



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Casino Control Commission ("Commission")

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

OCCC 2021 5YR Batch 1 (Ohio Adm.Code Chapters 3772-1 (General Provisions), 3772-2 (Ohio Casino Control Commission), and 3772-4 (Casino Operator, Management Company, and Holding Company Licenses)

Rule Number(s): 3772-1-01 (amend), 3772-1-04 (amend), 3772-1-07 (amend), 3772-2-06 (amend), 3772-4-01 (amend), 3772-4-02 (amend), 3772-4-03 (rescind & new), 3772-4-04 (rescind & new), 3772-4-05 (rescind & new), 3772-4-06 (rescind & new), 3772-4-07 (rescind), 3772-4-08 (rescind), 3772-4-09 (rescind), 3772-4-11 (rescind), 3772-10-04 (amend)

Date of Submission for CSI Review: March 17, 2021

Public Comment Period End Date: March 31, 2021

***Note:** These rules are all amendments resulting from FYR, however, in so doing, the Commission renumbered Chapter 4, resulting in rescinds and news being necessary. All new rules are comprised of existing substance, not new restrictions.*

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Rule Type/Number of Rules:

New/ 4 rules

No Change/0 rule (FYR? N/A)

Amended/ 7 rules (FYR? Yes, except
3772-10-04)

Rescinded/ 8 rules (FYR? Yes)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. 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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The rules contained within this package are being reviewed pursuant to the state's rule-review requirement in R.C. 106.03. The rules reviewed largely come from Ohio Adm.Code Chapters 3772-1 (General Provisions), -2 (Ohio Casino Control Commission), and -4 (Casino Operator, Management Company, and Holding Company Licenses). Many of the revisions are meant to improve clarity or readability, or to reduce redundancies. In addition to the below summaries, the rules themselves are also enclosed for your review. Please note that Chapter 4 has been renumbered, resulting in several rules being "rescinded" and being adopted as "new." The substance of these rules, however, is not new. Therefore, those rules that have been renumbered are presented in their track-change format to allow for an easier review of the newly numbered rules' amendments compared to its already existing language.

Chapters 1 and 2 have been reworked to clarify when they apply, or more commonly, do not apply to the Ohio Casino Control Commission's ("Commission") skill games and fantasy sports contests regulatory structures, as the agency created Chapters for those industries that are largely self-contained. Chapter 4's changes are largely aimed at reducing redundant restrictions, including the combination of rules 4-03, 4-04, and 4-05 into rules 4-01 and 4-02. Additionally, changes in terminology have been made throughout to better clarify when the rules are referring to the Commission as an agency versus when it is referring to the executive director or an action requiring a vote of the Commission members at a public meeting.

3772-1-01 (amendment), titled "Definitions." Presently, this rule defines words of general application for the purpose of providing consistent terminology. Most of the amendments to this rule are meant to clarify that these definitions only apply to the Commission's casino gaming rules, as both skill games and fantasy contests have a separate rule for definitions used in those regulatory structures, Ohio Adm.Code 3772-50-01 and 3772-74-01, respectively. Additionally, the rule adds a definition for the phrase "participate in conducting." While the Commission has already been interpreting the phrase in the manner it is defined here, adding this definition should provide greater notice and clarity for stakeholders.

3772-1-04 (amendment), titled "Waivers and variances." Presently, this rule specifies the process through which a requestor may seek a waiver from or variance to the provisions of rules adopted by the Commission. The purpose of this rule is to allow the Commission to regulate flexibly, based on what is in the best interest of the public. The amendment is largely meant to accomplish three goals. First, it clarifies that the rule only applies to the Commission's casino gaming rules and borrows some language from the skill games and fantasy contest rules on this subject, clarifying that hearings do not apply to waiver or variance denials. Second, the amendment clarifies the ability of the Commission to grant waivers or variances on its own motion and to delegate waiver or variance request considerations. Third, the amendment codifies a long-standing delegation to the executive director to consider waivers of the three-year reapplication bar.

