

Document: Proposed Rule, **Register Page Number:** 28 IR 237

Source: October 1, 2004, Indiana Register, Volume 28, Number 1

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 68 INDIANA GAMING COMMISSION

Proposed Rule

LSA Document #04-179

DIGEST

Amends 68 IAC 15-3-3 to correct a misspelling. Amends 68 IAC 15-5-2 to determine who may sign an RG-1 and to determine tax calculation in the event a riverboat chooses to observe nonflexible scheduling or flexible scheduling. Amends 68 IAC 15-6-2 to determine what must happen to admissions when a riverboat chooses to observe nonflexible scheduling or flexible scheduling and chooses to observe 24 hour gaming. Amends 68 IAC 15-6-3 to determine what must happen to ticketing if a riverboat chooses to observe nonflexible scheduling or flexible scheduling. Amends 68 IAC 15-6-5 to determine who may sign an RG-1 and to determine what happens to computation of tax when a riverboat chooses to observe nonflexible scheduling or flexible scheduling. Effective 30 days after filing with the secretary of state.

68 IAC 15-3-3

68 IAC 15-6-3

68 IAC 15-5-2

68 IAC 15-6-5

68 IAC 15-6-2

SECTION 1. 68 IAC 15-3-3 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-3-3 Cash reserve requirements

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

Affected: IC 4-33

Sec. 3. (a) Riverboat licensees shall maintain, in cash or cash equivalents, an amount sufficient to protect patrons against defaults in gaming debts owed by the riverboat licensee. The cash reserve requirement may be maintained in any of the following combinations:

- (1) Cash on hand in the riverboat licensee's cage that comprises the cage accountability.
- (2) Cash in a bank account maintained in the state of Indiana.
- (3) ~~East~~ **Cash** equivalents that are not otherwise committed or obligated.

(b) Riverboat licensees shall maintain cash or cash equivalents in one (1) of the following amounts to ensure payment of a winning patron wager:

- (1) For the first full or partial quarter of operation, based on a calendar year, one hundred percent (100%) of the riverboat licensee's or riverboat license applicant's projected payout for a three (3) day period.
- (2) For the next quarter, based on a calendar year, one hundred percent (100%) of the riverboat licensee's actual payout for a three (3) day period. The actual payout shall be computed by calculating the daily average payout for the previous quarter of operation and multiplying the daily average payout by three (3).
- (3) For the final quarter of operation, based on a calendar year, one hundred percent (100%) of the riverboat licensee's actual payout for a three (3) day period. The actual payout shall be computed by calculating the daily average payout for the previous quarter of operation and multiplying the daily average payout by three (3).

(c) The cash reserve requirement that a riverboat licensee must maintain shall be rounded off to the nearest **one** thousand dollars (**\$1,000**). The riverboat licensee shall not increase or decrease the cash reserve requirement each quarter unless the adjustment would increase or decrease the cash reserve requirement by at least fifty thousand dollars (\$50,000). The riverboat licensee shall increase or decrease the cash reserve requirement by the twentieth day of the month following the end of the quarter.

(d) The cash or cash equivalents must be held in the name of the riverboat licensee.

(e) If the riverboat licensee's cash and cash equivalents fall below the amount outlined in subsection (b), the riverboat licensee shall immediately notify the executive director. If the cash reserve requirement does not comply with this rule, the executive director

shall order the riverboat licensee to establish a cash reserve requirement that is in compliance within a period not to exceed twenty (20) days.

