



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

Business Impact Analysis

Agency, Board, or Commission Name: State Lottery Commission

Rule Contact Name and Contact Information:

Meg Rasmussen 216-774-5652

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

Type C Sports Gaming Proprietor Duties: Lottery Sports Gaming Equipment Approval and Testing

Rule Number(s): 3770: 3-6-03

Date of Submission for CSI Review: 6/17/2022

Public Comment Period End Date: 6/27/2022

Rule Type/Number of Rules:

New/ 1 rules

No Change/ rules (FYR?)

Amended/ rules (FYR?)

Rescinded/ rules (FYR?)

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.

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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.

3770:3-6-03 sets forth the requirements for the approval and testing of Lottery sports gaming equipment.

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.**

Ohio Revised Code §3770.03 Commission powers and duties.

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.

The answer to both questions is no.

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

Not applicable to this rule.

- 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)?**

To provide guidelines for a potential type C sports gaming proprietor and to set forth the requirements for sports gaming equipment approval and testing. Proprietors may not operate any sports gaming equipment unless it has been evaluated by a certified independent testing laboratory and approved by the director. There are specified procedures which must be followed by the testing laboratory in order to collect the scientific testing and technical evaluation of the equipment to be submitted. No more than one such certified laboratory may be engaged. There is also a procedure included for previously approved equipment to be evaluated or reevaluated, under specified circumstances. Tested equipment will not be included in the commission data base unless the test results are approved by the director. Any critical equipment software components must be able to be tested by a method approved by the director.

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

The Lottery maintains review procedures for the review of all gaming proprietor house rules. This rule would adhere to those same standards.

- 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.

Will Green, Aucutus, LLC
David George, Bell Music Company
Patrick Tarnay, BetMGM
Rick Limardo, BetMGM
Akhil Ghimikar, BetMGM

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Andrea Sousa, BetMGM
David P. Corey, Bowling Centers Association of Ohio
Tim Cosgrove, CJ Law Policy
Jay O'Bryant, CJR Group
Tory Key, ELYS Game Technology
Mark Faubion, FSB Technology
Mark Dittoe, High Bridge Consulting
Andrew Westmeyer, Host
Nick Detore, Host

Mike Sortino, Host/Cedar Corner
Steven Berk, Host/Giant Eagle
April Baker, Host Frickers
Greg, Host/Go Stadium Grill
Theresa Scott, Host/Bucketheads
Rick Ohanion, Interested Party
Dimitrios Maniatis, Intralot
Byron Boothe, Intralot
Tara Jones, Intralot
Oma Tribble, Intralot
David Bretnitz, Kambi
Jonathan Brook, Kambi
Rober Dove, Kegler Brown
Nathan, NEA Consulting
Lauren, NEA Consulting
Molly Hunter, Ohio Bar Owners Association
Andy Herf, Ohio Bar Owners Association
Rob Swedinovich, Penn National Gaming
Marrielle Martinez, Suzohapp
Constance, verification email
Dan Monk, WCPO – ABC Channel 9
Raj Shah, Wright Bet Ventures
WBV Partners, Wright Bet Ventures

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

Stakeholders were notified of our proposed adoption of the rule at issue. They were also given the opportunity to comment on the proposed rule. No comments were received with the prescribed period.

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?

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Not applicable to this rule.

- 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?**

We believe this regulation is necessary and appropriate. We did not receive complaints or comments from stakeholders with regard to the adoption of this regulation.

- 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.***

Not applicable to this rule.

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

No other regulation exists dealing with this regulation.

- 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.**

We propose to maintain our current practice of implementation.

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**

The impacted business community would be some current Ohio Lottery sales agents that are interested in also becoming a type C sports gaming host.

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

The type C sports gaming proprietor pays all costs associated with the scientific testing and technical evaluation performed by the certified independent testing laboratory.

- 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.

It is not possible to quantify any adverse impact with respect to dollars, hours or other factors for the completion of an application and making available the information.

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

The adverse impact of requiring that sports gaming systems recovery procedures must be tested and documented at least annually and submitted for review and approval upon request as part of a licensing process by a lottery sales agent and type C sports gaming host is justified.

Regulatory Flexibility

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

No. Many lottery sales agents are small businesses, as such are required to meet the same standards regardless of their size or profitability.

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?

There are no penalties for paperwork violations with regard to a type C sports gaming systems.

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

The impacted or potentially impacted entities can call the Ohio Lottery Customer Service Center (800)686-4208.