

# HOUSE BILL No. 1196

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-31; IC 4-35-8.7-3; IC 6-2.5-5-1.

**Synopsis:** Indiana horse racing commission. Requires the Indiana horse racing commission (IHRC) to adopt rules establishing the confidentiality of personal information on license applications. Authorizes the IHRC to lift the suspension of an individual imposed following a positive test of a horse for a foreign substance, abnormal levels of a natural substance, or impermissible medications if the IHRC determines that the suspended individual has refunded the exact proportion of the purse that the individual personally received. Authorizes the IHRC to approve and accept proof of financial responsibility from a permit holder before the beginning of a horse racing meeting in an alternative manner to posting a bond. Changes references to the secretary of the IHRC to the executive director of the IHRC. Provides for the testing of biological samples other than the blood, urine, and saliva of a horse. Authorizes the IHRC to establish accounts within the gaming integrity fund as necessary to efficiently pay expenses incurred in the testing of biological samples. Provides that all transactions involving the sale of race horses are exempt from the sales and use taxes. (Under current law only sales occurring through a claiming race are exempt.)

**Effective:** July 1, 2019.

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January 10, 2019, read first time and referred to Committee on Public Policy.

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First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1196

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-31-2-1.7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2019]: **Sec. 1.7. "Biological sample" refers to any fluid, tissue, or**  
4 **other substance obtained from a horse through an internal or**  
5 **external means to test for foreign substances, natural substances at**  
6 **abnormal levels, and prohibited medications. The term includes**  
7 **blood, urine, saliva, hair, muscle tissue, semen, and other**  
8 **substances appropriate for testing as determined by the**  
9 **commission.**

10 SECTION 2. IC 4-31-2-3.5 IS REPEALED [EFFECTIVE JULY 1,  
11 2019]. **Sec. 3-5. "Claiming race" means a race in which any horse**  
12 **starting the race may be purchased for a designated amount in**  
13 **accordance with the rules of the commission.**

14 SECTION 3. IC 4-31-2-21 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 21. "State testing barn"**  
16 **means the facility provided by each racetrack and approved by the**  
17 **commission as the location where all horses designated for testing shall**



1 be taken by the trainer or the trainer's representative immediately  
 2 following a race so that necessary ~~blood or urine~~ **biological** samples  
 3 may be obtained from the horse.

4 SECTION 4. IC 4-31-2-23 IS REPEALED [EFFECTIVE JULY 1,  
 5 2019]. ~~Sec. 23: "Test sample" means a body substance taken from a~~  
 6 ~~horse for the purpose of analysis; under the supervision of the~~  
 7 ~~commission or state veterinarian and in the manner prescribed by the~~  
 8 ~~commission.~~

9 SECTION 5. IC 4-31-5-6.5 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6.5. (a) At least sixty  
 11 (60) days before the commencement of a horse racing meeting, a  
 12 permit holder shall:

13 (1) post a bond in an amount not to exceed one million dollars  
 14 (\$1,000,000), as determined by the commission; **or**

15 (2) **submit to the commission alternative proof of financial**  
 16 **responsibility approved by the commission.**

17 (b) ~~The bond;~~ **A bond posted under subsection (a)(1):**

18 (1) is subject to the approval of the commission; **and**

19 (2) must be payable to the commission as obligee for use in  
 20 payment of the applicant's financial obligations to the commission  
 21 or the state and other aggrieved parties, as determined by the rules  
 22 of the commission.

23 SECTION 6. IC 4-31-6-2 IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2019]: Sec. 2. The commission shall adopt rules  
 25 under IC 4-22-2 establishing **the following:**

26 (1) Procedures for license applications. ~~and~~

27 (2) **The confidentiality of personal information on license**  
 28 **applications, including an applicant's date of birth and home**  
 29 **address.**

30 ~~(3)~~ (3) License fees.

31 SECTION 7. IC 4-31-8-4, AS AMENDED BY P.L.268-2017,  
 32 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2019]: Sec. 4. (a) A permit holder shall provide an alcohol  
 34 breath-testing device that is approved by the commission and operated  
 35 by a person certified to use such a device. All drivers, jockeys, judges,  
 36 starters, assistant starters, and drivers of starting gates shall submit to  
 37 a breath test at each racing program in which they participate. In  
 38 addition, the ~~secretary~~ **executive director** of the commission, a  
 39 member of the commission, a commission investigator, the stewards,  
 40 or the track chief of security may order a licensee to submit to a breath  
 41 test at any time there is reason to believe the licensee may have  
 42 consumed sufficient alcohol to cause the licensee to fail a breath test.



