

TITLE 68 INDIANA GAMING COMMISSION

LSA Document #04-103(F)

DIGEST

Amends 68 IAC 1-5-1 to require a riverboat licensee to notify a commission agent and the executive director when the riverboat licensee becomes aware that criminal activity is taking place on riverboat property. Amends 68 IAC 2-3-5 to require an applicant to hold a valid merchant marine document only when required by the United States Coast Guard. Amends 68 IAC 2-3-6 to eliminate the provision requiring the signature of the executive director on identification badges. Amends 68 IAC 2-3-9 to require occupational licensees to provide truthful information to commission agents and staff during an investigation. Effective 30 days after filing with the secretary of state.

68 IAC 1-5-1 **68 IAC 2-3-6**
68 IAC 2-3-5 **68 IAC 2-3-9**

SECTION 1. 68 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 1-5-1 Obligation to report certain events

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

Affected: IC 4-33

Sec. 1. Any riverboat or supplier licensee shall provide a written notice to the executive director at such time as it becomes aware of the following:

- (1) Any violation or apparent violation of any rule of the commission by any of the following:
 - (A) The riverboat or supplier licensee.
 - (B) Any substantial owner, key person, or employee of the riverboat or supplier licensee.
 - (C) Any person acting, or authorized to act, on behalf of or in furtherance of the interests of the riverboat or supplier licensee or any affiliate of the licensee.
- (2) Any change in status of any owner's license, supplier's license, or the equivalent issued to it or an affiliate by any other governmental entity.
- (3) Any civil litigation filed against the riverboat or supplier licensee.
- (4) Any criminal, civil, or administrative action, threatened action, or investigation initiated by any governmental entity against the riverboat or supplier licensee.
- (5) Any claims made by any governmental entity concerning any tax liability of a licensee or any key person or substantial owner of the licensee.
- (6) Any civil, criminal, administrative, or tax action initiated by or against an employee of the riverboat licensee if the action relates to the gaming activity conducted by the riverboat licensee.
- (7) Any civil, criminal, administrative, or tax action initiated against a key person, substantial owner, or an affiliate of a riverboat or supplier licensee, if such action relates to a gaming operation under the jurisdiction of any governmental entity.
- (8) Any bankruptcy, receivership, or debt adjustment initiated by or against the riverboat or supplier licensee or any affiliate thereof or the licensee's substantial owners.
- (9) Any Title 31 compliance review conducted by the Internal Revenue Service. The riverboat or supplier licensee must provide a copy of any compliance review report or the equivalent within ten (10) days of the receipt of the report by the licensee.
- (10) Any action, event, or nonevent, with respect to which the executive director has instructed the licensee to provide notice so that the executive director can ensure that the licensee continues to maintain suitability for licensure.
- (11) Any apparent criminal activity taking place on riverboat property. This information must also be submitted to a commission agent.**

(Indiana Gaming Commission; 68 IAC 1-5-1; filed Jun 23, 1995, 2:30 p.m.: 18 IR 2649; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2247; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Sep 30, 2004, 11:00 a.m.: 28 IR 532)

SECTION 2. 68 IAC 2-3-5 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-3-5 Licensing procedures

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

Affected: IC 4-33-8-3

Sec. 5. (a) An applicant for an occupational license shall be subject to the following procedures prior to licensing:

- (1) Application.
- (2) Issuance of a temporary identification badge. The temporary identification badge shall serve as the temporary occupational license until the permanent occupational license has been issued or denied.
- (3) Investigation of the applicant.
- (4) If an applicant for an occupational license, Level 1, 2, or 3 has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States, the application is automatically denied in accordance with IC 4-33-8-3(2). The executive director shall issue the applicant a notice of denial by certified mail, or the commission agent who receives the completed application may personally deliver a notice of denial to the applicant.
- (5) Action by the commission.
- (6) Issuance of a permanent identification badge. The permanent identification badge shall serve as the permanent occupational license.
- (7) Different or additional licensing procedures the commission requires of the applicant to ensure the applicant is in compliance with the Act and this title.

