



Common Sense Initiative

Mike DeWine, Governor
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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):

Sports gaming Type c licensure changes

Rule Number(s): 3775-04-01 (amendment) & 3775-04-07 (amendment).

Date of Submission for CSI Review: 7/21/23

Public Comment Period End Date: 8/4/23

Rule Type/Number of Rules:

New/0 rules

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

Amended/2 rules (FYR? No)

Rescinded/0 rules(FYR? N/A)

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.

These rules are being amended for consistency with House Bill (“HB”) 33 of the 135th General Assembly. HB 33 modified R.C. 3775.01 and 3775.07 to include A-1A and A-1C liquor permit holders as eligible for licensure as a type c sports gaming host. Amending these rules ensures the administrative code accurately reflects the eligible entities that can apply for and obtain this license.

- **3775-4-01, titled “General licensing requirements.”** This rule states the generally applicable licensing requirements for proprietors, services providers, suppliers, employees, and hosts. Most, if not all, of these provisions are echoed from statute, including provisions stating that these entities must: be licensed, obtain a background check, be controlled by suitable persons, update the Commission of material changes, and display their licenses. The duty-to-update provisions of the rule are tailored to applicant types, with most applicant’s being subject to the standard requirements in (G), but type C gaming hosts and appointing professional sports organizations having more targeted updates, due to their limited involvement in sports gaming. Additionally, the rule allows the Commission to rely on investigations conducted under R.C. Chapters 3770 and 3772 in the issuance of these licenses, creating administrative efficiencies for both applicants and the Commission. The amendments to this rule expand the types of liquor

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permit holders that can be licensed as a type c sports gaming host. The purpose of the amendments is to ensure consistency between the provisions of R.C. Chapter 3775 and the Administrative Code. The overall purpose of this rule is to ensure that applicants are meeting the sports gaming control law's generally applicable licensing provisions, mostly contained in R.C. 3775.02, 3775.03, and 3775.09, and that generally applicable aspects of the licensure process are clearly laid out for all applicants.

- **3775-4-07, titled, “Type C sports gaming host licensure.”** This rule governs the application and licensure of type C sports gaming hosts. The rule states that these applicants must complete any applicable forms and pay an application fee of one thousand dollars. In evaluating an applicant, the Commission will consider several factors, including, whether the applicant has been issued a liquor permit or lottery sales license in the state. In addition, the Commission will consider whether the applicant has or will enter into an agreement with a type C sports gaming proprietor to offer sports gaming at its facility and whether the Ohio Lottery Commission recommends the applicant. Lastly, the rule describes the procedure for requesting renewal of a host license. The amendments to this rule expand the types of liquor permit holders that can be licensed as a type c sports gaming host. The purpose of the amendments is to ensure consistency between the provisions of R.C. Chapter 3775 and the Administrative Code. The overall purpose of this rule is to implement R.C. sections 3770.25, 3775.03, 3775.04, and 3775.07 and to ensure that only eligible persons are engaged in offering self-service or clerk-operated sports gaming terminals in their Ohio liquor permit premises.

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. 3770.25, 3775.02, 3775.03, 3775.04. & 3775.07

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 implements a federal requirement, but 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 rules because the federal government does not regulate sports gaming in this state. Rather, sports gaming is permitted and controlled by Ohio's Sports Gaming Control Act (i.e., R.C. Chapter 3775).

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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)?

R.C. Chapters 3772 and 3775 require the Commission to ensure the integrity of sports gaming and to prescribe rules for how sports gaming should be conducted, including rules related to involuntary exclusion, licensing, and responsible gambling. To ensure the integrity of sports gaming and requirements of R.C. Chapters 3770, 3772, and 3775, it is imperative to ensure the integrity of sports gaming by ensuring the type c proprietors and hosts, which operate or serve as the placement site for self-service or clerk-operated sports gaming terminals, meet the statutory requirements of R.C. Chapter 3775. Additionally, House Bill (“HB”) 33 of the 135th General Assembly modified R.C. 3775.01 and 3775.07 to include A-1A and A-1C liquor permit holders as eligible for licensure as a type c sports gaming host. Amending these rules ensures the administrative code accurately reflects the eligible entities that can apply for and obtain this license.

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 rules in terms of whether they help the Commission meet its statutory mission to ensure the integrity of sports gaming. This can be done in two ways: first, through evaluating whether the public benefit of implementing and enforcing these rules outweigh their administrative and business costs. And second, through analyzing the regulated community’s comments about requests for amendments to the rules or for waivers or variances to or from the rules.

