

**As Reported by the Senate Finance Committee**

**129th General Assembly**

**Regular Session**

**2011-2012**

**Sub. H. B. No. 277**

**Representatives Blessing, Gerberry**

**Cosponsors: Representatives Boyd, Buchy, Driehaus, Hackett, Hagan, R.,  
Henne, Letson, Mallory, Mecklenborg, O'Brien, Ruhl, Sykes, Uecker,  
Winburn, Yuko**

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**A B I L L**

To amend sections 2915.01, 3772.01, 3772.11, 3772.15, 1  
3772.23, 3772.27, 3772.31, 5751.01, and 5753.01 2  
and to enact section 3772.34 of the Revised Code 3  
to make changes to the Casino Law, to make changes 4  
to skill-based amusement machine prizes, and to 5  
permit a horse-racing permit holder who is 6  
eligible to become a video lottery sales agent to 7  
apply to the State Racing Commission to move its 8  
track to another location, and to permit, under 9  
certain circumstances for two years, applications 10  
to conduct horse-racing meetings at locations 11  
where the meetings were not previously conducted. 12

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2915.01, 3772.01, 3772.11, 3772.15, 13  
3772.23, 3772.27, 3772.31, 5751.01, and 5753.01 be amended and 14  
section 3772.34 of the Revised Code be enacted to read as follows: 15

**Sec. 2915.01.** As used in this chapter: 16

(A) "Bookmaking" means the business of receiving or paying 17

off bets.	18
(B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.	19 20 21
(C) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.	22 23 24 25 26
(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.	27 28 29 30
(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.	31 32 33
(F) "Gambling device" means any of the following:	34
(1) A book, totalizer, or other equipment for recording bets;	35
(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;	36 37
(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;	38 39 40
(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;	41 42
(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.	43 44
(G) "Gambling offense" means any of the following:	45
(1) A violation of section 2915.02, 2915.03, 2915.04,	46

2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 47  
2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code; 48

(2) A violation of an existing or former municipal ordinance 49  
or law of this or any other state or the United States 50  
substantially equivalent to any section listed in division (G)(1) 51  
of this section or a violation of section 2915.06 of the Revised 52  
Code as it existed prior to July 1, 1996; 53

(3) An offense under an existing or former municipal 54  
ordinance or law of this or any other state or the United States, 55  
of which gambling is an element; 56

(4) A conspiracy or attempt to commit, or complicity in 57  
committing, any offense under division (G)(1), (2), or (3) of this 58  
section. 59

(H) Except as otherwise provided in this chapter, "charitable 60  
organization" means any tax exempt religious, educational, 61  
veteran's, fraternal, sporting, service, nonprofit medical, 62  
volunteer rescue service, volunteer firefighter's, senior 63  
citizen's, historic railroad educational, youth athletic, amateur 64  
athletic, or youth athletic park organization. An organization is 65  
tax exempt if the organization is, and has received from the 66  
internal revenue service a determination letter that currently is 67  
in effect stating that the organization is, exempt from federal 68  
income taxation under subsection 501(a) and described in 69  
subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 70  
501(c)(19) of the Internal Revenue Code, or if the organization is 71  
a sporting organization that is exempt from federal income 72  
taxation under subsection 501(a) and is described in subsection 73  
501(c)(7) of the Internal Revenue Code. To qualify as a charitable 74  
organization, an organization, except a volunteer rescue service 75  
or volunteer firefighter's organization, shall have been in 76  
continuous existence as such in this state for a period of two 77  
years immediately preceding either the making of an application 78

for a bingo license under section 2915.08 of the Revised Code or 79  
the conducting of any game of chance as provided in division (D) 80  
of section 2915.02 of the Revised Code. A charitable organization 81  
that is exempt from federal income taxation under subsection 82  
501(a) and described in subsection 501(c)(3) of the Internal 83  
Revenue Code and that is created by a veteran's organization, a 84  
fraternal organization, or a sporting organization does not have 85  
to have been in continuous existence as such in this state for a 86  
period of two years immediately preceding either the making of an 87  
application for a bingo license under section 2915.08 of the 88  
Revised Code or the conducting of any game of chance as provided 89  
in division (D) of section 2915.02 of the Revised Code. 90

(I) "Religious organization" means any church, body of 91  
communicants, or group that is not organized or operated for 92  
profit and that gathers in common membership for regular worship 93  
and religious observances. 94

(J) "Educational organization" means any organization within 95  
this state that is not organized for profit, the primary purpose 96  
of which is to educate and develop the capabilities of individuals 97  
through instruction by means of operating or contributing to the 98  
support of a school, academy, college, or university. 99

(K) "Veteran's organization" means any individual post or 100  
state headquarters of a national veteran's association or an 101  
auxiliary unit of any individual post of a national veteran's 102  
association, which post, state headquarters, or auxiliary unit is 103  
incorporated as a nonprofit corporation and either has received a 104  
letter from the state headquarters of the national veteran's 105  
association indicating that the individual post or auxiliary unit 106  
is in good standing with the national veteran's association or has 107  
received a letter from the national veteran's association 108  
indicating that the state headquarters is in good standing with 109  
the national veteran's association. As used in this division, 110

"national veteran's association" means any veteran's association 111  
that has been in continuous existence as such for a period of at 112  
least five years and either is incorporated by an act of the 113  
United States congress or has a national dues-paying membership of 114  
at least five thousand persons. 115