(b) Procedures for a temporary occupational license shall be as follows:

- (1) An applicant for an occupational license must submit a completed application that has been stamped and signed by the riverboat licensee, the riverboat license applicant, or its authorized agent to the commission agent at the commission's dock site office during times designated by the commission agents.
- (2) Once the commission agent has received the completed occupational license application and appropriate fee, the commission agent shall obtain the applicant's fingerprints and photograph. If the application or a criminal record check completed by a commission agent, or both, does not reveal that the applicant has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States, the commission agent shall issue the applicant a temporary identification badge.
- (3) An applicant who receives a temporary identification badge may work on a riverboat until a permanent license is issued or the temporary identification badge is revoked.
- (4) The temporary identification badge shall be a card of a color designated by the executive director and that meets the specifications set forth in section 6 of this rule. The color of the temporary identification badge shall be different from the color of the permanent identification badge.
- (5) Temporary identification badges shall be worn by all occupational licensees during work hours. Temporary identification badges shall be clearly displayed.
- (6) A fee of ten dollars (\$10) shall be paid to the commission for any necessary replacement of temporary identification badge. The fee shall be assessed each time an occupational licensee obtains a replacement temporary identification badge.
- (7) A temporary identification badge shall not be transferred. If the applicant resigns or his or her employment is terminated, the applicant shall return the temporary badge to the commission.
- (8) Requirements for the revocation of a temporary identification badge shall include the following:
 - (A) The executive director, upon written notice to the applicant and the riverboat licensee, may revoke an applicant's temporary badge if the executive director determines that the background investigation reveals that an applicant is not suitable for licensure.
 - (B) The executive director, or the executive director's designee, upon written notice to the applicant and the riverboat licensee, may revoke an applicant's temporary occupational license if the executive director or the executive director's designee determines that the applicant has violated the Act or this title, or committed a criminal offense in the performance of the applicant's duties for the riverboat licensee.
 - (C) If an applicant's temporary identification badge is revoked, the applicant shall not be permitted to work for any riverboat gambling operation at duties that are to be performed on a riverboat.
 - (D) If an applicant's temporary identification badge is revoked, the application shall be forwarded to the commission for action unless the applicant withdraws the application prior to commission action.
- (9) An applicant must comply with all requests for information, documents, or other materials relating to the applicant and his or her application during the investigation conducted by the commission.

(c) The applicant shall meet the following standards, qualifications, or criteria to be issued an occupational license of any level:

- (1) The applicant must possess the qualifications set forth in IC 4-33-8-3.
- (2) The applicant must demonstrate a level of skill, experience, or knowledge necessary to perform the job that the applicant will perform.
- (3) An applicant whose knowledge, experience, and skill are derived solely from the completion of an occupational training school that is not in compliance with 68 IAC 2-5 shall not be considered to have the requisite skill, experience, or knowledge necessary to conduct gambling games. An applicant who has completed an occupational training school that is not in compliance with 68 IAC 2-5 may be hired if the riverboat licensee will provide the appropriate training.
- (4) The applicant must not have been convicted of any offense involving violation of a gaming law in any jurisdiction.
- (5) The applicant's name must not appear on the exclusion list of any jurisdiction.
- (6) The applicant must never have had a gaming license suspended or revoked in any jurisdiction.
- (7) An applicant who will serve alcoholic beverages must hold the appropriate permits from the alcoholic beverage commission.
- (8) An applicant whose duties will be to operate or navigate the riverboat must hold the appropriate licenses or merchant marine documents, or both, from the United States Coast Guard.
- (9) An applicant who will work on a riverboat that is docked on the waters of Lake Michigan must hold a valid merchant marine document ~~from~~ **only when required by** the United States Coast Guard.
- (10) An applicant whose duties will be to operate or navigate the riverboat must not have violated any criminal statute involving drugs or alcohol, or both, in any jurisdiction.
- (11) An applicant must not be currently abusing drugs or alcohol, or both.
- (12) An applicant must be twenty-one (21) years of age.
- (13) An applicant must be in substantial compliance with all state and federal tax laws.
- (14) An applicant must be of good moral character and reputation.
- (15) An applicant must meet any other standard that the commission deems necessary to ensure compliance with the Act and this title after publication of the standard.

