

# SENATE BILL No. 405

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-31; IC 4-33; IC 4-35; IC 4-38;  
IC 35-45-5-14.

**Synopsis:** Wagering on sports. Authorizes sports wagering at riverboats, racinos, and satellite facilities after the Indiana gaming commission determines that current federal prohibitions on sports wagering are no longer applicable. Provides for the administration, conduct, and taxation of sports wagering. Imposes initial and annual fees on a licensed owner, operating agent, or permit holder conducting sports wagering.

**Effective:** July 1, 2018.

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January 8, 2018, read first time and referred to Committee on Public Policy.

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Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# SENATE BILL No. 405

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 4-31-2-20.9 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2018]: **Sec. 20.9. "Sports wagering" refers to wagering**  
4 **conducted under IC 4-38 on athletic and sporting events involving**  
5 **human competitors. The term does not include pari-mutuel**  
6 **wagering on horse racing.**

7 SECTION 2. IC 4-31-9-0.5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2018]: **Sec. 0.5. This chapter does not apply to sports wagering**  
10 **conducted under IC 4-38 at a satellite facility.**

11 SECTION 3. IC 4-33-2-2 IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2018]: Sec. 2. **(a) "Adjusted gross receipts"**  
13 **means:**

- 14 (1) the total of all cash and property (including checks received  
15 by a licensee or an operating agent) whether collected or not,  
16 received by a licensee or an operating agent from gaming  
17 operations; minus



1 (2) the total of:

2 (A) all cash paid out as winnings to patrons; and

3 (B) uncollectible gaming receivables, not to exceed the lesser  
4 of:

5 (i) a reasonable provision for uncollectible patron checks  
6 received from gaming operations; or

7 (ii) two percent (2%) of the total of all sums, including  
8 checks, whether collected or not, less the amount paid out as  
9 winnings to patrons.

10 For purposes of this section, a counter or personal check that is invalid  
11 or unenforceable under this article is considered cash received by the  
12 licensee or operating agent from gaming operations.

13 **(b) The term does not include amounts received from sports**  
14 **wagering conducted by a licensee or operating agent under**  
15 **IC 4-38.**

16 SECTION 4. IC 4-33-2-17.7 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2018]: **Sec. 17.7. "Sports wagering" refers to wagering**  
19 **conducted under IC 4-38 on athletic and sporting events involving**  
20 **human competitors. The term does not include money spent to**  
21 **participate in paid fantasy sports under IC 4-33-24.**

22 SECTION 5. IC 4-33-3-22 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 22. (a) The commission  
24 shall file a written annual report with the governor before September  
25 1 of each year. The commission shall file any additional reports that the  
26 governor requests.

27 (b) The annual report filed under this section must include a  
28 statement describing the following:

29 (1) The receipts and disbursements of the commission.

30 (2) Actions taken by the commission.

31 **(3) The development and fiscal impact of sports wagering**  
32 **conducted under IC 4-38.**

33 ~~(3)~~ **(4) Any additional information and recommendations that:**

34 (A) the commission considers useful; or

35 (B) the governor requests.

36 SECTION 6. IC 4-33-12-0.5, AS ADDED BY P.L.255-2015,  
37 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2018]: Sec. 0.5. This chapter does not apply to **the following:**

39 **(1) A riverboat in a historic hotel district.**

40 **(2) Sports wagering conducted under IC 4-38 at a riverboat.**

41 SECTION 7. IC 4-33-13-0.5 IS ADDED TO THE INDIANA CODE  
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2018]: **Sec. 0.5. This chapter does not apply to sports wagering conducted under IC 4-38 at a riverboat.**

SECTION 8. IC 4-35-2-2, AS AMENDED BY P.L.210-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) "Adjusted gross receipts" means:

(1) the total of all cash and property (including checks received by a licensee, whether collected or not) received by a licensee from gambling games, including amounts that are distributed by a licensee under IC 4-35-7-12; minus

(2) the total of:

(A) all cash paid out to patrons as winnings for gambling games; and

(B) uncollectible gambling game receivables, not to exceed the lesser of:

(i) a reasonable provision for uncollectible patron checks received from gambling games; or

(ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings for gambling games.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the licensee from gambling games.

