

**MEMORANDUM**

**TO:** Charles LoPresti, Assistant Legal Counsel, Ohio Lottery Commission

**FROM:** Tess Eckstein, Regulatory Policy Advocate

**DATE:** November 17, 2016

**RE:** **CSI Review – Video Lottery Operations' Gaming Requirements (OAC 3770:2-6-01, 3770:2-6-05, 3770:2-7-01, 3770:2-7-02)**

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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 (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of four no-change rules being proposed by the Ohio Lottery Commission for review under the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on November 8, 2016, and the comment period remained open until November 14, 2016. A revised BIA was submitted on November 17. These rules establish requirements pertaining to hours of operation, the number and type of video lottery terminals permissible at a licensed facility, advertising of video lottery operations, video lottery game play, and the determination and validity of prize payments. No amendments are being proposed.

The rules impact the seven Ohio racetracks currently holding racing permits granted by the Ohio State Racing Commission (OSRC), including individuals that affiliate with these tracks. Individuals who have applied to become, or who currently operate as, licensed video lottery sales agents are also impacted. Potential adverse impacts of the rules include requirements for video lottery sales agents to, in certain circumstances, seek prior approval from the Director. For example, if a video lottery sales agent wants to alter a facility's hours of operation, engage in advertising and promotions, or offer a new video lottery game on the video lottery terminals, that agent must first obtain the Director's approval. Video lottery technology providers must also seek prior approval from the Commission before offering any video lottery game for sale. In addition, a

video lottery sales agent who is located at a facility where a valid credit voucher is issued is responsible for the payment and/or redemption of the credit voucher. When participating in the redemption of credit vouchers, the video lottery sales agent must fulfill reporting requirements and comply with all laws regarding the withholding of taxes, debts, and obligations. Finally, failure to comply with the established rules could result in a fine and/or penalty, although penalties for non-compliance with the Lottery Act, if any, are discretionary.

The Commission indicated in the BIA that these adverse impacts are justified because the rules ensure the consistent and proper conduct of video lottery sales agents and protect the product integrity of video lottery games. Requirements for obtaining the Director's approval furthermore allow the Director to serve as a means for protecting video lottery participants.

In May 2016, the Commission contacted many stakeholders regarding the rules, including representatives from all seven Ohio racetracks and individuals at OSRC. The Commission received no input or suggested revisions as a result of these distributions. Similarly, no comments were submitted during the CSI public comment period indicating that the rules are overly burdensome. Therefore, the CSI Office has determined the purpose of the rules to be justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Lottery Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office