(d) The commission may place restrictions or conditions on a temporary occupational license. The applicant must comply with these restrictions or conditions before the commission issues an occupational license. These restrictions or conditions may include, but are not limited to, the following:

- (1) That the applicant demonstrates a level of skill, experience, or knowledge necessary to perform the job that the applicant will perform.
- (2) That the applicant who will serve alcoholic beverages holds the appropriate permits from the alcoholic beverage commission.
- (3) That the applicant who will operate or navigate the riverboat holds the appropriate license or merchant marine documents, or both, from the United States Coast Guard.

The occupational licensee must continue to meet all conditions or restrictions for licensure after the issuance of the permanent occupational license. If an occupational licensee fails to adhere to these conditions or restrictions or fails to maintain suitability for licensure, the commission may initiate a disciplinary action under 68 IAC 13.

(e) Action of the commission shall be as follows:

- (1) After the background investigation has been completed, if the commission finds that the applicant is suitable to receive an occupational license, the commission shall direct the executive director to issue the applicant an occupational license upon the payment of the applicant's occupational license fee. The permanent identification badge shall serve to represent the permanent occupational license. If the applicant's occupational license fee is not received by the commission within ten (10) business days after the date of the mailing of the notification of the applicant's suitability for licensing to the applicant and the riverboat licensee, the executive director shall revoke the applicant's temporary identification badge and notify the commission that the temporary identification badge has been revoked.
- (2) If the commission determines that the applicant is not suitable to receive an occupational license, it shall:
 - (A) direct the executive director to issue the applicant a notice of denial by personal delivery or certified mail;
 - (B) immediately revoke the temporary license; and
 - (C) notify the appropriate riverboat licensee of the revocation of the temporary license.

(f) Requirements for a permanent identification badge shall be as follows:

- (1) Upon a finding of suitability for licensure, the commission shall issue an occupational license in the form of a permanent identification badge.
- (2) The permanent identification badge shall remain the property of the commission at all times. The occupational license may be:
 - (A) revoked;
 - (B) suspended;

- (C) canceled; or
- (D) restricted;

by the commission in accordance with 68 IAC 13. The commission may refuse to renew the license when it is reviewed under section 8 of this rule.

(3) Neither the occupational license number nor the permanent identification badge shall be transferred to another person. If the occupational licensee resigns or the occupational licensee's employment is terminated, the occupational licensee shall return the permanent identification badge to the commission.

(4) The permanent identification badge shall be a card of a color designated by the executive director and that meets the specifications set forth in section 6 of this rule. The color of the permanent identification badge shall be different from the color of the temporary identification badge.

(5) The permanent identification badge shall be worn by all occupational licensees during work hours. Permanent identification badges shall be clearly displayed.

(6) A fee of ten dollars (\$10) shall be paid to the commission for any necessary replacement of a permanent identification badge. The fee shall be assessed each time an occupational licensee obtains a replacement permanent identification badge.

(Indiana Gaming Commission; 68 IAC 2-3-5; filed Nov 10, 1994, 11:00 a.m.: 18 IR 497; filed Jan 30, 1998, 11:00 a.m.: 21 IR 2056; filed May 29, 1998, 5:12 p.m.: 21 IR 3704; errata filed Aug 12, 1998, 3:58 p.m.: 22 IR 125; filed Dec 29, 1998, 10:46 a.m.: 22 IR 1418; errata filed Jan 11, 1999: 3:54 p.m.: 22 IR 1525; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1061; filed Sep 30, 2004, 11:00 a.m.: 28 IR 533)