**(b) The term does not include amounts received from sports wagering conducted by a licensee under IC 4-38.**

SECTION 9. IC 4-35-8-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 0.5. This chapter does not apply to sports wagering conducted under IC 4-38 at a gambling game facility licensed under this article.**

SECTION 10. IC 4-38 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

## ARTICLE 38. SPORTS WAGERING

### Chapter 1. General Provisions

**Sec. 1. Pursuant to 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through duly elected and qualified members of the legislature, does declare and proclaim that the state is exempt from the provisions of 15 U.S.C. 1172.**

**Sec. 2. All shipments of gambling devices used to conduct sports wagering under this article to an operating agent, a licensed owner, or a permit holder in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or**



1 dealer thereof in accordance with 15 U.S.C. 1171 through 1178, are  
2 legal shipments of gambling devices into Indiana.

3 **Chapter 2. Definitions**

4 **Sec. 0.5.** The definitions set forth in this chapter apply  
5 throughout this article unless the context clearly denotes otherwise.

6 **Sec. 1. "Adjusted gross receipts" means:**

7 (1) the total of all cash and property (including checks  
8 received by a certificate holder) whether collected or not,  
9 received by a certificate holder from sports wagering; minus

10 (2) the total of:

11 (A) all cash paid out as winnings to sports wagering  
12 patrons; and

13 (B) uncollectible gaming receivables, not to exceed the  
14 lesser of:

15 (i) a reasonable provision for uncollectible patron checks  
16 received from sports wagering; or

17 (ii) two percent (2%) of the total of all sums, including  
18 checks, whether collected or not, less the amount paid  
19 out as winnings to sports wagering patrons.

20 For purposes of this section, a counter or personal check that is  
21 invalid or unenforceable under this article is considered cash  
22 received by the certificate holder from sports wagering.

23 **Sec. 2. "Certificate holder" means a licensed owner, operating  
24 agent, or permit holder issued a certificate of authority by the  
25 commission authorizing the licensed owner, operating agent, or  
26 permit holder to conduct sports wagering under this article.**

27 **Sec. 3. "Commission" refers to the Indiana gaming commission  
28 established by IC 4-33-3-1.**

29 **Sec. 4. "Department" refers to the department of state revenue.**

30 **Sec. 5. "Gross receipts" means the total amount of money  
31 exchanged for the purchase of tokens or electronic cards by sports  
32 wagering patrons.**

33 **Sec. 6. "Licensed facility" means any of the following:**

34 (1) A satellite facility operated under IC 4-31-5.5.

35 (2) A riverboat operated under IC 4-33.

36 (3) A gambling game facility operated under IC 4-35.

37 **Sec. 7. "Licensed owner" has the meaning set forth in  
38 IC 4-33-2-13.**

39 **Sec. 8. "Occupational license" means a license issued by the  
40 commission under IC 4-33-8.**

41 **Sec. 9. "Operating agent" means a person with whom the  
42 commission has entered into a contract under IC 4-33-6.5 to**



1 operate a riverboat in a historic hotel district.

2 Sec. 10. "Permit holder" has the meaning set forth in  
3 IC 4-31-2-14.

4 Sec. 11. "Person" means an individual, a sole proprietorship, a  
5 partnership, an association, a fiduciary, a corporation, a limited  
6 liability company, or any other business entity.

7 Sec. 12. "Riverboat" has the meaning set forth in IC 4-33-2-17.

8 Sec. 13. "Sports wagering" refers to wagering conducted under  
9 this article on athletic and sporting events involving human  
10 competitors. The term does not include pari-mutuel wagering on  
11 horse racing or money spent to participate in paid fantasy sports  
12 under IC 4-33-24.

13 Sec. 14. "Sports wagering device" refers to a mechanical,  
14 electrical, or computerized contrivance, terminal, device,  
15 apparatus, piece of equipment, or supply approved by the  
16 commission for conducting sports wagering under this article.

17 Sec. 15. "Supplier's license" means a license issued under  
18 IC 4-33-7.

19 Chapter 3. Administrative Rules

20 Sec. 1. The commission shall adopt rules under IC 4-22-2,  
21 including emergency rules in the manner provided under  
22 IC 4-22-2-37.1, to implement this article. Rules adopted under this  
23 section must include the following:

24 (1) Standards for the conduct of sports wagering under this  
25 article.

26 (2) Standards and procedures to govern the conduct of sports  
27 wagering, including the manner in which:

28 (A) wagers are received;

29 (B) payouts are paid; and

30 (C) point spreads, lines, and odds are determined.

