

IC 4-33-6

Chapter 6. Licensing of Owners

IC 4-33-6-1

Maximum number of licenses

Sec. 1. (a) The commission may issue to a person a license to own a riverboat subject to the numerical and geographical limitation of owner's licenses under this section, section 3.5 of this chapter, and IC 4-33-4-17. However, not more than ten (10) owner's licenses may be in effect at any time. Except as provided in subsection (b), those ten (10) licenses are as follows:

(1) Two (2) licenses for a riverboat that operates from the largest city located in the counties described under IC 4-33-1-1(1).

(2) One (1) license for a riverboat that operates from the second largest city located in the counties described under IC 4-33-1-1(1).

(3) One (1) license for a riverboat that operates from the third largest city located in the counties described under IC 4-33-1-1(1).

(4) One (1) license for a city located in the counties described under IC 4-33-1-1(1). This license may not be issued to a city described in subdivisions (1) through (3).

(5) A total of five (5) licenses for riverboats that operate upon the Ohio River from the following counties:

(A) Vanderburgh County.

(B) Harrison County.

(C) Switzerland County.

(D) Ohio County.

(E) Dearborn County.

The commission may not issue a license to an applicant if the issuance of the license would result in more than one (1) riverboat operating from a county described in this subdivision.

(b) If a city described in subsection (a)(2) or (a)(3) conducts two (2) elections under section 20 of this chapter, and the voters of the city do not vote in favor of permitting riverboat gambling at either of those elections, the license assigned to that city under subsection (a)(2) or (a)(3) may be issued to any city that:

(1) does not already have a riverboat operating from the city; and

(2) is located in a county described in IC 4-33-1-1(1).

(c) In addition to its power to issue owner's licenses under subsection (a), the commission may also enter into a contract under IC 4-33-6.5 with respect to the operation of one (1) riverboat on behalf of the commission in a historic hotel district.

(d) A person holding an owner's license may not move the person's riverboat from the county in which the riverboat was docked on January 1, 2007, to any other county.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.8; P.L.55-1995, SEC.1; P.L.92-2003, SEC.27; P.L.149-2003,

SEC.1; P.L.233-2007, SEC.14.

IC 4-33-6-2

Applicant requirements for an owner's license

Sec. 2. (a) A person applying for an owner's license under this chapter must pay a nonrefundable application fee to the commission. The commission shall determine the amount of the application fee.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) This subsection applies to an applicant who applies after June 30, 2009, for an owner's license. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

(d) The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

(e) The costs of investigating an applicant for an owner's license under this chapter shall be paid from the application fee paid by the applicant.

(f) An applicant for an owner's license under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.142-2009, SEC.8.

IC 4-33-6-3

Restrictions on issuance

Sec. 3. The commission may not issue an owner's license under this chapter to a person if:

(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or laws of the United States;

(2) the person has knowingly or intentionally submitted an application for a license under this chapter that contains false information;

- (3) the person is a member of the commission;
- (4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);
- (5) the person employs an individual who:
 - (A) is described in subdivision (1), (2), or (3); and
 - (B) participates in the management or operation of gambling operations authorized under this article;
- (6) the person owns an ownership interest of more than the total amount of ownership interest permitted under section 3.5 of this chapter; or
- (7) a license issued to the person:
 - (A) under this article; or
 - (B) to own or operate gambling facilities in another jurisdiction;has been revoked.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.149-2003, SEC.2.

IC 4-33-6-3.5

Maximum number of owner's licenses that may be issued to a riverboat owner

Sec. 3.5. (a) For purposes of this section, a person is considered to have an ownership interest in a riverboat owner's license if the interest is owned directly or indirectly by the person or by an entity controlled by the person.

(b) A person may have up to a one hundred percent (100%) ownership interest in not more than two (2) riverboat licenses issued under this chapter.

(c) A person may not have an ownership interest in more than two (2) riverboat owner's licenses issued under this chapter.

(d) This section may not be construed to increase the maximum number of licenses permitted under section 1 of this chapter or the number of riverboats that may be owned and operated under a license under section 10 of this chapter.

As added by P.L.149-2003, SEC.3.

IC 4-33-6-4

Factors considered in granting licenses; submission of riverboat and dock design

Sec. 4. (a) In determining whether to grant an owner's license to an applicant, the commission shall consider the following:

- (1) The character, reputation, experience, and financial integrity of the following:
 - (A) The applicant.
 - (B) A person that:
 - (i) directly or indirectly controls the applicant; or
 - (ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the applicant.
- (2) The facilities or proposed facilities for the conduct of

riverboat gambling.

