

RESOLUTION 2008-113

A RESOLUTION ADOPTING A RULE REGARDING JUNKET OPERATIONS

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted to it under IC 4-33, IC 4-35, and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. The Commission began promulgation of the attached LSA Rule Document #08-327 under IC 4-22. A Notice of Intent to adopt LSA Document #08-327 was posted as 20080507-IR-068080327NIA on the *Indiana Register* website on May 7, 2008. The rule was then posted as 20080625-IR-068080327PRA on the *Indiana Register* website on June 25, 2008.
2. The Commission held a public hearing on this rule in compliance with IC 4-22. The public hearing was held on July 29, 2008 at 2:00 p.m. in the offices of the Indiana Gaming Commission, in Indianapolis, IN. The transcript of the hearing and all written comments that were received were fully considered and implemented where appropriate. The transcript of the hearing has been made available for review by the Commission members. Commission staff considered public comments and amended the proposed rule accordingly.
3. If the Commission approves this Resolution adopting the attached rule document as a final rule, the rule will be forwarded to the Office of the Attorney General and the Governor for approval, and filed thereafter with the *Indiana Register*. The rule will be effective 30 days after it is filed with the *Indiana Register*.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE

This resolution applies to all persons subject to the authority granted to the Commission by the General Assembly in Indiana Code 4-33 and 4-35.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33-2, IC 4-35 and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF THE FINAL RULES

The Commission adopts following rules as reflected on the attached final rule document:

68 IAC 2-2-1; 68 IAC 2-3.5-1; 68 IAC 2-3.5-2

Pursuant to IC 4-22-2, the Commission adopts the attached final rule document. The rule will be forwarded to the Office of the Attorney General for approval as to legality under IC 4-22-2-32. Upon approval by the Office of the Attorney General, the rule will be submitted to the Governor's Office for approval pursuant to IC 4-22-2-33. After the rule has been approved or deemed approved by the Governor, the rule will be submitted to the *Indiana Register* for filing in accordance with IC 4-22-2-35. The Commission further adopts any stylistic, grammatical, typographical, or other non-substantive changes that the Commission staff or the Legislative Services Agency may make to this rule document before it is printed as a final rule in the *Indiana Register*.

SECTION 4: EFFECTIVE DATE


This resolution is effective immediately.

ADOPTED, THIS THE 28th DAY OF AUGUST, 2008.

THE INDIANA GAMING COMMISSION:


William Barrett, Chair

ATTEST:


Thomas Swihart, Secretary

TITLE 68 INDIANA GAMING COMMISSION

Final Rule LSA Document 08-327(F)

DIGEST

Amends 68 IAC 2-2-1 to strike the reference to junketeer. Adds 68 IAC 2-3.5 concerning junket operator registration and determination of suitability of junket operators. Effective 30 days after filing with the Publisher.

68 IAC 2-2-1; 68 IAC 2-3.5

SECTION 1. 68 IAC 2-2-1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 2-2-1 Supplier's license required

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

Affected: IC 4-33-7

Sec. 1. (a) The following definitions apply throughout this rule:

(1) "Applicant" means an applicant for a supplier's license.

(2) "Riverboat license applicant" means an applicant for a riverboat owner's license that has been issued a certificate of suitability under 68 IAC 2-1-5.

(b) An application for a supplier's license shall not be processed by the commission unless the applicant has an agreement or a statement of intent with a riverboat licensee or a riverboat license applicant that the applicant will be supplying the riverboat licensee upon receiving the supplier's license. Nothing in this rule prevents a potential applicant from negotiating, prior to application for licensure, with a riverboat licensee or a riverboat license applicant to supply goods and services to a riverboat licensee once a supplier's license has been obtained.

(c) The following persons or business entities are required to hold a supplier's license:

(1) The gaming operations manager if the manager is a business entity. If the gaming operations manager is an individual, the applicant shall hold an occupational license, Level 1 under 68 IAC 2-3-1. All employees of a gaming operations manager who have any duty, authority, or function relating directly or indirectly to the gaming operation will be required to hold an occupational license in accordance with 68 IAC 2-3-1.