1 (b) A person whose breath test shows a reading of an alcohol  
 2 concentration equivalent (as defined in IC 9-13-2-2.4) to more than  
 3 five-hundredths (0.05) gram of alcohol per two hundred ten (210) liters  
 4 of the person's breath, is subject to the following sanctions:

5 (1) A driver or jockey may not be permitted to drive or ride and  
 6 shall be suspended under the rules of the commission.

7 (2) A judge, a starter, an assistant starter, or a driver of the  
 8 starting gate shall be relieved of all duties for that program, and  
 9 a report shall be made to the commission for appropriate action.

10 (3) Any other licensee shall be suspended, beginning that day,  
 11 under the rules of the commission.

12 (c) The stewards and judges may, on behalf of the commission,  
 13 impose the following sanctions against a licensee who refuses to  
 14 submit to a breath test:

15 (1) For the first refusal, a civil penalty of one hundred dollars  
 16 (\$100) and a seven (7) day suspension.

17 (2) For a second refusal, a civil penalty of two hundred fifty  
 18 dollars (\$250) and a thirty (30) day suspension.

19 (3) For any additional refusals to submit to a breath test, a civil  
 20 penalty of two hundred fifty dollars (\$250), a sixty (60) day  
 21 suspension, and referral of the case to the commission for any  
 22 further action that the commission considers necessary.

23 (d) A sanction under subsection (c) may be appealed to the  
 24 commission. An appeal stays the sanction until further action by the  
 25 commission. The appeal must be heard by the commission within thirty  
 26 (30) days after the date of the appeal.

27 SECTION 8. IC 4-31-12-5 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) The judges, the  
 29 stewards, a commission veterinarian, a member of the commission, or  
 30 the ~~secretary~~ **executive director** of the commission may order a ~~blood~~  
 31 ~~test or urine test, or both,~~ **test of a biological sample** on a horse for the  
 32 purpose of analysis.

33 (b) A ~~blood specimen or urine specimen, or both,~~ **biological sample**  
 34 shall be taken from the following horses after the running of each race:

35 (1) The horse that finishes first in each race.

36 (2) Any other horses designated by the judges, the stewards, a  
 37 commission veterinarian, a member of the commission, or the  
 38 ~~secretary~~ **executive director** of the commission. The judges and  
 39 veterinarian shall designate for the taking of ~~such a specimen a~~  
 40 **biological sample** a horse that races markedly contrary to form.

41 SECTION 9. IC 4-31-12-6, AS AMENDED BY P.L.268-2017,  
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2019]: Sec. 6. (a) The commission:

2 (1) shall appoint, at its cost, a veterinarian licensed to practice in  
3 Indiana to take or supervise the taking of ~~specimens~~ **biological**  
4 **samples** under section 5 of this chapter;

5 (2) shall approve a laboratory for the analysis of ~~those specimens;~~  
6 **a biological sample taken under section 5 of this chapter;** and

7 (3) may require that a ~~specimen~~ **biological sample** taken under  
8 section 5 of this chapter be analyzed.

9 (b) The cost of analyzing the ~~primary blood or urine specimens~~  
10 **biological samples** shall be borne by the commission.

11 (c) The commission may appoint, at its cost, veterinarians or other  
12 persons to supervise all activities in the state testing barn area and to  
13 supervise the practice of veterinary medicine at all racetracks in  
14 Indiana.

15 (d) The commission shall employ or contract for assistants to aid in  
16 securing ~~specimens~~ **biological samples** at each racetrack. These  
17 assistants shall have free access, under the supervision of the  
18 commission's veterinarian, to the state testing barn area. The permit  
19 holder shall, in the manner prescribed by the rules of the commission,  
20 reimburse the commission for the salaries and other expenses of the  
21 assistants who serve at the permit holder's racetrack.

22 SECTION 10. IC 4-31-12-8, AS AMENDED BY P.L.34-2006,  
23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2019]: Sec. 8. (a) As used in this section, "milkshake or  
25 bicarbonate loading" means a bicarbonate or alkaline substance,  
26 administered to a horse by any possible means, that elevates the horse's  
27 bicarbonate level or pH level above those existing naturally in the  
28 untreated horse at normal physiological concentrations as determined  
29 by the commission.

30 (b) A finding by the chemist or an authorized commission employee  
31 that a milkshake or bicarbonate loading or a foreign substance, other  
32 than a medication permitted by the rules of the commission, is present  
33 in the ~~test~~ **tested biological** sample shall be considered:

34 (1) a positive test and a violation of section 2 of this chapter; and

35 (2) prima facie evidence that:

36 (A) the milkshake or bicarbonate loading or foreign substance  
37 was administered and carried or attempted to be carried in the  
38 body of the horse while participating in a race; and

39 (B) the trainer and the trainer's agents responsible for the care  
40 and custody of the horse have been negligent in the handling  
41 or care of the horse.