(L) "Volunteer firefighter's organization" means any 116  
organization of volunteer firefighters, as defined in section 117  
146.01 of the Revised Code, that is organized and operated 118  
exclusively to provide financial support for a volunteer fire 119  
department or a volunteer fire company and that is recognized or 120  
ratified by a county, municipal corporation, or township. 121

(M) "Fraternal organization" means any society, order, state 122  
headquarters, or association within this state, except a college 123  
or high school fraternity, that is not organized for profit, that 124  
is a branch, lodge, or chapter of a national or state 125  
organization, that exists exclusively for the common business or 126  
sodality of its members. 127

(N) "Volunteer rescue service organization" means any 128  
organization of volunteers organized to function as an emergency 129  
medical service organization, as defined in section 4765.01 of the 130  
Revised Code. 131

(O) "Service organization" means either of the following: 132

(1) Any organization, not organized for profit, that is 133  
organized and operated exclusively to provide, or to contribute to 134  
the support of organizations or institutions organized and 135  
operated exclusively to provide, medical and therapeutic services 136  
for persons who are crippled, born with birth defects, or have any 137  
other mental or physical defect or those organized and operated 138  
exclusively to protect, or to contribute to the support of 139  
organizations or institutions organized and operated exclusively 140  
to protect, animals from inhumane treatment or provide immediate 141

shelter to victims of domestic violence; 142

(2) Any organization that is described in subsection 143  
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 144  
and is either a governmental unit or an organization that is tax 145  
exempt under subsection 501(a) and described in subsection 146  
501(c)(3) of the Internal Revenue Code and that is an 147  
organization, not organized for profit, that is organized and 148  
operated primarily to provide, or to contribute to the support of 149  
organizations or institutions organized and operated primarily to 150  
provide, medical and therapeutic services for persons who are 151  
crippled, born with birth defects, or have any other mental or 152  
physical defect. 153

(P) "Nonprofit medical organization" means either of the 154  
following: 155

(1) Any organization that has been incorporated as a 156  
nonprofit corporation for at least five years and that has 157  
continuously operated and will be operated exclusively to provide, 158  
or to contribute to the support of organizations or institutions 159  
organized and operated exclusively to provide, hospital, medical, 160  
research, or therapeutic services for the public; 161

(2) Any organization that is described and qualified under 162  
subsection 501(c)(3) of the Internal Revenue Code, that has been 163  
incorporated as a nonprofit corporation for at least five years, 164  
and that has continuously operated and will be operated primarily 165  
to provide, or to contribute to the support of organizations or 166  
institutions organized and operated primarily to provide, 167  
hospital, medical, research, or therapeutic services for the 168  
public. 169

(Q) "Senior citizen's organization" means any private 170  
organization, not organized for profit, that is organized and 171  
operated exclusively to provide recreational or social services 172

for persons who are fifty-five years of age or older and that is 173  
described and qualified under subsection 501(c)(3) of the Internal 174  
Revenue Code. 175

(R) "Charitable bingo game" means any bingo game described in 176  
division (S)(1) or (2) of this section that is conducted by a 177  
charitable organization that has obtained a license pursuant to 178  
section 2915.08 of the Revised Code and the proceeds of which are 179  
used for a charitable purpose. 180

(S) "Bingo" means either of the following: 181

(1) A game with all of the following characteristics: 182

(a) The participants use bingo cards or sheets, including 183  
paper formats and electronic representation or image formats, that 184  
are divided into twenty-five spaces arranged in five horizontal 185  
and five vertical rows of spaces, with each space, except the 186  
central space, being designated by a combination of a letter and a 187  
number and with the central space being designated as a free 188  
space. 189

(b) The participants cover the spaces on the bingo cards or 190  
sheets that correspond to combinations of letters and numbers that 191  
are announced by a bingo game operator. 192

(c) A bingo game operator announces combinations of letters 193  
and numbers that appear on objects that a bingo game operator 194  
selects by chance, either manually or mechanically, from a 195  
receptacle that contains seventy-five objects at the beginning of 196  
each game, each object marked by a different combination of a 197  
letter and a number that corresponds to one of the seventy-five 198  
possible combinations of a letter and a number that can appear on 199  
the bingo cards or sheets. 200

(d) The winner of the bingo game includes any participant who 201  
properly announces during the interval between the announcements 202  
of letters and numbers as described in division (S)(1)(c) of this 203

section, that a predetermined and preannounced pattern of spaces 204  
has been covered on a bingo card or sheet being used by the 205  
participant. 206

(2) Instant bingo, punch boards, and raffles. 207

(T) "Conduct" means to back, promote, organize, manage, carry 208  
on, sponsor, or prepare for the operation of bingo or a game of 209  
chance. 210

(U) "Bingo game operator" means any person, except security 211  
personnel, who performs work or labor at the site of bingo, 212  
including, but not limited to, collecting money from participants, 213  
handing out bingo cards or sheets or objects to cover spaces on 214  
bingo cards or sheets, selecting from a receptacle the objects 215  
that contain the combination of letters and numbers that appear on 216  
bingo cards or sheets, calling out the combinations of letters and 217  
numbers, distributing prizes, selling or redeeming instant bingo 218  
tickets or cards, supervising the operation of a punch board, 219  
selling raffle tickets, selecting raffle tickets from a receptacle 220  
and announcing the winning numbers in a raffle, and preparing, 221  
selling, and serving food or beverages. 222

(V) "Participant" means any person who plays bingo. 223

(W) "Bingo session" means a period that includes both of the 224  
following: 225

(1) Not to exceed five continuous hours for the conduct of 226  
one or more games described in division (S)(1) of this section, 227  
instant bingo, and seal cards; 228

