

CSI - Ohio

The Common Sense Initiative

Business Regulation Impact Analysis

Agency Name: Ohio Casino Control Commission (“Commission”)

Regulation/Package Title: Skill-based amusement machine licensing

Rule Number(s): 3772-50-01, 3772-50-02, 3772-50-03, 3772-50-04, 3772-50-05, 3772-50-06, 3772-50-07, 3772-50-08, 3772-50-09, 3772-50-10

Date: August 19, 2016

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The proposed rules contained within this package relate to the regulation of skill-based amusement machines and encompass definitions, licensing requirements, and a waiver provision. The rules lay the framework for the Commission’s licensing and oversight of skill-based amusement machine gaming.

Under the proposed regulatory scheme, skill-based amusement machines fall into three categories:

- Type-A: games that do not enable a player to receive a prize as a reward for playing the game, with the exception of free replays (pinball and arcade-style games).

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- Type-B: games where a player uses skill to obtain a prize wholly contained within the machine (crane and claw machines).
- Type-C: games that do not meet the definition of a type-A or type-B skill-based amusement machine. Most type-C skill-based amusement machines are redemption-style games where a player would redeem tickets, tokens, or vouchers awarded from the machine to obtain a prize.

The three categories of skill-based amusement machines are used in the regulatory scheme to create a licensing framework. The licensing framework creates a tiered system as follows:

Type A	Type B	Type C
No required Licensure	<ul style="list-style-type: none"> • Vendors – manufacturers and distributors of type-B games • Operators – operate type-B games at any location, but not type-C games • Key employees – own or manage a type-B vendor or operator 	<ul style="list-style-type: none"> • Vendors – manufacturers and distributors of type-C games • Operators – operate type-C games at any location • Locations – any place where a type-C game is operated • Key employees – own or manage a type-C vendor, operator, or location

As a final piece of the licensing framework, the proposed rules include a registration period where skill-based amusement machine vendors, type-B skill-based amusement machine operators, and type-C skill-based amusement machine operators will have ninety days from the effective date of the rule to register with the Commission. Those persons that register with the Commission are able to continue their business operations until the Commission renders a final determination on the person’s application for licensure under the rules.

Finally, the proposed rules include a waiver and variance provision similar to the Commission’s authority to waive or vary requirements under the administrative rules governing casino gaming.

In particular, the proposed rule package contains the following rules:

- **3772-50-01**, titled “Definitions.” This rule establishes definitions used throughout chapter 3772-50 of the Administrative Code. The purpose of the rule is to provide consistent terminology for frequently used words. Containing definitions to one administrative rule allows the Commission to provide clarity, ease of location and use, and avoid repetition throughout the chapter.
- **3772-50-02**, titled “Authority and purpose.” This rule outlines the purpose of chapter 3772-50 of the Administrative Code, to ensure the integrity of skill-based amusement

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

machine gaming, and describes some of the Commission’s powers with respect to skill-based amusement machine gaming. The purpose of the rule is to provide clarity to the Commission’s mission and authority with respect to skill-based amusement machine gaming.

- **3772-50-03**, titled “General licensing requirements.” This rule describes the requirements to be licensed under chapter 3772-50 of the Administrative Code. In particular, the rule requires all persons who engage in skill-based amusement machine gaming as a skill-based amusement machine vendor, skill-based amusement machine key employee, type-B skill-based amusement machine operator, or type-C skill-based amusement machine operator shall be licensed by the commission unless, (1) the person conducts only type-A skill-based amusement machine gaming, (2) the person is a location that conducts type-B skill-based amusement machine gaming (but not type-C skill-based amusement machine gaming), or (3) a location is otherwise licensed as a type-C skill-based amusement machine operator. The purpose of the rule is to outline licensing requirements that apply to all license types under chapter 3772-50 of the Administrative Code and to provide certain exceptions to the licensing requirements to avoid duplicitous licensure.
- **3772-50-04**, titled “Skill-based amusement machine vendor licensure.” This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of skill-based amusement machine vendors. The rule also describes the process for obtaining a license as a skill-based amusement machine vendor, including applying through the state of Ohio’s eLicense system, an application fee of fifteen thousand dollars, and a license fee of five thousand dollars. The licensure period is up to three years. The purpose of the rule is to provide guidance as to the application and licensing procedure used by the Commission to license a person as a skill-based amusement machine vendor.
- **3772-50-05**, titled “Skill-based amusement machine key employee licensure.” This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of skill-based amusement machine key employees. The rule also describes the process for obtaining a license as a skill-based amusement machine key employee, including applying through the state of Ohio’s eLicense system, an application fee of two hundred fifty dollars, and a license fee of two hundred fifty dollars. The licensure period is up to five years. The purpose of the rule is to provide guidance as to the application and licensing procedure used by the Commission to license a person as a skill-based amusement machine key employee.
- **3772-50-06**, titled “Type-B skill-based amusement machine operator licensure.” This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of type-B skill-based amusement machine operators. The rule also describes the process for obtaining a license as a type-B skill-based amusement machine operator, including applying through the state of Ohio’s eLicense system, an application fee of one thousand five hundred dollars, and a license fee of one thousand five hundred dollars.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The licensure period is up to three years. The purpose of the rule is to provide guidance as to the application and licensing procedure used by the Commission to license a person as a type-B skill-based amusement machine operator.

- **3772-50-07**, titled “Type-C skill-based amusement machine operator licensure.” This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of type-C skill-based amusement machine operators. The rule also describes the process for obtaining a license as a type-C skill-based amusement machine operator, including applying through the state of Ohio’s eLicense system, an application fee of fifteen thousand dollars, and a license fee of five thousand dollars. The licensure period is up to three years. The purpose of the rule is to provide guidance as to the application and licensing procedure used by the Commission to license a person as a type-C skill-based amusement machine operator.
- **3772-50-08**, titled “Type-C skill-based amusement machine location licensure.” This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of type-C skill-based amusement machine locations. The rule also describes the process for obtaining a license as a type-C skill-based amusement machine location, including applying through the state of Ohio’s eLicense system, an application fee of two hundred fifty dollars, and a license fee of two hundred fifty dollars. The licensure period is up to five years. The purpose of the rule is to provide guidance as to the application and licensing procedure used by the Commission to license a person as a type-C skill-based amusement machine location.
- **3772-50-09**, titled “Registration of operation of skill-based amusement machine.” This rule establishes that persons who are required to be licensed as skill-based amusement machine vendors, type-B skill-based amusement machine operators, and type-C skill-based amusement machine operators must register with the Commission within ninety days of the effective date of the rule and submit a completed application for licensure within one hundred twenty days of the effective date of the rule. The registration permits persons to continue to conduct skill-based amusement machine gaming until the Commission renders a final determination on the license application. The rule does not limit or preclude enforcement of violations of R.C. Chapters 2915. and 3772. The purpose of the rule is to provide a grace period that allows already-existing businesses to operate while the Commission reviews and investigates license applications.
- **3772-50-10**, titled “Waivers and variances.” This rule allows the Commission to waive or vary the requirements of chapter 3772-50 of the Administrative Code upon a written request of the person requesting waiver or variance. However, the Commission will not grant a waiver of the general requirement to be licensed under chapter 3772-50 of the Administrative Code. The purpose of the rule is to provide some flexibility to the Commission and the stakeholder community.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

R.C. 3772.03

- 3. 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.

Not applicable.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question does not apply to these proposed rules because the federal government does not regulate skill-based amusement machines. Rather, skill-based amusement machines are governed under R.C. Chapters 2915. and 3772.

- 5. 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 rules became necessary with the passage of H.B. 64 (131st General Assembly) wherein the General Assembly required the Commission to regulate skill-based amusement machines in a manner consistent with its ability to do the same with respect to casino gaming, including the function of licensing. The proposed rules establish the licensing framework the Commission will utilize to fulfill its statutory obligation to regulate skill-based amusement machines and ensure the integrity of skill-based amusement machine gaming in Ohio.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Overall, the Commission will measure the success of these proposed rules in terms of whether they help to ensure the integrity of skill-based amusement machine gaming. The Commission will consider the proposed regulation successful if the Commission licenses those persons who conduct skill-based amusement machine gaming in compliance with Ohio law (i.e. R.C. Chapters 2915. and 3772.) and eliminates illegal casinos (such as slot machine parlors that masquerade as skill-based amusement machine parlors). The Commission will evaluate the number of applications received, number of licenses issued, as well as complaints and reports of illegal casino/slot machine operations in the state. The Commission will also analyze the regulated community's comments about requests for waivers or variances from these rules once they are implemented.

Development of the Regulation

- 7. 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.

With the passage of H.B. 64 (131st General Assembly), the Commission has taken several steps to engage the stakeholder community regarding the development of proposed regulation of skill-based amusement machines. Prior to drafting regulations, Commission staff engaged in numerous outreach activities with members of the regulated community

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

including telephone conversations, e-mail communication, and in-person meetings. Since January 2016, Commission staff have held 18 individual meetings with members of the regulated community. Staff have also visited with stakeholders at their business locations in order to understand the business environment and how the skill-based amusement machine industry operates, as a whole.

Commission staff also met with representatives of several trade-based associations whose membership would be interested or impacted by skill-based amusement machine gaming regulation, including, the Ohio Coin Machine Association, Bowling Centers Association of Ohio, and the Ohio Licensed Beverage Association. Additionally, the Director of Skill Games presented at the 1st Annual Gaming Law Symposium on March 4, 2016, highlighting the Commission's regulatory authority and outlining the Commission's efforts to promulgate administrative rules addressing skill-based amusement machines.

After several months of engagement by Commission staff, the Commission prepared draft rules for stakeholder review and comment. The draft rules were circulated to members of the stakeholder community by e-mail on June 2, 2016, with a requested comment period ending on June 10, 2016. A list of the stakeholders contacted by the Commission is included as Attachment A. All of the stakeholders contacted by the Commission have either met with Commission staff or otherwise engaged staff through telephone or e-mail.

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

The initial draft of the regulations was a direct result of the significant effort spent by Commission staff to engage with the stakeholder community. The initial draft included many thoughts, comments, and ideas provided by stakeholders. After the initial draft regulations were provided to stakeholders for comment, the Commission received several comments that are incorporated as Attachment B. As a result of the stakeholder comments, the Commission made several changes to the draft rules, including:

- Removing the language in proposed rule 3772-50-01(H) that replays of skill-based amusement machines are not considered merchandise prizes and adding language in the same paragraph to clarify that redeemable vouchers are not considered merchandise prizes;
- Clarifying language in proposed rule 3772-50-01(M) that a redeemable voucher may not be redeemed for cash;
- Revising proposed rule 3772-50-01(P) to narrow the definition of a skill-based amusement machine key employee;
- Adding language in proposed rule 3772-50-01(R) to ensure that a person licensed as a skill-based amusement machine location would not also be required to be licensed as a skill-based amusement machine operator;
- Revising proposed rule 3772-50-01(U) to limit the scope of persons that would be classified as a skill-based amusement machine vendor to those that manufacture or distribute type-B or type-C skill-based amusement machines (instead of all skill-

based amusement machines and all persons that might provide any other goods or services related to skill-based amusement machines);

- Eliminating the prohibition on video monitor displays in proposed rule 3772-50-01(W);
- Adding language in proposed rule 3772-50-01(Z) that establishes that a franchised location of an otherwise licensed skill-based amusement machine operator is considered a skill-based amusement machine location (rather than another operator);
- Removing language in proposed rule 3772-50-03 regarding an applicant's consent to inspections;
- Adding language in proposed rule 3772-50-04 that an already licensed skill-based amusement machine operator need not submit an additional application fee or licensing fee to apply for or obtain a license as a skill-based amusement machine vendor (if desired);
- Adding provisions for registration of skill-based amusement machine vendors in proposed rule 3772-50-09;
- Reducing the registration fee for type-B skill-based amusement machine operators (by location) from \$50 to \$25 in proposed rule 3772-50-09;
- Eliminating the requirement to notify the Commission of any machine changes in proposed rule 3772-50-09 (under the proposed rule registrants only notify the Commission of any increase in the number of machines or number of locations);
- Reducing the required fee in proposed rule 3772-50-09(E) from a flat fee per notice to a fee contingent on the addition of a newly registered location; and
- Adding proposed rule 3772-50-10, waivers and variances, to provide flexibility to the regulated community.

9. 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?

This question does not apply to these proposed rules because no scientific data was necessary to develop or measure their outcomes, as these proposed rules pertain to the licensure of skill-based amusement machines.

10. 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?

