

ARTICLE 13. SEIZURE, FORFEITURE, AND DISCIPLINARY HEARINGS

Rule 1. Seizure, Forfeiture, and Disciplinary Hearings

68 IAC 13-1-1 Coverage of rule

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3-9

Sec. 1. (a) All commission licensees have a continuing duty to maintain suitability for licensure. A commission license does not create a property right, but is a revocable privilege contingent upon continuing suitability for licensure.

(b) The commission may initiate an investigation or a disciplinary action, or both, against a licensee about whom the commission has reason to believe at least one (1) of the following:

- (1) The licensee is not maintaining suitability for licensure.
- (2) The licensee is not complying with licensure conditions.
- (3) The licensee is not complying with the Act or this title.

(c) The commission may initiate an investigation or a disciplinary action, or both, against a licensee that the commission has reason to believe has engaged in a fraudulent act.

(d) As used in this rule, "respondent" means the person against whom a disciplinary or seizure and forfeiture action has been initiated.

(e) The commission shall appoint an administrative law judge in accordance with IC 4-21.5-3-9 and IC 4-33-3-23 to conduct a hearing after a complaint has been filed under section 3 of this rule.

(f) The respondent shall submit an original and two (2) copies of any pleading or other written document submitted to the commission or the administrative law judge, or both.

(g) The respondent and the commission must attach a certificate of service to each pleading. The certificate of service shall indicate that the pleading has been served on each attorney or party of record.

(h) A disciplinary action under this rule must also comply with IC 4-21.5-3. (*Indiana Gaming Commission; 68 IAC 13-1-1; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1036; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-2 Rights of respondents

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 2. In a disciplinary or seizure and forfeiture hearing, the respondent is entitled to the following:

(1) Proper notice of all allegations contained in the complaint.

(2) The ability to confront the evidence presented against the respondent, including, but not limited to, the right to the following:

- (A) Counsel at respondent's expense.
- (B) Present a defense and participate fully in the proceeding.
- (C) Call witnesses.
- (D) Request the issuance of subpoenas under section 9 of this rule.
- (E) Cross-examine witnesses testifying against the respondent.
- (F) Submit legal arguments.
- (G) Participate fully in the proceeding.

(*Indiana Gaming Commission; 68 IAC 13-1-2; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1036; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-3 Complaints

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5; IC 4-33

Sec. 3. (a) If the commission becomes aware of facts sufficient to support a seizure and forfeiture of a gaming device under the Act and 68 IAC 2-6 or a disciplinary action against an applicant or a licensee under the Act or this title, the commission may,

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after investigation, order the seizure and forfeiture of the gaming device or may initiate a disciplinary action against a licensee.

(b) The seizure and forfeiture of a gaming device or a disciplinary action will be initiated by the filing of a complaint with the commission.

(c) The complaint shall meet the following requirements:

(1) Be in writing.

(2) State the name of the respondent. State the address and telephone number of the respondent that are on file with the commission.

(3) Identify the gaming device that is the subject matter of the seizure and forfeiture action.

(4) State in detail the reasons why and the facts upon which the commission will rely to show that the respondent should be disciplined or that the gaming device should be seized and forfeited.

(5) Have a title and case number assigned to the matter.

(6) All complaints shall be signed and dated by the executive director or the executive director's designee.

(7) Be accompanied by a certificate of service indicating the date of service in accordance with IC 4-21.5.

(Indiana Gaming Commission; 68 IAC 13-1-3; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)

68 IAC 13-1-4 Answer

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3-1; IC 4-21.5-3-24; IC 4-33

Sec. 4. (a) The respondent shall file an answer within twenty (20) days of service of the complaint.

(b) The respondent may submit an answer in accordance with IC 4-21.5-3-1.

(c) An answer shall meet the following requirements:

(1) Be in writing.

(2) Contain an admission or denial of each factual allegation contained in the complaint.

(3) Set forth any affirmative defense that the respondent wishes to plead.

(4) All answers shall be signed, verified, and dated by the respondent. Such verification shall be notarized and shall include a certification stating, "Under the penalty of perjury, the undersigned has examined the answer and to the best of my knowledge and belief, it is true, complete, and correct."