3772-1-07 (amendment), titled "Records retention requirements." This rule requires those casino-gaming entities regulated by the Commission to keep records related to their operation for five years from their date of creation. The rule also requires these entities to organize these records and to produce them to the Commission, upon request. The purpose of this rule is to allow for a consistent expectation from the regulated community and the public in investigating past

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occurrences, while maintaining the orderly operation of casino gaming. The amendments to this rule are for clarity and readability.

3772-2-06 (amendment), titled “Subpoena power.” This rule amplifies the Commission’s power to require testimony under oath and to issue subpoenas in the discharge of its duties under the Revised Code. The rule’s purpose is to clearly spell out the rules surrounding these compliance mechanisms for both stakeholders and the public. The changes to the rule are to clarify that the Commission’s duties and authority now extend beyond R.C. Chapter 3772 and to allow the Commission to impose discipline other than suspension or revocation of a license for refusing to comply with a subpoena.

3772-4-01 (amendment), titled “Instructions for the casino operator, management company, and holding company license application.” This rule provides detailed instructions, terms, and conditions for these entities to follow to complete an application. The purpose of this rule is to provide clear instructions and expectations to operators, management companies, and holding companies for how to complete and file an application. The rule is being amended to remove certain regulatory restrictions and redundancies, as well as to improve readability. In particular, the rule removes certain outdated restrictions on ensuring pages are initialed or completed in typed or block lettering. The rule also reorganizes some existing provisions of Ohio Adm.Code 3772-4-05 into 3772-4-01(R) to reduce redundancies.

3772-4-02 (amendment), titled “Information that must be provided by a casino operator, management company, or holding company license applicant.” Presently, the rule specifies the substantive information that must be provided to the Commission for the issuance of an operator license. The purpose of this rule is to ensure that these entities provide the Commission with enough information for the agency to determine whether they are eligible, capable, and suitable to obtain a license. The amendments to this rule improve readability and remove redundancies. For instance, the amendment removes several provisions that are already present in R.C. 3772.11. Additionally, many provisions of Ohio Adm.Code 3772-4-03 and 3772-4-04 were moved into this rule, as those rules were often duplicative of this one, and those provisions that were not duplicative did not require a separate rule.

3772-4-03 (rescind), titled “Facility plan.” Presently, the rule requires all applicants to submit detailed facility plans, including a plan for completion of the facility, estimated start-up costs, and capitalization. The rule is being rescinded as it was duplicative of the Revised Code and Ohio Adm.Code 3772-4-02. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-02 to streamline the Administrative Code.

3772-4-03 (new), titled “Application fees.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-03, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-06. The rule, in its current form, prescribes the fees related to applying for a casino gaming operator, management company, or holding company license, amplifying R.C. 3772.15 and 3772.17. These fees are based on the status of an applicant: new or initial versus renewal, and the fees may be increased, if necessary, to cover the costs of the investigation. The purpose of this rule is to effectuate R.C. 3772.15 and 3772.17 and to ensure the Commission’s regulatory costs are

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covered. The changes to this rule from when it was Ohio Adm.Code 3772-4-06 are largely meant to streamline language and improve readability.

3772-4-04 (rescind), titled “Other required information.” Presently, the rule requires applicants to submit certain plans, including their responsible gaming plan and human resources policies, with their application. The rule is being rescinded as it was duplicative of the Revised Code and Ohio Adm.Code 3772-4-02. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-02 to streamline the Administrative Code.

3772-4-04 (new), titled “License fees.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-04, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-07. This rule sets the fees a casino gaming, management company, or holding company licensee must pay upon licensure. The fees are based upon the status of the applicant: initial versus new or renewal. The purpose of this rule is to effectuate R.C. 3772.15 and 3772.17 and to ensure the Commission’s regulatory costs are covered. The changes to this rule from when it was Ohio Adm.Code 3772-4-07 are largely meant to streamline language and improve readability.

3772-4-05 (rescind), titled “Casino operator, management company and holding company license application, license period and license renewal.” Presently, this rule governs the license period and renewal process for casino operators, management companies, and holding companies. This rule is being repealed because it is redundant with the Revised Code and Ohio Adm.Code 3772-4-01. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-01 to streamline the Administrative Code.