The Commission staff reviewed regulations in other jurisdictions, including skill-based video lottery terminals, carnival and amusement games, and boardwalk games. Some of the draft regulations are modeled on regulations in other jurisdictions; however, Ohio's definition of skill-based amusement machines is significantly different than other states' definitions. Further, other jurisdictions have not had success in eliminating illegal slot machine gambling. Moreover, the Commission's obligation is to amplify the requirements outlined in R.C.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

2915.01(UU) through the draft regulations. After reviewing other jurisdictions' requirements and carefully considering the requirements in R.C. 2915.01(UU), the Commission concluded that the draft regulations were the most effective to achieve the Commission's mandate to regulate skill-based amusement machines.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

The rules do not include performance-based regulation as the rules simply establish the general definitions, authority, licensing requirements, and waiver provisions. The draft rules are crafted to create a licensing process that applies to all stakeholders in a licensing category. This process creates consistency as it is applied to all stakeholders, whereas, a performance-based rule could lead to inconsistent licensing procedures or outcomes for similarly-situated stakeholders.

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

The Ohio Department of Agriculture currently licenses and regulates concession games at fairs of county or independent agricultural organizations under R.C. 1711.11. While the definition of skill-based amusement machines and concession games are not identical, to the extent a game may fall into both categories, the proposed rule 3772-50-01 has specified that skill-based amusement machines, regulated by the Commission, do not include any concession games licensed under R.C. 1711.11. Therefore, there should be no duplication of regulation for these games. Operators who are licensed by the Department of Agriculture will continue to comply with that regulatory scheme without additional regulation imposed by the Commission.

13. 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.

The Commission's Division of Skill Games, under the direction and supervision of the Executive Director, will be responsible for the implementation of the proposed regulation. Any issues that arise in the licensing and waiver process will be reviewed by Commission staff to coordinate a consistent response and conduct outreach to the regulated community.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Skill-based amusement machine vendors (manufacturers and distributors), skill-based amusement machine operators, and skill-based amusement machine locations.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The nature of the potential adverse impact from the proposed rules includes cost of fees and costs for employer time and payroll.

c. Quantify the expected adverse impact from the regulation.

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.

Proposed Rule 3772-50-01, “Definitions.”

Proposed rule 3772-50-01 establishes the definitions to be used throughout chapter 3772-50 of the Administrative Code. As the rule only establishes terminology definitions, the Commission does not anticipate any negative business impact as a result of proposed rule 3772-50-01.

Proposed Rule 3772-50-02, “Authority and purpose.”

This rule amplifies the language of R.C. 3772.03(K) that authorized the Commission to promulgate administrative rules to ensure the integrity of skill-based amusement machine gaming. The rule outlines general powers of the Commission with respect to Chapter 3772-50 of the Administrative Code, including the Commission’s authority to adopt, amend, or repeal administrative rules. As the proposed rule describes the general authority of the Commission under R.C. 3772.03, the Commission does not anticipate any adverse impact on the regulated community.

Proposed Rule 3772-50-03, “General licensing requirements.”

The proposed rule provides the general requirements and process for obtaining a license as a skill-based amusement machine vendor, skill-based amusement machine key employee, type-B skill-based amusement machine operator, type-C skill-based amusement machine operator, and type-C skill-based amusement machine location. As this rule requires affected entities to seek and obtain a license, the potential adverse impact on the regulated community includes the costs of the applicable application and licensing fees, along with the time and payroll necessary to submit the application(s) (see proposed rules 3772-50-04 through 3772-50-08 for specific application and licensing fees).

Proposed Rule 3772-50-04, “Skill-based amusement machine vendor licensure.”

This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of skill-based amusement machine vendors. The rule also describes the process for obtaining a license as a skill-based amusement machine vendor including applying through the state of Ohio’s eLicense system, an application fee of fifteen thousand dollars, and a license fee of five thousand dollars. The licensure period is three years. The potential adverse impact on business includes the application and license fee and the time and payroll necessary to complete the application.

Proposed Rule 3772-50-05, “Skill-based amusement machine key employee licensure.”

This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of skill-based amusement machine key employees. The rule also describes the process for obtaining a license as a skill-based amusement machine key employee, including applying through the state of Ohio’s eLicense system, an application fee of two hundred fifty dollars, and a license fee of two hundred fifty dollars. The licensure period is five years. The potential adverse impact on business includes the application and license fee and the time and payroll necessary to complete the application.

Proposed Rule 3772-50-06, “Type-B skill-based amusement machine operator licensure.”

This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of type-B skill-based amusement machine operators. The rule also describes the process for obtaining a license as a type-B skill-based amusement machine operator, including applying through the state of Ohio’s eLicense system, an application fee of one thousand five hundred dollars, and a license fee of one thousand five hundred dollars. The licensure period is three years. The potential adverse impact on business includes the application and license fee and the time and payroll necessary to complete the application.

Proposed Rule 3772-50-07, “Type-C skill-based amusement machine operator licensure.”

This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of a type-C skill-based amusement machine operator. The rule also describes the process for obtaining a license as a type-C skill-based amusement machine operator, including applying through the state of Ohio’s eLicense system, an application fee of fifteen thousand dollars, and a license fee of five thousand dollars. The licensure period is three years. The potential adverse impact on business includes the application and license fee and the time and payroll necessary to complete the application.

Proposed Rule 3772-50-08, “Type-C skill-based amusement machine location licensure.”

This rule establishes the licensing factors used by the Commission to evaluate the suitability for licensure of type-C skill-based amusement machine locations. The rule also describes the process for obtaining a license as a type-C skill-based amusement machine location, including applying through the state of Ohio’s eLicense system, an application fee of two hundred fifty dollars, and a license fee of two hundred fifty dollars. The licensure period is five years. The potential adverse impact on business includes the application and license fee and the time and payroll necessary to complete the application.

Proposed Rule 3772-50-09, “Registration of operation of skill-based amusement machine.”

This proposed rule requires skill-based amusement machine vendors, type-B skill-based amusement machine operators, and type-C skill-based amusement machine operators to register with the Commission if they conduct skill-based amusement machine gaming when the rule becomes effective. The rule permits those persons that register with the Commission to continue conducting skill-based amusement machine gaming in compliance with R.C. Chapters 2915. and 3772. until the Commission renders a decision on the person’s application for licensure. Each skill-based amusement machine vendor, type-B skill-based amusement machine operator, and type-C skill-based amusement machine operator will submit a registration to the Commission through the state of Ohio eLicense website and pay a registration fee.

The registration fees vary based on the number of locations where a type-B or type-C skill-based amusement machine operator has placed machines in operation. Type-B operators will pay a registration fee of twenty-five dollars for each location. Type-C operators will pay a registration fee of two hundred dollars for each type-C location and a twenty-five dollar fee for each type-B location. Skill-based amusement machine vendors pay a two hundred dollar registration fee. A type-B skill-based amusement machine operator or a type-C skill-based amusement machine operator will also pay the location-based registration fee for any subsequent locations where the operator places skill-based amusement machines.

Despite the potential adverse business impact from the registration fees as well as the time and payroll necessary to register with the Commission, the Commission does not anticipate a negative business impact from this rule. Without the registration process, no person could conduct skill-based amusement machine gaming in Ohio until the Commission issued a license as soon as the proposed rule package became effective. This rule is designed to allow businesses to continue operating, pending the Commission’s review and decision on license applications. Therefore, the Commission anticipates that this rule will have an overall positive impact on business.

Proposed rule 3772-50-10, “Waivers and variances.”

The proposed rule allows the Commission to consider requests from individual stakeholders to waive or vary provisions of Chapter 3772-50 upon written request and submission of a one hundred dollar fee. Although the rule does impose a one hundred dollar fee and the time and payroll necessary to submit a waiver or variance request, the Commission anticipates that the rule will not have an adverse impact on business.

The rule is designed to provide flexibility to the Commission, as well as the regulated community, to waive or vary particular provisions of Chapter 3772-50 that may not be feasible for a stakeholder to comply. Ultimately, stakeholders would be able to request waivers or variances from those provisions under the chapter that would

create significant adverse impacts on their particular business operations. Notably, submitting a waiver or variance request is optional. Accordingly, the proposed rules will have an overall positive impact on business.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

H.B. 64 (131st General Assembly) mandated the Commission to regulate skill-based amusement machines in a manner consistent with respect to the Commission's authority to regulate casino gaming, including the function of licensing. Under this statutory directive, the Commission determined that the development of the proposed rules justifies the adverse impact on business in order to meet the Commission's obligation under R.C. 3772.03 to license skill-based amusement machine gaming. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission is using its regulatory authority to create a licensing framework that applies to the regulated community. Finally, the Commission consulted members of the regulated community to consider potential adverse impacts on the regulated community. The proposed rules are the result of these efforts to balance the Commission's obligation under R.C. 3772.03 and the potential adverse business impact.

Regulatory Flexibility

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

Yes (indirectly). The proposed rules indirectly provide exemption or alternative means of compliance through proposed rule 3772-50-10, which permits the Commission, upon written request, to grant waivers and variances, from the rules adopted under R.C. Chapter 3772-50, including these rules, if doing so is in the best interest of the public and will maintain the integrity of skill-based amusement machine gaming in the State of Ohio.

17. 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?

To the extent R.C. 119.14 would apply to a violation of the proposed rules, the Commission will provide verbal and written notification to the small business in an attempt to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate skill-based amusement machine gaming in this state. As a result, the following resources are available:

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- Commission's mailing address:
10 W. Broad Street, 6th Floor
Columbus, Ohio 43215
- Commission's toll free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007
- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov

Also, all members of the regulated community may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-50-10 (pending), request waivers and variances from Commission regulations.

First Name	Last Name	Attachment A
Tom	Pappas	
Emily	Mattisone	
Chad	Belter	
Nick	Farley	
Al	Kress	
Kevin	Bachus	
Josh	Bolton	
Karen	Cincione	
David	Corey	
Phil	Craig	
Bob	Davis	
Kevin	Futryk	
Kurt	Gearhiser	
David	George	
Bruce	Hales	
Bill	Kraft	
Luther	Liggett	
Kevin	McHenry	
Lawrence	Miltner, Esq	
Kevin	Morse	
Thomas	Niehaus	
Lloyd	Pierre-Louis	
Scott	Shaffer	
Amanda	Sines	
John	Singleton	
Johnathan	Smith	
Jay	Tobin	
Steve	Tugend	
Madge	Vail	
Anne	Vitale	
Jon	Oberle	
Lora	Miller	
Dan	Reinhard	
Elise	Spriggs	
Leah	Pappas Porner	
Pete	Thomas	
Paul	Kulwinski	
Charles	Febus	
Rich	Labrocca	
Kevin	Mullally	

Seifert, Berena

From: Cincione, Karen A. <kacincione@vorysadvisors.com>
Sent: Monday, June 13, 2016 3:24 PM
To: Morrison, Andromeda
Cc: Jay Tobin; Kevin Bachus; Pete Stearns; Niehaus, Thomas E.
Subject: Comments to draft licensing rules (skill games)
Attachments: Comments to draft licensing rules.pdf

Importance: High

Andromeda:

Attached are Dave & Busters comments to the draft licensing rules for the skill-based amusement industry proposed by the Ohio Casino Control Commission. We would also be happy to talk further with you regarding our concerns. Thank you for your consideration.

Karen



Karen A. Cincione, Principal

Vorys Advisors LLC
52 East Gay Street | Columbus, Ohio 43215
Direct: 614.464.6201 | Fax: 614.719-5110 | Email: kacincione@vorysadvisors.com
www.vorysadvisors.com

Vorys Advisors LLC is a wholly owned affiliate of Vorys, Sater, Seymour and Pease LLP. Vorys Advisors is not engaged in the practice of law or the provision of legal services.

CONFIDENTIALITY NOTICE: This e-mail message may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please so advise the sender immediately.

DAVE & BUSTER'S

Comments to Draft Licensing Rules for the Skill-Based Amusement Industry

Proposed by the Ohio Casino Control Commission

Overarching Concerns

It appears that the Commission is planning an extensive regulatory structure for skill games operators such as Dave & Buster's. We understand the desire to be thorough; however, the proposed licensure structure seems a bit over-reaching, overly intrusive, unwieldy and expensive. Based upon the draft rules, we are concerned that Ohio intends to create the most onerous regulatory environment for our operations in the country.

ORC 3772.03(K) grants jurisdiction to the Commission to license, regulate, investigate and penalize people conducting and/or participating in skill-based amusement operations "in a manner that is consistent with the Commission's authority to do the same with respect to casino gaming." We suggest that this does not require the same type of regulatory structure, but rather, where warranted by differences in legitimate business models, the Commission can take create different rules for skill-based amusement operations and still be "consistent" in its approach. We think the General Assembly's use of the term "consistent" permits the Commission to take into account important differences in the businesses that it regulates.