(d) Default judgment or dismissal may result at any stage of the proceeding in accordance with IC 4-21.5-3-24. If a party fails to take action for which it is responsible for a period of sixty (60) days, default judgment shall be entered against the party or the case shall be dismissed. *(Indiana Gaming Commission; 68 IAC 13-1-4; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)*

68 IAC 13-1-5 Appearances; service

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 5. A respondent may represent himself or herself or may be represented by an attorney or representative who is in compliance with 68 IAC 1-6. Service shall be made in accordance with 68 IAC 1-6-4(c). *(Indiana Gaming Commission; 68 IAC 13-1-5; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)*

68 IAC 13-1-6 Hearings

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 6. (a) A hearing conducted under this rule is open to the public. Witnesses may, however, be excluded or sequestered.

(b) Hearings shall be held in Indianapolis, Indiana, unless for good cause stated in an open meeting, the commission designates another place for the hearing.

(c) Unless precluded by law or objected to by a party, the commission may allow informal disposition of a proceeding without

a hearing, including, but not limited to, the following:

- (1) Disposition by stipulation.
- (2) Agreed settlement.
- (3) Consent order.

(Indiana Gaming Commission; 68 IAC 13-1-6; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)

68 IAC 13-1-7 Administrative law judges

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 7. (a) One (1) commission member acting as an administrative law judge under IC 4-33 and IC 4-21.5-3 or an administrative law judge appointed under IC 4-21.5-3 may serve as the administrative law judge for a commission proceeding.

(b) The commission member or administrative law judge may do any of the following:

- (1) Issue subpoenas to compel the attendance of witnesses and the production of papers and documents.
- (2) Authorize the taking of depositions.
- (3) Administer oaths.
- (4) Receive evidence under section 16 of this rule.
- (5) Rule on amendment to pleadings and the admissibility of evidence.
- (6) Exclude, sequester, and examine witnesses.
- (7) Set reasonable time frames within which a party may present evidence and within which a witness may testify.
- (8) Permit and set limits on oral argument.
- (9) Issue interim orders.
- (10) Establish dates and times for all hearings.
- (11) Recess a hearing from day to day and place to place.
- (12) Request briefs before or after the commission member or administrative law judge files written recommendations, findings of fact, and conclusions of law.
- (13) Perform other duties necessary to ensure the parties are provided a fair and proper hearing.

(c) The commission member serving as an administrative law judge or administrative law judge of a proceeding must comply with the requirements of IC 4-21.5-3. *(Indiana Gaming Commission; 68 IAC 13-1-7; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1037; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)*

68 IAC 13-1-8 Discovery

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 8. (a) Upon written request served on a party, the requesting party shall be entitled to the following:

(1) The name and address of any witness who may be called to testify on behalf of a party. The parties shall be under a continuing duty to update this list.

(2) All documents or other materials in the possession or control of a party that the party reasonably expects will be necessary to introduce into evidence. The respondent's burden of production includes those documents the respondent reasonably expects to introduce into evidence in the respondent's case-in-chief.

(b) Discovery may be obtained in accordance with rule 28(F) of the Indiana Rules of Trial Procedure. Witnesses and documents responsive to a proper request for production that were not produced shall be excluded from the hearing and additional sanctions or penalties may be imposed.

(c) The parties shall make every effort to resolve disputes regarding discovery. Disputes that are unresolved may be brought to the administrative law judge for resolution via:

- (1) a motion to compel;
- (2) a motion for protective order; or
- (3) other appropriate motion;

under the Indiana Rules of Trial Procedure. The disputed discovery is stayed on the disputed matter during the pendency of such motion unless the administrative law judge orders discovery to continue. Discovery shall be stayed for a period of not more than ten (10) days. The administrative law judge may extend the time during which discovery is stayed upon a showing of good cause. The filing of such a motion shall not extend the time to complete discovery, nor provide cause for a continuance of the hearing on the merits, unless the administrative law judge orders an extension or continuance. (*Indiana Gaming Commission; 68 IAC 13-1-8; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1038; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-9 Subpoenas

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3-22; IC 4-33

Sec. 9. All subpoenas shall be issued in accordance with IC 4-21.5-3-22. (*Indiana Gaming Commission; 68 IAC 13-1-9; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1038; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-10 Prehearing conferences

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 10. An administrative law judge shall schedule a prehearing conference at the request of either party or on the administrative law judge's own initiative on any matters deemed necessary to facilitate the disciplinary hearing, seizure, and forfeiture hearing, or both. (*Indiana Gaming Commission; 68 IAC 13-1-10; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1038; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-11 Motions for summary judgment and other appropriate motions

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 11. (a) The administrative law judge may recommend a directed finding or summary judgment upon the filing of an appropriate motion by any party. These motions shall be made in compliance with the Indiana Rules of Trial Procedure and IC 4-21.5-3.