3772-4-05 (new), titled “Affirmative license standards.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-05, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-08. This rule states the affirmative standards that a casino operator, management company, or holding company must meet before the Commission can grant the entity a license, including establishing the suitability of certain entities and persons by clear and convincing evidence. The purpose of this rule is to ensure the integrity of casino gaming by ensuring only those entities that are eligible, capable, and suitable may be issued a license. Many of those standards come from R.C. 3772.10, 3772.11, 3772.111, or 3772.112. The changes to this rule from when it was Ohio Adm.Code 3772-4-07 are largely meant to improve readability or to bring the rule language into harmony with present Commission practice.

3772-4-06 (rescind), titled “Application fees.” The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-03.

3772-4-06 (new), titled “Duty to update information.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-06, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-09. The rule requires casino operators, management companies, and holding companies to update the Commission on information that has changed from the time of application that would affect the entity’s suitability for licensure. The purpose of this rule is to ensure that the Commission is aware of all circumstances that may affect an entity’s suitability for continued

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licensure. The changes to the rule from when it was Ohio Adm.Code 3772-4-09 are intended to improve readability by using more commonplace language.

3772-4-07 (rescind), titled “License fees.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-04. This will help streamline the Administrative Code and make it more user friendly.

3772-4-08 (rescind), titled “Affirmative license standards.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-05. This will help streamline the Administrative Code and make it more user friendly.

3772-4-09 (rescind), titled “Duty to update information.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-06. This will help streamline the Administrative Code and make it more user friendly.

3772-4-11 (rescind), titled “Computation of gross casino revenue; assisting the tax commissioner.” The contents of this rule have been moved to Ohio Adm.Code 3772-10-04 to help streamline the Administrative Code and make it more user friendly.

3772-10-04 (amendment), titled “Accounting records.” This rule provides that casino operators shall have internal controls for preparing accounting records. The purpose of this rule is to ensure the Commission fulfills its statutory mandate to prescribe accounting-related standards. The amendment to this rule moves two statutorily required provisions on tax filing and reporting from Ohio Adm.Code 3772-4-11 to this rule to help streamline the Administrative Code and make it more user friendly. This rule is being filed solely to move these provisions and not for R.C. 106.03 review.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

R.C. 3772.01, 3772.03, 3772.033, 3772.04, 3772.05, 3772.07, 3772.09, 3772.091, 3772.10, 3772.11, 3772.111, 3772.112, 3772.15, 3772.17, 3772.18, 3772.27, 5753.02, 5753.04

4. 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.

Not applicable.

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

This question does not apply to these amendments because the federal government does not regulate casino gaming in this state. Rather, casino gaming is permitted pursuant to Article

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XV, Section 6(C) of the Ohio Constitution and is controlled by Ohio's Casino Control Act (i.e., R.C. Chapter 3772).

6. 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)?

Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming and to prescribe rules for how casino gaming should be conducted, including general provisions, the Commission's organization, and the licensure of casino operators, management companies, and holding companies. To ensure the integrity of casino gaming, it is imperative to protect casino patrons and to ensure that all casino operators meet the requirements for licensure to conduct casino gaming in the state of Ohio. These rules are designed to continue to effectuate this constitutional and statutory mandate.

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

Overall, the Commission will measure the success of these amended rules in terms of whether they help to ensure the integrity of casino gaming. This can be done in two ways: First, through evaluating whether the administrative cost of implementing and enforcing the proposed rules outweighs their public benefit. Second, through analyzing the regulated community's comments about or requests for waivers or variances from these rules once they are implemented.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. 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.

In reviewing these rules, an email was sent on February 1 to over 100 stakeholders. (Exhibits 1 and 2). Stakeholders were asked to submit any written comments on the rule by 5:00 p.m. on February 12, 2020. (Exhibit 1.) Staff then, of its own accord, made one tweak to Ohio Adm.Code 3772-1-01, which stakeholders were notified of on February 10. (Exhibit 3.) These stakeholders included employees or representatives from casino operators, management companies, holding companies, gaming-related vendors, and independent testing laboratories.

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No written comments from stakeholders were received. Finally, stakeholders had the opportunity to comment during the Commission's public meeting on March 17, 2020. No comments were made.

