



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency, Board, or Commission Name: State Lottery Commission

Rule Contact Name and Contact Information: Ian S. Litherland (216) 339 - 7993

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

Responsibilities of excluded facilities and excluded entities under the jurisdiction of the Ohio lottery commission.

Rule Number(s): 3770 2-8-04

Date of Submission for CSI Review: July 17, 2024

Public Comment Period End Date: July 31, 2024

Rule Type/Number of Rules:

New/ X rules

No Change/      rules (FYR?     )

Amended/      rules (FYR? X     )

Rescinded/      rules (FYR?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.*

Excluded video lottery facilities are required to update their list of voluntarily excluded individuals at least once every seven days and immediately notify the lottery commission if an excluded individual is found on the premises of an excluded facility. The facility must report specific information to the commission if an excluded individual is found on the premises. The new rule will align with recently adopted Ohio Casino Control rules that pertain to the same matter. This new rule will replace an existing rule with the same number and name.

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 is no to both of the questions for the rule 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 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)?**

The Ohio Constitution Article XV, §6, 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 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. This rule is necessary to ensure the consistent and proper conduct of Video Lottery Sales Agent employees with regards to the sales of lottery games, and their integrity under standards set forth in the rules.

Specifically, 3770:2-8-04 establishes the responsibilities of video lottery facilities and type C sports gaming proprietors under the new statewide voluntary exclusion program, including those items which must be submitted in a written report to the Ohio lottery commission within seventy-two hours of finding a VEP participant on the premises of an excluded facility.

**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 these standardized requirements and guidelines, which will ensure ongoing compliance with Lottery rules and regulations, while maintaining the integrity of all licensed Video Lottery Sales Agents and type C sports gaming proprietors under the jurisdiction of the Lottery.

**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.*

The listed stakeholders were notified of the proposed amended Five-Year Rule review rule. The stakeholders consist of representatives of all seven Ohio racetracks. The identified stakeholders were notified through email correspondence on June 27, 2024. They were given until July 12, 2024, to respond with comments or questions. As of this date, no comments have been received. However, while no specific comments were received, one stakeholder did ask a question with regards to seized funds. This question was fulfilled as a public records request.

Justin Remscheider, Belterra Cincinnati

Don Wilbur, DAS  
Sarah Odriscoll, Fahlgren  
Matt Becker, Hollywood Dayton  
Kathy Lenhardt, Hollywood Mahoning  
Ed Dick, Jack Thistledown  
Simeonia Mays, Lottery Regulations  
Tom Spayd, Lottery Regulations  
Samantha Alonso, MGM Northfield Park  
Gina Lawwill, Miami Valley Gaming  
Amanda Blackford, OCCC  
Cory Brown, OCCC  
Andromeda Morrison, OCCC  
Stacey Frohnapfel-Hasson, Ohio MHAS  
Milan Karna, Ohio MHAS  
Scott Anderson, Ohio MHAS  
Jon Dillinger, OLC  
Lauren Medina, OLC  
Ray Durant, OLC  
Christopher Dragone, OSRC  
Holly Chandler, OSRC  
Derek Longmeier, PGNO  
Amy Ankerson, Scioto  
Rickey Volante, BetIGG  
John Jost, BetSkybox  
Scott Hoss, Sports Bet Ohio (Intralot)  
Andy Westmeyer, UBetOhio  
Mary Kotynski, OLC  
Ed Slyman, OLC  
Gina Lawwill, MVG  
Kevin Davis, MVG

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

The Lottery did not receive any specific comments with regard to the proposed rule package. However, there was an inquiry made about what the seized funds at the excluded facility total for the previous fiscal year. This inquiry was fulfilled as public records request and the information is available upon request. The request and resulting information provided in response, did not affect the draft regulation.

**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 complete and proper submission of information by excluded facilities. It also established procedures and conditions that help verify consistency and integrity under standards set forth in the rule. Being that this rule accomplishes this objective, as it pertains to excluded facilities and VEP participants, and does so in the most efficient and least restrictive manner, we believe that this remains the best alternative.

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

The Ohio lottery commission has coordinated its efforts with that of the Ohio casino control commission to ensure there is no duplication of Ohio regulations.

- 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 excluded facilities, excluded entities, its employees and agents, and VEP participants shall be held to the same standard.

### **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**

The seven horse racing organizations which currently hold a racing permit granted by the Racing commission and a Video Lottery Sales Agent license will be impacted, including those individuals interested in affiliating with these horse racing organizations. In addition, type C sports gaming proprietors under the jurisdiction of the Lottery are impacted by this rule.

- 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.*

An excluded facility must provide a report to the Ohio lottery commission within seventy-two hours of discovering a VEP participant on the premises.

VLT compliance managers already compile most of the information required by this rule. On average, it takes 30-60 minutes per incident to gather the information with an average of 2-3 incidents per month. It is difficult to estimate the impact of this specific rule because most of the information is already compiled pursuant to facility policies.

- 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?**

In order to maintain an effective voluntary exclusion program, the Ohio lottery commission must be made aware any time a participant in the program violates the terms of the program. It is essential that the Ohio lottery commission receives relevant information from excluded facilities concerning each such instance in order to gauge the program's effectiveness.

### **Regulatory Flexibility**

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

All Businesses, regardless of size, are held to the same standard. If a business is too small, it may fail to operate within the required sales goals or at the level of quality that is consistent with the Ohio Lottery's security and profitability obligations.

- 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?**

All monetary fines and penalties for non-compliance are discretionary. There is no automatic penalty for a paperwork violation and all individual facts and circumstances are taken into account, including experience level, when exercising this discretion.

- 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 Hotline at (800) 686-4208 or by email to [vlt@lottery.ohio.gov](mailto:vlt@lottery.ohio.gov).

VLT Management of the Ohio Lottery Commission is available to assist any video lottery sales agent or employee regarding the conditions outlined in the proposed new rule. 615 W. Superior Avenue Cleveland, Ohio 44113-1870.