

**Note:** Upload completed document to the Electronic Rule Filing System.

Hearing Date: 11/10/2021

Today's Date: 11/24/2021

Agency: Attorney General

Rule Number(s): OAC 109:1 Chapters 2-7 (68 Rules)

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If no comments at the hearing, please check the box. ☐

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Allied Clubs and Charities of Ohio (ACCO) - 109:1-4-02, 109:1-5-16, 109:1-5-20, 109:1-5-21, 109:1-7-01
2. NexLevel Gaming – 109:1-5-16, 109:1-5-17, 109:1-5-20, 109:1-5-21, 109:1-7-01
3. Powerhouse Gaming – 109:1-5-16
4. Arrow International, Inc. – 109:1-4-02, 109:1-5-05, 109:1-5-07 Appendix, 109:1-5-16, 109:1-5-17, 109:1-5-21, 109:1-7-03
5. Lancaster Bingo – 109:1-4-02, , 109:1-5-16, 109:1-5-20, 109:1-7-01
6. Lori Herf on behalf of the Ohio VFW Charities – 109:1-7-01
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## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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Two general types of comments were received by the office: technical or grammatical corrections and substantive rule change suggestions. Rules 109:1-4-02, 109:1-5-05, 109:1-5-16, 109:1-5-21, 109:1-7-03 had comments provided that corrected typographical errors, inserted missing prepositions, and brought conformity to key terms throughout the new chapters. Rules 109:1-5-07 Appendix, 109:1-5-16, 109:1-5-17, 109:1-5-20, 109:1-5-21, 109:1-7-01 all received substantive rule change suggestions of which almost all were accepted.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

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109:1-4-02

Comments were received to clarify what a key employee of a manufacturer and distributor may or may not do as a volunteer. Many organizations suggested clarifying the prohibited activity of volunteering cover licensed charities who these distributors and manufacturers have active dealings with. This change was made.

109:1-5-05

Comments were received to bring conformity to the OAC with respect to referring to the electronic bingo as electronic instant bingo as seen in other chapters within this package. This change was made.

109:1-5-07 Appendix

Comments were received regarding the technical standards contained in the Appendix. The first dealt with handheld devices and geofencing which would prohibit them from leaving the building. The legislature made it clear the electronic instant bingo was only to be conducted on the premises listed on the license and our concern is that a WiFi signal could be strong enough to allow the game to occur in a neighboring building outside of the licensed organization. A change was not made to this standard. The second comment dealt with the data storage requirement being too long at five years. A change was made to lower this storage timeline to 3 years.

109:1-5-16

Comments were received on two aspects of this rule and were both related to materials that are required to be submitted as part of a distributor's or manufacturer's application. First, the Attorney General's Office received support and some concern for the requirement of organizations submitting up to 3 years of audited financial statements. Some organizations argued they are unable to produce such a statement and this would be a cost burden on them. We view this requirement as not being overly onerous as another state has a similar requirement (Washington). In response to this concern on this aspect of the application, we set a revenue threshold of \$1 million for organizations to provide audited financial statements. Organizations above the threshold will be required to provide the statements while organizations below will have to provide previous year's tax returns.

A second area of concern on materials that were required to be part of the application was the submittal of the organization's management structure. The concern centered around this structure potentially being a public record if it is officially part of the application. The exact same concern also applied to the financial statement provision mentioned earlier in this rule. In response to the concerns received, the rule was amended to require the entities to provide the financial documents and organizational structure at our request as part of their application. This shields it from being a public record and protects organization's privacy.

109:1-5-17

## Hearing Summary Report

Comments were received in opposition and support of a provision within this rule which would cap the amount of electronic instant bingo tickets at 25,000. On the opposition side, they suggest there are no restrictions the paper version of the game and that a larger deal amount could attract more customers with higher payouts. First, paper tickets have a cap on the deal as only so many tickets can be inserted into the machine. Second, having a cap allows for better oversight and auditing of deals made by these machines. No change was made to this rule.

109:1-5-20

Comments were received over the requirement for licensed operator to have separate bank accounts for electronic instant bingo in addition to a concern distributors and manufacturers would not be able to make ACH withdrawals from the required account. There is no such prohibition in the eyes of the Attorney General's office, rather it is the operator that must authorize and set up the ACH transfer rather than the distributor and manufacturer.

109:1-5-21

Comments were received with regards to when a ticket voucher may be cashed out at the close of the bingo session. The original rule set an hour timeline on when the player must submit the voucher. After receiving comments that timeline was too short, the change was made to extend that to 24 hours from the close of the bingo session.

109:1-7-01

Comments were received urging us to clarify the definition of a gift as manufacturers and distributors often make charitable donations in excess of the \$100 gift threshold set in the rule. A change was made to clarify that a charitable donation does not qualify as a gift.

109:1-7-03

A comment was received on a typographical error and this change was made.