

Rule Summary and Fiscal Analysis (Part A)**State Lottery Commission**

Agency Name

Video Lottery Gaming Terminals

Division

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Contact

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3770:2-7-02

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Video lottery game requirements; video lottery gaming prize payments.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB1**General Assembly: **128**Sponsor: **Vernon Sykes**

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: **3770.03**

5. Statute(s) the rule, as filed, amplifies or implements: **3770.03 and 3770.21**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Implementation and operation of video lottery.

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:

Sets forth rules relating to payment of video lottery gaming prize payments.

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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:

Not Applicable.

12. 119.032 Rule Review Date:

(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 increase revenues.

933,000,000

This rule is being promulgated as part of division 3770:2 of the Ohio Administrative Code. Division 3770:2 sets forth rules for the implementation and operation of video lottery terminals (VLTs) in Ohio at horse racing facilities. It is anticipated that the implementation and operation of VLTs is expected to increase current revenue, with a projection of approximately \$933 million in proceeds during the current biennium (FY 2010-11).

The estimated increase in revenue is based on a combination of licensing fees and projected sales from VLTs. Further factors relating to implementation and operation of video lottery terminals include, but may not be limited to:

- The submission of seven (7) applications for VLT licenses and the ability to offer up to seven (7) VLT licenses at horse racing facilities.
- Unless otherwise authorized, up to 17,500 VLTs at the licensed VLT facilities, operating seven (7) days a week and 24 hours a day.
- The Lottery's retention of 50% of video lottery sales after payouts and less value credits.
- An anticipated operational date of May 1, 2010.
- An anticipated increase in personnel and administrative costs to the Lottery. The exact number of additional personnel and administrative costs are not known at this time, but it is anticipated that additional security, information technology, finance and audit personnel may be necessary and additional consulting contracts and other contractual relationships, as deemed necessary to assist with implementation and operation of VLTs.
- A cost for leasing of the VLTs by the Lottery. The exact costs associated with leasing VLTs will not be determined until finalization of contracts with VLT manufacturers.
- Costs associated with contracting with a VLT central system provider. The exact costs associated with contracting with a VLT central system provider will not be determined until finalization of a contract with a VLT central system provider.

Based upon the information above, and recognizing estimated and changing variables, the total amount by which division 3770:2 of the Ohio Administrative Code may increase proceeds of the Lottery during the current biennium is approximately \$933 million.

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

The Ohio Lottery Commission is a Non-General Revenue Fund agency of the State. One hundred percent of funding necessary to support Lottery operating expenses are generated from the sale of lottery products and anticipated future VLT revenue. The operation of the VLTs will require funding primarily in the following areas such as VLT machine leases, VLT central system monitoring, VLT testing, and Lottery personnel (i.e. security, legal compliance, finance, and so forth), but funding may also be required in other areas such as consulting services and other necessary contractual relationships.

Exact dollar figures and appropriation line items have not been determined. Figures and appropriate budgetary line items for certain matters will be available upon conclusion of several major contract awards and upon final personnel structuring to support the VLT operations. It is anticipated that certain VLT contractual expenses will be contingent upon the actual volume of VLT revenues, thereby posing minimal risk to the State.

It will be necessary to seek additional controlling board approval for anticipated increases in the Lottery's operating budget to support VLT operations. VLT operating expenses will be funded through the support of VLT revenues.

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:

While this proposed rule may not involve specific or identifiable costs associated with compliance, the below information provides a general overview of those costs that may be incurred by directly affected persons under division 3770:2 of the Administrative Code as it relates to implementation and operation of video lottery terminals. Video lottery agents, key gaming employees and technology providers may be persons directly affected by the proposed rules. Estimates of types and amount of compliance costs with rules under division 3770:2 of the Administrative Code are set forth below. In addition to costs not known or determined at this time, if approved for a video lottery license, video lottery agents will incur costs throughout the implementation of VLTs in Ohio, as well as continuing costs during the operation of the VLTs which may include but not be limited to the costs set forth below. In connection with an application for a video lottery license, an applicant is required to pay a \$100,000 application fee and is required to pay, in five (5) installments, a minimum licensing fee of \$65 million. Applicants will also incur other costs in connection with submission of an application which costs include but may not be limited to preparation and submission of a 10 year business plan and costs associated with the preparation and submission of a security and surveillance plan as approved by the director. If approved for a video lottery

license, a video lottery agent will be required to make \$80 million of improvements over 5 years at track facilities (grounds and building, and includes temporary facilities), including a minimum of \$20 million in the first year. In addition, a video lottery agent is required to furnish insurance and bonds in forms, types and amounts as required by the director which may include but not be limited to a general liability insurance, workers compensation insurance, property insurance, a performance/payment bond, construction bond, surety bond (minimum \$2 million), and fidelity bond. Leading up to operations and once the VLTs are operational, video lottery agents must hire and compensate adequate personnel to ensure compliance with all law, rules, regulations, policies and directives including but not limited to security, surveillance, financial, technical and audit staff. In addition, video lottery agents must provide a program for problem gamblers, with education and outreach. Other costs to a video lottery agent include providing and replenishing a sufficient amount of paper or other media to ensure the continued operation of the VLTs; potential administrative liability (license revocation, suspension, or incurring a fine); providing space at the VLT facilities for technology providers and personnel designated by the Lottery; and with the director's approval, potential payment of excess costs associated with additional or different video lottery terminals than those approved by the director for allocation to video lottery agents. In addition to costs not yet determined or known at this time, key gaming employee licensees will incur at a minimum an application fee of \$50 to be paid at the time of application. Key gaming employee licenses are effective for three (3) years depending upon date of issuance and therefore upon expiration additional renewal or application fees may be required. In addition to costs not yet determined or known at this time, technology providers will incur costs associated with training, maintenance, service, repair and certification of video lottery terminals, as required. The above amounts and types of costs are estimates based on the rules currently being proposed under division 3770:2 of the Administrative Code and may change or be revised based on unknown or unanticipated variables.

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**