(3) The highest prospective total revenue to be collected by the state from the conduct of riverboat gambling.

(4) The good faith affirmative action plan of each applicant to recruit, train, and upgrade minorities in all employment classifications.

(5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(6) If the applicant has adequate capitalization to provide and maintain a riverboat for the duration of the license.

(7) The extent to which the applicant exceeds or meets other standards adopted by the commission.

(b) In an application for an owner's license, the applicant must submit to the commission a proposed design of the riverboat and the dock. The commission may not grant a license to an applicant if the commission determines that it will be difficult or unlikely for the riverboat to depart from the dock.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.9; P.L.55-1995, SEC.2.

IC 4-33-6-5

Dock and navigable waterway; identification

Sec. 5. In an application for an owner's license, the applicant must state the dock at which the riverboat is based and the navigable waterway on which the riverboat will operate.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-6

Riverboat requirements

Sec. 6. (a) Except as provided in subsection (c), a riverboat that operates in a county described in IC 4-33-1-1(1) or IC 4-33-1-1(2) must:

(1) have either:

(A) a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; or

(B) a valid certificate of compliance with marine structural and life safety standards determined by the commission; and

(2) be at least one hundred fifty (150) feet in length.

(b) This subsection applies only to a riverboat that operates on the Ohio River. A riverboat must replicate, as nearly as possible, historic Indiana steamboat passenger vessels of the nineteenth century. However, steam propulsion or overnight lodging facilities are not required under this subsection.

(c) A riverboat described in IC 4-33-2-17(3) must have a valid certificate of compliance with the marine structural and life safety standards determined by the commission under IC 4-33-4-13.5 for a permanently moored craft.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.10; P.L.92-2003, SEC.28; P.L.170-2005, SEC.7; P.L.15-2011,

SEC.5.

IC 4-33-6-7

Economic development

Sec. 7. (a) In granting a license under this chapter, the commission may give favorable consideration to the following:

- (1) Economically depressed areas of Indiana.
- (2) Applicants presenting plans that provide for significant economic development over a large geographic area.

(b) This subsection applies to any owner's license issued for a city described in section 1(a)(1) of this chapter. The commission must require the applicant to provide assurances that economic development will occur in the city and that adequate infrastructure and site preparation will be provided to support the riverboat operation. In order to prove the assurance that economic development will occur, the applicant must:

- (1) construct or provide for the construction of an approved hotel; or
- (2) cause economic development that will have an economic impact on the city that exceeds the economic impact that the construction of an approved hotel would have.

(c) This subsection applies to an owner's license issued for the City of East Chicago. If a controlling interest in the owner's license is transferred, the fiscal body of the City of East Chicago may adopt an ordinance voiding any term of the development agreement (as defined by IC 36-1-8-9.5) between:

- (1) the city; and
- (2) the person transferring the controlling interest in the owner's license;

that is in effect as of the date the controlling interest is transferred. The ordinance may provide for any payments made under the redevelopment agreement, including those held in escrow, to be redirected to the City of East Chicago for use as directed by ordinance of the city fiscal body. A requirement to redirect a payment is valid to the same extent as if the requirement had been part of the original agreement. If the ordinance provides for the voiding and renegotiation of any part of a redevelopment agreement, the mayor of the City of East Chicago may negotiate with the person acquiring a controlling interest in the owner's license to replace any terms voided by the ordinance. Terms negotiated under this subsection must be ratified in an ordinance adopted by the city legislative body.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.234-2007, SEC.302.

IC 4-33-6-8

Issuance of license; fee; bond

Sec. 8. If the commission determines that a person is eligible under this chapter for an owner's license, the commission may issue an owner's license to the person if:

- (1) the person pays an initial license fee of twenty-five thousand dollars (\$25,000); and
- (2) the person posts a bond as required in section 9 of this chapter.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-9

Bond

Sec. 9. (a) A licensed owner must post a bond with the commission at least sixty (60) days before the commencement of gambling on the riverboat.

(b) The bond shall be furnished in:

- (1) cash or negotiable securities;
- (2) a surety bond:
 - (A) with a surety company approved by the commission; and
 - (B) guaranteed by a satisfactory guarantor; or
- (3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the licensee.

(d) The bond:

- (1) is subject to the approval of the commission;
- (2) must be in an amount that the commission determines will adequately reflect the amount that a local community will expend for infrastructure and other facilities associated with a riverboat operation; and
- (3) must be payable to the commission as obligee for use in payment of the licensed owner's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of a licensed owner's bond is insufficient, the licensed owner shall upon written demand of the commission file a new bond.