Suggested Alternative Approach

We urge the Commission to consider an alternative approach to regulation of skill-based amusement operations, at least initially. As we have discussed, we have experience in other jurisdictions that require a more streamlined registration or licensure process for operators only. Through an operator registration or licensure process, an operator provides a significant amount of information regarding its operations (and access to additional information as determined and required by the regulator on a case by case, as needed basis), and the regulator retains investigative, oversight and enforcement responsibilities to ensure that operators are operating legitimate skill-based games rather than an illegal casino. With this type of structure, specific business models or practices are not mandated, which would allow important flexibility to the Commission and the wide variety of businesses that operate skill-based amusement games.

Caveats to Draft Rule Comments

Dave & Buster's is pleased to provide preliminary feedback on this first set of rules. However, it is difficult to assess these rules before having the opportunity to review the licensing rules which will set forth the substantive criteria for eligibility and conduct of a licensee. Provisions included in future rules may create issues that cannot be predicted at this time.

We appreciate that the Commission is open to further feedback on these rules as future rules are created but, as a practical matter, changes become more difficult when rules become final in a rolling fashion. We suggest that the Commission consider developing a complete rule package so that stakeholders may fully evaluate the impact of the rules before the rules become final. We

strongly recommend that the Commission develop final rules, as a package, before submitting to the Commission and the JCARR process.

Comments on Specific Proposed Rules:

Definitions - Proposed OAC 3772-50-01

It is difficult to evaluate many of the definitions because the rules using the defined terms (e.g., “Advertisement,” “Certified independent skill-based amusement machine testing laboratory,” and “revenue-sharing agreement”) are not part of this rule package. We are concerned by a number of the terms included, however, to the extent that the Commission intends to impose restrictions on a licensee’s ability to operate. This is particularly important to Dave & Buster’s and other companies that operate across the country and for who national brand consistency is important.

Many definitions seem overly broad and may capture a wider group of individuals and businesses than necessary. In particular, we note in later comments that we have significant concerns with the definition of “skill-based amusement machine vendor” and “skill-based amusement machine key employee.”

We reserve the right to comment further on the proposed definitions as rules using the terms are released by the Commission.

General licensing requirements - Proposed OAC 3772-50-03

We are concerned by the multiple types as well as the scope of the licenses that the Commission intends to require. This rule (and the subsequent, more specific licensure rules) would require applicants to provide extensive, confidential and sensitive personal and proprietary information and consent to inspections, searches, and seizures. We recommend that the Commission more narrowly tailor the intrusion on the privacy of an applicant to the information the Commission needs to perform its licensing function.

We understand that the Commission is considering including a “waiver” provision in the rules. We suggest that it would appropriate to add a provision to this general licensing rule that expressly gives the Commission the ability to waive any or all requirements of the rules governing skill-based amusement operations. This is a fairly typical type of provision that is included in other state licensing rules, often appearing in a rule setting forth an agency’s general licensing process.

Skill-based amusement machine vendor licensure - Proposed OAC 3772-50-04

We recommend that the Commission reconsider the need to license vendors. At minimum, we suggest that the Commission narrow the definition of “vendor” to capture only the actors about whom the Commission has concerns.

The Commission’s proposed definition of “vendor” is extremely broad and could be construed to apply to every person/entity involved in the process of development, manufacture, sale, distribution, delivery and repair of machines. We are concerned that this rule could be construed

to apply to operators who resell their used machines or develop and/or manufacture their own game products. It may also apply to and adversely impact legitimate business sales and lease arrangements. We do not understand the need for such regulation and are concerned this requirement could have a chilling effect on the legitimate skill game industry in Ohio. No other state in the country requires vendor licensure.

A vendor seeking licensure through this proposed process will have to provide extensive, confidential and sensitive personal and proprietary information and consent to inspections, searches, and seizures. We suggest that the Commission more narrowly tailor these requirements. It also seems that the criteria by which a vendor applicant will be judged may be out of proportion to the role, if any, that the vendor has in the operation of a business.

The application and license fees for vendor licensure seem excessive. We suggest that the Commission reconsider the amount of any application and licensure fees imposed upon vendors and make a license valid for a specified period (such as three years rather than for up to three years.)

We worry that vendors will choose to forego Ohio business rather than comply with these requirements. It is a tremendous problem for a national company like Dave & Buster's to be faced with a unique process in Ohio that could adversely impact its ability to adhere to its national brand. It is very difficult and expensive for the company to operate differently in one state.

We are concerned about the potential impact to an operator if a vendor does not become licensed. It is not reasonable to place any responsibility for vendor licensure, or consequence for the failure of a vendor to become licensed, upon the operator.

This rule may be unworkable from a practical standpoint. For example, Dave & Buster's has an existing supply of machines from many sources, some of whom are out of business, out of the country, in a restructured business or whereabouts are unknown.

Skill-based amusement machine key employee licensure – Proposed OAC 3772-50-05

We recommend that the Commission reconsider the need to license key employees. No other state in the country requires key employee licensure for skill games. At minimum, we suggest that the Commission narrow the definition of key employee to one designated full time, high level employee responsible for game operations per location. This approach is consistent with the high bar that the draft rule sets with respect to criteria the Commission will use to determine whether to award a license.

The Commission's proposed definition of "key employee" is extremely broad and could be construed to apply to many employees per location, including many who may have access to games in order to keep them operating but who have no real authority to make game policy decisions on behalf of the company. In addition, the breadth of the definition would also extend its reach to a number of corporate-level employees, officers and directors.

We suggest eliminating or limiting the proposed requirement that an owner be considered a key employee subject to licensure. If the Commission believes it is necessary to license an owner as

such, we suggest that the requirement be limited to owners with a controlling interest or a significant interest (perhaps defined as owning a specified percentage of the business) and exempting publicly held corporations from this requirement.

A key employee seeking licensure through this proposed process will have to provide extensive, confidential and sensitive personal and proprietary information and consent to inspections, searches, and seizures. We suggest that the Commission more narrowly tailor these requirements.

We suggest that the Commission reconsider whether both an application and licensure fee are necessary for a key employee. Further, we suggest that any license be valid for a specified period (such as five years rather than for up to five years.)

Type-B skill-based amusement machine operator licensure - Proposed OAC 3772-50-06

Thank you for clarifying that this rule would not apply to Dave & Buster's.

Type-C skill-based amusement machine operator licensure - Proposed OAC 3772-50-07

The application and licensure fees seem excessive and we request the Commission reconsider these fees. In particular, a \$15,000 non-refundable application fee seems extremely high and is out of line with other states' practices. This type of fee, especially in conjunction with all of the other proposed requirements, would significantly increase our cost of doing business in Ohio. We also suggest that a license be valid for a specified period (such as three years rather than for up to three years.)

An operator seeking licensure through this proposed process will have to provide extensive, confidential and sensitive personal and proprietary information and consent to inspections, searches, and seizures. We suggest that the Commission more narrowly tailor these requirements. We also suggest that the Commission further identify criteria for determining whether an operator possesses "the reputation, experience, and financial integrity" to be awarded a license in light of the wide range of legitimate businesses that may operate legal skill-based amusement games.

While not part of this rule, we note that several of the definitions included in proposed OAC 3772-50-01 and some of the registration requirements in the proposed OAC 3772-50-09 give rise to concerns about future rules that may govern an operator's business. As mentioned below in comments to proposed OAC 3772-50-09, we are very concerned about any proposal to require an operator to receive Commission approval to add or change games or machines, advertise, or otherwise usurp Dave & Buster's' ability to operate in accordance with its national brand standards, make judgments regarding its corporate structure or financial arrangements, or make proprietary decisions about the management or day to day operation of its business.

Type-C skill-based amusement machine location licensure - Proposed OAC 3772-50-08

Thank you for clarifying that this rule would not apply to Dave & Buster's.

Registration of operation of skill-based amusement machine - Proposed OAC 3772-50-09

This rule provides a process for an existing business to continue to operate lawfully until it receives a license from the Commission. While this is a helpful concept, we suggest some clarifications.

First, an operator will be required to provide fairly extensive information to the Commission regarding its existing locations, machines and vendors. We suggest that the rule be clarified to expressly require an operator to provide information regarding its existing OHIO locations, machines and vendors. We hope this is what the Commission intended and believe it makes sense to narrow the language of this rule to Ohio operations since it is only these Ohio locations for which an operator will seek a license.

Second, we are extremely concerned/alarmed by the approval process outlined in section (D) which appears to require an operator to request approval from the Commission, and pay a fee for each request to the Commission, every time the operator needs to make a machine change at any of its registered locations. This is unworkable and will be extremely disruptive, time-consuming and expensive. We recommend that the Commission delete this provision in its entirety.

The ability for Dave & Buster's to make changes to its machines is essential to its business. Changes are often made to the number and types of machines on a weekly if not daily basis for many reasons, including but not limited to, market demand and availability of new machines and games, repair, retirement, repurposing, national promotions, testing/trials and physical space considerations unique to each location.

For these reasons, we urge the Commission to delete this provision and we urge the Commission not to include this type of provision in any future rules governing skill-based amusement machines.

We also note that this draft registration rule requires operators to comply with an advertising rule that has not been provided for review. While, obviously, we can't comment on the substance of this future rule, the suggestion that the Commission will regulate advertising gives us great concern. Dave & Buster's has locations across the country and creates its advertisements and promotions for a national audience. Competition for consumer entertainment dollars is fierce and we are concerned about any regulations that could cause us to be less competitive. Further, Ohio-specific advertising rules could create a significant and expensive operational burden.

Conclusion

Dave & Buster's is concerned that the Commission's draft rules contemplate a licensure and regulatory structure that would fundamentally change the company's business model. It appears to contemplate burdensome and expensive requirements which will be borne by legitimate businesses which are currently operating legally in Ohio. This contemplated structure appears to be by far the most extensive, intrusive and expensive regulatory scheme in the country. We are concerned that this type of structure will penalize the good actors and create a disincentive for legitimate entertainment companies to open or expand in Ohio.

From: [bruce](#)
To: [Morrison, Andromeda](#)
Cc: nick@ultragroupinc.com
Subject: Ohio inputs and Suggestions
Date: Thursday, June 09, 2016 6:22:46 PM
Attachments: [160608 LAS comments on proposed admin rules in Ohio.docx](#)

Andromeda,

Please see attached comments and suggestions to your recent email dated June 2, 2016.

We would welcome the opportunity to discuss with you, either at your office or via a conference call, if you have any questions concerning the attached.

Thank you.

Bruce Hales
Sales Manager
Hourglass Entertainment LLC
770-349-9467

CONFIDENTIALITY NOTICE: This e-mail message is for the sole use of the intended recipients and contains confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

**Comments on Proposed Administrative Rules Regarding the Regulation
of Skill-Based Amusement Machines in Ohio**

1. Under 3772-50.01 Definitions (C), it is suggested that the “other cash representation” could mean cash could be given for gas purchases. There should be clear language that no cash can be given and no change can be given for a card for the purchase of gasoline. For instance, a \$50 gas card could not provide \$1.00 with a gas and \$49.00 in change when the card is redeemed.
2. Under 3772-50-01 Definitions (H), this definition should be expanded to also exclude change which is given if a merchandise prize is not fully redeemed. See Item 1 above.
3. Under 3772-50-01 Definitions (J), a distinction should be made between a “payout percentage function,” which sets the payout percentage of a no-skill game as opposed to the setting of a difficulty level on a game which results in possibilities of a win across a number of plays. Since these regulations address skill-based games, there should never be a set percentage of outcome. The player’s ability in playing the game accurately is the principal factor in the number and amount of the prizes that are achieved. This is a critical distinction between no-skill gambling machines and skill-based coin-operated amusement machines.
4. Under 3772-50-01 Definitions (Q), it is suggested that the phrase “by the public for consideration” be added at the end of this definition to distinguish free play from machines where a fee for playing is required.
5. Under 3772-50-01 Definitions (V), it appears that this section could be read to allow a free replay to be exchanged for cash under item (2). It is suggested that a Type A game should allow for replays and only noncash prizes as occurs with a pinball or a skee-ball game. Also, there does not appear to be a dollar value limitation for this type of game, unlike the \$10.00 value which is set forth in 3772-50-01 (W).
6. As to the difference between A, B, and C skill-based agreements, there may need to be a greater explanation of a C-skilled game to allow operators to determine which classification fits a particular game.
7. Under 3772-50-03 (A), it would be a tragic flaw to exempt a skill-based amusement operator from licensure if the machines are placed in the location owned by the owner of the same. This is an exception that would gobble the rule and preclude proper

accounting and enforcement. There should be a tiered system with operators (machine owners) and location owners where the machines are placed being separated and not allowing a person from being in both categories. Further, there should be a separate license for a type A, type B, and type C operators, and a machine owner could be involved in one or all three categories but could not have any of the machines located in a business owned by the operator where the machines are available for play by the public. Serious consideration should also be given to a manufacturer and a distributor classification and a manufacturer and a distributor would not be permitted to be an operator or location owner.