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 July 7, 2023, to stakeholders. (Exhibit 1). Stakeholders were asked to submit any written comments on the rules by 5:00 p.m. on July 14, 2023. (Exhibit 1). These stakeholders included employees or representatives from sports gaming proprietors, suppliers, operators, and type-c sports gaming hosts. (Exhibit 2). Finally, stakeholders had the opportunity to comment during the Commission’s public meeting on July 19, 2023.

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

The Commission did not receive any stakeholder comments for these proposed rule changes.

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 rules because no scientific data was necessary to develop or measure their outcomes. Instead, Commission staff reviewed the Commission's statutory mandates and looked at how other jurisdictions approached the topics in these rules. Further, staff considered whether existing rules were the most efficient means by which to maintain the integrity of sports gaming and whether any requests for amendments, waivers, or variances had been requested or 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 in other jurisdictions, 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?
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.

When first adopting these rules, Commission staff carefully reviewed and gave thorough consideration to the rules adopted in other jurisdictions. In reviewing these rules, 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 regulatory environment. As such, these rules are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio law and current industry trends.

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

This question largely does not apply to these rules because no other regulations in these areas currently exist with respect to sports gaming. The amendments in this rule package are designed to harmonize the administrative code with statutory requirements.

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.

The rules in this package relate to sports gaming licensing, which are handled by the Commission's licensing staff and overseen by a director in the Commission's central office. Any issues that arise with a sports gaming operator are funneled to the Commission's central

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office where the Executive Director and the division directors can coordinate a consistent response and conduct outreach to the regulated community. Finally, if necessary, any sanctions could only be approved by the Commission at a public meeting through a vote. As such, the regulated community can expect consistent and transparent compliance work from the Commission.

Adverse Impact to Business

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

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

Those engaged in the industry of sports gaming in the State of Ohio, specifically type c sports gaming hosts and the type c proprietor licensees that operate kiosks at type c sports gaming host facilities.

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.

Overall, the amendments proposed by the Commission will not, overall, result in adverse impact on the regulated community as they simply add additional businesses that are eligible to apply for and receive a type c sports gaming host license. This change is to align with a statutory change that permits these additional businesses to engage in this line of business. The general costs of compliance are further described below.

3775-4-01 General licensing requirements (amendment)

The Commission anticipates a minimal impact on business from this rule itself, relating to the employee time and payroll necessary to submit the information required under the rule to obtain and maintain licensure. This will include costs related to submitting fingerprints, applications, forms, and duties to update, as well as costs related to displaying licenses. However, R.C. 3775.03 requires all persons covered by this rule to obtain a license; to be fingerprinted; to submit updates to the Commission within ten days of the occurrence of any material event or change; and to display their licenses. In implementing these requirements, the Commission is also recognizing two statutory exemptions from detailed background investigations—namely professional sports organizations and type C gaming hosts—due to their limited involvement in the administration of gaming itself. The amendments to this rule expand type C sports gaming host licensure to additional liquor permit holders. As such, the Commission does not anticipate material impacts to business, as the rule simply lays out provisions required by statute. Moreover, any impact on business

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is further justified by the need to ensure that persons involved in gaming are suitable and qualified for licensure—ensuring that gaming in Ohio is conducted with integrity.

3775-4-07 Type C sports gaming host licensure (amendment)

The Commission anticipates the rule will have an adverse impact on business, but that the impact is justified and statutorily authorized. This impact will come from type C sports gaming hosts needing to obtain a license, pay the fees associated with application and licensure, and submit the information necessary for the Commission to evaluate the statutory factors for licensure. As for fees, the license fee is statutorily set at \$1,000 by R.C. 3775.07(C) and is one of the few statutory license fees that go to the Commission and not other state funds. The statute then allows the Commission to set the application fee, R.C. 3775.07(B). The Commission has set the application fee at \$1,000—however, it allows the \$1,000 application fee to be applied and cover 100% of the license fee if the applicant is approved for licensure. As such, the Commission believes the rule itself blunts much of the statutory business impacts related to fees. Moreover, type C sports gaming hosts will also have business impacts related to submitting statutorily-required information to obtain a license, but those impacts are greatly tailored by the legislature and the Commission to the limited risks involved in being a type C sports gaming host. Given this, type C sports gaming hosts will only need to submit biographical information, any planned proprietor they may be contracting with, and information related to base statutory eligibility—including existing liquor permits and a recommendation from the Ohio Lottery Commission. The amendments to this rule expand the number of liquor permit holders that are eligible to receive a type C sports gaming license. Given that this information is statutorily required, the Commission does not anticipate the amendments to the rule will have a negative business impact.