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

68 IAC 2-3-6 Identification badge

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

Affected: IC 4-33-8

Sec. 6. The identification badge shall be a card of the appropriate color ~~which~~ **that** meets the following requirements:

(1) The front side of the identification badge shall:

(A) be a card bearing the name and logo of the riverboat gambling operation;

(B) display the applicant's photograph;

(C) display the applicant's first name and job title;

(D) display the occupational license number assigned by the commission;

(E) display the level of the occupational license; **and**

~~(F) display the signature of the executive director; and~~

~~(G) (F) display the date the identification badge and occupational license were issued and the date that the identification badge and occupational license will expire.~~

(2) The back side of the identification badge shall:

(A) display the applicant's first name and last name;

(B) display the applicant's signature;

(C) display the applicant's date of birth;

(D) have a magnetic stripe on the bottom of the card that shall be capable of:

(i) revealing the applicant's security clearance levels;

(ii) tracking the applicant's employment attendance; and

(iii) tracking the applicant's ingress and egress on the riverboat through the employee entrances; and

(E) display any other information deemed necessary by the commission to identify the occupational licensee, the riverboat of employment, the appropriate level of occupational license, and any conditions or restrictions that have been placed on the occupational license.

(3) Identification badges shall be constructed so that the badges can be easily affixed to the occupational licensee's clothing.

(4) The temporary and permanent badges shall remain the property of the commission at all times. The temporary and permanent badges may be:

(A) revoked;

(B) suspended;

(C) canceled; or

(D) restricted;

by the commission in accordance with 68 IAC 13. The commission may refuse to renew the license when it is reviewed under section 8 of this rule.

(5) The temporary and permanent badges shall not be transferred. If the applicant resigns or his or her employment is terminated, the applicant shall return the temporary or permanent badge to the commission.
(Indiana Gaming Commission; 68 IAC 2-3-6; filed Nov 10, 1994, 11:00 a.m.: 18 IR 499; filed Jun 1, 1998, 2:48 p.m.: 21 IR 3706; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Sep 30, 2004, 11:00 a.m.: 28 IR 535)

SECTION 4. 68 IAC 2-3-9 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-3-9 Duty to maintain suitability; duty to disclose

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

Affected: IC 4-33

Sec. 9. (a) All occupational licensees have a continuing duty to maintain suitability for licensure. An occupational license does not create a property right, but is a revocable privilege granted by the state contingent upon continuing suitability for licensure.

(b) Riverboat licensees shall notify the commission that an occupational licensee is in violation of the requirements of this rule or IC 4-33 if the riverboat licensee is aware of the violation.

(c) Occupational licensees shall notify the commission of any changes in the information submitted in the application or any information ~~which that~~ could render the licensee ineligible to hold an occupational license.

(d) Occupational licensees shall cooperate with and provide truthful information to commission agents and staff during any investigation regarding criminal activity or regulatory violations, or both.

~~(d)~~ **(e)** Occupational licensees must notify the commission that a riverboat licensee, a supplier licensee, or an occupational licensee has violated the Act or this title as soon as the occupational licensee becomes aware of the violation. If an occupational licensee fails to notify the commission of a violation of the Act or this title by a riverboat licensee, a supplier licensee, or an occupational licensee, the commission may initiate a disciplinary action. *(Indiana Gaming Commission; 68 IAC 2-3-9; filed Nov 10, 1994, 11:00 a.m.: 18 IR 500; filed Aug 20, 1997, 7:11 a.m.: 21 IR 11; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Sep 30, 2004, 11:00 a.m.: 28 IR 535)*

LSA Document #04-103(F)

Notice of Intent Published: May 1, 2004; 27 IR 2522

Proposed Rule Published: July 1, 2004; 27 IR 3115

Hearing Held: July 22, 2004

Approved by Attorney General: September 23, 2004

Approved by Governor: September 27, 2004

Filed with Secretary of State: September 30, 2004, 11:00 a.m.

IC 4-22-7-5(c) notice from Secretary of State regarding documents incorporated by reference: None received by Publisher