(2) A period for the conduct of instant bingo and seal cards 229  
for not more than two hours before and not more than two hours 230  
after the period described in division (W)(1) of this section. 231

(X) "Gross receipts" means all money or assets, including 232  
admission fees, that a person receives from bingo without the 233

deduction of any amounts for prizes paid out or for the expenses 234  
of conducting bingo. "Gross receipts" does not include any money 235  
directly taken in from the sale of food or beverages by a 236  
charitable organization conducting bingo, or by a bona fide 237  
auxiliary unit or society of a charitable organization conducting 238  
bingo, provided all of the following apply: 239

(1) The auxiliary unit or society has been in existence as a 240  
bona fide auxiliary unit or society of the charitable organization 241  
for at least two years prior to conducting bingo. 242

(2) The person who purchases the food or beverage receives 243  
nothing of value except the food or beverage and items customarily 244  
received with the purchase of that food or beverage. 245

(3) The food and beverages are sold at customary and 246  
reasonable prices. 247

(Y) "Security personnel" includes any person who either is a 248  
sheriff, deputy sheriff, marshal, deputy marshal, township 249  
constable, or member of an organized police department of a 250  
municipal corporation or has successfully completed a peace 251  
officer's training course pursuant to sections 109.71 to 109.79 of 252  
the Revised Code and who is hired to provide security for the 253  
premises on which bingo is conducted. 254

(Z) "Charitable purpose" means that the net profit of bingo, 255  
other than instant bingo, is used by, or is given, donated, or 256  
otherwise transferred to, any of the following: 257

(1) Any organization that is described in subsection 258  
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 259  
and is either a governmental unit or an organization that is tax 260  
exempt under subsection 501(a) and described in subsection 261  
501(c)(3) of the Internal Revenue Code; 262

(2) A veteran's organization that is a post, chapter, or 263  
organization of veterans, or an auxiliary unit or society of, or a 264

trust or foundation for, any such post, chapter, or organization 265  
organized in the United States or any of its possessions, at least 266  
seventy-five per cent of the members of which are veterans and 267  
substantially all of the other members of which are individuals 268  
who are spouses, widows, or widowers of veterans, or such 269  
individuals, provided that no part of the net earnings of such 270  
post, chapter, or organization inures to the benefit of any 271  
private shareholder or individual, and further provided that the 272  
net profit is used by the post, chapter, or organization for the 273  
charitable purposes set forth in division (B)(12) of section 274  
5739.02 of the Revised Code, is used for awarding scholarships to 275  
or for attendance at an institution mentioned in division (B)(12) 276  
of section 5739.02 of the Revised Code, is donated to a 277  
governmental agency, or is used for nonprofit youth activities, 278  
the purchase of United States or Ohio flags that are donated to 279  
schools, youth groups, or other bona fide nonprofit organizations, 280  
promotion of patriotism, or disaster relief; 281

(3) A fraternal organization that has been in continuous 282  
existence in this state for fifteen years and that uses the net 283  
profit exclusively for religious, charitable, scientific, 284  
literary, or educational purposes, or for the prevention of 285  
cruelty to children or animals, if contributions for such use 286  
would qualify as a deductible charitable contribution under 287  
subsection 170 of the Internal Revenue Code; 288

(4) A volunteer firefighter's organization that uses the net 289  
profit for the purposes set forth in division (L) of this section. 290

(AA) "Internal Revenue Code" means the "Internal Revenue Code 291  
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 292  
amended. 293

(BB) "Youth athletic organization" means any organization, 294  
not organized for profit, that is organized and operated 295  
exclusively to provide financial support to, or to operate, 296

athletic activities for persons who are twenty-one years of age or 297  
younger by means of sponsoring, organizing, operating, or 298  
contributing to the support of an athletic team, club, league, or 299  
association. 300

(CC) "Youth athletic park organization" means any 301  
organization, not organized for profit, that satisfies both of the 302  
following: 303

(1) It owns, operates, and maintains playing fields that 304  
satisfy both of the following: 305

(a) The playing fields are used at least one hundred days per 306  
year for athletic activities by one or more organizations, not 307  
organized for profit, each of which is organized and operated 308  
exclusively to provide financial support to, or to operate, 309  
athletic activities for persons who are eighteen years of age or 310  
younger by means of sponsoring, organizing, operating, or 311  
contributing to the support of an athletic team, club, league, or 312  
association. 313

(b) The playing fields are not used for any profit-making 314  
activity at any time during the year. 315

(2) It uses the proceeds of bingo it conducts exclusively for 316  
the operation, maintenance, and improvement of its playing fields 317  
of the type described in division (CC)(1) of this section. 318

(DD) "Amateur athletic organization" means any organization, 319  
not organized for profit, that is organized and operated 320  
exclusively to provide financial support to, or to operate, 321  
athletic activities for persons who are training for amateur 322  
athletic competition that is sanctioned by a national governing 323  
body as defined in the "Amateur Sports Act of 1978," 90 Stat. 324  
3045, 36 U.S.C.A. 373. 325

(EE) "Bingo supplies" means bingo cards or sheets; instant 326  
bingo tickets or cards; electronic bingo aids; raffle tickets; 327

punch boards; seal cards; instant bingo ticket dispensers; and 328  
devices for selecting or displaying the combination of bingo 329  
letters and numbers or raffle tickets. Items that are "bingo 330  
supplies" are not gambling devices if sold or otherwise provided, 331  
and used, in accordance with this chapter. For purposes of this 332  
chapter, "bingo supplies" are not to be considered equipment used 333  
to conduct a bingo game. 334