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).*

The amendments to R.C. 3775-04-01 and 3775-4-07 expand the number of eligible liquor permit holders that can receive a type C sports gaming host license. There is no impact to the number regulatory restrictions in the proposed changes to these rules.

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

The regulatory intent justifies any adverse impact because the Commission is required to ensure the integrity of sports gaming, specifically by licensing, regulating, investigating, and penalizing those involved in sports gaming in a manner consistent with the Commission's authority to do the same with respect to casino gaming. Moreover, the Commission has broad

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authority to adopt rules that cover topics such as licensure. As such, any business impact is justified as statutorily contemplated.

Moreover, the regulatory intent justifies any adverse impact because sports gaming is a highly regulated industry and is accustomed to detailed regulations in every jurisdiction. 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 in consultation with the regulated community.

Regulatory Flexibility

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

Yes, these rules provide exemption or alternative means of compliance through Ohio Adm. Code 3775-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3775, including these rules, if doing so is in the best interest of the public and will maintain the integrity of sports 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?

To the extent R.C. 119.14 would apply to a violation of the proposed rules, the Commission will provide verbal and written notifications to the small business in an attempt 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 sports gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
100 E. Broad Street, 20th Floor
Columbus, Ohio 43215
- Commission's toll free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007

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- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov and sportsgaming@casinocontrol.ohio.gov

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 3775-1-04, request waivers and variances from Commission regulations.

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EXHIBIT 1

From: [Morrison, Andromeda](#)

To: [Rule Comments](#)

Bcc: [dylanwilkinson4@gmail.com](#); [nhock@brookspierce.com](#); [matteberling@sternadvertising.com](#); [daniel.rainieri@betmgm.com](#); [fpakish1012@sbcglobal.net](#); [lcox@rushstreetinteractive.com](#); [shutchison@mgmnorthfieldpark.com](#); [hmacmurray@mslawgroup.com](#); [dflowers@goldstrike.com](#); [Frost, Scott](#); [allysonmiller@jackentertainment.com](#); [amychristie@commonwealth-gaming.com](#); [frederik@beuk.biz](#); [steven.berk@gianteagle.com](#); [aluckie@onecomply.com](#); [jeff@937law.com](#); [danny.crook@hardrockdigital.com](#); [mattslovin@gmail.com](#); [sbrody@fubo.tv](#); [cbliss@det.mgmgrand.com](#); [hangovers1@aol.com](#); [jim@theridgogolf.com](#); [dandodd@zhfconsulting.com](#); [Larry.Henry@gdcgroup.com](#); [muething@fccincinnati.com](#); [Williams, Mark](#); [josh.mehta@fanduel.com](#); [kastevens@foxrothschild.com](#); [legal@darkside.media](#); [gary@casinocity.com](#); [CAC Communications](#); [tim@rtsports.com](#); [patrick.tarnay@betmgm.com](#); [eric.skalski@betfred.com](#); 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Subject: Stakeholder Comments-Type C Sports Gaming Host Licensing Changes

Date: Friday, July 7, 2023 11:53:00 AM

Attachments: [image001.png](#)
[3775-4-01 amendment.pdf](#)
[3775-4-07 amendments.pdf](#)

Sports Gaming Stakeholders,

Pursuant to the passage of House Bill (“HB”) 33 of the 135th General Assembly, the Commission is amending Ohio Adm.Code 3775-4-01 and 3775-4-07. Copies of the proposed amended rules are attached for your review. The sole changes to these rules add A-1A and A-1C liquor permit holders as eligible for type c sports gaming host licensure, provided they meet all other existing eligibility requirements. These changes are necessary pursuant to the changes in R.C. 3775.01 and 3775.07 in HB 33. Although these changes are made necessary due to the statutory changes, the Commission still welcomes comments.

If you would like to provide formal written comments on these amendments, please email them to rulecomments@casinocontrol.ohio.gov by 5:00 p.m., Friday, July 14, 2023.

As always, please feel free to forward this communication to anyone else you think may be interested.

Respectfully,



Andromeda Morrison

General Counsel &
Director of Skill Games
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EXHIBIT 2

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