



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: State Lottery Commission

Rule Contact Name and Contact Information: Meg Rasmussen – OLC, 216-774-5652

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

Video lottery sales agent employee licenses; denial of license.

Rule Number(s): 3770:2-4-05

Date of Submission for CSI Review: 12/07/2023

Public Comment Period End Date: 12/27/2023

Rule Type/Number of Rules:

New/___ rules

No Change/ X rules (FYR? X)

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Rescinded/___ rules (FYR?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.

The rule sets forth the procedures pertaining to the denial of an application for Video Lottery Sales Agent Employee License under section 3770.02 of the Revised Code.

3. **lease 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.

No, to both questions for the rules in this package.

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

Not Applicable

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)?**

The Ohio Constitution Article XV, § 6, permits the General Assembly to authorize a state agency to conduct lotteries. The General Assembly had authorized the State Lottery Commission, a state agency, to license Video Lottery Sales Agent Employees 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 to ensure the consistent and proper conduct of Video Lottery Sales Agent Employees regarding sale of lottery games, and their integrity under standards set forth in the rules.

Specifically, 3770:2-4-05 sets forth the procedures pertaining to the denial of applications for Video Lottery Sales Agent Employee Licenses under section 3770.02 of the Revised Code.

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

Success will be measured through the consistent enforcement of standardized requirements for the licensing of video lottery sales agent employees. This will ensure initial and ongoing employee compliance with lottery rules and regulations, while maintaining the integrity of those licensed employees and that of their video lottery sales agent employers. Additionally, in some instances where a video lottery sales agent employee license is denied, an adjudication hearing is required, which ensures fair, impartial review by a hearing officer, as well as published outcomes.

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.

On May 17, 2023 the below listed stakeholders were notified of the proposed no change rule via email. The stakeholders represent companies the lottery has dealt with during the past five years.

MGM Grand

MGM Resorts

MGM Northfield Park

Intralot

Jack Entertainment

PN Gaming

Scioto Downs

Boyd Gaming
Scientific Games
MVGR LLC

All OLC Commissioners

The following stakeholders consist of representatives of all seven Ohio racetracks:

Chris Corrado, Belterra Park

Justin Remschneider, Belterra Park

Vicky Burns, Belterra Park

Henry Graffeo, Belterra Park

David Frnakhouser, Delaware North Companies

RonSultemeier, Miami Valley Gaming/Delaware North Companies

Karen Cincione, Delaware North Companies

Domenic Mancini, Miami Valley Gaming, Delaware North Companies

Craig Robinson, Miami Valley Gaming/Delaware North Companies

Austin Miller, Miami Valley Gaming/Delaware North Companies

John Howard, Miami Valley Gaming/Delaware North Companies

Rob Swedinovich, Miami Valley Gaming/Delaware North Companies

Shawn Bailey, Delaware North Companies

Brock Milstein, Northfield Rocksino

Carl Sottosanti, Penn National

Jim Baldacci, Penn National

Frank Donaghue, Penn National

John Oberle, Penn National

Jason Birney, Penn National

Tony Frabbiele, Penn National

Vicky Litz, River Downs

Bill Gustafson, Sciotto Downs

Mike Whitemaine, MTR Gaming

Anthony Carano, MTR Gaming

Kyle Wentz, Northfield Rocksino

Mark Birtha, Northfield Rocksino

Dan Reinhard, Jack Entertainment
Ed Dick, Jack Entertainment
Cynthia Hays, Jack Entertainment
Bob Schmitz, Ohio Racing Commission
Bill Crawford, Ohio Racing Commission

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

No Comments or Suggested Revisions.

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?

Not Applicable

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?
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

This rule is necessary to ensure the consistent and proper conduct of Video Lottery Sales Agent Employees with regard to the sales of lottery games, and to ensure their integrity under standards set forth in the rules. Being that these rules accomplish this objective, as it pertains to Video Lottery Sales Agent Employees, in the most efficient and least restrictive manner, we believe that these are the best alternatives.

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

Not Applicable.

14. 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.

All Video Lottery Sales Agent Employee applicants will be held to these same standards. Fees for re-licensure are consistent with fees paid at licensure as stated in 3770:2-11-01. Application forms are the same for all applicants and re-applicants, as are the penalties imposed and the appeal procedures followed.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

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a. Identify the scope of the impacted business community, and

The seven horse racing organizations currently holding racing permits granted by the Ohio Racing Commission will be impacted, including those individuals interested in affiliating with these horse racing organizations. Others impacted include those individuals who have applied to become, or who are currently operating as a licensed Video Lottery Sale Agent Employee.

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

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.

If after reviewing a Video Lottery Sales Agent Employee license application, governed by 3770:2-4-02, the Lottery determines that a Video Lottery Sales Agent Employee applicant has not met the requirements for issuance of a Video Lottery Sales Agent Employee License, the director may deny the application.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

Not Applicable.

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

The Lottery does not view this rule as having an adverse impact to the regulated business community. Rather, it merely enforces licensing standards, requires ongoing adherence to rules and regulations similarly imposed on other current and potential Video Lottery Sales Agent Employee License holders, affords a right to a hearing to assert applicant and licensee rights when required, and attaches a nominal processing fee regarding employee licensure, which is only assessed every three years.

Regulatory Flexibility

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

Video Lottery Sales Agents are not considered small businesses according to the size standards dictated by 13 C.F.R. §121.201.

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 is no automatic penalty for a paperwork violation.

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

Video Lottery Terminal Management of the Ohio Lottery Commission is available to assist any Video Lottery Sales Agent or employee regarding the conditions outlines in the proposed no change rules.

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