(FF) "Instant bingo" means a form of bingo that uses folded 335  
or banded tickets or paper cards with perforated break-open tabs, 336  
a face of which is covered or otherwise hidden from view to 337  
conceal a number, letter, or symbol, or set of numbers, letters, 338  
or symbols, some of which have been designated in advance as prize 339  
winners. "Instant bingo" includes seal cards. "Instant bingo" does 340  
not include any device that is activated by the insertion of a 341  
coin, currency, token, or an equivalent, and that contains as one 342  
of its components a video display monitor that is capable of 343  
displaying numbers, letters, symbols, or characters in winning or 344  
losing combinations. 345

(GG) "Seal card" means a form of instant bingo that uses 346  
instant bingo tickets in conjunction with a board or placard that 347  
contains one or more seals that, when removed or opened, reveal 348  
predesignated winning numbers, letters, or symbols. 349

(HH) "Raffle" means a form of bingo in which the one or more 350  
prizes are won by one or more persons who have purchased a raffle 351  
ticket. The one or more winners of the raffle are determined by 352  
drawing a ticket stub or other detachable section from a 353  
receptacle containing ticket stubs or detachable sections 354  
corresponding to all tickets sold for the raffle. "Raffle" does 355  
not include the drawing of a ticket stub or other detachable 356  
section of a ticket purchased to attend a professional sporting 357  
event if both of the following apply: 358

(1) The ticket stub or other detachable section is used to 359

select the winner of a free prize given away at the professional sporting event; and	360 361
(2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.	362 363 364
(II) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.	365 366 367 368 369 370 371 372 373
(JJ) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.	374 375
(KK) "Net profit" means gross profit minus expenses.	376
(LL) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:	377 378
(1) The purchase or lease of bingo supplies;	379
(2) The annual license fee required under section 2915.08 of the Revised Code;	380 381
(3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;	382 383
(4) Audits and accounting services;	384
(5) Safes;	385
(6) Cash registers;	386
(7) Hiring security personnel;	387
(8) Advertising bingo;	388

(9) Renting premises in which to conduct a bingo session;	389
(10) Tables and chairs;	390
(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;	391 392 393 394
(12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;	395 396
(13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.	397 398 399 400
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.	401 402 403
(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	404 405 406 407
(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	408 409 410 411
(PP) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:	412 413
(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;	414 415 416
(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this	417 418

state. 419

(QQ) "Manufacturer" means any person who assembles completed 420  
bingo supplies from raw materials, other items, or subparts or who 421  
modifies, converts, adds to, or removes parts from bingo supplies 422  
to further their promotion or sale. 423

(RR) "Gross annual revenues" means the annual gross receipts 424  
derived from the conduct of bingo described in division (S)(1) of 425  
this section plus the annual net profit derived from the conduct 426  
of bingo described in division (S)(2) of this section. 427

(SS) "Instant bingo ticket dispenser" means a mechanical 428  
device that dispenses an instant bingo ticket or card as the sole 429  
item of value dispensed and that has the following 430  
characteristics: 431

(1) It is activated upon the insertion of United States 432  
currency. 433

(2) It performs no gaming functions. 434

(3) It does not contain a video display monitor or generate 435  
noise. 436

(4) It is not capable of displaying any numbers, letters, 437  
symbols, or characters in winning or losing combinations. 438

(5) It does not simulate or display rolling or spinning 439  
reels. 440

(6) It is incapable of determining whether a dispensed bingo 441  
ticket or card is a winning or nonwinning ticket or card and 442  
requires a winning ticket or card to be paid by a bingo game 443  
operator. 444

(7) It may provide accounting and security features to aid in 445  
accounting for the instant bingo tickets or cards it dispenses. 446

(8) It is not part of an electronic network and is not 447  
interactive. 448

(TT)(1) "Electronic bingo aid" means an electronic device 449  
used by a participant to monitor bingo cards or sheets purchased 450  
at the time and place of a bingo session and that does all of the 451  
following: 452

(a) It provides a means for a participant to input numbers 453  
and letters announced by a bingo caller. 454

(b) It compares the numbers and letters entered by the 455  
participant to the bingo faces previously stored in the memory of 456  
the device. 457

(c) It identifies a winning bingo pattern. 458

(2) "Electronic bingo aid" does not include any device into 459  
which a coin, currency, token, or an equivalent is inserted to 460  
activate play. 461

(UU) "Deal of instant bingo tickets" means a single game of 462  
instant bingo tickets all with the same serial number. 463

(VV)(1) "Slot machine" means either of the following: 464

(a) Any mechanical, electronic, video, or digital device that 465  
is capable of accepting anything of value, directly or indirectly, 466  
from or on behalf of a player who gives the thing of value in the 467  
hope of gain; 468

(b) Any mechanical, electronic, video, or digital device that 469  
is capable of accepting anything of value, directly or indirectly, 470  
from or on behalf of a player to conduct bingo or a scheme or game 471  
of chance. 472

(2) "Slot machine" does not include a skill-based amusement 473  
machine or an instant bingo ticket dispenser. 474

(WW) "Net profit from the proceeds of the sale of instant 475  
bingo" means gross profit minus the ordinary, necessary, and 476  
reasonable expense expended for the purchase of instant bingo 477  
supplies. 478