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

No input was provided by stakeholders.

11. 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?

This question does not apply to these amendments because no scientific data was necessary to develop or measure their outcomes. Instead, Commission staff reviewed how other jurisdictions approached their general provisions, organization, and licensure of operators, management companies, and holding companies. Further, Commission staff considered whether existing rules were the most efficient means by which to maintain the integrity of casino gaming and whether any waivers or variances had been requested and granted to the regulated community. In so doing, the Commission was able to use, as much as possible, rules the regulated community is accustomed to, with minor adaptations to remain in compliance with Ohio law.

12. 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?

When first adopting these rules, the Commission staff reviewed the rules adopted in other jurisdictions, including Kansas and New Jersey, where members of staff had formerly been employed. In reviewing these amendments, staff considered past practices of the Commission, any comments on the rules, any waivers or variances to existing rules that had been requested and granted, and current trends in the casino regulatory environment. These rules are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio law.

13. 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.*

These rules are not performance-based because they largely govern either Commission procedure or the minimum standards for casino operator, management company, or holding company licensure. However, Ohio Adm.Code 3772-1-04 allows requestors to seek waivers and variances from these rules, which the Commission will evaluate on a case-by-case basis and may grant as long as it determines that doing so is in the public's best interest. Past

performance of the entity and of the rule's effectiveness would be considered in determining whether a waiver from any specific provisions of these rules could be granted.

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

This question largely does not apply these rules because no other regulations, in these areas (Commission procedure and casino operator, management company, and holding company licensure), currently exist. However, as this rule package amends existing administrative rules, the amendments remove and reformat certain existing regulations to reduce redundancies between both the rules themselves and the Revised Code.

15. 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.

The rules in this package largely relate to licensing, which is handled by the Commission's licensing staff, which is overseen by a single director in the Commission's central office. Further, to ensure ongoing compliance, there are gaming agents, auditors, and office managers stationed at each of the casinos observing, evaluating, and investigating casino operations. Any issues that arise at the facilities are funneled to the Commission's central office where the Executive Director and his division directors can coordinate a consistent response and conduct outreach to the regulated community. Further, the granting or ultimate sanctioning of any of these license types must be brought before the Commission at a public meeting for a vote. Therefore, the regulated community can expect consistent and transparent licensing decisions.

Adverse Impact to Business

16. 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; and

In large part, casino operators, management companies, and holding companies are the impacted business community with respect to these rules. However, other entities, such as gaming-related vendors and independent testing laboratories, will be affected by certain rules as well.

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

The nature and potential adverse impact from these amendments includes the cost of the application and license fees for operators, management companies, and/or holding companies. In addition, each of those entities may face additional costs in the form of fines

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for noncompliance and costs for employer time and payroll in applying for licensure. Additionally, all entities may face some costs, including employee time and payroll, as necessary to comply with the records retention (Ohio Adm.Code 3772-1-07) and subpoena (Ohio Adm.Code 3772-2-06) rules.

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.

3772-1-01 Definitions. (amendment)

The Commission does not anticipate a negative impact on business from this rule itself. However, because these definitions set the base for the Commission’s casino gaming regulations, it is filing this rule and has made it available for stakeholder comment. Any potential business impact would likely be triggered by other rules’ substantive provisions.

3772-1-04 Waivers and variances. (amendment)

Although certain administrative costs may be incurred in the submission of a waiver or variance request, nothing requires a person to seek a waiver or variance and the procedure is minimally burdensome, considering it would allow for a person to not have to comply with a rule that would otherwise apply. Further, the Commission does not anticipate an adverse impact on business from this amendment, as the only changes simply clarify existing Commission policy. The Commission anticipates that this rule will overall continue to have a strong positive impact on business because it allows the Commission to address the specific needs of a requester and view each request and requestor in an individualized manner, allowing for more flexible, performance- and risk-based regulations.

3772-1-07 Records retention requirements. (amendment)

The adverse impact from this rule is the cost of retaining records, including document management systems and employee time and payroll. However, the substance of this rule has existed since casino gaming commenced, and as such, casino operators, holding companies, and gaming-related vendors already have document systems in place to ensure adequate records retention. Additionally, the maintenance of records is a necessary corollary to ensure R.C. 3772.05’s requirement to allow the Commission and other state agencies access to these entities’ records and is a required rule under R.C. 3772.03(D)(12). Therefore, its current business impact is minimal at best.