(f) The riverboat licensee shall provide the executive director with a statement of the cash reserve account by the twentieth day of each month or within ten (10) days of the receipt of the statement by the riverboat licensee. (*Indiana Gaming Commission; 68 IAC 15-3-3; filed Mar 9, 1998, 9:30 a.m.: 21 IR 2312; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

SECTION 2. 68 IAC 15-5-2 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-5-2 Calculation of taxes

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

Affected: IC 4-33-13-1; IC 4-33-13-1.5

Sec. 2. (a) The riverboat licensee shall calculate the amount of wagering taxes to be paid by completing Form RG-1 in accordance with the applicable rules of the department, this rule, and any instructions that accompany Form RG-1. **Only the:**

- (1) **general manager;**
 - (2) **assistant general manager;**
 - (3) **finance officer; or**
 - (4) **others as approved by the commission;**
- may sign as an officer on the RG-1.**

(b) Each riverboat licensee shall maintain an account at a designated financial institution capable of handling electronic fund transfers.

(c) The riverboat licensee shall submit the wagering tax liabilities via an electronic funds transfer (EFT) system employing an automated clearinghouse debit method (ACH-debit) or other method approved by the department and the executive director.

(d) The riverboat licensee shall be required to file a Form RG-1 and remit the tax imposed by IC 4-33-13 to the department before the close of the business day following the day the wagers are made. In addition, a copy of Form RG-1 shall be filed with the commission.

(e) The riverboat licensee shall be required to maintain funds, at all times, sufficient to cover all tax liabilities due to the department in accordance with IC 4-33-13.

(f) The riverboat licensee **that has not implemented flexible scheduling** shall compute the amount of wagering tax due by ~~multiplying the total of daily adjusted gross receipts by twenty percent (20%); as set forth in IC 4-33-13-1. The riverboat licensee that has implemented flexible scheduling shall compute the amount of wagering tax due as set forth in IC 4-33-13-1.5.~~

(g) Daily ~~adjusted~~ gross receipts shall be computed ~~by in~~ the following manner:

(1) Add the following figures:

- (A) Total receipts from table games in accordance with section 3 of this rule.
- (B) Total receipts from electronic gaming devices in accordance with section 4 of this rule.
- (C) Net tournament receipts in accordance with section 5 of this rule.
- (D) Net debit card receipts in accordance with section 6 of this rule.
- (E) Any tax remittance correction or adjustment, or both, in accordance with section 7 of this rule.

(2) Deduct the following figures:

- (A) Allowable uncollectible gaming receivable deduction under 68 IAC 16-1-13 in accordance with section 8 of this rule.
- (B) Any tax remittance correction or adjustment, or both, in accordance with section 7 of this rule.

~~(g)~~ **(h)** If the amount of wagering tax due on a gaming day is a negative figure, the riverboat licensee shall remit no wagering tax for that gaming day but shall pay the appropriate amount of admission tax calculated pursuant to ~~under~~ 68 IAC 15-6. Any negative wagering tax shall be carried over and calculated as an adjustment on Schedule E of Form RG-1 on the subsequent gaming days until the negative figure has been brought to a zero (0) balance. (*Indiana Gaming Commission; 68 IAC 15-5-2; filed Jul 18, 1996, 8:55 a.m.: 19 IR 3305; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

SECTION 3. 68 IAC 15-6-2 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-6-2 Admissions

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

Affected: IC 4-33-9-2

Sec. 2. Admissions to the riverboat must be conducted in the following manner:

(1) Should a riverboat licensee choose not to observe flexible scheduling, the requirements are as follows:

(A) The embarkation period for each gaming excursion may not exceed a period of thirty (30) minutes.

~~(2)~~ (B) The disembarkation period for each gaming excursion may not exceed a period of thirty (30) minutes. During the disembarkation period, no new patrons shall be allowed to board the riverboat.

~~(3)~~ (C) The riverboat licensee may allow patrons to disembark during the embarkation period for the next gaming excursion or at any time that the riverboat remains at the dock and gambling continues in accordance with IC 4-33-9-2. The riverboat licensee is responsible for ensuring it is in compliance with subdivision ~~(13)~~ (10) at all times. The admissions tax must be paid by the patron or the riverboat licensee for any patron who disembarks during the embarkation period for the next gaming excursion or who disembarks at any time during a gaming excursion after the conclusion of the thirty (30) minute disembarkation period.