31 (3) Standards for allowing a certificate holder to offer sports  
32 wagering as an interactive form of gaming.

33 (4) Rules prescribing the manner in which a certificate  
34 holder's books and financial records relating to sports  
35 wagering are maintained and audited, including standards for  
36 the daily counting of a certificate holder's gross receipts from  
37 sports wagering and standards to ensure that internal  
38 controls are followed.

39 (5) Rules concerning the detection and prevention of  
40 compulsive gambling.

41 Sec. 2. Rules adopted under section 1 of this chapter must  
42 require a certificate holder to do the following:



- 1 (1) Designate an area within the licensed facility operated by  
 2 the certificate holder for sports wagering conducted under  
 3 this article.  
 4 (2) Ensure that the certificate holder's surveillance system  
 5 covers all areas of the certificate holder's licensed facility in  
 6 which sports wagering is conducted.  
 7 (3) Allow the commission to be present through the  
 8 commission's gaming agents during the time sports wagering  
 9 is conducted in all areas of the certificate holder's licensed  
 10 facility in which sports wagering is conducted to do the  
 11 following:  
 12 (A) Ensure maximum security of the counting and storage  
 13 of the sports wagering revenue received by the certificate  
 14 holder.  
 15 (B) Certify the sports wagering revenue received by the  
 16 certificate holder.  
 17 (C) Receive complaints from the public.  
 18 (D) Conduct other investigations into the conduct of sports  
 19 wagering and the maintenance of the equipment that the  
 20 commission considers necessary and proper for sports  
 21 wagering.  
 22 (4) Ensure that individuals who are less than twenty-one (21)  
 23 years of age do not make wagers under this article.  
 24 (5) Provide written information to sports wagering patrons  
 25 about sports wagering, payouts, winning wagers, and other  
 26 information considered relevant by the commission.  
 27 (6) Post a sign in the designated sports wagering area  
 28 indicating the minimum and maximum amounts that may be  
 29 wagered under this article.

#### 30 Chapter 4. Authority to Conduct Sports Wagering

31 Sec. 1. The commission is authorized to approve sports  
 32 wagering in Indiana not more than ninety (90) days after the  
 33 commission determines that:

- 34 (1) the federal statutes prohibiting sports wagering and the  
 35 state regulation of sports wagering in Indiana and similarly  
 36 situated states have been repealed or amended to allow  
 37 Indiana to permit and regulate sports wagering; or  
 38 (2) the United States Supreme Court has ruled that a federal  
 39 statute described in subdivision (1) is unconstitutional and  
 40 may not be applied to prohibit Indiana from permitting and  
 41 regulating sports wagering.

42 Sec. 2. The commission shall announce any determinations made



1 under section 1 of this chapter on the commission's Internet web  
2 site.

3 **Sec. 3.** After making an announcement under section 2 of this  
4 chapter, the commission may begin accepting applications for a  
5 certificate of authority from any licensed owner, operating agent,  
6 or permit holder that wishes to offer sports wagering under this  
7 article. The commission shall prescribe the form of the application.

8 **Sec. 4. (a)** A licensed owner, operating agent, or permit holder  
9 that wishes to offer sports wagering under this article must do the  
10 following:

11 (1) Submit an application to the commission in the manner  
12 prescribed by the commission for each licensed facility in  
13 which the applicant wishes to conduct sports wagering.

14 (2) Subject to subsection (b), pay an initial fee equal to the  
15 greater of:

16 (A) one percent (1%) of the adjusted gross receipts (as  
17 determined under IC 4-33 or IC 4-35, as applicable)  
18 received for gambling at the particular licensed facility in  
19 the state fiscal year ending most recent to the date that the  
20 applicant submits an application under this section; or

21 (B) five hundred thousand dollars (\$500,000).

22 (b) A permit holder that applies for a certificate of authority to  
23 conduct sports wagering at a gambling game facility operated  
24 under IC 4-35 is not required to pay an additional fee under  
25 subsection (a) with an application to conduct sports wagering at a  
26 satellite facility operated under IC 4-31-5.5.

27 **Sec. 5.** Upon receipt of the application and fee required by  
28 section 4 of this chapter, the commission shall issue a certificate of  
29 authority to a licensed owner, an operating agent, or a permit  
30 holder authorizing the licensed owner, operating agent, or permit  
31 holder to conduct sports wagering under this article in a  
32 designated licensed facility.

