

**FOR COMMENT AT THE ANNUAL IFTA BUSINESS MEETING
AUGUST 24-26, 2021**



IFTA

International Fuel Tax Association Inc.

**IFTA FULL TRACK PRELIMINARY BALLOT PROPOSAL
#01-2021**

Sponsor

IFTA, Inc. Board of Trustees

Date Submitted

April 9, 2021

Proposed Effective Date

Upon Passage

Manual Sections to be Amended (January 1996 Version, Effective July 1, 1998, as revised)

Articles of Agreement, Section R1555

Subject

Submission of a Final Determination Finding of Non-Compliance to the Membership

History/Digest

Dating back to 2003, the IFTA, Inc. Board of Trustees (“Board”) and the Program Compliance Review Committee (“PCRC”) have been working to implement a report from the PCRC to establish a mechanism for the PCRC to initiate a dispute against a jurisdiction.

Following the failure of Ballot 12-2006 and 2-2007, Ballot 1-2009 passed with the creation of R1555.100.015, R1555.200, and R1555.300.

More recently, a survey of member jurisdictions indicated a need to review the DRC’s processes. Subsequent discussions have revealed a discontent with the length of time a dispute can take from start to finish and with the overly legalistic nature of the process. One area identified as a contributing factor to those dissatisfactions is the requirement for a membership vote to transfer a finding of non-compliance from the PCRC to the DRC. Member jurisdictions have 30 days to vote on these matters.

On October 16, 2020, IFTA Inc. issued a non-binding survey which included the question: “Under R1555.300 of the Articles of Agreement, a vote of the member jurisdictions is required in order to initiate a dispute before the DRC in those cases where the Program Compliance Review Committee has made a Final Determination Finding of Non-Compliance. To streamline the current compliance enforcement process, should R1555.300 be amended to eliminate the requirement of a membership vote?”

Of the 49 member jurisdictions which replied to this question in the survey, 35 were in favour and 14 replied “no.” As the change referenced in the survey is a change to the Agreement, a ballot is required before any change can actually be made.

Since implementing this change to the agreement, there has been one vote.

As written, the agreement is clear as to what the outcome would be if a vote receives the required 2/3rds affirmative; however, it is silent as to the outcome if that threshold is not reached.

Intent

The intent of this ballot is to continue with the direction provided in question 2 of the October 16, 2020 survey and remove the requirement for a member jurisdiction vote on permitting a Final Determination of Non-Compliance to be advanced as a dispute. This change will not impact the sections of the Agreement in which a jurisdiction must be non-compliant before a dispute can be started. This also does not take away from the PCRC’s reassessment and follow up processes.

Interlining Indicates Deletion; Underlining Indicates Addition

1 *R1555 COMPLIANCE MATTERS

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3 .100 Dispute Resolution Process

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5 Disputes concerning issues of compliance with the International Fuel Tax Agreement may
6 be resolved pursuant to the IFTA Dispute Resolution Process. The IFTA Dispute
7 Resolution Process may be utilized to resolve only:

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9 .005 Compliance disputes between member jurisdictions;

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11 .010 Compliance disputes between member jurisdictions and IFTA licensees in those
12 matters where no administrative remedy to the IFTA licensee is available within
13 the member jurisdiction involved in the dispute. Compliance disputes subject to
14 this section shall not include disputes between member jurisdictions and IFTA
15 licensees over matters of substantive jurisdiction law, including but not limited to,
16 laws governing the imposition, assessment, and collection of jurisdiction motor fuel
17 use taxes collected pursuant to the International Fuel Tax Agreement; and

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19 .015 Compliance matters where (i) the Program Compliance Review Process,
20 including follow-up ~~and/or reassessment~~, has been completed; and (ii) a Final
21 Determination Finding of Non-Compliance has been issued by the Program
22 Compliance Review Committee related to Sections R970, R1210, R1230,
23 R1260, R1270, R1370, R1380, P1040, A250 or A260~~U., and (iii) a~~
24 ~~recommendation for initiation of a dispute from the Program Compliance~~
25 ~~Review Committee has been approved by the member jurisdictions as defined~~
26 ~~in Article R1555.300.~~

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28 .200 Submission of a Final Determination Finding of Non-Compliance ~~to the~~
29 ~~Membership~~

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31 A Final Determination Finding of Non-Compliance issued by the Program Compliance
32 Review Committee related to Sections R970, R1210, R1230, R1260, R1270, R1370,
33 R1380, P1040, A250, or A260, ~~shall be submitted to the membership to determine~~
34 ~~whether a dispute will be initiated~~ where follow-up ~~and/or reassessment~~ has been
35 completed, shall be forwarded to the IFTA Dispute Resolution Committee, to be
36 heard as a dispute, with a copy to the Executive Director of IFTA, Inc. for notification
37 to all member jurisdictions.

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39 ~~.300—Initiation of a Dispute Based on a Final Determination Finding of Non-Compliance~~

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41 ~~.005—Member jurisdictions will have thirty (30) days to vote on the initiation of a dispute~~
42 ~~based on a Final Determination Finding of Non-Compliance.~~

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44 ~~.010—Votes on the initiation of a dispute based on a Final Determination Finding of Non-~~
45 ~~Compliance must be cast by the IFTA commissioner or a delegate named in writing by~~
46 ~~the commissioner.~~

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48 ~~.015—For purposes of this section, a vote submitted electronically through a mechanism~~
49 ~~provided by the International Fuel Tax Association, Inc. is deemed a vote in writing.~~

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~~.020 — An affirmative vote in writing of at least two-thirds of the total written votes cast is required to initiate a dispute based on a Final Determination Finding of Non-Compliance.~~

~~.025 — If the member jurisdictions approve the initiation of a dispute based on a Final Determination Finding of Non-Compliance, the Program Compliance Review Committee shall forward the Final Determination Finding of Non-Compliance to the IFTA Dispute Resolution Committee to initiate a dispute.~~

REVISIONS FOLLOWING THE FIRST COMMENT PERIOD

- 35 added language: to be heard as a dispute