8. Under 3772-50-04, it appears as if a license is issued in three-year intervals. It is recommended that the renewal of such a license be on an annual basis to insure updated information is maintained on the applicant.
9. Under 3772-50-05, 3772-50-06, 3772-50-07, and 3772-50-08, see above comment for 3772-50-04.
10. In addition, it is also recommended that these regulations be further expanded to include such topics as inducements to enter contracts, which parties are entitled to monies generated from the machines, finders fees, penalties for violations, hearing procedures to insure due process, dispute resolution procedures concerning contracts, legality of the amusement machines, what, if any, are proper incentives, gift card programs to be audited by state to insure sales tax collection and deter cash pay offs and systems which can monitor noncash redemption in the form of free replays, lottery ticket sales, merchandise subject to sales tax and merchandise not subject to sales tax.

Seifert, Berena

From: Amanda Sines <amanda@gov-advantage.com>
Sent: Thursday, June 09, 2016 9:43 AM
To: Morrison, Andromeda
Subject: skilled game rule comments - OCOA
Attachments: skilled gaming comments.pdf

Please find attached comments on the draft skilled gaming rules from the Ohio Campground Owners Association.

The OCOA looks forward to work with your Commission as you move forward on revising the initial rule package.

Please do not hesitate to contact me if you have questions or need additional information.

--

WE'VE MOVED!!

Amanda Sines
Government Advantage Group
17 South High Street, Suite 750
Columbus, OH 43215
(614)-221-7157 (office)
(614)-579-5390 (cell)



Ohio Campground Owners Association, Inc.

PO Box 12278 · Columbus, Ohio 43212

614-221-7748 · Fax 614-221-0756

email: info@ohiocampers.com www.ohiocampers.com

Privately owned and operated campgrounds serving Ohio's recreational needs

June 9, 2016

Andromeda Morrison
10 West Broad Street, 6th Floor,
Columbus, OH 43215
Andromeda.Morrison@casinocontrol.ohio.gov

Ms. Morrison:

Thank you for the opportunity to provide comments regarding the draft skilled gaming rule package on behalf of the Ohio Campground Owners Association (OCA), which represents privately owned and operated campground in Ohio.

Many of our campground members have small game rooms available to their guests. These rooms are typically small with less than a half dozen games. Our members do not generate large revenues from these games, and offer them as form of entertainment for our guest campers.

From our understanding, the intent of the rules is to require licensure of the owner of the games and that if our campground members lease the machines from a distributor, they would not be required to obtain a license. However, the definition of "Skill-based amusement machine operator" in the draft 3772-50-01 reads that it "means a person that provides, offers, leases **or otherwise makes available at a location**, a skill-based amusement machine. Any person who has any ownership or leasehold interest in a skill-based amusement machine that is made available to a player is a skill-based amusement machine operator."

The provision stating "or otherwise makes available at a location" could be interpreted to incorporate our campground game rooms, as we are making games available.

In some cases, however, the campground has decided to purchase the game and would be considered an operator under the rules. As mentioned, any income derived from these games is nominal. Should campgrounds be required to get a license, most would get rid of machines rather than paying the \$3000 every three years for a license. This means we will have to eliminate a form of entertainment to our guests.

If campgrounds are deemed to be skill-based amusement machine operators, they would also need to designate at least one "skill-based amusement machine key employee". This would be another \$500 expenditure every 5 years. The rule package is not clear on how many employees will be required to get this special designation, so that expenditure could be much higher.

Rule 3772-50-03 provides for some exemptions to licensure. If a person only has type-A machines; or if a person only has type-B machine. It is not uncommon for our members to have an arcade style game like Pac-Man (type-A) and a claw style game (type-B). Therefore, the current exemptions would not cover most campground game rooms.

The OCOA looks forward to working with the Casino Control Commission as you finalize these rules and working collaboratively to ensure the regulations are not overly burdensome to small businesses.

Seifert, Berena

From: O'Neil, Elizabeth <EONeil@keglerbrown.com>
Sent: Friday, June 10, 2016 2:52 PM
To: Morrison, Andromeda
Cc: Prince, Christy
Subject: CEC Comments to Skill-Based Amusement Machines Rules
Attachments: CEC letter to Ohio Casino Control Commission 6-10-2016.pdf

Ms. Morrison,

On behalf of Christy Prince and CEC Entertainment, Inc., please see the attached correspondence.

Thank you.
Beth

Beth O'Neil

Legal Assistant to
Stephanie Union and Christy Prince

Kegler Brown Hill & Ritter Co., LPA
65 East State Street | Suite 1800 | Columbus, OH 43215
Phone 1.800.860.7885, (614) 462-5400 ext. 335 |
Fax (614) 464-2634
oneil@keglerbrown.com
cprince@keglerbrown.com
sunion@keglerbrown.com

www.keglerbrown.com

This E-Mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain private, confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited.

Kegler Brown Hill + Ritter Co. LPA

65 East State Street, Suite 1800

Columbus, OH 43215

(614) 462-5400

www.keglerbrown.com

**KEGLER
BROWN
HILL +
RITTER**

June 10, 2016

Via First Class Mail and Electronic Mail

Andromeda Morrison
Ohio Casino Control Commission
10 West Broad Street, 6th Floor
Columbus, Ohio 43215
andromeda.morrison@casinocontrol.ohio.gov

Re: CEC Entertainment, Inc. dba Chuck E. Cheese's Comments to Skill-Based Amusement Machines Rules

Dear Ms. Morrison:

Thank you for the opportunity to provide comments to the Ohio Casino Control Commission in connection with the draft rules numbered 3772-50-01 et seq. regarding skill-based amusement machine ("SBAM") gaming. Please accept this letter as the comments of CEC Entertainment, Inc. ("CEC"), which operates and franchises approximately 580 Chuck E. Cheese's family entertainment centers that offer ticket redemption games directed to children and their families. Chuck E. Cheese's are located within nearly in every state in the United States, twenty-one of which are located within Ohio.

General Comment

As a preliminary matter, CEC understands the challenges faced by the Commission in its regulation of SBAM gaming. The Commission is charged with ensuring the integrity of SBAM gaming. The wide variety of types of SBAMs and the different markets served by SBAMs is distinct from other gaming products regulated within Ohio. Some SBAMs are located in bars and restaurants, with others located within dedicated cafes or parlors. However, CEC offers SBAMs in the context of a children's venue and offers children's prizes for redemption of tickets issued for successful game plays.

CEC is a retailer that offers fun and entertaining experiences for families with children between the ages of 2 and 12. CEC does not offer SBAMs intended to substitute for an adult gambling experience. Many Chuck E. Cheese's work with school districts to reward students for good grades and offer fundraising for the benefit of schools and non-profit groups. We understand the complexity involved with distinguishing between operators of ticket redemption games that offer candy and children's toys versus operators of devices that serve as a substitute for adult casino gambling. We also understand that treating CEC in a similar manner to a casino operator is not the Commission's goal. We are committed to working with the Commission to define a practical and enforceable standard of regulation to ensure SBAM gaming integrity.

#4836-3402-8338 v2



As stated above, Chuck E. Cheese's are located within nearly in every state in the United States. States vary in their regulation of ticket redemption games. If enacted in their current structure, the draft rules issued by the Commission would render Ohio one of the most restrictive states in the United States for ticket redemption centers like those offered by CEC.

Given the wide and varied market along with the need for regulatory oversight to protect Ohio residents, CEC would urge the Commission to replace the proposed regulatory framework with one that initially requires notification to the Commission of all locations where SBAMs are available to the public. The notification phase would include disclosure of facts including but not limited to the location's operator and affiliates, affiliation with other locations, identity of vendor and supplier sources, number of SBAMs, amount of SBAM revenue, percentage of SBAM revenue compared to other revenue sources, and presence of a liquor permit. The purpose of the notification phase would be to cast a wide net capturing all SBAMs available for play, including SBAMs that are offered primarily to children and which may not have a high likelihood of impacting the integrity of SBAM gaming. Also, owners and operators of those locations who fail to comply with the notification phase could be ultimately prosecuted.

After the notification phase, the Commission could require licensure of and target investigation efforts upon operators where the notification information and other factors indicate that greater scrutiny is advisable. The purpose of the notification phase would be to quickly eliminate small operators, such as a family entertainment center that offers only SBAMs for young children or a "big box" store that offers a claw machine, from further compliance burden and also reduce the review and licensure burden on the Commission. The purpose of the second phase would be to triage among all locations to focus on the locations and operators that pose the greatest risk to the integrity of SBAM gaming.

In the event that the Commission proceeds with the license application process for all operators, the Commission should consider creating an exemption application procedure for ticket redemption centers focusing on children's activities, particularly if the Commission anticipates promulgating minimum age restrictions for SBAM players.

Ticket Redemption Games as Type-C SBAMs

Under the rules as presently drafted, most the games offered by CEC are classified as Type-C SBAMs because its games generally dispense several tickets based on the player's score. The tickets are accumulated as the player engages in a number of games. The tickets are then redeemed to claim candy, toys, or other small merchandise prizes. Since most of its games are classified as Type-C SBAMs, CEC would be considered a Type-C SBAM operator. The compliance burden falls most heavily on Type-C SBAM operators. The registration costs, compliance costs, and threat of criminal prosecution will inhibit the growth and investment of companies like CEC in Ohio.



Advertisements

Some of the provisions within the rules suggest that the Commission is considering regulating the content of SBAM advertisements or requiring a mandatory consumer protection warning of SBAM advertisements. This would be a restriction unique to Ohio. Any age-related restriction on advertising would also be extremely detrimental since CEC's advertising primarily appears during children's programming.

Notice Requirements for Changing Games

The rules provide for a notice and approval process to add or change games during the registration period described by rule 3772-50-09. CEC regularly updates and refreshes its locations to provide the best possible experience for its customers and their families. A notice and approval process for the ticket redemption center like Chuck E. Cheese's does not appear to promote integrity within the SBAM gaming industry but rather would hurt Ohio businesses and the experience of customers and their families.

Key Employee Definition

CEC is concerned regarding the breadth of the key employee categories. CEC is also not convinced that key employee licensure is necessary because the employees are not operating casino gaming devices, but rather entertainment devices. We suggest including a threshold under which the "direct or indirect" ownership interest of a Type-C SBAM operator does not trigger the requirement of key employee licensure. CEC was a publicly traded company for a period of time. The rules as drafted suggest that any stockholder would be required to be licensed as a key employee, which is obviously not the Commission's intent. We are unable to fully comment on the impact of key employee license process because we do not know the extent of the application and investigation process.

The Commission should also consider an alternate approach in order to prevent the involvement of individuals with criminal backgrounds in the SBAM gaming industry. The Liquor Commission has a strong interest in ensuring the integrity and protecting the public in connection with liquor. The Liquor Commission obviously must prevent the operation of distributors, manufacturers, retailers, bar, and restaurants by the persons with criminal charges in their background. In order to meet this goal, the Liquor Commission requires background checks of all persons who own 5% or more of an entity applying for a liquor permit. This approach of focusing on owners rather than employees is better suited to the SBAM gaming industry rather than the key employee approach utilized with the casino gaming industry.

Certification by Independent Testing Laboratory

Some of the provisions within the rules suggest that the Commission is considering certification by an independent testing laboratory for all Type-B and Type-C SBAMs. A certification requirement applicable to SBAMs would dramatically drive up costs and slow down the speed of new games to market in such a

way as to inhibit the continued growth and operation of CEC. In addition, CEC will be harmed if its vendors are unable to offer a variety of novel and fresh SBAMs. We understand from market suppliers that, if every SBAM will require testing before it can be placed in operation in Ohio, there will be no new family-oriented SBAMs available for sale in Ohio.

Duplicative SBAM Vendor Licensing

CEC also acts as a vendor selling SBAMs for operation in its franchise locations. Under the rules, CEC would be required to pay the application and license fees of \$20,000 to operate each location and fees totaling an additional \$20,000 for a vendor license. We believe that this duplicative set of fees is unnecessary.