(XX) "Charitable instant bingo organization" means an 479  
organization that is exempt from federal income taxation under 480  
subsection 501(a) and described in subsection 501(c)(3) of the 481  
Internal Revenue Code and is a charitable organization as defined 482  
in this section. A "charitable instant bingo organization" does 483  
not include a charitable organization that is exempt from federal 484  
income taxation under subsection 501(a) and described in 485  
subsection 501(c)(3) of the Internal Revenue Code and that is 486  
created by a veteran's organization, a fraternal organization, or 487  
a sporting organization in regards to bingo conducted or assisted 488  
by a veteran's organization, a fraternal organization, or a 489  
sporting organization pursuant to section 2915.13 of the Revised 490  
Code. 491

(YY) "Game flare" means the board or placard that accompanies 492  
each deal of instant bingo tickets and that has printed on or 493  
affixed to it the following information for the game: 494

(1) The name of the game; 495

(2) The manufacturer's name or distinctive logo; 496

(3) The form number; 497

(4) The ticket count; 498

(5) The prize structure, including the number of winning 499  
instant bingo tickets by denomination and the respective winning 500  
symbol or number combinations for the winning instant bingo 501  
tickets; 502

(6) The cost per play; 503

(7) The serial number of the game. 504

(ZZ) "Historic railroad educational organization" means an 505  
organization that is exempt from federal income taxation under 506  
subsection 501(a) and described in subsection 501(c)(3) of the 507  
Internal Revenue Code, that owns in fee simple the tracks and the 508

right\_of\_way of a historic railroad that the organization restores 509  
or maintains and on which the organization provides excursions as 510  
part of a program to promote tourism and educate visitors 511  
regarding the role of railroad transportation in Ohio history, and 512  
that received as donations from a charitable organization that 513  
holds a license to conduct bingo under this chapter an amount 514  
equal to at least fifty per cent of that licensed charitable 515  
organization's net proceeds from the conduct of bingo during each 516  
of the five years preceding June 30, 2003. "Historic railroad" 517  
means all or a portion of the tracks and right-of-way of a 518  
railroad that was owned and operated by a for-profit common 519  
carrier in this state at any time prior to January 1, 1950. 520

(AAA)(1) "Skill-based amusement machine" means a mechanical, 521  
video, digital, or electronic device that rewards the player or 522  
players, if at all, only with merchandise prizes or with 523  
redeemable vouchers redeemable only for merchandise prizes, 524  
provided that with respect to rewards for playing the game all of 525  
the following apply: 526

(a) The wholesale value of a merchandise prize awarded as a 527  
result of the single play of a machine does not exceed ten 528  
dollars; 529

(b) Redeemable vouchers awarded for any single play of a 530  
machine are not redeemable for a merchandise prize with a 531  
wholesale value of more than ten dollars; 532

(c) Redeemable vouchers are not redeemable for a merchandise 533  
prize that has a wholesale value of more than ten dollars times 534  
the fewest number of single plays necessary to accrue the 535  
redeemable vouchers required to obtain that prize; and 536

(d) Any redeemable vouchers or merchandise prizes are 537  
distributed at the site of the skill-based amusement machine at 538  
the time of play. 539

A card for the purchase of gasoline is a redeemable voucher 540  
for purposes of division (AAA)(1) of this section even if the 541  
skill-based amusement machine for the play of which the card is 542  
awarded is located at a place where gasoline may not be legally 543  
distributed to the public or the card is not redeemable at the 544  
location of, or at the time of playing, the skill-based amusement 545  
machine. 546

(2) A device shall not be considered a skill-based amusement 547  
machine and shall be considered a slot machine if it pays cash or 548  
one or more of the following apply: 549

(a) The ability of a player to succeed at the game is 550  
impacted by the number or ratio of prior wins to prior losses of 551  
players playing the game. 552

(b) Any reward of redeemable vouchers is not based solely on 553  
the player achieving the object of the game or the player's score; 554

(c) The outcome of the game, or the value of the redeemable 555  
voucher or merchandise prize awarded for winning the game, can be 556  
controlled by a source other than any player playing the game. 557

(d) The success of any player is or may be determined by a 558  
chance event that cannot be altered by player actions. 559

(e) The ability of any player to succeed at the game is 560  
determined by game features not visible or known to the player. 561

(f) The ability of the player to succeed at the game is 562  
impacted by the exercise of a skill that no reasonable player 563  
could exercise. 564

(3) All of the following apply to any machine that is 565  
operated as described in division (AAA)(1) of this section: 566

(a) As used in this section, "game" and "play" mean one event 567  
from the initial activation of the machine until the results of 568  
play are determined without payment of additional consideration. 569

An individual utilizing a machine that involves a single game, 570  
play, contest, competition, or tournament may be awarded 571  
redeemable vouchers or merchandise prizes based on the results of 572  
play. 573

(b) Advance play for a single game, play, contest, 574  
competition, or tournament participation may be purchased. The 575  
cost of the contest, competition, or tournament participation may 576  
be greater than a single noncontest, competition, or tournament 577  
play. 578

(c) To the extent that the machine is used in a contest, 579  
competition, or tournament, that contest, competition, or 580  
tournament has a defined starting and ending date and is open to 581  
participants in competition for scoring and ranking results toward 582  
the awarding of redeemable vouchers or merchandise prizes that are 583  
stated prior to the start of the contest, competition, or 584  
tournament. 585

(4) For purposes of division (AAA)(1) of this section, the 586  
mere presence of a device, such as a pin-setting, ball-releasing, 587  
or scoring mechanism, that does not contribute to or affect the 588  
outcome of the play of the game does not make the device a 589  
skill-based amusement machine. 590

(BBB) "Merchandise prize" means any item of value, but shall 591  
not include any of the following: 592