42 (c) The commission may establish the concentration level that is an



1 unacceptable concentration level for substances that it considers  
 2 necessary for the detection of a milkshake or bicarbonate loading under  
 3 this section.

4 SECTION 11. IC 4-31-12-10 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) The commission  
 6 veterinarian may order a post-mortem examination of:

7 (1) each horse that:

8 (A) suffers a breakdown on the racetrack, in training, or in  
 9 competition; and

10 (B) is destroyed; and

11 (2) each horse that expires under suspicious or unusual  
 12 circumstances while stabled on a racetrack under the jurisdiction  
 13 of the commission;

14 to determine the injury or sickness that resulted in euthanasia or natural  
 15 death.

16 (b) A post-mortem examination under this section shall be  
 17 conducted by a veterinarian approved by the commission, at a time and  
 18 place acceptable to the commission veterinarian.

19 (c) ~~Test~~ **Biological** samples specified by the commission  
 20 veterinarian **for testing** shall be obtained from the carcass upon which  
 21 the post-mortem examination is conducted and shall be sent to a  
 22 laboratory approved by the commission for testing for foreign  
 23 substances and natural substances at abnormal levels. However, blood,  
 24 ~~and~~ urine, ~~test and similar biological~~ samples shall be procured **for**  
 25 **testing** before euthanasia when practical.

26 (d) The commission shall pay all costs involved in a post-mortem  
 27 examination ordered by the commission or the commission  
 28 veterinarian.

29 (e) A written record shall be filed with the commission veterinarian  
 30 at the completion of each post-mortem examination. The record must  
 31 contain all information normally contained in a post-mortem report, as  
 32 well as any other information specifically requested by the commission  
 33 veterinarian.

34 SECTION 12. IC 4-31-12-11 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. The commission  
 36 may direct the official laboratory to retain and preserve by freezing  
 37 **biological** samples for future analysis.

38 SECTION 13. IC 4-31-12-13 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) This section  
 40 applies to a horse entered to race at a track operated under a permit  
 41 issued by the commission.

42 (b) The following provisions apply if the analysis of a ~~blood~~



1 ~~specimen or urine specimen~~ **biological sample** shows that a person has  
 2 violated section 2 of this chapter:

3 (1) The owner of the horse from which the ~~specimen~~ **biological**  
 4 **sample** was obtained shall forfeit the purse and any trophy or  
 5 award.

6 (2) If the purse was paid before the maker of that payment was  
 7 notified of the result of the analysis, the horse, the owner, and the  
 8 trainer of the horse are suspended. A permit holder is not required  
 9 to make any other distribution of the purse until the refund has  
 10 been made. The judges shall disqualify the horse from which the  
 11 positive ~~specimen~~ **biological sample** was obtained and the  
 12 remaining horses shall be advanced accordingly. The horse  
 13 ultimately designated as the winner of the race shall be awarded  
 14 any additional portions of the purse that remain following the  
 15 disqualification if there are not enough unoffending horses to  
 16 share the purse.

17 (3) A suspension made under this section continues until the  
 18 purse is refunded and properly redistributed or for any other  
 19 period determined by the commission.

20 **(4) The commission may lift the suspension of an individual**  
 21 **suspended under subdivision (2) if the commission determines**  
 22 **that the suspended individual has refunded the exact**  
 23 **proportion of the purse that the individual personally**  
 24 **received.**

25 SECTION 14. IC 4-31-12-14 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. The trainer of a  
 27 horse that is the winner of a race or from which the judges order a  
 28 ~~specimen~~ **biological sample** to be taken shall see that the horse is taken  
 29 directly to the state testing barn as soon as the race in which the horse  
 30 competed has been completed.

31 SECTION 15. IC 4-31-12-17 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) The owner, the  
 33 trainer, or a representative of the owner or trainer must be present in  
 34 the quarantine area when a ~~saliva, urine, or blood specimen~~ **biological**  
 35 **sample** is taken from a horse, and must remain until the specimen is  
 36 sealed. The official tag attached to a ~~specimen~~ **biological sample** shall  
 37 be signed by the owner, the trainer, or the owner's or trainer's  
 38 representative as witness to the taking of the ~~specimen;~~ **biological**  
 39 **sample.** The judges shall immediately suspend a person who:

40 (1) willfully fails to be present at the taking of a ~~specimen;~~  
 41 **biological sample;**

42 (2) refuses to allow the taking of a ~~specimen;~~ **biological sample;**



1 or

2 (3) otherwise interferes with the taking of a ~~specimen~~; **biological**  
3 **sample**;

4 and the matter shall be referred to the commission for any further  
5 penalty that the commission considers appropriate.