Conclusion

CEC looks forward to continuing to work with the Ohio Casino Control Commission to reach a resolution that ensures the integrity of SBAM gaming and protects Ohio residents without inhibiting the operation and growth of the family recreation industry. Please contact me if we can be of assistance.

Very truly yours,



Christy A. Prince

cc: David Deck
Steve Tugend
Michael E. Zatezalo

Seifert, Berena

From: Vitale, Anne
Sent: Friday, June 10, 2016 11:29 AM
To: Morrison, Andromeda
Subject: RE: Initial Draft Rules for Regulation of Skill-Based Amusement Machines
Attachments: Skill Game Rules - OIU Comments 6.10.16.pdf

Hi Andromeda,

Attached are OIU's comments/suggested revisions to the skill game rules. Please let me know if you would like to discuss anything.

Also, I did not add this to our formal comments because it is not really a DPS issue, but Rule 3772-50-03 paragraph (E) states that all applicants and licensees consent to inspections, searches, and seizures. In reading this I thought you may want to include time, place and scope limitations on any administrative searches that may be conducted under this section. Just a thought. Have a great weekend!

Anne Vitale
Associate Legal Counsel
Ohio Department of Public Safety
1970 West Broad Street
Suite 531
Columbus, OH 43223
614-387-0414
apvitale@dps.ohio.gov

From: Ohio Casino Control Commission [<mailto:Andromeda.Morrison=casinocontrol.ohio.gov@mail207.atl81.rsgsv.net>]
On Behalf Of Ohio Casino Control Commission
Sent: Thursday, June 02, 2016 3:35 PM
To: Vitale, Anne <apvitale@dps.ohio.gov>
Subject: Initial Draft Rules for Regulation of Skill-Based Amusement Machines

[View this email in your browser](#)



OHIO CASINO CONTROL COMMISSION

Stakeholders,

As you are aware, the Ohio Casino Control Commission (“Commission”) is currently developing administrative rules regarding the regulation of skill-based amusement machines in Ohio. In an effort to make the rule-drafting process as open and transparent as possible, the Commission is seeking your input on

initial draft language for nine administrative rules.

An initial draft of administrative rules 3772-50-01 through 3772-50-09 can be found by clicking [here](#).

These drafts have not been finalized. Commission staff will review all comments submitted and may revise rules based on your feedback. After this comment and revision process, you will have additional opportunities to provide comment.

All comments on the draft rules should be submitted no later than **June 10**. Your early feedback on these initial drafts will help the Commission craft thoughtful regulations. We look forward to hearing from you. In the meantime, any questions or concerns should be directed to Andromeda Morrison, Director of Skill Games at Andromeda.Morrison@casinocontrol.ohio.gov or (614) 387-5616.

Thank you for your willingness to review these draft rules and provide feedback.



Follow us on Facebook

Copyright © 2016 Ohio Casino Control Commission, All rights reserved.

You are receiving this email because you expressed an interest in receiving updates on the regulation of skill-based amusement games by the Ohio Casino Control Commission.

Our mailing address is:

Ohio Casino Control Commission
10 West Broad Street, Columbus, OH

6th Floor
Columbus, OH 43215

[Add us to your address book](#)

[unsubscribe from this list](#) [update subscription preferences](#)





OHIO DEPARTMENT
OF PUBLIC SAFETY
SAFETY • SERVICE • PROTECTION

- Bureau of Motor Vehicles
- Emergency Management Agency
- Emergency Medical Services
- Office of Criminal Justice Services
- Ohio Homeland Security
- Ohio State Highway Patrol



John R. Kasich, Governor
John Born, Director
Heather R. Frient
Chief Legal Counsel

Legal Services
1970 West Broad Street
P.O. Box 182081
Columbus, Ohio 43218-2081
(614) 466-7014
www.publicsafety.ohio.gov

June 10, 2016

Andromeda Morrison
Director of Skill Games
Ohio Casino Control Commission

VIA Email

RE: Draft Skill-Based Gaming Rules

Dear Ms. Morrison,

Thank you for the opportunity to review and provide input on the initial draft rules regulating skill based games. The Ohio Department of Public Safety, Ohio Investigative Unit (OIU) would like to submit the following suggested edits to Rule 3772-50-01. OIU will be happy to discuss any questions or issues at your convenience.

1. (H) "Merchandise Prize" lists several items that are not "merchandise prizes." OIU suggests adding vouchers redeemable for cash and bitcoins to the list of items that are not "merchandise prizes."
2. In (M) "Redeemable Voucher," OIU suggests adding a statement that any voucher redeemable for cash is not a redeemable voucher for purposes of skill-based gaming and is the same as cash or any other form of currency for purposes of these rules.
3. (Y) defines a Type C skill-based amusement machine as any skill based amusement machine that is not a type-A or type B skill-based amusement machine. OIU would like to add that a Type C skill-based amusement machine is also not a "pre-reveal game" and add to this Rule the following definition for "pre-reveal" game:

"Pre-reveal game" means mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player, and capable of awarding a prize, directly or indirectly to the player, which employs a mechanism whereby the player is either required or has the ability to preview the result or combination of results of any future activation of that device prior to or during any game activation, when that previewed or future result is selected by the device or determined through any application of chance.

Again the Department and OIU thank you for involving us in this process, and we are happy to discuss skill-based gaming regulation with you at any time.

Sincerely,

A handwritten signature in black ink that reads "Anne Vitale".

Anne Vitale

Associate Legal Counsel

Mission Statement

"to save lives, reduce injuries and economic loss, to administer Ohio's motor vehicle laws and to preserve the safety and well being of all citizens with the most cost-effective and service-oriented methods available."

An Equal Opportunity Employer

Seifert, Berena

From: O'Neil, Elizabeth <EONeil@keglerbrown.com>
Sent: Friday, June 10, 2016 4:24 PM
To: Morrison, Andromeda
Cc: Prince, Christy
Subject: Shaffer Distribution Comments to Skill-Based Amusement Machines Rules
Attachments: Shaffer letter to OCCC June 10 2016.pdf

Ms. Morrison,

On behalf of Christy Prince and Shaffer Distributing, please see the attached correspondence.

Thank you.
Beth

Beth O'Neil

Legal Assistant to
Stephanie Union and Christy Prince

Kegler Brown Hill & Ritter Co., LPA
65 East State Street | Suite 1800 | Columbus, OH 43215
Phone 1.800.860.7885, (614) 462-5400 ext. 335 |
Fax (614) 464-2634
oneil@keglerbrown.com
cprince@keglerbrown.com
sunion@keglerbrown.com

www.keglerbrown.com

This E-Mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain private, confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited.

June 10, 2016

Via First Class Mail and Electronic Mail

Andromeda Morrison
Ohio Casino Control Commission
10 West Broad Street, 6th Floor
Columbus, Ohio 43215
andromeda.morrison@casinocontrol.ohio.gov

Re: Shaffer Distributing Comments to Skill-Based Amusement Machines Rules

Dear Ms. Morrison:

Thank you for the opportunity to provide comments to the Ohio Casino Control Commission in connection with the draft rules numbered 3772-50-01 et seq. Please accept this letter as the comments of Shaffer Distributing ("Shaffer"), which sells coin-operated video games, crane games, family redemption games, and other skill-based amusement machines ("SBAMs"). Shaffer is a fourth-generation business that has been headquartered in Columbus for 87 years.

General Comment

As a preliminary matter, Shaffer understands the challenges faced by the Commission in preparing the rules. The Commission is charged with ensuring the integrity of SBAM gaming. The wide variety of types of SBAMs and the different markets served by SBAMs is distinct from other gaming products regulated within Ohio. For example, many SBAMs are located within family recreation venues like bowling alleys and children's venues. Other SBAMs are located in bars and restaurants. Additional SBAMs are located within dedicated cafés or parlors.

Given the wide and varied market along with the need for regulatory oversight to protect Ohio residents, Shaffer would urge the Commission to replace the proposed regulatory framework with one that initially requires notification to the Commission of all locations where SBAMs are available to the public. The notification phase would include disclosure of facts, including but not limited to, the location's operator and affiliates, affiliation with other locations, identity of vendor and supplier sources, number of SBAMs, amount of SBAM revenue, and percentage of SBAM revenue compared to other revenue sources. The purpose of the notification phase would be to cast a wide net capturing all SBAMs available for play, including SBAMs that are offered primarily to children and which may not have a high likelihood of impacting the integrity of SBAM gaming. Also, owners and operators of those locations who fail to comply with the notification phase could be ultimately prosecuted.

After the notification phase, the Commission could require licensure of and target investigation efforts upon operators where the notification information and other factors indicate that greater scrutiny is advisable. The purpose of the notification phase would be to quickly eliminate small operators, such as a restaurant with a small arcade or a “big box” store that offers a claw machine, from further compliance burden and also reduce the review and licensure burden on the Commission.

In this alternate regulatory framework, the Commission should require the licensure of all SBAM vendors, including those that sell to locations that do not require licensure. The Commission could further require all locations to purchase SBAM equipment, goods, and services only from licensed SBAM vendors. This would prevent unknown entities outside of Ohio from selling SBAMs within Ohio and help the Commission maintain better awareness of the SBAM gaming market.

Waivers

Absent from the proposed regulations is any authorization for the Ohio Casino Control Commission to provide waivers from the regulations – particularly for those businesses that are offering family-oriented games and experiences through the use of machines that are technically SBAMs. We would respectfully request that the next version of these regulations contain authorization for the issuance of such waivers.

Registration under 3772-50-09

Turning to the specific draft rules at issue, Shaffer notes the absence of a registration opportunity for SBAM vendors. Draft rule 3772-50-09 provides for the operation of Type-B and Type-C SBAM operators pending receipt of the operators’ license approvals on the condition that the operators register with the Commission and provide certain information. This is critical as the license application and approval process is expected to take a substantial period of time, likely at least 6 months from the effective date of the rules. The rules do not provide for a similar registration process and compliant operational period prior to license approval for SBAM vendors. As a result, SBAM vendors like Shaffer would be prohibited from continuing to operate or sell for a period of at least 6 months, causing substantial injury to its ability to operate and compete with vendors who may disregard the rules.

In addition, the registration rule requires that the Commission review and approve all changes to SBAMs located within a location until the license is approved. Any review and approval process would be detrimental to an operator’s ability to change and refresh the SBAMs that it offers.

Key Employee Definition

Shaffer is concerned regarding the breadth of the key employee categories. We note that there is no threshold at which the “direct or indirect” ownership interest of an SBAM vendor does not trigger the requirement of key employee licensure. We are unable to fully comment on the impact of key employee license process because we do not know the extent of the application and investigation process.

The Commission should also consider an alternate approach in order to prevent the involvement of individuals with criminal backgrounds in the SBAM gaming industry. The Liquor Commission has a strong interest in ensuring the integrity and protecting the public in connection with liquor. The Liquor Commission obviously must prevent the operation of distributors, manufacturers, retailers, bar, and restaurants by the persons with criminal charges in their background. In order to meet this goal, the Liquor Commission requires background checks of all persons who own 5% or more of an entity applying for a liquor permit. This approach of focusing on owners rather than employees is better suited to the SBAM gaming industry rather than the key employee approach utilized with the casino gaming industry.

Certification by Independent Testing Laboratory

Some of the provisions within the rules suggest that the Commission is considering certification by an independent testing laboratory for all Type-B and Type-C SBAMs. A certification requirement applicable to SBAMs would dramatically drive up costs and slow down the speed of new games to market in such a way as to inhibit the continued growth and operation of small Ohio businesses like Shaffer. In addition, the ticket redemption industry, which is recreational and primarily directed to children, will be harmed if its vendors are unable to offer a variety of novel and fresh SBAMs. We have been told by our suppliers that, if every SBAM will need to be tested before it can be placed in operation in Ohio, there will be substantially fewer new family-oriented SBAMs available in Ohio.

SBAM Vendor Definition

The rules define as SBAM vendor as any entity that provides SBAM equipment, goods, or services to another vendor or to an operator. Vendors who sell only Type-A SBAMs are required to obtain a vendor license. Under the definition in R.C. 2915.01, a game can be an SBAM even if no prize is offered. As a result, the seller of any video game, including personal game systems like a Nintendo or PlayStation console, would be considered a vendor of Type-A SBAMs. In addition, there is some question as to whether the provider of a merchandise prize would be considered a SBAM vendor given that the merchandise prize could be construed as a SBAM good. More clarity is needed to the types of equipment, goods, and services that the Commission seeks to regulate.