(1) Cash, gift cards, or any equivalent thereof; 593

(2) Plays on games of chance, state lottery tickets, bingo, 594  
or instant bingo; 595

(3) Firearms, tobacco, or alcoholic beverages; or 596

(4) A redeemable voucher that is redeemable for any of the 597  
items listed in division (BBB)(1), (2), or (3) of this section. 598

(CCC) "Redeemable voucher" means any ticket, token, coupon, 599

receipt, or other noncash representation of value. 600

(DDD) "Pool not conducted for profit" means a scheme in which 601  
a participant gives a valuable consideration for a chance to win a 602  
prize and the total amount of consideration wagered is distributed 603  
to a participant or participants. 604

(EEE) "Sporting organization" means a hunting, fishing, or 605  
trapping organization, other than a college or high school 606  
fraternity or sorority, that is not organized for profit, that is 607  
affiliated with a state or national sporting organization, 608  
including but not limited to, the Ohio league of sportsmen, and 609  
that has been in continuous existence in this state for a period 610  
of three years. 611

(FFF) "Community action agency" has the same meaning as in 612  
section 122.66 of the Revised Code. 613

**Sec. 3772.01.** As used in this chapter: 614

(A) "Applicant" means any person who applies to the 615  
commission for a license under this chapter. 616

(B) "Casino control commission fund" means the casino control 617  
commission fund described in Section 6(C)(3)(d) of Article XV, 618  
Ohio Constitution, the money in which shall be used to fund the 619  
commission and its related affairs. 620

(C) "Casino facility" means a casino facility as defined in 621  
Section 6(C)(9) of Article XV, Ohio Constitution. 622

(D) "Casino gaming" means any type of slot machine or table 623  
game wagering, using money, casino credit, or any representative 624  
of value, authorized in any of the states of Indiana, Michigan, 625  
Pennsylvania, and West Virginia as of January 1, 2009, and 626  
includes slot machine and table game wagering subsequently 627  
authorized by, but shall not be limited by, subsequent 628  
restrictions placed on such wagering in such states. "Casino 629

gaming" does not include bingo, as authorized in Section 6 of 630  
Article XV, Ohio Constitution and conducted as of January 1, 2009, 631  
or horse racing where the pari-mutuel system of wagering is 632  
conducted, as authorized under the laws of this state as of 633  
January 1, 2009. 634

(E) "Casino gaming employee" means any employee of a casino 635  
operator or management company, but not a key employee, and as 636  
further defined in section 3772.131 of the Revised Code. 637

(F) "Casino operator" means any person, trust, corporation, 638  
partnership, limited partnership, association, limited liability 639  
company, or other business enterprise that directly or indirectly 640  
holds an ownership or leasehold interest in a casino facility. 641  
"Casino operator" does not include an agency of the state, any 642  
political subdivision of the state, any person, trust, 643  
corporation, partnership, limited partnership, association, 644  
limited liability company, or other business enterprise that may 645  
have an interest in a casino facility, but who is legally or 646  
contractually restricted from conducting casino gaming. 647

(G) "Central system" means a computer system that provides 648  
the following functions related to casino gaming equipment used in 649  
connection with casino gaming authorized under this chapter: 650  
security, auditing, data and information retrieval, and other 651  
purposes deemed necessary and authorized by the commission. 652

(H) "Commission" means the Ohio casino control commission. 653

(I) "Gaming agent" means a peace officer employed by the 654  
commission that is vested with duties to enforce this chapter and 655  
conduct other investigations into the conduct of the casino gaming 656  
and the maintenance of the equipment that the commission considers 657  
necessary and proper and is in compliance with section 109.77 of 658  
the Revised Code. 659

(J) "Gaming-related vendor" means any individual, 660

partnership, corporation, association, trust, or any other group 661  
of individuals, however organized, who supplies gaming-related 662  
equipment, goods, or services to a casino operator or management 663  
company, that are directly related to or affect casino gaming 664  
authorized under this chapter, including, but not limited to, the 665  
manufacture, sale, distribution, or repair of slot machines and 666  
table game equipment. 667

(K) "Holding company" means any corporation, firm, 668  
partnership, limited partnership, limited liability company, 669  
trust, or other form of business organization not a natural person 670  
which directly or indirectly owns, has the power or right to 671  
control, or holds with power to vote, any part of an applicant, 672  
casino operator, management company, or gaming-related vendor 673  
license. 674

(L) "Initial investment" includes costs related to 675  
demolition, engineering, architecture, design, site preparation, 676  
construction, infrastructure improvements, land acquisition, 677  
fixtures and equipment, insurance related to construction, and 678  
leasehold improvements. 679

(M) "Institutional investor" means any of the following 680  
entities owning one per cent or less, or a percentage between one 681  
and ten per cent as approved by the commission through a waiver on 682  
a case-by-case basis, ownership interest in a casino facility, 683  
casino operator, management company, or holding company: a 684  
corporation, bank, insurance company, pension fund or pension fund 685  
trust, retirement fund, including funds administered by a public 686  
agency, employees' profit-sharing fund or employees' 687  
profit-sharing trust, any association engaged, as a substantial 688  
part of its business or operations, in purchasing or holding 689  
securities, or any trust in respect of which a bank is trustee or 690  
cotrustee, investment company registered under the "Investment 691  
Company Act of 1940," 15 U.S.C. 80a-1 et seq., collective 692

investment trust organized by banks under Part Nine of the Rules 693  
of the Comptroller of the Currency, closed-end investment trust, 694  
chartered or licensed life insurance company or property and 695  
casualty insurance company, investment advisor registered under 696  
the "Investment Advisors Act of 1940," 15 U.S.C. 80 b-1 et seq., 697  
and such other persons as the commission may reasonably determine 698  
to qualify as an institutional investor for reasons consistent 699  
with this chapter. 700

