



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Renee Schmauch, Ohio Department of Agriculture

FROM: Caleb White, Business Advocate

DATE: December 20, 2023

RE: CSI Review – Fairs Concession Licenses (OAC 901:9-2-01 through 901:9-2-21)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of eighteen amended rules and two no-change rules proposed by the Ohio Department of Agriculture (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on November 7, 2023, and the public comment period was held open through November 30, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 7, 2023.

Ohio Administrative Code (OAC) Chapter 901:9-2 outlines regulations surrounding games of skill (concessions) which operate across state, county, and independent agricultural fairs. Concessions regulated under this chapter include games such as ball and bag tossing games, ring games, shooting games, coin or washer pitch games, dart games, group games, electronic amusement games, fish-o-rama, gun ball games, tee pool games, crazy bike, and other miscellaneous games such as skee ball and rope ladder games. Amendments to these rules allow for operators to introduce concessions throughout the fair season rather than only in the offseason, allow additional trade-up opportunities for prizes and increase the maximum number of wins for a prize from three to five wins, require a concessionaire to have a tool on hand to demonstrate the angle of a game if a specific angle is

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required, add a requirement for non-spatter bullets to be used in lead galleries, require only metal washers or coins to be used for coin or washer games if it is requested by the fair board, and specify the minimum weight of darts used in dart games. In addition to these more substantive changes these rules are also amended to update, streamline, and reorganize the rule language to improve the readability of the rules.

During early stakeholder outreach, the Department emailed the proposed rules to stakeholders on October 11, 2023, to solicit comments through October 25, 2023. The stakeholder group included representatives from Government Advantage Group, the Greater Ohio Showmen Association, and the Ohio Fair Managers Association. The Department also notes that they worked closely with the Ohio concession industry when developing these rules and worked very closely with the Greater Ohio Showmen Association in particular. No comments were received during the CSI public comment period.

The business community impacted by the rules includes fair concession operators in Ohio. The adverse impacts created by the rules include the potential fines associated with violating these rules and the requirement for all concessionaires to be inspected by the Department and obtain a license. This includes an annual licensing fee of \$70. The Department also states that the proposed rules help reduce regulatory burdens through increasing flexibility by allowing different types of equipment to be utilized during operation, permitting companies to present new gameplay at any time during the season, and by simplifying the rules to improve readability. The Department states that the adverse impacts to business are justified to satisfy the statutory requirement to protect the public from dishonest and fraudulent dealings related to concessions and ensure continued public trust by setting minimum operating standards which promote fair play for all concession operators in Ohio.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.