



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Andromeda Morrison, Ohio Casino Control Commission

FROM: Jacob Ritzenthaler, Business Advocate

DATE: May 16, 2022

RE: **CSI Review – Sports Gaming Batch 3 (OAC 3775-1-09, 3775-4-04, 3775-4-07, 3775-12-01, 3772-12-01, 3772-12-02, 3772-12-03, 3772-12-04, 3772-12-05, 3772-12-06, and 3772-12-07)**

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 new rules and seven amended rules proposed by the Ohio Casino Control Commission (Commission). This rule package was submitted to the CSI Office on April 6, 2022, and the public comment period was held open through April 20, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 6, 2022.

Ohio Administrative Code (OAC) 3775-1-09 establishes the voluntary exclusion list for sports gaming, which requires sports gaming licensees to prevent individuals on the sports gaming voluntary exclusion list from entering or participating in wagering at sports gaming facilities. OAC 3775-4-04 and 3775-4-07 set forth the requirements for Type C sports gaming proprietor and Type C sports gaming host licenses, including application fees, criteria for evaluating applicants, license expiration and renewals, and license revocations. OAC 3775-12-01 requires the sports gaming voluntary exclusion program to operate in reference to OAC Chapter 3772-12.

77 South High Street | 30th Floor | Columbus, Ohio 43215-6117
CSIOhio@governor.ohio.gov

OAC 3772-12-01 lists the definitions related to the Ohio voluntary exclusion program (VEP) and the purpose and scope of the chapter. The rule is amended to include excluded entities and facilities, establish the purpose of the chapter's rules, and allow the disclosure of anonymized information for program effectiveness research purposes. OAC 3772-12-02 concerns Ohio VEP applications and requires applications to be made available at all Ohio casino facilities, video lottery terminal facilities, and through the newly introduced online portal. Amendments to the rule include requirements that implement the online Ohio VEP portal into the requirements and other language updates. OAC 3772-12-03 lists the requirements for voluntarily excluded individuals, including refraining from entering or gaming at an excluded facility, surrendering any winnings earned while excluded to the Commission to be deposited in problem gambling/gaming funds, forfeiting all points and credits earned before enrollment, and facing potential criminal trespass charges for entering an excluded facility. The rule is amended to update requirements to include sports gaming activities, such as forfeited winnings or the exclusion of wagers that were undecided at the time of Ohio VEP enrollment.

OAC 3772-12-04 describes the responsibilities of excluded entities or facilities, which involve maintaining a system for identifying Ohio VEP individuals and notifying the Commission of Ohio VEP individuals on the premises. The rule includes amendments that require online sports gaming services to report wagering by an excluded individual, exempt reporting requirements for individuals at a facility solely for the purpose of seeking removal from the Ohio VEP or claiming owed payments, require excluded entities and facilities to provide a quarterly report of the number of Ohio VEP participants who were denied entry, and to state that no sports gaming wager pending at the time of an individual's enrollment may be cancelled or voided solely due to enrollment.

OAC 3772-12-05 sets forth requirements for removal from the Ohio VEP and is amended to eliminate requirements for individuals to undergo a problem gambling assessment to be removed from the lifetime exclusion. OAC 3772-12-06 requires each casino, sports gaming facility, or online sports pool to maintain a disordered and problem gambling plan, which requires procedures for achieving Ohio VEP compliance, identifying and removing excluded individuals, and providing information, among others. The rule is amended to update language and include sports gaming requirements. OAC 3772-12-07 concerns individuals previously enrolled in the Commission's VEP and allows those individuals to continue exclusion from only Ohio's four Casino facilities. The rule is amended to include all current excluded entities and facilities, including sports gaming facilities.

During early stakeholder outreach, the Commission engaged stakeholders in discussions concerning the proposed rules, both after and prior to the passage of the rule's authorizing statute. The Commission notified relevant industry stakeholders, including stakeholders for problem

gambling support services, casino gaming, fantasy sports, sports team employees, small retail establishments, sportsbooks, suppliers, testing laboratories, integrity monitors, and the general public. Based on stakeholder feedback, the Commission amended the rules to limit notification requirements regarding excluded individuals, reducing the frequency of reports on Ohio VEP participants that were denied entry from monthly to quarterly, specifying that Ohio VEP participants may enter a facility to seek removal from the program or to claim owed payments, broadening the types of support program information that may be shared with individuals, and other clarifying edits. The commission received one comment from FanDuel during the CSI public comment period, which suggested further reducing the frequency of reports made to the Commission regarding Ohio VEP participants denied entry to facilities and requested clarification regarding exclusion. The Commission did not make changes based on the comment, stating that the rule requirements are necessary to help problem gambling treatment and prevention.

The business community impacted by the rules includes all businesses that conduct sports gaming in Ohio, which includes proprietors, service, providers, suppliers, or Type C gaming hosts. The rules also include requirements for providers of responsible gambling prevention and treatment services, professional sports teams, casinos and racinos, retail establishments, and sportsbook operators. The adverse impact created by the rules includes fees for licensure, submission of responsible gaming plans and Ohio VEP violation reports, and potential fines for violations of rule requirements. The cost of the application fee is \$15,000 for Type C sports gaming proprietors and \$1,000 for Type C sports gaming hosts. Licensees are required to report to the Commission when individuals enrolled in the Ohio VEP are located on the premises or denied access, submit quarterly reports related to Ohio VEP exclusions, and provide training and issuing information related to responsible gaming. The Commission states that the adverse impacts created by the rules are necessary to ensure the integrity of sports gaming transactions and to promote responsible gambling through voluntary exclusion.

Recommendations

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

Conclusion

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