(N) "Key employee" means any executive, employee, or agent of 701  
a casino operator or management company licensee having the power 702  
to exercise significant influence over decisions concerning any 703  
part of the operation of such licensee, including: 704

(1) An officer, director, trustee, or partner of a person 705  
that has applied for or holds a casino operator, management 706  
company, or gaming-related vendor license or of a holding company 707  
that has control of a person that has applied for or holds a 708  
casino operator, management company, or gaming-related vendor 709  
license; 710

(2) A person that holds a direct or indirect ownership 711  
interest of more than one per cent in a person that has applied 712  
for or holds a casino operator, management company, or 713  
gaming-related vendor license or holding company that has control 714  
of a person that has applied for or holds a casino operator, 715  
management company, or gaming-related vendor license; 716

(3) A managerial employee of a person that has applied for or 717  
holds a casino operator or gaming-related vendor license in Ohio, 718  
or a managerial employee of a holding company that has control of 719  
a person that has applied for or holds a casino operator or 720  
gaming-related vendor license in Ohio, who performs the function 721  
of principal executive officer, principal operating officer, 722  
principal accounting officer, or an equivalent officer or other 723  
person the commission determines to have the power to exercise 724

significant influence over decisions concerning any part of the 725  
operation of such licensee. 726

The commission shall determine whether an individual whose 727  
duties or status varies from those described in this division also 728  
is considered a key employee. 729

(O) "Licensed casino operator" means a casino operator that 730  
has been issued a license by the commission and that has been 731  
certified annually by the commission to have paid all applicable 732  
fees, taxes, and debts to the state. 733

(P) "Majority ownership interest" in a license or in a casino 734  
facility, as the case may be, means ownership of more than fifty 735  
per cent of such license or casino facility, as the case may be. 736  
For purposes of the foregoing, whether a majority ownership 737  
interest is held in a license or in a casino facility, as the case 738  
may be, shall be determined under the rules for constructive 739  
ownership of stock provided in Treas. Reg. 1.409A-3(i)(5)(iii) as 740  
in effect on January 1, 2009. 741

(Q) "Management company" means an organization retained by a 742  
casino operator to manage a casino facility and provide services 743  
such as accounting, general administration, maintenance, 744  
recruitment, and other operational services. 745

(R) "Ohio law enforcement training fund" means the state law 746  
enforcement training fund described in Section 6(C)(3)(f) of 747  
Article XV, Ohio Constitution, the money in which shall be used to 748  
enhance public safety by providing additional training 749  
opportunities to the law enforcement community. 750

(S) "Person" includes, but is not limited to, an individual 751  
or a combination of individuals; a sole proprietorship, a firm, a 752  
company, a joint venture, a partnership of any type, a joint-stock 753  
company, a corporation of any type, a corporate subsidiary of any 754  
type, a limited liability company, a business trust, or any other 755

business entity or organization; an assignee; a receiver; a trustee in bankruptcy; an unincorporated association, club, society, or other unincorporated entity or organization; entities that are disregarded for federal income tax purposes; and any other nongovernmental, artificial, legal entity that is capable of engaging in business.

(T) "Problem casino gambling and addictions fund" means the state problem gambling and addictions fund described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, the money in which shall be used for treatment of problem gambling and substance abuse, and for related research.

(U) "Promotional gaming credit" means a slot machine or table game credit, discount, or other similar item issued to a patron to enable the placement of, or increase in, a wager at a slot machine or table game.

(V) "Slot machine" means any mechanical, electrical, or other device or machine which, upon insertion of a coin, token, ticket, or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, makes individual prize determinations for individual participants in cash, premiums, merchandise, tokens, or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

~~(V)~~(W) "Table game" means any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, casino credit, or any representative of value. "Table game" does not include slot machines.

~~(W)~~(X) "Upfront license" means the first plenary license issued to a casino operator.

~~(X)~~(Y) "Voluntary exclusion program" means a program provided

by the commission that allows persons to voluntarily exclude 787  
themselves from the gaming areas of facilities under the 788  
jurisdiction of the commission by placing their name on a 789  
voluntary exclusion list and following the procedures set forth by 790  
the commission. 791

**Sec. 3772.11.** (A) A person may apply to the commission for a 792  
casino operator, management company, or holding company license to 793  
conduct casino gaming at a casino facility as provided in this 794  
chapter. The application shall be made under oath on forms 795  
provided by the commission and shall contain information as 796  
prescribed by rule, including, but not limited to, all of the 797  
following: 798

(1) The name, business address, business telephone number, 799  
social security number, and, where applicable, the federal tax 800  
identification number of any applicant; 801

(2) The identity of every person having a greater than five 802  
per cent direct or indirect interest in the applicant casino 803  
facility for which the license is sought ~~for publicly traded~~ 804  
~~companies or greater than three per cent for privately held~~ 805  
~~companies;~~ 806

(3) An identification of any business, including the state of 807  
incorporation or registration if applicable, in which an 808  
applicant, or the spouse or children of an applicant, has an 809  
equity interest of more than five per cent; 810

(4) The name of any casino operator, management company, 811  
holding company, and gaming-related vendor in which the applicant 812  
has an equity interest of at least five per cent; 813