~~(4)~~ (D) The admissions tax must be paid by the carryover patron or the riverboat licensee for each excursion that a patron remains on board.

(2) Should a riverboat licensee choose to observe flexible scheduling, the embarkation and disembarkation are not limited to any period and the patrons shall be allowed to board or exit at will.

~~(5)~~ **(3) Whether or not a riverboat licensee chooses to observe flexible scheduling:**

(A) all patrons boarding the riverboat must pass through a turnstile or other approved patron counting equipment.

~~(6)~~ All patrons or exiting the riverboat must pass through a turnstile or other approved patron counting equipment;

~~(7)~~ (B) the riverboat licensee is responsible for ensuring that the turnstile or equivalent keeps an accurate count of the patrons who board the riverboat; and

~~(8)~~ (C) if a patron exits the riverboat and passes through a turnstile or the equivalent, the patron may not reenter the riverboat until the patron purchases a ticket pays whatever boarding fee is required of a patron boarding for the first time or is issued a complimentary pass by the riverboat licensee.

~~(9)~~ **(4) Should a riverboat licensee choose not to observe flexible scheduling, a passenger count must be completed for each gambling excursion.**

(5) Should a riverboat licensee choose to observe flexible scheduling, a passenger count must be completed for the gaming day.

(6) Should a riverboat licensee choose to observe twenty-four (24) hour gaming, a passenger count must be computed at the end of each gaming day and shall include those patrons remaining on board the riverboat at the time of each new gaming day. The following four (4) counts will be recorded at the close of the gaming day:

(A) If applicable, the actual admissions ticket count.

(B) The patron ingress turnstile count.

(C) The patron egress turnstile count.

(D) If applicable, the total onboard count.

At the close of the gaming day, boarding and exiting will be momentarily suspended to allow for the recording of the meters and the taking of the turnstile counts. The onboard count shall be added to the new gaming day's ingress turnstile count. The recording, resetting, and onboard additions to the ingress turnstile shall be completed in the presence of and observed by a commission agent. For admission tax reporting for twenty-four (24) hour gaming, the count shall be adjusted to account for and include the onboard count.

~~(10)~~ **(7) The riverboat licensee shall submit passenger count procedures to the executive director at least sixty (60) days before the commencement of gambling operations. The passenger count procedures shall include, but not be limited to, the following:**

(A) A description of the type of equipment that will be utilized to complete a patron count.

(B) The form that will be utilized to report the patron count.

(C) The procedure that will be utilized to ensure patron boarding occurs only during the appropriate embarkation period **should a riverboat licensee choose not to observe flexible scheduling.**

(D) Emergency procedures that will be utilized in case the primary patron counting equipment malfunctions.

(E) The manner in which the riverboat licensee will ensure that the total number of passengers does not exceed the capacity of the riverboat as set forth in the certificate of inspection issued by the United States Coast Guard.

(F) Any other information deemed necessary by the executive director or the commission to ensure compliance with the Act and this title.

~~(11)~~ **(8)** The riverboat licensee shall notify the commission agent immediately if the primary patron counting system malfunctions.

~~(12)~~ **(9)** The following individuals are entitled to a tax-free pass and do not have to pass through the patron counting equipment when boarding the riverboat:

(A) Occupational licensees of the riverboat licensee.

(B) Other employees of the riverboat licensee who are boarding the riverboat in the performance of official duties.

(C) Commission:

(i) members; ~~commission~~

(ii) staff; and ~~commission~~

(iii) agents.

(D) Official guests approved by commission:

(i) members; ~~commission~~

(ii) staff; and ~~commission~~

(iii) agents.

(E) Vendors who have completed the appropriate vendor log in accordance with section 4 of this rule.

(F) Any other person authorized by the executive director or the commission to ensure compliance with the Act and this title.