Under the rules as written, every manufacturer, supplier, and distributor that sells to another SBAM vendor must be licensed as a vendor. This creates harm in that many entities outside of Ohio that sell to SBAM vendors within Ohio will likely not undergo licensing. This will lead to fewer legitimate SBAMs available for play and severely diminish Shaffer's ability to market. As a result, Shaffer proposes that SBAM vendors should be permitted to purchase SBAM equipment, goods, and services from unlicensed entities outside of Ohio.

Ticket Redemption Games as Type-C SBAMs

Recreational facilities that offer ticket redemption games would be severely affected by these rules because any game that offers tickets is classified as Type-C SBAM. Shaffer primarily sells ticket redemption

SBAMs and crane/claw machine SBAMs. The registration costs, compliance costs and threats of criminal prosecution could bring an end to many of our customers that purchase family-oriented ticket-dispensing games like Skee ball and Pop A Shot. If ticket redemption game operators are forced out of business by the licensing requirements, then businesses like Shaffer will have to refocus their marketing on growing the adult skill-game market which some find objectionable and has not been the basis of Shaffer's business for the 87 years.

Restrictions on Type-B SBAMs

The definition of Type-B SBAM precludes the use of a video display monitor. More and more crane/claw machine games incorporate a video monitor element as the cost of monitors decreases. Disqualifying a SBAM that otherwise qualifies as a Type-B SBAM solely because it incorporates a video monitor would limit the range of products that could be offered in Ohio.

Similarly, most SBAMs presently on the market have a "percentage payout function" feature that can be turned on or off. Unlike the casino gaming industry, the percentage payout function in SBAM gaming is often used in order to *increase* the payout of the SBAM and keep the SBAM players engaged regardless of their level of skill. This is particularly important because, unlike in the casino gaming industry, the SBAM games exist to be won so that the players, who are often children, can redeem their tickets for merchandise prizes. Disqualifying SBAMs solely based on the presence of a percentage payout function would require the removal of many if not most of the SBAMs currently available.

Penalties

Shaffer is concerned regarding potential penalties for violations by operators under the rules. The rules in connection with consequences for violation have not been issued. However, we note that the laws and rules for casino gaming violations generally involve felony-level charges. If a Type-B operator faces a felony charge for a violation such as placing a \$20 merchandise prize in a claw machine, Shaffer believes that many operators will cease offering any SBAM games in order to mitigate their risk.

Conclusion

Shaffer looks forward to continuing to work with the Ohio Casino Control Commission to reach a resolution that ensures the integrity of SBAM gaming and protects Ohio residents without inhibiting the operation and growth of the family recreation industry. Please contact me if we can be of assistance.

Very truly yours,

Christy A. Prince/eao

Christy A. Prince

cc: Scott Shaffer
Steve Tugend

Seifert, Berena

From: David P. Corey <ocma@the-ocma.org>
Sent: Monday, June 13, 2016 12:40 PM
To: Morrison, Andromeda
Subject: RE: OCMA Comments
Attachments: OCMA Comments_001.pdf

Please see the attached and let us know you received this email. Many thanks! DPC

David P. Corey, Exec VP
Ohio Coin Machine Association
3757 Indianola Ave.
Columbus, OH 43214
614.784.9772
fax 784.9771
www.the-ocma.org
ocma@the-ocma.org

From: Andromeda.Morrison@casinocontrol.ohio.gov [mailto:Andromeda.Morrison@casinocontrol.ohio.gov]
Sent: Friday, June 10, 2016 4:30 PM
To: David P. Corey <ocma@the-ocma.org>
Subject: RE: OCMA Comments

David,

Understood. I appreciate all of the efforts of the OCMA and its membership to provide feedback. I'll look forward to hearing from you on Monday.

Thanks,
Andromeda

From: David P. Corey [<mailto:ocma@the-ocma.org>]
Sent: Friday, June 10, 2016 4:28 PM
To: Morrison, Andromeda <Andromeda.Morrison@casinocontrol.ohio.gov>
Subject: OCMA Comments

Still working on this document. Will get it to you Monday. Sorry for the delay. Much more complicated for the members to understand than we thought. Thanks. DPC

David P. Corey, Exec VP
Ohio Coin Machine Association
3757 Indianola Ave.
Columbus, OH 43214
614.784.9772
fax 784.9771
www.the-ocma.org
ocma@the-ocma.org



Ohio Coin Machine Association

3757 Indianola Ave., Columbus, Ohio 43214-3753

Phone: 614-784-9772

Fax: 614-784-9771

E-mail: ocma@the-ocma.org

June 13, 2016

Ms. Andromeda Morrison
Director of Skill Games
Ohio Casino Control Commission
10 West Broad St.
Columbus, OH 43215

Ms. Andromeda Morrison:

Thank you for the opportunity to provide feedback from the Ohio Coin Machine Association (OCMA) on the Commission's draft rules provided to us on Thursday, June 2, 2016.

As you know, OCMA has been the voice for Ohio's coin operated amusement industry since 1974. Our members are very appreciative of the ability to review these draft rules. Below are the concerns from Ohio Coin Machine Association members that we hope you will address in subsequent drafts.

1. Page 1, letter H: This section seems to be adding a definition to Ohio law.
Recommendation: Mirror the Ohio Revised Code.
2. Page 2, letter J: This section seems to be adding a definition to Ohio law. Type B machines, operated across the country include this feature. Implementation of this rule would wipe out an entire class of amusement machine, would cripple the industry and would place Ohio businesses at a competitive disadvantage. Recommendation: Delete.
3. Page 2, letter P, #1 & #3: This section seems very broad, we believe it needs clarification. Does it include, technicians, collectors, drivers, general managers, etc? Recommendation: Be specific - only owners and general managers.

4. Page 3, letter W, #3: Type B machines, operated across the country include this feature. Implementation of this rule would wipe out an entire class of amusement machine, would cripple the industry and would place Ohio businesses at a competitive disadvantage. Recommendation: Enter into a dialogue with Type B industry representatives to determine how to address this issue.
5. Page 10, letter A: See #3. Recommendation: Be specific - only owners and general managers.
6. Page 12, letter F: Recommendation: Keep fee the same but make the license good for 5 years, not 3 years.
7. Page 15, letter C: What type of background checks? Locations that have a liquor license or lottery license have already undergone background checks. Recommendation: If they have undergone a background check in the last five years, waive the requirement.
8. Page 17, letter A, #5: There are thousands of locations that have Type B machines. A \$50 fee for each location is a huge financial burden on the industry that will put small companies out of business. Recommendation: Lower the amount to \$25.
9. Page 17, letter D: If an operator needs to service a Type B machine and take it back to the shop for repairs, they will need to notify the Commission and pay a \$100 fee? There are hundreds of Type B machines that are rotated out of establishments on a daily basis for a variety of reasons including service work, etc. For a company to pay \$100 each time a Type B machine is moved will constitute a large financial burden. Recommendation: If machines are placed "inactive for service", there is no fee but it must be placed back at the same location.

In conclusion, we commend you on the first draft. Please let us know if you have questions. We look forward to continuing our good working relationship to craft regulations that will benefit Ohioans while ensuring that the regulations do not constitute an overwhelming burden to Ohio's small business coin operated amusement industry and their customers.

Sincerely,



David P. Corey
Executive VP

Seifert, Berena

From: Kevin Futryk <kevin@gov-advantage.com>
Sent: Friday, June 10, 2016 3:32 PM
To: Morrison, Andromeda
Subject: Comments from Playtronic Games re: Proposed Skilled Game Rules
Attachments: OCCC Letter 060916.pdf; ATT00001.htm

Andromeda,

Attached below are comments from Playtronics Games, Inc. regarding the proposed Rules you shared with us regarding Skilled Game Regulations. Please do not hesitate to contact us with any questions. We look forward to both the opportunity to discuss our concerns further if necessary, as well as an opportunity to review the next version of the Rules when they are available.

Please confirm receipt of this e-mail so I know you received it.

Thanks again for allowing us the opportunity to review and comment.

Have a nice weekend!!

Kevin

Kevin L. Futryk
Partner
Government Advantage Group, LLP
17 S. High Street, Suite 750
Columbus, Ohio 43215

(614) 221-7157 (Office)
(614) 827-5698 (Cell)

Playtronics Games, Inc.

1100 CORBY DRIVE
YOUNGSTOWN, OHIO 44509

June 9, 2016

Ohio Casino Control Commission
Attn: Andromeda Morrison
10 West Broad St.
Columbus, OH 43215

Dear Ms. Morrison,

Thank you for giving us the opportunity to provide some insights on the proposed skill-based amusement rules. As a member of the industry since 2004 and my own experience with gaming applications in other states, I believe our company can provide some constructive comments.

Overall the proposed rules would place a huge financial and administrative burden on Ohio small businesses. Based on own experience with a casino gaming license application in Pennsylvania many of the proposed rules seem to be more in-line with casino gaming where we believe the rules should be more like those that regulate bingo licenses. The application that would be required to address all the proposed requirements would be substantial and would be overly burdensome for small businesses.

3772-50-01 Definitions:

- Section (H): as currently written this section is not consistent with the current law as it adds additional products that are prohibited prizes. The items listed are not excluded from the definition of Merchandise prizes in ORC 2915.01(VV).
- Section (M): limits Ohio taxpayers from using their own money to purchase product of greater value of prize vouchers. While this does not impact our business model it seems inappropriate to put this type of restrictions on the taxpayers.
- Section (P): While we do not object to the concept of having Key Employee file for a license, the current wording leaves a lot of unanswered questions as to who qualifies (i.e., spouse, accountant, lawyers, etc.). In addition, it puts a large burden on those individuals to provide private information to obtain this license (i.e., financial records, tax records, etc.). We believe the term “Key Employee” should be better defined and the approval process be limited to passing a BCI criminal background check.
- Section (R): the phrase “Any person (*as defined in 3772.01*) who has any ownership or **leasehold interest** in a skill-based amusement machine” seems to indicate that finance companies and banks would be required to be licensed if they provide financing for the equipment. This will limit the finance opportunities for Ohio small businesses.
- Section (U) & (AA): as our company operates and distributes machines it appears that we would be required to obtain two licenses at \$15,000 plus have the administrative burden to submit multiple applications. We believe that the phrase “**distributes, sells, or otherwise provides**” should be moved to the operator definition or that a distributor license should be developed in a way that allows for a distributor/operator to hold one license.
- Section (W)(2): eliminates an allowable prize from this license type and seems not consistent with the current Ohio law.

Section 3772-50-03 General Licensing Requirements

- Section (A) (3): allows one license for an operator and location and we believe a distributor should be added to this exception.
- Section (E): seems overly broad and unnecessary to allow this level of inspections that is not directly related to the activity being licensed. This includes access to confidential records, tax records, credit reports, and financial institutions.

Section 3772-50-04 Skill-based amusement machine vendor licensure

- Section (A): The license fee of \$15,000 seems burdensome to small family owned businesses.
- Section (B): “suitability for licensure” is a vague standard that is open to subjectivity so we ask that it be clarified. We believe this phrase will lead to a large burdensome application process and will be open to subjective interpretations.
- Section (C): holds small businesses to the same standard as multi-million dollar investors of a casino project and is overly burdensome. Again, we believe that the requirements for skill based games should mirror those of bingo distributors/manufactures and NOT multi-million-dollar casino operators. Also, as noted above we believe this section will result in a large burdensome application process for small business owners.

Section 3772-50-05 Skill-based amusement machine key employee licensure

- Section (C): We believe this section should be limited to passing a BCI background check as the current regulations are over burdensome and will lead to a large application process. To achieve the current requirements, the application would require submittal of personal information including investments, financial, and tax returns along with long list of personal contacts, personal references, etc.

Section 3772-50-06 Type-B skill-based amusement machine operator licensure.

- Section (C): We believe this section should be limited to passing a BCI background check as the current regulations are over burdensome and will lead to a large application process. To achieve the current requirements, the application would require submittal of personal information including investments, financial, and tax returns along with long list of personal contacts, personal references, etc.

Section 3772-50-07 Type-C skill-based amusement machine operator licensure

- Section (A): We believe that “operator” needs to be better defined as it is not clear if this is the location owner/manager or those that provided the machine(s) to the location.
- Section (C): We believe this section should be limited to passing a BCI background check as the current regulations are over burdensome and will lead to a large application process. To achieve the current requirements, the application would require submittal of personal information including investments, financial, and tax returns along with long list of personal contacts, personal references, etc.