(f) The commission may require a licensed owner to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability on the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the owner's license. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) A bond is released on the condition that the licensed owner remains at the site for which the owner's license is granted for the lesser of:

- (1) five (5) years; or

(2) the date the commission grants a license to another licensed owner to operate from the site for which the bond was posted.

(i) A licensed owner who does not meet the requirements of subsection (h) forfeits a bond filed under this section. The proceeds of a bond that is in default under this subsection are paid to the commission for the benefit of the local unit from which the riverboat operated.

(j) The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:

(1) the time has run under subsection (h); and

(2) a written request is submitted by the licensed owner.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.192-2002(ss), SEC.12.

IC 4-33-6-10

Riverboat operation and docking; flexible scheduling; license expiration

Sec. 10. (a) An owner's license issued under this chapter permits the holder to own and operate one (1) riverboat and equipment for each license.

(b) The holder of an owner's license issued under this chapter may implement flexible scheduling for the operation of the holder's riverboat under section 21 of this chapter.

(c) An owner's license issued under this chapter must specify the place where the riverboat must operate and dock. However, the commission may permit the riverboat to dock at a temporary dock in the applicable city for a specific period of time not to exceed one (1) year after the owner's license is issued.

(d) An owner's initial license expires five (5) years after the effective date of the license.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.192-2002(ss), SEC.13.

IC 4-33-6-11

Revocation of license

Sec. 11. The commission may revoke an owner's license if:

(1) the licensee begins regular operations more than twelve (12) months after receiving the commission's approval of the application for the license; and

(2) the commission determines that the revocation of the license is in the best interests of Indiana.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.192-2002(ss), SEC.14.

IC 4-33-6-12

Renewal of license; compliance investigations

Sec. 12. (a) Unless the owner's license is terminated, expires, or is revoked, the owner's license may be renewed annually upon:

- (1) the payment of a five thousand dollar (\$5,000) annual renewal fee; and
- (2) a determination by the commission that the licensee satisfies the conditions of this article.

(b) A licensed owner shall undergo a complete investigation every three (3) years to determine that the licensed owner remains in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate a licensed owner at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this article.

(d) The licensed owner shall bear the cost of an investigation or reinvestigation of the licensed owner and any investigation resulting from a potential transfer of ownership.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.20-1995, SEC.11.

IC 4-33-6-13

Other licenses

Sec. 13. A licensed owner may apply to the commission for and may hold licenses that are necessary for the operation of a riverboat, including the following:

- (1) A license to prepare and serve food for human consumption.
- (2) Any other necessary license.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-14

Taxes; sales on riverboats

Sec. 14. All state excise taxes, use taxes, and gross retail taxes apply to sales on a riverboat.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-15

Gambling equipment, devices, and supplies

Sec. 15. A licensed owner may own gambling equipment, devices, and supplies. Each licensed owner must file an annual report listing the licensed owner's inventories of gambling equipment, devices, and supplies.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-16

Schools for training occupational licensees

Sec. 16. This article does not prohibit a licensed owner from operating a school for the training of occupational licensees.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-17

Nature of license

Sec. 17. A license to operate an excursion gaming boat:

- (1) is a revocable privilege granted by the state; and
- (2) is not a property right.

As added by P.L.277-1993(ss), SEC.124.

IC 4-33-6-18

Ordinances to permit docking in cities or counties

Sec. 18. (a) This subsection applies to cities described in section 1(a)(1) through 1(a)(4) or section (1)(b) of this chapter. The commission may not issue a license authorizing a riverboat to dock in a city unless the legislative body of the city has approved an ordinance permitting the docking of riverboats in the city.

(b) This subsection applies to a county described in section 1(a)(5) of this chapter if the largest city in the county is contiguous to the Ohio River. The commission may not issue a license authorizing a riverboat to dock in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the legislative body of the largest city in the county. The license must specify that the home dock of the riverboat is to be located in the largest city in the county.

(c) This subsection applies to a county described in section 1(a)(5) of this chapter if the largest city in the county is not contiguous to the Ohio River. The commission may not issue a license authorizing a riverboat to dock in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the county fiscal body.

(d) This subsection applies to a county in which a historic hotel district is located. The commission may not enter into a contract under IC 4-33-6.5 for the operation of a riverboat in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the county fiscal body.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.2-1995, SEC.8; P.L.92-2003, SEC.29.

IC 4-33-6-19

County approval of riverboat gambling

Sec. 19. (a) This section applies to:

- (1) a county contiguous to the Ohio River;
- (2) a county containing a historic hotel district; and
- (3) a county contiguous to Lake Michigan that has a population of less than four hundred thousand (400,000).