(2) All manufacturers of:

(A) electronic gaming devices;

(B) chips;

(C) tokens;

(D) cards;

(E) dice;

(F) roulette wheels;

(G) keno balls;

(H) keno ball or number selection devices;

(I) shuffling devices; and

(J) any other equipment that the commission determines directly affects gaming;

shall be licensed as a supplier. All suppliers of electronic gaming devices, chips, tokens, cards, dice, roulette wheels, keno balls, keno ball or number selection devices, shuffling devices, and any other equipment that the commission determines directly affects gaming shall be manufacturers of said devices.

(3) A supplier of gaming equipment maintenance or repair.

(4) A supplier of security services, security systems, and surveillance systems.

(5) A lessor of a riverboat or dock facilities, or both, unless the lessor of the riverboat or dock facilities, or both, is a county, municipality, or political subdivision.

(6) A supplier of goods or services where payment is calculated on a percentage of a riverboat gambling operation's revenues.

~~(7) A junketeer.~~

~~(8) (7)~~ Any other purveyor of goods or services to a riverboat gambling operation the commission deems necessary to ensure compliance with the Act and this title.

(d) The applicant's key persons, substantial owners, and any other persons deemed necessary to allow the commission to ensure the applicant meets the statutory criteria for licensure set forth in the Act and this title must complete and submit a Personal Disclosure Form 1 under 68 IAC 2-3-1.

(e) A supplier licensee shall continue to maintain suitability for licensure. The supplier licensee is subject to action by the commission, including, but not limited to:

- (1) suspension;
- (2) revocation;
- (3) restriction; and
- (4) nonrenewal;

under the Act and this title.

(f) A supplier licensee shall not distribute gaming supplies and equipment that do not conform to the standards for gaming supplies and equipment set forth in the Act and this title.

(g) Riverboat licensees shall not purchase goods or services covered by this rule from a person who does not hold a supplier's license issued by the commission.

(h) A manufacturer of electronic gaming devices, chips, tokens, cards, dice, roulette wheels, keno balls, keno ball or number selection devices, shuffling devices, or any other equipment that the commission determines directly affects gaming shall not be paid by a riverboat licensee based:

- (1) on a percentage of the revenue received from the use of the gaming equipment; or based
- (2) upon the amount of play or use that the gaming equipment receives.

(Indiana Gaming Commission; 68 IAC 2-2-1; filed Nov 10, 1994, 11:00 a.m.: 18 IR 488; errata filed Nov 1, 1995, 8:30 a.m.: 19 IR 353; filed Oct 22, 1997, 8:45 a.m.: 21 IR 922; errata filed Feb 6, 1998, 10:30 a.m.: 21 IR 2128; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1060; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)

SECTION 2. 68 IAC 2-3.5 IS ADDED TO READ AS FOLLOWS:

Rule 3.5. Junket Operations

68 IAC 2-3.5-1 Junket operator registration

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

Affected: IC 4-33; IC 4-35

Sec. 1. (a) "Junketeer" means an individual who:

- (1) is a substantial owner, key person, employee, or agent of a junket operator; and
 - (2) conducts business with at least one (1) Indiana casino on behalf of a junket operator.
- (b) "Junket operator" means a person whose compensation is determined by:

- (1) how much a person either wagers or loses; or
- (2) an estimate by the casino licensee or gaming operations manager as to the potential amount a patron will wager or lose.

(c) In order to conduct business with an Indiana casino, a junket operator and a junketeer must hold a certificate of registration issued by the commission.

(d) Applications for a junket operator certificate of registration shall not be considered by the commission unless a casino licensee:

- (1) submits a request to the commission for registration of the junket operator; and
- (2) provides evidence of conducting due diligence regarding the:
 - (A) criminal history;
 - (B) character; and
 - (C) reputation;

of the junket operator and any related junketeer or junketeers.

