

Rule Summary and Fiscal Analysis (Part A)**Department of Agriculture**

Agency Name

Fairs and Amusement Rides

Division

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901:9-2-08

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Games: rules of play.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **1711.11**
5. Statute(s) the rule, as filed, amplifies or implements: **1711.11**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rule is being proposed in accordance with the five year rule review requirement.
7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rules in Chapter 901:9-2 of the Ohio Administrative Code (#OAC#) regulate #concessions# at fairs and expositions operated by county and independent agricultural societies. Concessions are defined as shows, games, or novelty stands which take place at these county fairs. Classic examples of these games can be found at a fairs #Midway# such as the milk bottle ball game, pop bottle ball game, and the bank-a-ball game.

Pursuant to Chapter 1711 of the Ohio Revised Code (#ORC#), it is the Department#s regulatory mission to protect the public from dishonest and fraudulent dealings with regards to concessions. In order to accomplish this mission, the Department has created a specific set of administrative code rules which outline the way each game shall be played, the manner in which prizes are offered and displayed, and the signage requirements for each game.

The rules have been reviewed by both the Department and the rule#s stakeholders. After several months of discussion, the rules as outlined below represent a compromise between industry and the Department.

OAC 901:9-2-08 sets forth the requirement that all rules of play must be followed by the concession operators. The rule has been amended to remove the #trade up games# language from this rule. As previously stated above, this language has been moved into a new OAC provision, 901:9-2-06. Further, the rule has been clarified to allow leaning over physical lines/barriers and a restriction that concessions may not force players to stand straight while playing.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by

reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **1/6/2017**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

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 OAC 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. At 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.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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**