Section 3772-50-08 Type -C skill-based amusement machine location licensure

- Section (C): We believe this section should be limited to passing a BCI background check as the current regulations are over burdensome and will lead to a large application process. To achieve the current requirements, the application would require submittal of personal information including investments, financial, and tax returns along with long list of personal contacts, personal references, etc. In addition, many of these locations already sell for the Ohio Lottery, are licensed by the Attorney General Office to sell instant bingo tickets and hold liquor license which makes this requirement even more burdensome for Ohio businesses.

Section 3772-50-09 Registration of operation of skill-based amusement machine.

- Section (A) (1): We believe the time permitted to operate should be expanded to the later of 90 days after the final application is provided or 90 days from the effective date of the regulations.
- Section (F): We were unable to location rule 3772-50-14 any assistance you can provide would be greatly appreciated.

We would appreciate the opportunity to discuss our concerns with you at the appropriate time and please feel free to contact us or our representative Kevin Futryk if you have any questions regarding our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Armand Nannicola".

Armand Nannicola
President

Seifert, Berena

From: David A George <dageorge@bellmusicco.com>
Sent: Friday, June 03, 2016 12:23 PM
To: Morrison, Andromeda
Subject: Rules for Skill Games

Andromeda,

Your agency did a great job creating the first draft of the proposed skill game rules, 95% of the draft is perfect. Your thoughts per a "registration period" are genius. Also, the fee structure is very fair and pro business.

Below are my concerns with #1 being the real big issue that needs corrected.

1. Page 1, Letter H

a.) The second sentence must be deleted. "Merchandise prize does not include replays of a skill-based amusement machine" This one line destroys the entire class C industry and eliminates the need to even have these rules. This sentence does not appear in HB 177 at this time to my knowledge. Also, there is Ohio Supreme Court case study to the contrary of that sentence. I can explain much more in detail in person if needed but its my hope that sentence is deleted in the next draft.

2. What will the penalty be for a violation of the operation of a class B machine. If someone has a class B crane machine and they are giving away a \$25 or \$50 prize will they face a felony?

3. If a location operates a device illegally--- The operator provide a legal, tested and approved device and the location operates it illegally. There has to be some protection to the operator of the machine that he won't be charged with a felony for complying with the law.

It would be our hope that we can work together to get these items corrected in the draft revisions. I want to help have the entire industry supportive of your efforts when these rules go to hearings and go through the regulatory steps.

Thank you again for your efforts and the transparency you are providing. Please call me anytime with anything I can help.

Sincerely,

David A. George
President,

Bell Music Company

I am using the Free version of [SPAMfighter](#).
SPAMfighter has removed 4570 of my spam emails to date.

Do you have a [slow PC?](#) Try a free scan!

Seifert, Berena

From: Michael Lane <msl@bobsspaceracers.com>
Sent: Thursday, June 09, 2016 7:28 PM
To: Morrison, Andromeda
Cc: Jack Cook; Douglas Herbert
Subject: SBAM Rules

Dear Ms. Morrison

Re: initial draft of administrative rules 3772-50-01 through 3772-50-09

Bob's Space Racers, Inc. (BSR) is a manufacturer, consultant, and operator of amusement games located in Holly Hill, FL. We have produced games since 1970 and have customers in over 120 countries. Our game operations are international serving visitors at fairs and amusement parks in the US and Canada. We also jointly operate games in the middle east with partners there.

I have been forwarded a copy of the proposed rules referenced above. Our comments are enumerated below. I would be happy to clarify or answer any questions you may have. Thank you, for the opportunity to comment on the proposed rules.

1. It would be helpful if the statute had a modified value test in skill games in which players compete against each other to win. In this instance the wholesale price of the prize may be above \$10 because the prize value could vary by the number of players participating. Since BSR puts group games in family entertainment centers, FECs, this rule may change the game category to a type C.

2915.01(UU)(1)(c) measures the \$10 per redeemable voucher as \$10 time the number of single plays. However it may be interpreted as one player play versus multiple simultaneous players as a single play. A group game is a "Skill based amusement machine tournament". The "tournament" is defined but the term is not used elsewhere in the proposed statute. Tournament appears in 2915.01(UU)(3) where it appears the single play definition enforces the \$10 limit regardless of number of participants.

2. I have read other statutes concerning games - 2915 and 1711.11. I do not know where the regulation of games in amusement parks fall. Is it possible the proposed rule would apply to Kings Island for example? Prize values and the type of games can be significantly different than an FEC or redemption arcade. Ring Toss games at parks offer big prizes because the skill to win is higher than other games.

3. BSR is an out of state vendor. The distribution channel includes wholesalers and end users. Sales occur out of Ohio but could be for Ohio use. For example, an Ohio operator visits a trade show in Florida and buys a game to be shipped to Ohio. When would an out of state vendor be required to obtain a vendor license? I can see where BSR may participate in a revenue share and an operator license might also be required. But that did not seem to be addressed directly.

4. Type B machines may not have a video monitor 3772-50-01 (W)(5). If B machines are only merchandisers like cranes then the rest of this comment may not apply. However B could be interpreted to be a game where a prize is award immediately upon conclusion like one of our group games, like a water race. There are instances where video is attached to the game for entertainment, to highlight a winner or display game progress or results. In these circumstances the monitor is not an influence on the outcome of the game. Consider a game such as Roll-a-Ball - Derby horse race with a video monitor of players or play field so that bystanders can watch and be entertained. It is not the video monitor alone that changes the outcome or is used as a play field. If a group game is a B then a video attachment should not disqualify it as a B.

5. Possibly a conflict in statutes: 3772-50-01 (W)(3) says a type B "does not employ a payout percentage function". 3772-50-01 (Y) defines type C and any skill game which is not A or B. 2915-01(UU)(2)(a) specifically removes games from skill category whose outcome is "impacted by number or ratio" of wins and losses. The percentage payout function is similar to the ratio of wins and losses in that it may adjust difficulty or even predetermine the next winner. But they are not the same. Payout functions sometimes also factor a prize value to adjust difficulty level without predetermining the number of winners or losers. For example the target area may be smaller for high value prizes than low value prizes. In a simple sense operators adjust the throw distance or height of the basket and adjust the prize value accordingly. This is a form of percentage control. So is a game with a payout percentage function a type C skill game or not a skill game at all?

6. There is no provision for progressive payouts. A progressive payout is an accumulation of points or other award which grows with each loss. The eventual winner collects all the award (prize tickets). This is a method to have a constant payout percentage but the game play is not modified. There is always a prize accrued per play.

7. The proposed rule classifies most all merchandisers as Type B. Every other game used that awards a prize is a Type C. An operator of a game handing out a prize likely would not qualify a game as a Type B because the prize did not come from the machine. Licensing is more onerous for a game like an arcade Whac-A-Mole that has a numeric score and dispenses tickets than a crane or similar device. It seems this is backwards. Operators like CEC operate many redemption games which are easy to play and designed for young players. Classing these games a type C seems counter to the intent and entertainment purpose of the games. CEC operates many games for entertainment value. They want to provide a fun place for birthday parties. The license fees would discourage small operators from using this type of equipment.

A group race game like a water game is one of the fairest games in operation. Skill level is low which allows young, old, strong, and weak to all compete. The operator has no interest in who wins, because he supplies a prize every time. We also produce coin op games which dispense consolation tickets for redemption centers. Some games for small children dispense tickets regardless of the score. Perhaps a prize every time exclusion from Type C should be considered.

8. Some games adapt to the player. As a player progresses to a new level it opens other play or levels of difficulty. The game starts the same for everyone but has some measure to adjust skill required to progress at each level. This type of skill adjustment should be allowed because it happens as play progresses and for all players equally. For example, we produced a Whac-A-Mole which increased speed to new levels based on the player success. If the player missed a head the game held the current speed for a specified number of heads. Finally the game would end when the player missed 3 heads. Today the basic Whac-A-Mole is time based.

Hopefully this provides some insight into game variations and our concerns. In general it isn't clear whether BSR would be required to register as a vendor if all sales are made out of state. The Type C category is too broad and will hinder operators especially those focused on providing an entertainment attraction. The rules may effectively capture every park, arcade, and FEC. I can't see how this protects the public anymore than the current gambling statutes.

Best Regards,

Michael S. Lane, CPA.

Bob's Space Racers, Inc.

427 15th Street

Holly Hill, FL 32117

386.405.6745

www.bobsspacracers.com <<http://www.bobsspacracers.com/>>- Thanks, Mike Michael S. Lane Bob's Space Racers, Inc.

427 15th Street

Holly Hill, FL 32117

Seifert, Berena

From: David P. Corey <dpc@pacainc.com>
Sent: Friday, June 10, 2016 4:26 PM
To: Morrison, Andromeda
Subject: BCAO Skill Game Rule Comments
Attachments: BCAO Skill Game Comments_001.pdf

Good afternoon Andromeda, please see the attached letter from the BCAO. Thank you and have nice weekend. DPC

David P. Corey
BCAO Executive VP
Bowling Centers Association of Ohio
3757 Indianola Ave.
Columbus, OH 43214
614.784.9772
fax 784.9771
www.bowloho.com
dpc@pacainc.com



Bowling Centers Association of Ohio

529 Windsor Park Drive
P.O. Box 750996
Centerville, Ohio 45475-0996
(937)433-8363 (937)433-2597 fax



June 10, 2016

Ms. Andromeda Morrison
Director of Skill Games
Ohio Casino Control Commission
10 West Broad Street
Columbus, OH 43215

Dear Ms. Morrison,

On behalf of the members of the Bowling Centers Association of Ohio (BCAO), we want to thank you for the opportunity to comment on the initial draft of administrative rules 3772-50-01 to 3772-50-09.

We appreciate the fact that it seems like the Ohio Casino Control Commission (CCC) took note of the comments we provided during the exploratory meetings. It did not go unnoticed or unappreciated.

BCAO's comments relate to 3772-50-08 Type C skill based amusement machine location licensure part C 1 - 9. We understand and agree with the need to clear each applicant through a process, we believe that certain applicants will show a special prequalification. An individual who has been licensed with a D series liquor permit has already been scrutinized through BCII and has been reviewed by the Ohio Division of Liquor Control. Subsequently, this entity has been scrutinized to a level that qualifies them for an expedited approval for skill based games.

Additionally, a contractor with the Ohio Lottery Commission has been reviewed and has filed a bond for the privilege of conducting Ohio Lottery games in bowling centers. This also indicates a comprehensive review of an individual which should allow for an expedited approval to conduct skill based games.

Our recommendation is to include these as prequalifying measures of suitability and thus provide for an express approval of skill based game location licensure for those entities.

Once again, thank you for the opportunity to comment of this first draft. We look forward to continuing our good working relationship in the future. Please let us know if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "David P. Corey".

David P. Corey
Executive Vice President

From: [Nick Farley](#)
To: [Morrison, Andromeda](#)
Cc: eclipselab@eclipsestesting.com
Subject: Eclipse Testing Comments on the Initial Draft Rules for Regulation of Skill-Based Amusement Machines
Date: Thursday, June 09, 2016 7:42:49 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.png](#)
[image005.png](#)
[image006.gif](#)

Dear Ms. Morrison,

Thank you for providing us with a copy of the proposed definitions and licensing requirements for skill based amusement machines to be regulated by the Ohio Casino Control Commission.

We have reviewed the document provided. While I am sure other stakeholders will provide comments and suggestions on the matters relevant to their business, we will provide our comments and suggestions on the matters pertaining to Testing. Therefore, we suggest that item D on page one (1) pertaining to the definition of a “Certified independent skill-based amusement machine testing laboratory” be revised to read as follows:

(D) “Certified independent skill-based amusement machine testing laboratory” means any independent outside testing laboratory, that has been accredited by a national accreditation body for examinations of electronic gaming devices, that illustrates that it is qualified to perform such examinations on skill-based amusement machines. The Commission shall not unreasonably withhold its recognition of an accredited independent outside testing laboratory as long as the laboratory is found suitable by the Commission and holds a license or authorization to perform such examinations on skill-based amusement machines in New Jersey, Georgia or Washington.

A redline version of our suggested verbiage is included below:

(D) “Certified independent skill-based amusement machine testing laboratory” means any independent outside testing laboratory, that has been accredited by a national accreditation body for examinations of electronic gaming devices, that illustrates that it is qualified to perform such examinations on certified by the commission to test skill-based amusement machines. The Commission shall not unreasonably withhold its recognition of an accredited independent outside testing laboratory as long as the laboratory is found suitable by the Commission and holds a license or authorization to perform such examinations on skill-based amusement machines in New Jersey, Georgia or Washington. Certification under section 3772.03 of the Revised Code and rule 3772-15-01 of the Administrative Code does not grant authority to test skill-based amusement machines and equipment.

