

RESOLUTION 2009-59

A RESOLUTION ASSIGNING TO THE EXECUTIVE DIRECTOR THE AUTHORITY TO GRANT INTERIM FELONY WAIVER APPROVALS

The Indiana Gaming Commission (“Commission”) adopts the following resolution pursuant to the authority granted to it under IC 4-33 and 4-35.

The Commission has considered the following factors:

1. Pursuant to IC 4-33-3-18 and IC 4-35-4-1, the Commission may, by resolution, assign to the Executive Director any duty imposed upon the Commission by IC 4-33 and IC 4-35. The Executive Director shall perform duties and exercise any power conferred upon him by the Commission.
2. Under IC 4-33-8-3 and IC 4-35-6.5-3, the Commission may not issue an occupational license to someone who has been convicted of a felony “under Indiana law, the laws of any other state, or the laws of the United States.”
3. Under IC 4-33-8-11 and IC 4-35-6.5-11, however, the Commission has the authority to waive the prohibition on licensing convicted felons if the applicant qualifies for a waiver under the statutory scheme and the “commission determines that the individual has demonstrated by clear and convincing evidence the individual’s rehabilitation.” This waiver provision is commonly called “felony waiver”.
4. In the past three years, the Commission has received approximately thirty (30) applications for felony waiver and has granted eleven (11).
5. In some cases, an applicant will have made application for a felony waiver, passed the initial qualification, proceeded to a hearing with Commission staff, and be found by staff to be fully rehabilitated, but because the next upcoming Commission meeting is many weeks away, the applicant will lose her job offer prior to obtaining a waiver. If Commission staff could grant an interim approval of the felony waiver application within a short time following the hearing, the potential for a burdensome waiting period would be reduced. The Commission could maintain ultimate control to approve or deny a felony waiver application but allow for interim approvals of waiver applications that fall under the least serious category of felony convictions under IC 4-33-8-11 and IC 4-35-6.5-11.
6. The Commission finds that it is in the best interest of the casino gambling industry, the Commission, and the occupational license scheme to assign to the Executive Director the authority to grant interim approvals to felony waiver applicants who qualify under IC 4-33-8-11(f) or IC 4-35-6.5-11(f) until such time as the Commission is able to ratify or reject the interim approval.

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

SECTION 1: SCOPE

This resolution applies to the Indiana Gaming Commission and the Executive Director of the Indiana Gaming Commission.

SECTION 2: DEFINITIONS

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

SECTION 3: ASSIGNMENT OF AUTHORITY TO THE EXECUTIVE DIRECTOR

The Indiana Gaming Commission hereby assigns to the Executive Director the authority to grant interim approvals to felony waiver applicants who qualify under IC 4-33-8-11(f) or IC 4-35-6.5-11(f), as described herein. All interim approvals must be brought before the Commission for ratification or rejection at the next scheduled business meeting of the Commission.

SECTION 4: RESERVATION OF POWERS AND DUTIES BY THE COMMISSION

The Commission hereby limits the assignment of authority to the Executive Director solely to the powers described in Section 3, specifically reserving for itself ultimate authority over the felony waiver applications described in Section 3 and all remaining powers and duties with respect to the granting of felony waivers under IC 4-33-8-11 and IC 4-35-6.5-11.

SECTION 5: EFFECTIVE DATE

This resolution is effective on March 19, 2009.

COMMISSION ACTION

ADOPTED THIS THE 19th DAY OF MARCH, 2009.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Thomas Swihart, Secretary