~~(13)~~ **(10)** All persons boarding the riverboat on a tax-free pass must have an appropriate badge.

~~(14)~~ **(11)** At no time shall the riverboat licensee allow the total number of passengers to exceed the capacity of the riverboat as set forth in the certificate of inspection issued by the United States Coast Guard.

(Indiana Gaming Commission; 68 IAC 15-6-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3045; filed Aug 20, 1997, 7:11 a.m.: 21 IR 19; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)

SECTION 4. 68 IAC 15-6-3 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-6-3 Ticketing

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

Affected: IC 4-33-4-21.2

Sec. 3. **If applicable**, tickets for admittance on the riverboat shall have the following characteristics:

(1) Have two (2) perforated sections.

(2) One (1) section shall be retained by the riverboat licensee after the patron boards the riverboat. The patron shall retain the remaining section of the ticket.

(3) The ticket shall contain, at a minimum, the following information:

(A) A sequential number assigned by the riverboat licensee.

(B) The date and time of the excursion **if the riverboat licensee chooses not to observe flexible scheduling.**

(C) The date if the riverboat licensee chooses to observe flexible scheduling.

~~(D)~~ **(D)** The number of the toll-free telephone line in accordance with IC 4-33-4-21.2 and ~~68 IAC 20-1~~. **68 IAC 1-16-2.**

(4) **If the riverboat licensee chooses not to observe flexible scheduling**, an admission ticket shall be good for admittance to only one (1) excursion. A riverboat licensee may allow the patron to stay on board the riverboat as a carryover patron as long as the admission tax is paid in accordance with section ~~2(3)~~ **2(1)(C)** and ~~2(4)~~ **2(1)(D)** of this rule and so long as the total number of passengers remaining on the riverboat does not exceed the capacity of the riverboat as set forth in the certificate of inspection issued by the United States Coast Guard.

(5) If the riverboat licensee chooses to observe flexible scheduling, an admission ticket is valid for a one-time admittance by the ticket holding patron.

(Indiana Gaming Commission; 68 IAC 15-6-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3046; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261)

SECTION 5. 68 IAC 15-6-5 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-6-5 Computation of tax

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

Affected: IC 4-33

Sec. 5. (a) The riverboat licensee shall complete an RG-1 for each gaming day and indicate the total number of admissions for each day. **Only the:**

- (1) general manager;**
 - (2) assistant general manager;**
 - (3) finance officer; or**
 - (4) others as approved by the commission;**
- may sign as an officer on the RG-1.**

(b) The admissions tax shall be computed utilizing the patron count that results in the highest count from one (1) of the following methods of counting patrons:

- (1) A turnstile or the equivalent.
- (2) A manual count.
- (3) A ticket stub count.
- (4) Any other method of counting patrons that has been approved by the executive director as accurately tracking patron ingress and egress to ensure the accurate payment of the admission tax in accordance with the Act and this title.

(c) **If the riverboat licensee chooses not to observe flexible scheduling,** the tax on carryover patrons shall be computed utilizing Schedule A of the RG-1.

(d) If the riverboat licensee chooses to observe flexible scheduling, the tax on the highest of the counts in subsection (b) shall be computed utilizing Schedule A of the RG-1 with only one (1) figure filed for all admissions during the gaming day. (*Indiana Gaming Commission; 68 IAC 15-6-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3046; filed May 29, 1998, 5:05 p.m.: 21 IR 3701; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 28, 2004 at 9:00 a.m., at the Indiana Gaming Commission, 115 West Washington Street, South Tower, Suite 950, Indianapolis, Indiana the Indiana Gaming Commission will hold a public hearing on proposed rules regarding operational functions and internal operations of riverboat licensees and riverboat license applicants. Copies of these rules are now on file at the Indiana Gaming Commission, 115 West Washington Street, South Tower, Suite 950 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Glenn R. Lawrence
Executive Director
Indiana Gaming Commission