



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Christine T. Jasica, Ohio Lottery Commission

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: June 24, 2021

RE: **CSI Review – Video Lottery Operations – Hours, Type of Video Lottery Terminals; Maintenance and Repair; Security and Surveillance; Transportation, Relocation, Installation and Certification of Video Lottery Terminals (OAC 3770:2-6-01, 3770:2-6-02, 3770:2-6-03, and 3770:2-6-04)**

On behalf of Lt. Governor Jon Husted, 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 Commission as provided for in ORC 107.54.

Analysis

This rule package consists of four no change rules proposed by the Ohio Lottery Commission (Commission) as part of the statutorily required five-year review process. This rule package was submitted to the CSI Office on May 14, 2021, and the public comment period was held open through May 31, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 14, 2021.

The rules in this package address operations requirements for video lottery sales agents to adequately make available for inspection, maintain, secure, and report on the use of video lottery terminals.

OAC 3770:2-6-01 requires video lottery sales agents to make their facilities available for video lottery gaming 24 hours per day and 7 days per week, unless otherwise authorized by the Director of the Commission (Director). The rule additionally prohibits, absent special authorization from the Director, any video lottery sales agent from having more than 2,500 video lottery terminals at a facility and prohibits the agent from acquiring more than a maximum percentage of terminals from one provider. OAC 3770:2-6-02 prohibits any video lottery terminal from being utilized until

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training is conducted in the maintenance, repair and servicing of the terminal, requires the video lottery sales agent to be responsible for costs associated with such repairs or servicing, and requires the agent to maintain a log and report information on such activities to the Commission. OAC 3770:2-6-03 requires each video lottery sales agent to provide a plan for security and surveillance of video lottery activities taking place at the facility and permits the Commission's security personnel to have unrestricted access to the entirety of the facility. OAC 3770:2-6-04 requires video lottery sales agents or technology providers to provide notification to the Director regarding the transportation of video lottery terminals five days prior to shipping, to provide the Commission with an updated floor plan describing the locations of video lottery terminals when relocated throughout a facility, requires certification for video lottery terminals and games prior to operations, and requires that unused terminals be secured in an approved area of the facility.

During early stakeholder outreach, the Lottery Commission sent the proposed rule to stakeholders at all seven Ohio racetracks, including Miami Valley Gaming/Delaware North Companies, Penn National, MTR Gaming, MGM Northfield Park, MGM Grand Detroit, Jack Entertainment, Boyd Gaming, and Scioto Downs. No comments were received in response to that request for feedback, or during the CSI public comment period.

The business community affected by these rules includes the seven horse racing organizations that currently possess racing permits granted by the Ohio Racing Commission, as well as individuals who are affiliated with or employed by these organizations. The rules additionally impact individuals who are pursuing licensure or currently operating as licensed video lottery sales agents or employees. The adverse impacts created by the rules include administrative effort necessary to obtain approval from the Director prior to modifying hours of operation, operating more than 2,500 video lottery terminals at a facility, or offering video lottery games for sale. Adverse impacts also include administrative effort necessary to maintain a log of any service or repair conducted on a terminal and to report such information to the Commission, to create a security and surveillance plan and annually obtain approval from the Commission, to allow Commission security personnel unrestricted access to the facility, to provide preliminary notice to the Commission prior to shipping video lottery terminals, to provide an updated floor plan when relocating video lottery terminals, and to secure unused terminals in a secure area. The Commission states in the BIA that fines for noncompliance may be assessed for failure to follow the requirements in the rules, but that such fines are discretionary. The Commission states that the adverse impacts created by the rules are necessary to ensure the consistent and proper conduct of video lottery sales agents concerning video lottery operations and game requirements, and that these rules are the most efficient and least restrictive manner of accomplishing this purpose.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Lottery Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.