensee or applicant, and its substantial owners, must provide notice to the executive director not less than five (5) days prior to the transfer of ownership interest of less than five percent (5%).

(Indiana Gaming Commission; 68 IAC 28-2-5)

68 IAC 28-2-6 Independent director

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 6. Unless otherwise waived by the executive director, each casino owner's licensee or applicant shall have at least one (1) independent director.

(Indiana Gaming Commission; 68 IAC 28-2-6)

68 IAC 28-2-7 Approval for particular transactions

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 7. A casino owner's licensee or applicant, or its substantial owners, must have in place processes which have been approved by the board of directors for the following transactions:

(1) Single purchases of over fifty thousand dollars (\$50,000).

(2) Transactions that result in aggregate spend over fifty thousand dollars (\$50,000) with a single vendor.

(3) Any contract or agreement regarding employment, lobbying, government affairs, or settlement of claims over fifty thousand dollars (\$50,000).

(Indiana Gaming Commission; 68 IAC 28-2-7)

68 IAC 28-2-8 Submissions to the commission

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-35-5

Sec. 8. On or before a date specified by the commission, casino licensees and applicants shall submit to the commission the following:

- (1) The process by which commercial reasonableness of purchases is determined.**
- (2) Internal controls for the allocation of marketing expenses.**
- (3) Procedures for addressing employee complaints, including whistleblower protection.**
- (4) Procedures for the commencement and conducting of corporate or internal investigations.**
- (5) A code of business conduct and ethics, corporate government guidelines, and documents related to audit and compliance committees and related functions.**

(Indiana Gaming Commission; 68 IAC 28-2-8)

68 IAC 28-2-9 Prohibitions for Level 1 occupational licensees

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-8; IC 4-35-6.5

Sec. 9. (a) Level 1 occupational licensees and their immediate family members, as defined by 68 IAC 1-1-48, living in a Level 1 occupational licensee's household, are prohibited from gambling at a casino where the Level 1 occupational licensee is affiliated with or employed, or at any Indiana casino owned or operated by the same or affiliated company.

(b) Level 1 occupational licensees are prohibited from utilizing the casino cage to conduct any kind of financial transaction unless it is a function of the licensee's job duties as approved by the commission.

(c) Level 1 occupational licensees are prohibited from conducting currency transactions with:

- (1) any employee of the casino gambling operation; or**
- (2) any supplier or vendor of the casino gambling operation for which the Level 1 occupational licensee is licensed.**

(Indiana Gaming Commission; 68 IAC 28-2-9)

68 IAC 28-2-10 Cash on hand reporting

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-8; IC 4-35-6.5

Sec. 10. (a) Level 1 occupational licensees or applicants must report to the commission, within three (3) business days, whenever their cash on hand is in excess of fifty thousand dollars (\$50,000).

(b) Subsequent increases to cash on hand of twenty thousand dollars (\$20,000) or greater must also be reported to the commission within seven (7) business days.

(c) "Cash on hand" is defined as any currency on the licensee's person or readily available, not residing within the licensee's personal accounts.

(Indiana Gaming Commission; 68 IAC 28-2-1)

68 IAC 28-2-11 Lobbying interest

Authority: IC 4-33-4-3; IC 4-35-4-2

Affected: IC 4-33-6; IC 4-33-7; IC 4-33-8; IC 4-33-10-2.1; IC 4-35-5; IC 4-35-6.5

Sec. 11. (a) If any of the following has an interest in or employment from a lobbying firm, the licensee or applicant is required to establish that such relationship does not violate IC 4-33-10-2.1:

(1) Casino owner's licensee or applicant.

(2) Supplier licensee or applicant.

(3) Occupational licensee or applicant, if the person holds one percent (1%) interest or is an officer.

(4) Substantial owner of a casino owner or supplier licensee or applicant, if the person holds one percent (1%) interest or is an officer.

(5) Persons with direct interest in a casino owner or supplier licensee or applicant, if the person holds one percent (1%) interest or is an officer.

(6) Persons with an indirect interest in a casino owner or supplier licensee or applicant without the prior approval of the executive director, if the person holds one percent (1%) interest or is an officer.

(b) Compliance with IC 4-33-10-2.1 shall be a factor the commission evaluates in determining suitability.

(Indiana Gaming Commission; 68 IAC 28-2-11)