We believe that this language is in line with the requirements necessary to vet a qualified “Certified independent skill-based amusement machine testing laboratory”, and presents inclusionary language rather than exclusionary language. The references to the three other states are made because these states possess regulatory agencies that oversee the regulation of skill-based amusement machines and recognize / authorize / license independent testing laboratories to conduct testing on such devices.

We sincerely hope that you agree with our language and incorporate our suggestion into future and final versions of the Skill-Based Amusement Machine rules.

If you should have any questions or require additional information, please feel free to contact our office.

Best regards,
Nick Farley

President
(440) 914-TEST (8378)
NickF@EclipseTesting.com
www.EclipseTesting.com

eclipse Compliance Testing
6401 Davis Industrial Parkway
Solon, Ohio 44139



Integrity, Impartiality & Independence

This message, including attachments, is a confidential communication and may contain privileged, proprietary or trade secret information. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, delete the email without copying, distributing or disclosing its contents. Thank you.

From: Andromeda.Morrison@casinocontrol.ohio.gov [<mailto:Andromeda.Morrison@casinocontrol.ohio.gov>]
Sent: Thursday, June 09, 2016 11:40 AM
To: nickf@eclipsetesting.com
Subject: FW: Initial Draft Rules for Regulation of Skill-Based Amusement Machines

Nick,

As discussed, please see the message below that was sent last week. I welcome any comments you are able to provide.

Andromeda

[View this email in your browser](#)

Stakeholders,

As you are aware, the Ohio Casino Control Commission (“Commission”) is currently developing administrative rules regarding the regulation of skill-based amusement machines in Ohio. In an effort to make the rule-drafting process as open and transparent as possible, the Commission is seeking your input on initial draft language for nine administrative rules.

An initial draft of administrative rules 3772-50-01 through 3772-50-09 can be found by clicking [here](#).

These drafts have not been finalized. Commission staff will review all comments submitted and may revise rules based on your feedback. After this comment and revision process, you will have additional opportunities to provide comment.

All comments on the draft rules should be submitted no later than **June 10**. Your early feedback on these initial drafts will help the Commission craft thoughtful regulations. We look forward to hearing from you. In the meantime, any questions or concerns should be directed to Andromeda Morrison, Director of Skill Games at Andromeda.Morrison@casinocontrol.ohio.gov or (614) 387-5616.

Thank you for your willingness to review these draft rules and provide feedback.



Copyright ©2016 Ohio Casino Control Commission, All rights reserved.

You are receiving this email because you expressed an interest in receiving updates on the regulation of skill-based amusement games by the Ohio Casino Control Commission.

Our mailing address is:

Ohio Casino Control Commission
10 West Broad Street, Columbus, OH
6th Floor
Columbus, OH 43215

[Add us to your address book](#)

[unsubscribe from this list](#) [update subscription preferences](#)



Seifert, Berena

From: Phil Craig <pcraig@craiggroup.com>
Sent: Friday, June 10, 2016 4:08 PM
To: Morrison, Andromeda
Cc: Molly McKee Hunter
Subject: Skill Games: Initial Draft Rules
Attachments: OLBA Skill based games (003).docx

Director Morrison,

Thanks for including us in the distribution of this initial draft of the Skill Based Games Ohio Casino Control Commission rule. Please find attached our comment on the rule.

Philip A. Craig
Executive Director
Ohio Licensed Beverage Association
O: 614-241-2222
C: 614-419-3762



June 10, 2016

Andromeda Morrison
Director of Skill Games
Ohio Casino Control Commission
10 West Broad Street
Columbus, Ohio 43215

Dear Ms. Morrison,

On behalf of the Ohio Licensed Beverage Association (OLBA) I am writing to comment on the initial draft of administrative rules 3772-50-01 through 3772-50-09.

First and foremost, thank you for a very thoughtful initial draft. It is clear that the Ohio Casino Control Commission took this effort very seriously and listened to the many stakeholders who were engaged on this important rule. Congratulations on a solid start.

My comments relate to 3772-50-08 Type –C skill based amusement machine location licensure part C 1 through 9.

While the OLBA understands and agrees with the necessity to clear each applicant through a process we believe that certain applicants will show a special prequalification. An individual who has been licensed with a D-series liquor permit has already been scrutinized through BCI and has been reviewed by the Ohio Division of Liquor Control. Clearly, this individual has been scrutinized to a level that qualifies them for an express approval for skill-based games.

In addition, a contractor with the Ohio Lottery Commission has been reviewed and has filed a bond for the privilege of conducting Ohio Lottery games on their premise. This also indicates a very thorough review of an individual which should allow for an express approval to conduct skill based games.

Our recommendation is to include these as prequalifying measures of suitability and thus provide for an express approval of skill-based game location licensure for those individuals.

We will offer further information and a possible amendment to the rule upon request from you in the future.

Thank you for considering our position on this matter. We look forward to participating on this and other Ohio Casino Commission rulemaking in the future.

Sincerely,

Philip A. Craig
Executive Director
O: 614-224-3840
C: 614-419-3762

From: [Evelyn Deitz](#)
To: [Morrison, Andromeda](#)
Subject: SBAM Rules
Date: Tuesday, June 07, 2016 2:54:12 PM

I read the draft and here is my input. I heard Georgia is doing really well on their machines from a couple customers so I looked up some information about Georgia and how they are doing. I really do not know enough about all the rules since I am just getting started but maybe Ohio could see how things are working in other states to make our state more successful with new laws. My thought was if Ohio could mirror some of the way Georgia is doing things so that it is run more honest and done legal then Ohio might learn from mistakes made and do even better then other states.

Sincerely,

Evelyn Deitz
EYD Investments

Seifert, Berena

From: Rick Johnson-Silver State Inc. <ry2709@aol.com>
Sent: Friday, June 10, 2016 9:11 AM
To: Morrison, Andromeda
Subject: Skill game rules

Good morning Ms. Morrison,

The rules as written have good merit and seem to address most issues and fees. However these rules lack one extremely paramount fact. The fact being the definition of 'skill' as it applies to gaming. ORC 2915 attempts to address this however it lacks as well. Therefore rules should be, specific to the issue, clear and concise, and direct. My suggestion for this is to include: skill is defined as the ability of a player to directly affect and change the outcome of each play of a machine. Without this clarity it opens up a myriad of potential litigation by illegal 8 line type operators.

Respectfully,
Rick Johnson
Silver State Inc.

Seifert, Berena

From: Morrison, Andromeda
Sent: Tuesday, June 14, 2016 11:02 AM
To: Seifert, Berena
Subject: FW: Initial Draft Rules for Regulation of Skill-Based Amusement Machines

[Can you add this to the rule comment .pdf?](#)

From: Kurt Gearhiser [mailto:obal3@yahoo.com]
Sent: Tuesday, June 14, 2016 9:29 AM
To: Morrison, Andromeda <Andromeda.Morrison@casinocontrol.ohio.gov>
Subject: Re: Initial Draft Rules for Regulation of Skill-Based Amusement Machines

Andromeda: My issue with Paragraph (H) relates to additional prohibitions. The CCC has by the rules made legal prizes illegal. The statute basically says all prizes are legal except. Somehow the CCC has increased the prohibited item. Not that I know of anyone using bitcoin, but I believed the Feds said it is not currency yet the CC has prohibited it. Gold and silver (except for silver coins) are not currency yet are prohibited. We left the gold standard decades ago. Finally without replays there is no skill game business. Replays are merchandise prizes and were not prohibited by the statute so the CCC has no authority to increase the few prohibited items. Just my thoughts which I am sure were echoed by many others. thanks. Kurt

From: Ohio Casino Control Commission <Andromeda.Morrison@casinocontrol.ohio.gov>
To: obal3@yahoo.com
Sent: Thursday, June 2, 2016 3:34 PM
Subject: Initial Draft Rules for Regulation of Skill-Based Amusement Machines

[View this email in your browser](#)



OHIO CASINO CONTROL COMMISSION

Stakeholders,

As you are aware, the Ohio Casino Control Commission ("Commission") is currently developing administrative rules regarding the regulation of skill-based

amusement machines in Ohio. In an effort to make the rule-drafting process as open and transparent as possible, the Commission is seeking your input on initial draft language for nine administrative rules.

An initial draft of administrative rules 3772-50-01 through 3772-50-09 can be found by clicking [here](#).

These drafts have not been finalized. Commission staff will review all comments submitted and may revise rules based on your feedback. After this comment and revision process, you will have additional opportunities to provide comment.

All comments on the draft rules should be submitted no later than **June 10**. Your early feedback on these initial drafts will help the Commission craft thoughtful regulations. We look forward to hearing from you. In the meantime, any questions or concerns should be directed to Andromeda Morrison, Director of Skill Games at Andromeda.Morrison@casinocontrol.ohio.gov or (614) 387-5616.

Thank you for your willingness to review these draft rules and provide feedback.



Follow us on Facebook

Copyright © 2016 Ohio Casino Control Commission, All rights reserved.

You are receiving this email because you expressed an interest in receiving updates on the regulation of skill-based amusement games by the Ohio Casino Control Commission.

Our mailing address is:

Ohio Casino Control Commission
10 West Broad Street, Columbus, OH
6th Floor
Columbus, OH 43215

[Add us to your address book](#)

[unsubscribe from this list](#) [update subscription preferences](#)

MailChimp.

Seifert, Berena

From: Luther Liggett <Luther@graflaw.com>
Sent: Thursday, June 16, 2016 10:33 AM
To: Morrison, Andromeda
Cc: Roy Fankhauser (roy@reelsweeps.com)
Subject: Conference

Andromeda,

Roy and I both felt our conversation was productive.

We have reviewed the draft rule, and have no substantive issues. I am glad to review it from a scrivener's line-by-line if you want to sit down, but do not need that from our point of view.

The one item Roy and I still would ask you keep in mind is the CCC Seal on our front door as inspected. While we hope the new law leads to closing non-compliant sites, this is going to be a big job and take time. In addition, as you inspect sites that are compliant, why not say so to the public?

Thank you for your consideration,

Luther

Luther L. Liggett, Jr.
Graff & McGovern, LPA
604 E. Rich Street
Columbus OH 43215

614-228-5800 ext. 6 office

614-561-2892 mobile

Luther@GraffLaw.com



This message is confidential and may be a privileged attorney-client communication. If you are not the intended recipient(s), your review, distribution or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately at 614-228-5800 and delete this message. Thank you.



Seifert, Berena

From: Morrison, Andromeda
Sent: Tuesday, June 28, 2016 8:37 AM
To: Barron, John; Siba, Michelle; Cox, William
Cc: Seifert, Berena
Subject: FW: Proposed Regulations on Skill Games

FYI

From: bgcline@gabusinesslawgroup.com [mailto:bgcline@gabusinesslawgroup.com]
Sent: Monday, June 27, 2016 2:48 PM
To: Morrison, Andromeda <Andromeda.Morrison@casinocontrol.ohio.gov>
Subject: Proposed Regulations on Skill Games

Ms. Morrison,

I am the counsel for Pace-O-Matic, Inc. ("POM"), and POM would like to provide some input on the proposed regulations from the Ohio Casino Control Commission ("Commission") regarding skill-based amusement machines. We understand that the Commission sought submission by last Friday, June 10th, and we apologize for not getting these comments by that date. POM understands, however, that the Commission will be circulating additional drafts of these regulations and therefore POM would like its comments to be considered, if not for the first draft, for successive drafts.

In short, POM is concerned that the proposed regulations fail to adequately distinguish between the licensing requirements between operators, vendors, key employees and locations. From our review of the proposed regulations, all of the various roles are treated the same under the licensing requirements. In addition, it appears that the requirements circulated by the Commission mirror the requirements of casino gaming vendors and manufacturers. POM believes there is a fundamental difference in regulating casino vendors versus amusement game vendors and manufacturers. Indeed, in POM's recent experience with other jurisdictions who have chosen to regulate coin operated amusement games, the regulatory focus has been on product compliance rather than gaming background corporate compliance that is often done in the casino regulatory environment.

As a result, POM would ask the Commission to review and revise its requirements concerning vendors and manufacturers to differentiate their roles with those seeking operator or location licenses. POM would be more than happy to offer specific recommendations that would be more aligned with the requirements that POM has seen in other states (such as Georgia) for amusement game vendors for review by the Commission.

If you have any questions, please do not hesitate to email or call me.

B. Greg Cline
Georgia Business Law Group
2 Ravinia Drive, Ste. 650
Atlanta, GA 30346

P- 770.670.6203
F- 770.670.6213