3772-2-06 Subpoena power. (amendment)

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The costs associated with this rule would vary based on any subpoenas issued by the Commission but would include costs associated with producing documents or providing testimony in response to a subpoena. However, this rule merely provides some additional details to the Commission's subpoena power granted by R.C. 3772.04. Therefore, the Commission anticipates little to no adverse impact to business.

3772-4-01 Instructions for casino owner/operator/management company/holding company license application. (amendment)

The costs from this rule are employee time and payroll to comply the application instructions. However, these requirements or instructions are either common to the industry or already required in statute, namely R.C. 3772.07, 3772.10, 3772.11, and 3772.111. Further, the Commission is specifically charged with adopting a rule on this point in R.C. 3772.03(D)(2). Moreover, this amendment eliminates certain outdated requirements, like requiring blocked lettering be used in the application or requiring operators to obtain permission to amend their application. Therefore, the cost of following these instructions is largely required or contemplated by statute, built into their business model, and will be further reduced through this rule's filing, leading to a minimal adverse impact.

3772-4-02 Information that must be provided. (amendment)

The Commission anticipates a minimum impact from business from this rule. While the rule does require certain information to be provided, most of these materials are either expressly required by statute or would be needed to evaluate express, specific criteria set out by statute. *See* R.C. 3772.07, 3772.10, 3772.11, 2772.111, 3772.18, and 3772.27. Further, the Commission is specifically charged with adopting a rule on this point in R.C. 3772.03(D)(3). As for the changes to this rule, many of them are made to strip out certain direct redundancies between this rule and the Revised Code or other rules. In so doing, certain regulations from Ohio Adm.Code 3772-4-03 and 3772-4-04 were moved into this rule. This will help entities better understand what information is required to be provided, as now only one rule will govern that subject. Finally, detailed applications are common in the casino industry in every jurisdiction in which they operate, and because of this, the applicants already have dedicated staff to ensure these license requirements are met in each jurisdiction. Therefore, the cost to the operator submitting these materials is built into their business model and largely derived from detailed statutory requirements, minimizing the adverse business impact.

3772-4-03 Facility plan. (rescind)

The Commission anticipates a minimal positive business impact from this rule's rescission. Although a rescission, the impact will be minimal because many of the individual provisions were either moved to Ohio Adm.Code 3772-4-02 or were duplicative of the Revised Code, minimizing the impact. However, there will be some positive impact from the complete removal of paragraph (E) and from the streamlined regulations, which will make it easier and less time consuming for the entities to find applicable regulatory standards.

3772-4-03 Application fees. (new)

This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-03, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-06. The rule reiterates the initial and new application fee of \$1,500,000, which was imposed by statute in R.C. 3772.17(C), and charges one-third of that amount for renewals: \$500,000, pursuant to the Commission's rulemaking authority under R.C. 3772.15. Therefore, the Commission anticipates the business impact to be those fees listed above, which are paid anytime an application is submitted (licenses are good for a period of three years). Given the highly regulated nature of the industry and the high costs of processing and reviewing these applications, this fee is both customary and justified in the casino industry.

3772-4-04 Other required information. (rescind)

The Commission anticipates a minimal positive business impact from this rule's rescission. Although a rescission, the impact will be minimal because many of the individual provisions were either moved to Ohio Adm.Code 3772-4-01 or were duplicative of the Revised Code, minimizing the impact. However, there will be some positive impact from the complete removal of paragraph (C) and from the streamlined regulations, which will make it easier and less time consuming for the entities to find applicable regulatory standards.

3772-4-04 License fees. (new)

This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-04, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-07. The rule reiterates the initial licensure fee of \$50,000,000, which was imposed by statute in R.C. 3772.17(A). For new or renewal licenses, the rule charges a small fraction of that of that amount: \$1,500,000, pursuant to the Commission's rulemaking authority under R.C. 3772.17. Therefore, the Commission anticipates the business impact to be those fees listed above, which are paid anytime a license is granted (licenses are good for a period of three years). Given the highly regulated nature of the industry and the high

costs involved in regulating the casino industry, this fee is both customary and justified in the casino industry.