(b) The administrative law judge may hear arguments on the motion for summary judgment or other appropriate motion. The administrative law judge may require the parties to brief their positions in support of or against the motion for summary judgment or other appropriate motion. (*Indiana Gaming Commission; 68 IAC 13-1-11; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1038; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-12 Depositions

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 12. All depositions must be conducted in accordance with the Indiana Rules of Trial Procedure. (*Indiana Gaming Commission; 68 IAC 13-1-12; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1039; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-13 Continuances

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 13. (a) A motion to continue a hearing or deposition must be made at least ten (10) days before the hearing or deposition date unless the requesting party can show good cause.

(b) Continuances may be granted by the administrative law judge upon a showing of good cause.

(c) The administrative law judge may order a continuance of a hearing on the administrative law judge's own initiative.

(Indiana Gaming Commission; 68 IAC 13-1-13; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1039; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)

68 IAC 13-1-14 Proceedings

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 14. (a) The burden of proof is at all times on the commission. The commission shall have the affirmative responsibility of establishing by a preponderance of the evidence that the respondent should be disciplined or the gaming device or gaming devices should be seized and forfeited.

(b) The respondent has the burden of proof to prove the allegations contained in any affirmative defense contained in the answer. The respondent shall have the affirmative responsibility of establishing the elements of an affirmative defense by a preponderance of the evidence.

(c) Any testimony shall be given under oath or affirmation. The administrative law judge or recorder shall be authorized to administer oaths.

(d) Both parties may present an opening statement on the merits. The commission proceeds first followed by the respondent. The respondent may not reserve opening statement for a later time. The administrative law judge may determine the length of time each party is permitted for the presentation of an opening statement.

(e) The commission shall then present the commission's case-in-chief.

(f) Upon conclusion of the commission's case-in-chief, the respondent may move for a directed finding. The administrative law judge may hear arguments on the motion or may grant, deny, or reserve any decision thereon, with or without argument.

(g) If no motion for directed finding is made, or if such motion is denied or decision reserved thereon, the respondent may present its case.

(h) Each party may conduct cross-examination of adverse witnesses.

(i) Upon conclusion of the respondent's case, the commission may present evidence in rebuttal.

(j) The administrative law judge may ask questions of the witnesses and may request or allow additional evidence at any time, including additional rebuttal evidence.

(k) Both parties may present closing argument. The commission proceeds first, then the respondent, and, thereafter, the commission may present rebuttal argument. The administrative law judge may determine the length of time each party is permitted for the presentation of closing argument.

(l) The administrative law judge may require or allow the parties to submit posthearing briefs, and findings of fact and conclusions of law within ten (10) days of the conclusion of the hearing or within such other time period the administrative law judge might order. *(Indiana Gaming Commission; 68 IAC 13-1-14; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1039; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)*

68 IAC 13-1-15 Behavior

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 15. (a) Each party, witness, attorney, or other representative shall behave in all commission hearings and proceedings with dignity, courtesy, and respect for the commission, the administrative law judge, and all participants to the proceeding.

(b) An individual who violates this section may be excluded from the hearing or proceeding by the commission member or administrative law judge. *(Indiana Gaming Commission; 68 IAC 13-1-15; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1039; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)*

68 IAC 13-1-16 Evidence

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3-26; IC 4-33

Sec. 16. (a) The hearing shall be conducted in accordance with IC 4-21.5-3-26.

(b) A respondent must afford the commission an opportunity to investigate and verify information or documents that the respondent intends to offer in support of his or her case. The respondent shall not be permitted to introduce into evidence any information or documents that the commission has not been afforded the opportunity to investigate and verify.

(c) The parties shall, to the fullest extent possible, stipulate all matters that are or should not be in dispute.

(d) The parties may make objections to evidentiary offers. When an objection is made, the administrative law judge may receive the disputed evidence subject to a ruling at a later time.