6 (b) An owner or trainer who is not present either in person or by  
7 representative when a ~~specimen~~ **biological sample** is taken from a  
8 horse may not claim that the ~~specimen~~ **biological sample** tested was  
9 not the ~~specimen~~ **biological sample** taken from the horse

10 SECTION 16. IC 4-35-8.7-3, AS AMENDED BY P.L.86-2018,  
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 3. (a) The gaming integrity fund is established.

13 (b) The fund shall be administered by the Indiana horse racing  
14 commission. **The Indiana horse racing commission may establish**  
15 **accounts within the fund as necessary to efficiently pay expenses**  
16 **incurred under IC 4-31-12.**

17 (c) The fund consists of gaming integrity fees deposited in the fund  
18 under this chapter and money distributed to the fund under  
19 IC 4-35-7-12.5 and IC 4-35-7-15. For each licensee, the Indiana horse  
20 racing commission shall annually transfer:

21 (1) seventy-five thousand dollars (\$75,000); multiplied by

22 (2) the number of racetracks operated by the licensee;

23 from the fund to the Indiana state board of animal health to be used by  
24 the state board to pay the costs associated with equine health and  
25 equine care programs under IC 15-17.

26 (d) The treasurer of state shall invest the money in the fund not  
27 currently needed to meet the obligations of the fund in the same  
28 manner as other public funds may be invested.

29 (e) Money in the fund at the end of a state fiscal year does not revert  
30 to the state general fund.

31 (f) Money in the fund may be used by the Indiana horse racing  
32 commission only for the following purposes:

33 (1) To pay the cost of taking and analyzing equine ~~specimens~~  
34 **biological samples** under IC 4-31-12-6(b) or another law or rule  
35 and the cost of any supplies related to the taking or analysis of  
36 ~~specimens~~; **biological samples**.

37 (2) To pay dues to the Drug Testing Standards and Practices  
38 (DTSP) Committee of the Association of Racing Commissioners  
39 International.

40 (3) To provide grants for research for the advancement of equine  
41 drug testing. Grants under this subdivision must be approved by  
42 the Drug Testing Standards and Practices (DTSP) Committee of





1 the Association of Racing Commissioners International or by the  
2 Racing Mediation and Testing Consortium.

3 (4) To pay the costs of post-mortem examinations under  
4 IC 4-31-12-10.

5 (5) To pay other costs incurred by the commission to maintain the  
6 integrity of pari-mutuel racing.

7 (g) Money in the fund is continuously appropriated to the Indiana  
8 horse racing commission to carry out the purposes described in  
9 subsection (f).

10 SECTION 17. IC 6-2.5-5-1, AS AMENDED BY P.L.86-2018,  
11 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2019]: Sec. 1. (a) Transactions involving animals, feed, seed,  
13 plants, fertilizer, pesticides, fungicides, and other tangible personal  
14 property are exempt from the state gross retail tax if:

15 (1) the person acquiring the property acquires it for the person's  
16 direct use in the direct production of food and food ingredients or  
17 commodities for sale or for further use in the production of food  
18 and food ingredients or commodities for sale; and

19 (2) the person acquiring the property is occupationally engaged in  
20 the production of food and food ingredients or commodities which  
21 the person sells for human or animal consumption or uses for  
22 further food and food ingredient or commodity production.

23 (b) A transaction involving the sale of a race horse ~~in a claiming~~  
24 ~~race~~ (as defined by IC 4-31-2-3.5) is exempt from the state gross retail  
25 tax.

26 SECTION 18. [EFFECTIVE JULY 1, 2019] **(a) IC 6-2.5-5-1, as**  
27 **amended by this act, applies only to retail transactions occurring**  
28 **after June 30, 2019.**

29 **(b) Except as provided in subsection (c), a retail transaction is**  
30 **considered to have occurred after June 30, 2019, if the property**  
31 **whose transfer constitutes selling at retail is delivered to the**  
32 **purchaser or to the place of delivery designated by the purchaser**  
33 **after June 30, 2019.**

34 **(c) Notwithstanding the delivery of the property constituting**  
35 **selling at retail after June 30, 2019, a transaction is considered to**  
36 **have occurred before July 1, 2019, to the extent that:**

37 **(1) the agreement of the parties to the transaction is entered**  
38 **into before July 1, 2019; and**

39 **(2) payment for the property furnished in the transaction is**  
40 **made before July 1, 2019.**

41 **(d) This SECTION expires January 1, 2021.**