3772-4-05 Casino operator, management company and holding company license application, license period and license renewal. (rescind)

The Commission anticipates a minimal positive business impact from this rule's rescission. Although a rescission, the impact will be minimal because many of the individual provisions were either moved to Ohio Adm.Code 3772-4-01 or were duplicative of the Revised Code, minimizing the impact. However, there will be some positive impact from the streamlined regulations, which will make it easier and less time consuming for the entities to find applicable regulatory standards.

3772-4-05 Affirmative license standards. (new)

This rule, while "new" due to it being recodified to Ohio Adm.Code 3772-4-05, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-08. Given that this rule largely parrots statutory language (R.C. 3772.10, 3772.11, 3772.111, and 3772.112), sets standards for licensure without requiring any specific submissions, and is common in the casino industry, the Commission does not anticipate any adverse impact on business from this rule.

3772-4-06 Application fees. (rescission)

The present version of the rule is being "rescinded" to move the rule's language to Ohio Adm.Code 3772-4-03. Therefore, there is little business impact from this rescission, although the streamlined rules will create a slight positive impact.

3772-4-06 Duty to update information. (new)

This rule, while "new" due to it being recodified to Ohio Adm.Code 3772-4-06, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-09. The business impact of this rule is the employee time and payroll necessary to submit these materials to the Commission, which will vary based on the type of the information that must be submitted. However, the business impact is minimized since the statute requires licensees to maintain suitability and requires the Commission to observe licensees to ensure they are suitable throughout licensure. R.C. 3772.10. Moreover, providing suitability updates is common in the casino industry in every jurisdiction in which they operate. Because of this, the operators already have dedicated staff to ensure these continuing reporting requirements are met in each jurisdiction. Therefore, the cost

to the operator submitting this material is nominal, built into their business model, and contemplated by statute.

3772-4-07 License fees. (rescind)

The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-04. Therefore, there is little business impact from this rescission, although the streamlined rules will create a slight positive impact.

3772-4-08 Affirmative license standards. (rescind)

The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-05. Therefore, there is little business impact from this rescission, although the streamlined rules will create a slight positive impact.

3772-4-09 Duty to update information. (rescind)

The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-06. Therefore, there is little business impact from this rescission, although the streamlined rules will create a slight positive impact.

3772-4-11 Computation of gross casino gaming revenue; assisting the tax commission. (rescind)

The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-10-04. Therefore, there is little business impact from this rescission, although the streamlined rules will create a slight positive impact.

3772-10-04 Accounting records. (amendment)

This rule is being filed solely as amendment and not for five-year review. The amendment moves language that already existed in Ohio Adm.Code 3772-4-11. This language merely echoes casino operators tax duties under sections of the Revised Code (R.C. 5753.02 and 3753.04) and is being adopted pursuant to the Commission’s requirement to do so in R.C. 3772.03(D)(22). Therefore, the Commission, while acknowledging the business impact of those sections, does not believe this rule will result in any business impact.

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

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The regulatory intent justifies any adverse impact because Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming, specifically by licensing and ensuring certain other minimum standards for operators are met. Moreover, the regulatory intent justifies any adverse impact because casino gaming is a highly regulated industry. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework, starting with its own internal management and licensing rules covering operators, management companies, and holding companies. Finally, each of the amendments in this package further lessens any business impact, including removing redundant provisions of law or clarifying the Commission's interpretation of a particular rule. For a more detailed analysis of the individual justifications applicable to each rule, please see the answers given in 16.c.

Regulatory Flexibility

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

Yes (indirectly), though it is unlikely this will be necessary since these regulations mostly impact casino operators, management companies, and holding companies, none of which likely constitute a small business. These amendments indirectly provide exemption or alternative means of compliance through Ohio Adm. Code 3772-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3772, including these rules, if doing so is in the best interest of the public and will maintain the integrity of casino gaming in the State of Ohio.

19. 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?

