

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule¹

LSA DOCUMENT # 24-

DIGEST

Adds 68 IAC 26-11 regarding Paid Fantasy Sports. Effective 30 days after filing with the Publisher.
Statutory authority: IC 4-33-24-13.

68 IAC 26-11

SECTION 1. 68 IAC 26-11 IS ADDED TO READ AS FOLLOWS

Rule 26-11 CIVIL PENALTIES

68 IAC 26-11-1 Penalty Amount

Authority: IC 4-33-24-13.

Affected: IC 4-33-24

Sec. 1. (a) For violations that occur under IC 4-33-24-21 through 25 or under 68 IAC 26-5, a civil penalty in the amount of one thousand dollars (\$1,000) shall be assessed for each particular violation.

(b) For all other violations occurring under IC 4-33-24 or 68 IAC 26, a civil penalty in the amount of five hundred dollars (\$500) shall be assessed for each particular violation.

(Indiana Gaming Commission; 68 IAC 26-11-1)

68 IAC 26-11-2 Assessment of Civil Penalty

Authority: IC 4-33-24-13.

Affected: IC 4-33-24

Sec. 2. For purposes of assessing civil penalties, the commission shall comply with the following:

(1) When substantially similar 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.

(2) When civil penalty assessment procedures outlined in subdivision 1 are being followed, the commission shall utilize the appropriate violation with the highest penalty listed on the schedule.

(Indiana Gaming Commission; 68 IAC 26-11-2)

68 IAC 26-11-3 Mitigating Factors

Authority: IC 4-33-24-13.

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.

Affected: IC 4-33-24

Sec. 3. (a) The amount of a civil penalty may be adjusted downward to reflect mitigating factors. Some factors that may be considered are the following:

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

(Indiana Gaming Commission; 68 IAC 26-11-3)

68 IAC 26-11-4 Aggravating Factors

Authority: IC 4-33-24-13.

Affected: IC 4-33-24

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

- (1) Willful or intentional misconduct.**
- (2) Repeat 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 financial harm to a game participant.**
- (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 civil penalty may be increased by the commission. In instances where an aggravating factor is applicable to violations, the commission may assess a fine in amount of one thousand dollars (\$1,000) for each particular violation.

(c) The commission shall outline applicable aggravating factors in the notice described in Section 6.

(Indiana Gaming Commission; 68 IAC 26-11-4)

68 IAC 26-11-5 Assessment of Civil Penalty Not Required

Authority: IC 4-33-24-13.

Affected: IC 4-33-24

Sec. 5. (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 outlined 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 26-11-5)

68 IAC 26-11-6 Notification of Legal Recourse

Authority: IC 4-33-24-13.

Affected: IC 4-33-24

Sec. 6. (a) The commission shall notify in writing each game operator on whom a civil penalty is being assessed. This notification shall include the date and nature of the violation, including legal citation.

(b) In response, the game operator 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 discussion to determine the fine or civil penalty to be paid for a violation.

(Indiana Gaming Commission; 68 IAC 26-11-6)

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