(e) The administrative law judge may take official notice of any generally accepted information or technical or scientific matter within the field of gaming and any other fact that may be judicially noticed by courts of Indiana. The parties shall be informed of any information, matters, or facts so noticed and shall be given reasonable opportunity to refute such evidence. (*Indiana Gaming Commission; 68 IAC 13-1-16; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1039; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-17 Transmittal of record and recommendation to the commission

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 17. (a) The record shall consist of those items set forth in IC 4-21.5-3-33.

(b) Oral proceedings involving contested issues shall be recorded stenographically or by such other means as to adequately ensure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party. The transcript shall be paid for by the requesting party.

(c) Within ninety (90) days of the conclusion of the hearing, or the submission of posthearing briefs or proposed findings of fact under section 14(l) of this rule, the administrative law judge shall issue to the commission written findings of fact, conclusions of law, and recommendations. Findings of fact shall be based exclusively on testimony, evidence, and matters within the record. The findings of fact shall be stated separately and be in accordance with IC 4-21.5-3-27 and IC 4-21.5-3-28. The parties may file objections to the written findings of fact, conclusions of law, and recommendations issued by the administrative law judge in accordance with IC 4-21.5-3-29.

(d) Requirements for a final commission order shall be as follows:

(1) The commission shall review the entire record and shall render a written order, including the basis for its decision. The commission may require that the parties present oral argument before the commission. The commission may take any of the following actions:

(A) The commission may affirm the written recommendations, findings of fact, and conclusions of law submitted by the administrative law judge as its final commission order.

(B) The commission may modify the written recommendations, findings of fact, and conclusions of law submitted by the administrative law judge.

(C) The commission may dissolve the written recommendations, findings of fact, and conclusions of law submitted by the administrative law judge.

(D) The commission may remand the matter, with instructions, to the administrative law judge for further proceedings.

(E) In the absence of an objection or notice by the commission to review any issue relating to the written recommendations, findings of fact, and conclusions of law submitted by the administrative law judge, the commission shall affirm the written recommendations, findings of fact, and conclusion of law.

(F) The written order shall be issued by the commission, or the proceeding shall be remanded to the administrative law judge for further proceedings within sixty (60) days of the later of:

(i) the date that the written recommendations, findings of fact, and conclusions of law were issued under subsection (c);

(ii) the receipt of briefs or proposed findings of fact; or

(iii) the close of oral argument;

unless the period is waived or extended with the written consent of all parties or for good cause shown.

(2) Copies of the final commission order shall be served on the respondent by personal delivery or certified mail.

(3) A final commission order shall become effective upon personal delivery to the petitioner or upon posting of certified mail.

(4) The findings of fact shall be stated separately, and be in accordance with IC 4-21.5-3-27, IC 4-21.5-3-28, and IC 4-21.5-3-29.

(5) The commission may modify the final order in accordance with IC 4-21.5-3-31. (*Indiana Gaming Commission; 68 IAC 13-1-17; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1040; errata filed Apr 9, 1996, 12:15 p.m.: 19 IR 2044; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-18 Settlement offers

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 18. (a) The parties may propose settlement offers to the administrative law judge or the commission at any stage of the proceedings where time, the nature of the proceeding, and public interest permit. Such offers may be made at any time prior to the final disposition of the action, including prior to the initiation of the proceedings. The commission or the administrative law judge may require that any of the parties to the offer make an oral or written presentation to the administrative law judge or the commission regarding the settlement offer.

(b) Settlement agreements shall meet the following requirements:

- (1) Be in writing.
- (2) Be signed by the parties to the settlement offer.
- (3) Be consistent with the provisions and objectives of the law.
- (4) Accurately reflect all the terms of the settlement.
- (5) Be served on the commission at the commission's office in Indianapolis, Indiana, by hand delivery, certified mail, or overnight mail.
- (6) Be accompanied by a proposed order.