(b) Notwithstanding any other provision of this article, the commission may not:

- (1) issue a license under this article to allow a riverboat to operate in the county; or
- (2) enter into a contract with an operating agent under IC 4-33-6.5;

unless the voters of the county have approved the conducting of gambling games on riverboats in the county.

(c) If the docking of a riverboat in the county is approved by an ordinance adopted under section 18 of this chapter, or if at least the number of the registered voters of the county required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the county during the next primary or general election:

"Shall riverboat gambling be permitted in ____ County?"

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a county and the voters of the county do not vote in favor of permitting riverboat gambling under this article, a second public question under this section may not be held in that county for at least two (2) years. If the voters of the county vote to reject riverboat gambling a second time, a third or subsequent public question under this section may not be held in that county until the general election held during the tenth year following the year that the previous public question was placed on the ballot.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.1-1994, SEC.14; P.L.12-1995, SEC.96; P.L.2-1995, SEC.9; P.L.24-1996, SEC.10; P.L.3-1997, SEC.414; P.L.92-2003, SEC.30.

IC 4-33-6-20

City approval of riverboat gambling

Sec. 20. (a) This section applies to a city that:

(1) has a population of less than one hundred thousand (100,000); and

(2) is located in a county contiguous to Lake Michigan that has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Notwithstanding any other provision of this article, the commission may not issue a license under this article to allow a riverboat to operate from a city to which this section applies unless the voters of the city have approved the conducting of gambling games on riverboats in the city.

(c) If the legislative body of the city approves the docking of a riverboat under section 19 of this chapter, or if at least the number of the registered voters of the city required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the city during the next general election:

"Shall licenses be issued to permit riverboat gambling in the

City of _____?".

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a city and the voters of the city do not vote in favor of permitting riverboat gambling under this article, another public question under this section may not be held in that city for at least two (2) years.

As added by P.L.277-1993(ss), SEC.124. Amended by P.L.12-1995, SEC.97; P.L.3-1997, SEC.415.

IC 4-33-6-21

Plan for flexible scheduling; approval by commission

Sec. 21. (a) A licensed owner may submit a plan for flexible scheduling to the commission by a date designated by the commission. Upon receipt of an appropriate plan, the commission shall authorize flexible scheduling and the licensed owner shall implement the flexible scheduling plan by the date designated by the commission.

(b) A licensed owner that:

(1) submits a plan for flexible scheduling to the commission may include provisions; or

(2) has implemented a flexible scheduling plan may amend the plan to include provisions;

to conduct gambling operations for up to twenty-four (24) hours a day. Upon receipt of a plan or an amendment to a plan concerning operating hours, the commission shall authorize the licensed owner to implement the plan or amendment for the days and hours specified in the plan or amendment. The licensed owner shall implement the provisions related to operating days and hours by the date designated by the commission. If the licensed owner fails or ceases to operate in accordance with the authorized provisions concerning operating days and hours, the commission may rescind the authorization.

As added by P.L.192-2002(ss), SEC.15. Amended by P.L.224-2003, SEC.44.

IC 4-33-6-22

Submission of proposed power of attorney

Sec. 22. (a) This section applies to any licensed owner who was not required to submit a proposed power of attorney when applying for an owner's license.

(b) A licensed owner shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the licensed owner's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

- (2) describe the powers that may be delegated to the proposed trustee;
 - (3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and
 - (4) be submitted before:
 - (A) November 1, 2009, in the case of a person holding an owner's license on July 1, 2009; or
 - (B) the deadline imposed by the commission in the case of a licensed owner who is subject to this section and not described by clause (A).
 - (c) The commission may not renew an owner's license unless the commission:
 - (1) receives a proposed power of attorney from the licensed owner;
 - (2) approves the trustee identified by the power of attorney; and
 - (3) approves the power of attorney.
 - (d) A licensed owner must petition the commission for its approval of any changes to a power of attorney approved by the commission.
- As added by P.L.142-2009, SEC.9.*

IC 4-33-6-23

Plans for permanently moored craft; equipment and personnel requirements

- Sec. 23. (a) A licensed owner may submit to the commission a plan for:
- (1) constructing a permanently moored craft to replace the licensed owner's self-propelled excursion boat; or
 - (2) converting the licensed owner's self-propelled excursion boat into a permanently moored craft.
- (b) Upon receiving the commission's approval of a conversion plan submitted under subsection (a), a licensed owner may disable the propulsion and navigation equipment that had been required to comply with section 6(a) of this chapter.
- (c) A licensed owner operating a permanently moored craft is not required to employ personnel that had been required to operate a self-propelled excursion boat.
- As added by P.L.15-2011, SEC.6.*