

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: State Lottery Commission

Regulation/Package Title: Simultaneous Filings with Racing Commission and State Lottery Commission

Rule Number(s): 3770:2-2-01 and 3770:2-3-01

Date: \_\_\_\_\_

**Rule Type:**

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

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3770:2-2-01 Definitions of certain terms used in division 3770:2 of the Administrative code.

The State Lottery Commission is moving forward with the implementation of a video lottery program which allows licensed video lottery sales agents which are also racetracks to offer lottery games via video lottery terminals located at such tracks. This rule establishes the definitions of various terms and phrases used in division 3770:2 which contain the implementing rules for the video lottery terminal program (VLT).

3770:2-3-01 Video lottery licenses; application

This rule establishes those items which must be provided to the State Lottery Commission by a VLT license applicant or things to which a license applicant must agree, in order for the applicant to be considered for a license as a video lottery sales agent.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

ORC § 3770.03.

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

The answer is no to both questions for the rules in this package.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Ohio Constitution Article 15, Section 15.06 permits the General Assembly to authorize a state agency to conduct lotteries. The General Assembly has authorized the State Lottery Commission, a state agency, to conduct video lottery games pursuant to ORC § 3770.03.

The State Lottery licenses video lottery sales agents to sell video lottery, the net proceeds of which are used for elementary, secondary, vocational and special education in the state. These rules are necessary for the proper conduct of lottery games to ensure the integrity of the games under standards set forth in the rules.

The amendments to 3770:2-2-01 and 3770:2-3-01 are being proposed in order to eliminate unnecessary delay for certain race tracks which may be required to obtain a new racing

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permit. Under the rules as currently written, before a race track may apply for a video lottery sales agent license with the State Lottery Commission, it must demonstrate that it is the holder of a racing permit from the State Racing Commission. There are certain race tracks who now hold a permit, but, due to business restructuring, it may be necessary for the restructured entity to obtain a new racing permit. Such business entities would be required under current rules to wait until a new permit is issued by the Racing Commission before even applying to the Lottery Commission for a video lottery sales agent license. There does not appear to be any public purpose served by such a delay. These rules would allow the simultaneous filing for a permit with the Racing Commission and a license with the Lottery Commission. The Lottery Commission would not issue a license ultimately until a racing permit had been obtained.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Lottery Commission would measure the success of this regulation by 1) the elimination of unnecessary delay in application processing times; 2) the speed with which revenue can begin flowing for both the state (for education purposes) and for the video lottery sales agents; and 3) the increase in the rate at which economic development can proceed in terms of VLT facility construction and new employment opportunities at video lottery sales agent facilities.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

Lebanon Raceway, Northfield Park, Beulah Park, River Downs, Scioto Downs, Thistledown Raceway Park, Delaware North Companies, Penn National, Belterra Casino, MTR Gaming, Caesars, Rock-Gaming, Harrahs, State Racing Commission, Ohio Governor's Office.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The proposed amendments were e-mailed to the stakeholders on 5-24-12.

No comments or suggested revisions were received.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

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This question does not apply to these proposed amendments. The amendments are designed to eliminate delay and speed the licensing process.

- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

These proposed amendments are themselves regulatory alternatives designed to eliminate timing barriers that did not serve a public purpose.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

This question does not apply to these proposed amendments.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

This question does not apply to these proposed amendments.

- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

This question does not really apply to these amendments. Racetracks seeking a new permit from the Racing Commission would now have the option of either waiting for the issuance of a racing permit before applying for a VLT license, or filing applications simultaneously with the two agencies.

#### **Adverse Impact to Business**

- 14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**

The seven horse racing organizations holding racing permits from the Racing Commission and those business entities interested in affiliating with these horse racing organizations

- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);**

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Although these proposed amendments to the Lottery administrative rules involve licensing of businesses as VLT sales agents and are subject to CSI Office review, the Lottery does not view these amendments as having an adverse impact. Rather, these amendments are an attempt to eliminate unnecessary delay in the application process which should be advantageous to the affected business community.

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

See answer above.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

Please see answer to question 14 above.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

The amendment to the regulation allows an alternative means of compliance. Please see answer to question 13 where the alternative is explained.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The proposed rule amendments do not impose fines or penalties that would implicate the provision of ORC § 119.14.

**18. What resources are available to assist small businesses with compliance of the regulation?**

The bonding and licensing department of the Ohio Lottery Commission is available to assist any license applicant with compliance with the proposed rule amendments.

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