(c) If the commission votes to reject a settlement offer, the commission shall direct the executive director to notify the parties in writing, by certified mail or personal delivery, that the settlement offer was rejected. The offer and any documents relating to the offer shall not constitute a part of the record. (*Indiana Gaming Commission; 68 IAC 13-1-18; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1040; errata filed Apr 9, 1996, 12:15 p.m.: 19 IR 2044; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-19 Prohibition on ex parte communication

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 19. A party or its representative shall not communicate directly or indirectly with the administrative law judge regarding any pending matter, except upon notice and opportunity for all parties to participate. A party who does have ex parte communication with the administrative law judge may be subject to the sanctions and penalties set forth in section 20 of this rule. (*Indiana Gaming Commission; 68 IAC 13-1-19; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1041; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-20 Sanctions and penalties

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3
Affected: IC 4-21.5-3; IC 4-33

Sec. 20. (a) The administrative law judge may impose sanctions and penalties if the administrative law judge finds that a party has acted in bad faith, for the purpose of delay, or has otherwise abused the hearing process. Such sanctions and penalties include, but are not limited to:

- (1) default judgment or directed finding on one (1) or more issues; or
- (2) a fine.

(b) If a respondent fails to testify on the respondent's own behalf with respect to any question propounded to that person, the administrative law judge may infer therefrom that such testimony or answer would have been adverse to the case of the party refusing to testify.

(c) If the respondent or its agent fails to answer a subpoena or refuses to testify fully at the request of the commission, such failure may be deemed independent grounds for a finding that the gaming device should have been seized and forfeited or the respondent should be disciplined. The administrative law judge may also infer therefrom that such testimony would have been

adverse to the respondent.

(d) The unexcused failure of the respondent to appear at a hearing shall constitute an admission of all matters and facts contained in the notice of a seizure and forfeiture action, a disciplinary action, or both. In such case, the administrative law judge may take action based upon such admission or upon any other evidence, including affidavits, without any further notice to the respondent. (*Indiana Gaming Commission; 68 IAC 13-1-20; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1041; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-21 Actions available to the administrative law judge and the commission

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-3; IC 4-33

Sec. 21. (a) The commission may take any of the following actions in an action to seize and forfeit a gaming device:

- (1) Seize and forfeit any gaming device that does not comply with the Act or this title.
 - (2) Require the destruction or other appropriate disposal of any gaming device that does not comply with the Act or this title.
- Prior to the disposal of any gaming device, the commission shall:

- (A) take a photograph that demonstrates the nature of the gaming device; and
- (B) record an adequate description of the gaming device.

(3) Impose any appropriate action set forth in subsection (b) on a person who possesses any gaming device that does not comply with the Act or this title.

(b) The commission may take any of the following actions in a disciplinary action against a licensee:

- (1) Suspend, revoke, restrict, or place conditions on the license of a licensee.
- (2) Require the removal of a licensee or the employee of a licensee.
- (3) Impose a civil penalty of not more than the greater than ten thousand dollars (\$10,000) or an amount equal to the riverboat licensee's daily gross receipts for the day of the violation.
- (4) Impose a civil penalty of not more than five thousand dollars (\$5,000) against a supplier licensee for each violation of the Act or this title.
- (5) Impose a civil penalty of not more than five thousand dollars (\$5,000) against an occupational licensee for each violation of the Act or this title.
- (6) Any other action deemed necessary by the commission to ensure compliance with the Act or this title.

(*Indiana Gaming Commission; 68 IAC 13-1-21; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1041; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

68 IAC 13-1-22 Special proceedings

Authority: IC 4-33-3-23; IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-21.5-4; IC 4-33

Sec. 22. (a) The commission may suspend a license issued to a riverboat licensee without notice or hearing if the commission determines that the safety or health of patrons or employees would be threatened by the continued operation of the riverboat.

(b) If the commission determines that an emergency exists, the commission may suspend a riverboat owner's license, a supplier's license, or an occupational license by one (1) of the following procedures:

- (1) Without notice or an evidentiary proceeding, by any authorized individual or panel of individuals.
- (2) After a hearing conducted by an administrative law judge.

The resulting order must include a brief statement of the facts and the law that justifies the commission's decision to take the specific action under IC 4-21.5-4.

(c) A special proceeding under this section must comply with IC 4-21.5-4.

(d) The suspension of the riverboat owner's license may continue until the commission determines that the cause for the suspension of the license has been abated.

(e) The commission may revoke the riverboat owner's license if the commission determines that the riverboat licensee has not made satisfactory progress toward abating the hazard to the safety or health of patrons or employees within a reasonable period of time. (*Indiana Gaming Commission; 68 IAC 13-1-22; filed Dec 11, 1995, 4:30 p.m.: 19 IR 1042; readopted filed Nov 25, 2002,*

10:11 a.m.: 26 IR 1261)

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