

CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Lawrence J. Miltner, Ohio Lottery Commission

FROM: Jeffrey R. Kasler, Regulatory Policy Advocate

DATE: July 23, 2012

RE: CSI Review – Race Track Permits

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of two proposed amended rules. Rule 3770:2-2-01 provides for definitions associated with implementation of video lottery terminals (VLTs). Rule 3770:2-3-01 pertains to video lottery license applications; specifically, it outlines the information an applicant for a VLT license must provide to the Lottery Commission to be considered for a license as a video lottery sales agent.

Regulatory Intent

The overarching intent of the proposed amendments to these rules is to eliminate the delay for certain race tracks which may be required to obtain a new racing permit from the Ohio Racing Commission. Currently, a race track must hold a racing permit issued by the Racing Commission before it may apply to the Lottery Commission for a VLT sales agent license. There are presently race tracks that hold racing permits but, because of business restructuring and relocation, those entities need new racing permits from the Racing Commission; thus, under current rules and as previously stated, those entities cannot apply for VLT sales agent licenses until the Racing Commission has *issued* new permits. The proposed rules would allow for the simultaneous filing for a permit with the Racing Commission and an application for a VLT sales agent license with the Lottery Commission. In other words, under the proposed amendment, an

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entity can apply for a VLT sales agent license once it has *applied* for a racing permit (although the VLT sales agent license will not be awarded unless the applicant's racing permit has been issued). There does not appear to be any public purpose for the filing delay imposed by the rules as currently written.

Development of the Regulation

The Lottery Commission included multiple entities from the racing and casino industry in developing the proposed rules. Stakeholders received a draft of the proposed rules on May 24, 2012, and no comments or suggested revisions have been received by either the Commission or the CSI Office.

Adverse Impact

The particular entities impacted by the proposed rules are the seven horse racing organizations that hold racing permits from the Racing Commission. The existing rules create licensing requirements and payment of a licensing fee.¹ The proposed amendments do not have an adverse impact on the regulated community; instead, they attempt to eliminate a delay in the application process by providing for simultaneous filing of applications for racing permits and VLT sales agent licenses. In effect, the amendments are advantageous to the impacted stakeholders.

Recommendations

There are no recommended changes to the proposed rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Commission should proceed in filing the rules with the Joint Committee on Agency Rule Review.

cc: Dennis Berg, Director, Ohio Lottery Commission
Mark Hamlin, Lt. Governor's Office

¹ Rule 3770:2-11-01 specifies the fee as \$50 million, with \$10 million payable up front and upon submission of a completed application. This fee is not changed by the proposed amendments and is not detailed in this particular rule.