(e) A casino licensee shall not enter into a business relationship with or compensate a junket operator until the commission notifies the casino licensee in writing that the junket operator has been granted a certificate of registration.

(f) An application for junket operator certificate of registration or junketeer certificate of registration must be on forms prescribed by the commission. An application for a junket operator registration must include the following:

- (1) A nonrefundable application fee of two hundred fifty dollars (\$250) to the commission.

(2) A nonrefundable application fee of seventy-five dollars (\$75) for each junketeer who wishes to conduct business with Indiana casino licensees.

(3) A nonrefundable application fee of seventy-five dollars (\$75) for each key person or substantial owner affiliated with the entity wishing to register as a junket operator.

(g) The junket operator shall pay an annual nonrefundable certificate of registration renewal fee of two hundred fifty dollars (\$250) and an annual nonrefundable certificate of registration renewal fee of seventy-five dollars (\$75) for each junketeer, key person, or substantial owner. Payment must be remitted to the commission no less than thirty (30) days prior to the expiration of the junket operator's certificate of registration. Failure to do so may result in denial of a request for certificate of registration renewal.

(h) A junket operator or junketeer shall not grant the extension of credit on behalf of a casino licensee or collect or attempt to collect a debt owed to a casino licensee.

(i) A casino licensee or affiliate shall only remit payment directly to a registered junket operator.

(j) A junket operator shall submit any additional information requested by the commission.

(k) A casino licensee shall maintain a junket operator log consisting of the following:

(1) The name and registration number of the junket operator.

(2) The name and registration number of the junketeer.

(3) The name of each patron, whose business is derived by the registered junket operator or junketeer, as well as the date(s) on which each patron is present on casino licensee property.

(Indiana Gaming Commission; 68 IAC 2-3.5-1)

68 IAC 2-3.5-2 Determination of suitability

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

Affected: IC 4-33; IC 4-35

Sec. 2. (a) Junket operators and junketeers shall at all times conduct themselves in a manner that does not compromise the integrity of gaming in Indiana, tarnish the image and reputation of the state of Indiana, or reflect poorly on an Indiana casino licensee or a registered junket operator. In making this determination, the commission may consider the following:

(1) Criminal records.

(2) Suspension of licenses, registration certificates, or their equivalent, or any other adverse actions in other jurisdictions.

(3) Business reputation.

(4) Associations with businesses and individuals.

(5) Compliance with gaming laws and regulations in Indiana and other jurisdictions.

(6) Any other factors as the commission deems appropriate.

(b) The commission may require a junket operator to apply for a supplier's license at any time, under 68 IAC 2-2-1. The commission shall give written notice to the junket operator and any casino licensee having an agreement with the junket operator on file with the commission that the junket operator must file a supplier's license application. The commission retains jurisdiction to determine the suitability of a junket operator even if the:

(1) casino licensee terminates its relationship with the junket operator; or

(2) junket operator is otherwise no longer functioning as a junket operator.

(c) A certificate of registration does not create a property right, but is a revocable privilege granted by the state contingent upon continuing suitability for registration. If the commission determines that a registered junket operator or junketeer is no longer suitable, the commission may initiate a disciplinary action to revoke, restrict, suspend, or not renew the junket operator's or junketeer's certificate of registration or take such other action as the commission deems necessary.

(d) If the commission finds a registered junket operator or junketeer to be unsuitable, the registration of such registered junket operator or junketeer is thereupon canceled. A casino licensee shall, upon written notification of a finding of unsuitability, immediately terminate all relationships, direct or indirect, with such junket operator or junketeer. No determination of suitability of a junket operator or junketeer shall preclude a later determination by the commission of unsuitability.

(e) Junket operators and junketeers have a continuing duty to notify the commission of any change in information previously submitted to the commission. Written notification must be submitted within ten (10) calendar days of the change or the occurrence of the event. *(Indiana Gaming Commission; 68 IAC 2-3.5- 2)*