33 **Sec. 6.** The commission shall deposit fees received under this  
34 chapter in the state general fund.

### 35 Chapter 5. Conduct of Sports Wagering

36 **Sec. 1.** The commission shall test new sports wagering devices  
37 and new forms, variations, or composites of sports wagering under  
38 the terms and conditions that the commission considers  
39 appropriate before authorizing a certificate holder to offer a new  
40 sports wagering device or a new form, variation, or composite of  
41 sports wagering.

42 **Sec. 2.** A certificate holder shall designate an area within each





1 licensed facility in which the certificate holder is authorized to  
 2 conduct sports wagering under this article. Sports wagering may  
 3 not be conducted at any location other than the area designated  
 4 under this section.

5 **Sec. 3. (a)** Except as provided in subsection (b), a person who is  
 6 less than twenty-one (21) years of age may not be present in an  
 7 area where sports wagering is being conducted.

8 (b) A person who is at least eighteen (18) years of age and who  
 9 is an employee of a certificate holder's licensed facility may be  
 10 present in an area where sports wagering is conducted. However,  
 11 an employee who is less than twenty-one (21) years of age may not  
 12 perform any function involving sports wagering by the patrons.

13 **Sec. 4. (a)** Sports wagering may not be conducted with money or  
 14 other negotiable currency.

15 (b) A certificate holder shall determine the minimum and  
 16 maximum wagers in sports wagering conducted in the certificate  
 17 holder's licensed facility.

18 **Sec. 5.** A certificate holder may not permit any sports wagering  
 19 on the premises of the certificate holder's licensed facility except as  
 20 permitted by this article.

21 **Sec. 6.** A sports wagering device must be approved by the  
 22 commission and acquired by a certificate holder from a licensed  
 23 supplier. The commission shall determine whether any other  
 24 supplies and equipment used to conduct sports wagering require  
 25 a certificate holder to acquire the supplies and equipment from a  
 26 licensed supplier. IC 4-33-7 applies to the distribution of sports  
 27 wagering devices and the conduct of sports wagering under this  
 28 article.

29 **Sec. 7.** The commission shall determine the occupations related  
 30 to sports wagering that require an occupational license. IC 4-33-8  
 31 applies to the conduct of sports wagering under this article.

32 **Sec. 8.** IC 4-31-6-11, IC 4-33-4-27, IC 4-33-8.5, IC 4-35-4-16, and  
 33 IC 4-35-6.7 apply, as appropriate, to sports wagering conducted at  
 34 a licensed facility.

35 **Chapter 6. Taxes and Fees**

36 **Sec. 1.** A wagering tax of nine and twenty-five hundredths  
 37 percent (9.25%) is imposed on the adjusted gross receipts received  
 38 from sports wagering conducted by a certificate holder under this  
 39 article.

40 **Sec. 2.** The certificate holder shall remit the tax imposed by  
 41 section 1 of this chapter to the department before the close of the  
 42 business day one (1) day before the last business day of each month



1 for the wagering taxes collected that month. Any taxes collected  
 2 during the month but after the day on which the taxes are required  
 3 to be paid to the department shall be paid to the department at the  
 4 same time the following month's taxes are due.

5 **Sec. 3. The payment of the tax under this chapter must be an**  
 6 **electronic funds transfer by automated clearinghouse.**

7 **Sec. 4. The department shall deposit tax revenue collected under**  
 8 **this chapter in the state general fund.**

9 **Sec. 5. A certificate holder shall pay to the commission an**  
 10 **annual administrative fee of seventy-five thousand dollars**  
 11 **(\$75,000). The fee imposed by this section is due one (1) year after**  
 12 **the date that the certificate holder commences sports wagering**  
 13 **operations under this article and on each annual anniversary date**  
 14 **thereafter. The commission shall deposit the administrative fees**  
 15 **received under this section in the sports wagering fund.**

16 **Sec. 6. (a) The sports wagering fund is established.**

17 **(b) The commission shall administer the fund.**

18 **(c) The fund consists of the administrative fees deposited in the**  
 19 **fund under section 5 of this chapter.**

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

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

25 **(f) Money in the fund must be used by the commission to pay the**  
 26 **costs incurred to administer this article.**

27 SECTION 11. IC 35-45-5-14 IS ADDED TO THE INDIANA  
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2018]: **Sec. 14. This chapter does not apply**  
 30 **to sports wagering conducted under IC 4-38.**

