

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:9-2-07
Rule Type: Amendment
Rule Title/Tagline: Prohibited games.
Agency Name: Department of Agriculture
Division: Fairs and Amusement Rides
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I. Rule Summary

1. **Is this a five year rule review? Yes**
 - A. **What is the rule's five year review date? 1/3/2024**
2. **Is this rule the result of recent legislation? No**
3. **What statute is this rule being promulgated under? 119.03**
4. **What statute(s) grant rule writing authority? 1711.11**
5. **What statute(s) does the rule implement or amplify? 1711.11**
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No**
 - A. **If so, what is the citation to the federal law or rule? Not Applicable**
7. **What are the reasons for proposing the rule?**

The rule is being proposed in accordance with the five year rule review requirement.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:9-2-07 sets forth the requirements for prohibited games. This rule is being amended to reformat the existing rule to make comprehension of the rule easier.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

All operators must obtain a license prior to operating a concession which cost \$70 annually. All operators must abide by the specific rules of play for each concession type. All operators must have a sign conspicuously posted which complies with the requirements of OCA 901:9-2-05. The cost of the sign will depend on the type of game but will dramatically fluctuate by certain design choices selected by the operator and the vendor they utilize to create the sign. As a minimum, the Department believes that an operator can comply with the regulations for a minimum of \$30. This sign can be utilized for a significant number of years.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

The revenue from the licensing fee is used to fund the administration of the program.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

All operators must obtain a license prior to operating a concession which cost \$70 annually.
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

All operators must abide by the specific rules of play for each concession type. All operators must have a sign conspicuously posted which complies with the requirements of OAC 901:9-2-05. Failure to comply could result in civil or criminal action being taken against the operator.
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
 - A. How many new regulatory restrictions do you propose adding to this rule? 2

901:9-2-07 paragraph A adds the requirement that no game shall be permitted that...

901:9-2-07 paragraph B adds the requirement that the following games are prohibited
games:

B. How many existing regulatory restrictions do you propose removing from this rule? 5

901:9-2-07 paragraph A removes the requirement that no gambling or games of chance shall be permitted.

901:9-2-07 paragraph B removes the requirement that no game shall be allowed which, either by its design or by its operation, is controlled by the operator to the extent that the outcome of the game is determined either partially or entirely

901:9-2-07 paragraph C removes the requirement that no game shall be allowed in which the outcome depends upon the word of the operator against the word of the player.

901:9-2-07 paragraph D removes the requirement that no game shall be allowed in which hidden numbers are used.

901:9-2-07 paragraph E removes the requirement that no game shall be allowed which includes any mechanical or physical device which directly or indirectly impedes, impairs, or thwarts the skill of the player.

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Pursuant to ORC Chapter 1711, it is the Department's regulatory mission to protect the public from dishonest and fraudulent dealings with regards to games and concessions. The Department's purpose for these regulations is to ensure continued public trust in the use of concessions by setting minimum operating standards that establish fair play for all operators in Ohio.