Though it is unlikely R.C. 119.14 will apply to these amendments because the rules largely impact the casino operators, management companies, and holding companies, none of which likely constitute a small business, the Commission will adhere to the statutory requirements thereunder, if applicable.

To the extent R.C. 119.14 would apply to a violation of these amendments, the Commission will provide verbal and written notification to the small business to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the

small business fails to remedy the violation within the reasonable time allotted by the Commission.

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

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate skill-based amusement machine gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
100 E. Broad St., 20th Floor
Columbus, OH 43215
- Commission's toll-free telephone number: (855) 800-0058
- Commission's Division of Licensing telephone number: (614) 387-5688
- Commission's fax number: (614) 485-1007
- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov
- Commission's casino gaming listserv:
<https://ohio.us7.list-manage.com/subscribe?u=1c618d44ec5c718843ae2e7bb&id=3d36674d21>

Also, all members of the regulated community and public may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-1-04, request waivers and variances from the Commission's casino gaming regulations.

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From: [Ohio Casino Control Commission](#)
To: [Cox, William](#)
Subject: Casino Gaming Rules for Comment
Date: Monday, February 1, 2021 3:55:18 PM

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Casino Gaming Stakeholders,

The Ohio Casino Control Commission (“Commission”) has started a new listserv for use in disseminating casino gaming rules for stakeholder comment. This list was created through our internal identification of those who may be interested. However, you should feel free to forward this message onto additional people who may submit comments on the rules themselves and who may sign up for the listserv [here](#). If you would like to unsubscribe from this listserv, you may do so using the link located at the bottom of this email.

As you may know, Ohio law generally requires rules to be reviewed and refiled at least once every five years. Pursuant to that requirement, the following rules have been reviewed by Commission staff and are now being put forward for comment: 3772-1-01 (Definitions), 3772-1-04 (Waivers and variances), 3772-1-07 (Records retention), 3772-2-06 (Subpoena power), and those rules contained in Chapter 3772-4 (Casino Operator, Management Company, and Holding Company Licenses). Additionally, Ohio Adm.Code 3772-10-04 (Accounting records) is being put forward for comment for the sole purpose of moving the tax requirements of Ohio Adm.Code 3772-4-11 into that rule. It will undergo a full five-year review closer to its review date. The proposed versions the above-listed rules can be found [here](#).

For those who may not be familiar with the Ohio rule filing process, you will have some additional chances to comment on these rules. Most notably, you will be receiving another communication from us when these rules are filed with the state's Common Sense Initiative Office for comment. However, please note that it is much easier for the Commission and for stakeholders to work out any questions or comments directly before the rules start the formal rule filing process.

We understand that you may have questions or would like additional information before commenting, and if that is the case, we encourage you to reach out to Matt Oyster, (614) 387-5859 or matt.oyster@casinocontrol.ohio.gov, at your earliest convenience. Additionally, you should feel free to reach out to any Commission staff with which you have a working relationship. **If, in the end, you would like to provide formal written comments, please email them to Matt by 5:00 p.m. on February 12.**



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From: [Ohio Casino Control Commission](#)
To: [Cox, William](#)
Subject: Update to OAC 3772-1-01
Date: Wednesday, February 10, 2021 6:30:15 PM

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Casino Stakeholders,

The Commission is proposing one additional change to Ohio Adm.Code 3772-1-01 from the version that was sent on February 1. This update, which is available [here](#), is the addition of a new definition for the phrase “participate in conducting” as new 3772-1-01(B)(11).

This definition is being proposed to better put stakeholders on notice of when they are “participating in the conduct” of casino gaming, which is a phrase that appears

consistently in the Revised and Administrative Codes. It is also intended to bring the Commission's casino gaming regulations into better harmony with its skill games and fantasy contest regulations, which contain an analogous definition for this phrase.

Staff does not intend for this insertion to change any interpretations currently in place.

While staff apologizes for the late change, the Commission is not extending the deadline for comment on the current rules, due to the minor nature of the change. As a reminder, any comments are due by this Friday (February 12) at 5:00 PM, and any questions or comments should be directed to Matt Oyster at (614) 387-5859 or matt.oyster@casinocontrol.ohio.gov.



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