(5) If an applicant has ever applied for or has been granted 814  
any gaming license or certificate issued by a licensing authority 815  
in Ohio or any other jurisdiction that has been denied, 816

restricted, suspended, revoked, or not renewed and a statement 817  
describing the facts and circumstances concerning the application, 818  
denial, restriction, suspension, revocation, or nonrenewal, 819  
including the licensing authority, the date each action was taken, 820  
and the reason for each action; 821

(6) If an applicant has ever filed or had filed against it a 822  
civil or administrative action or proceeding in bankruptcy, 823  
including the date of filing, the name and location of the court, 824  
the case caption, the docket number, and the disposition; 825

(7) The name and business telephone number of any attorney 826  
representing an applicant in matters before the commission; 827

(8) Information concerning the amount, type of tax, the 828  
taxing agency, and times involved, if the applicant has filed or 829  
been served with a complaint or notice filed with a public body 830  
concerning a delinquency in the payment of or a dispute over a 831  
filing concerning the payment of a tax required under federal, 832  
state, or local law; 833

(9) A description of any proposed casino gaming operation and 834  
related casino enterprises, including the type of casino facility, 835  
location, expected economic benefit to the community, anticipated 836  
or actual number of employees, any statement from an applicant 837  
regarding compliance with federal and state affirmative action 838  
guidelines, projected or actual admissions, projected or actual 839  
gross receipts, and scientific market research; 840

(10) Financial information in the manner and form prescribed 841  
by the commission; 842

(11) If an applicant has directly made a political 843  
contribution, loan, donation, or other payment of one hundred 844  
dollars or more to a statewide office holder, a member of the 845  
general assembly, a local government official elected in a 846  
jurisdiction where a casino facility is located, or a ballot issue 847

not more than one year before the date the applicant filed the application and all information relating to the contribution, loan, donation, or other payment;

(12) Any criminal conviction; and

(13) Other information required by the commission under rules adopted by the commission.

(B) Any holding company or management company, its directors, executive officers, members, managers, and any shareholder who holds more than five per cent ownership interest of a holding company or management company shall be required to submit the same information as required by an applicant under this section.

**Sec. 3772.15.** (A) Unless a license issued under this chapter is suspended, expires, or is revoked, the license shall be renewed for ~~not more than~~ three years, as determined by commission rule, after a determination by the commission that the licensee is in compliance with this chapter and rules authorized by this chapter and after the licensee pays a fee. The commission may assess the license renewal applicant a reasonable fee in the amount necessary to cover the commission's costs associated with the review of the license renewal application.

(B) A licensee shall undergo a complete investigation at least every three years, as determined by commission rule, to determine that the licensee remains in compliance with this chapter.

(C) Notwithstanding division (B) of this section, the commission may investigate a licensee at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this section.

(D) The holder of a license shall bear the cost of an investigation, except key employees and casino gaming employees

who are employed by a casino operator, in which case the casino 878  
operator shall pay the investigation cost. 879

**Sec. 3772.23.** (A) All tokens, chips, or electronic cards that 880  
are used to make wagers shall be purchased from the casino 881  
operator or management company while at a casino facility that has 882  
been approved by the commission. Chips, tokens, tickets, 883  
electronic cards, or similar objects may be used while at the 884  
casino facility only for the purpose of making wagers on casino 885  
games. 886

(B) Casino operators and management companies may provide 887  
promotional gaming credits to their patrons. Promotional gaming 888  
credits shall be subject to oversight by the commission. 889

(C) Casino operators and management companies shall not do 890  
any of the following: 891

(1) Obtain a license to operate a check-cashing business 892  
under sections 1315.01 to 1315.30 of the Revised Code; 893

(2) Obtain a license to provide loans under sections 1321.01 894  
to 1321.19 of the Revised Code; 895

(3) Obtain a license to provide loans under sections 1321.35 896  
to 1321.48 of the Revised Code. 897

**Sec. 3772.27.** (A) Each initial licensed casino operator of 898  
each of the four casino facilities shall make an initial 899  
investment of at least two hundred fifty million dollars for the 900  
development of each casino facility. 901

(B) If a casino operator has made an initial investment of at 902  
least one hundred twenty-five million dollars at the time a 903  
license is issued, the casino operator shall spend the remainder 904  
of the minimum two-hundred-fifty-million-dollar total required 905  
initial investment within thirty-six months after the issuance of 906

~~that license. If a casino operator who has opened an initial 907  
location is making substantial progress, as determined by the 908  
commission, on a substitute casino facility on constitutionally 909  
approved parcels within the same city, the commission shall 910  
include amounts spent by the casino operator to develop such 911  
parcels, and shall grant an additional thirty six month extension 912  
to the casino operator who is developing on such parcels. The 913  
commission, upon the request of the casino operator, may also 914  
approve up to twenty four months of transitional operations by the 915  
casino operator on multiple noncontiguous constitutionally 916  
approved parcels while transitioning from the initial location to 917  
the new facility, provided such facilities are connected by 918  
property and structures, owned, leased, or under the exclusive 919  
control of the casino operator. 920~~

(C) A licensed casino operator may open a casino facility in 921  
phases and may have gaming areas in one or more buildings, 922  
facilities, rooms, or areas that together constitute a single 923  
casino facility within the boundaries of one or more of the 924  
properties described in Section 6(C)(9) of Article XV, Ohio 925  
Constitution, and, if located on more than one of those 926  
properties, is connected by one or more of the following: 927

(1) Property owned by the casino operator or any of its 928  
affiliates; 929

(2) Property leased by the casino operator or any of its 930  
affiliates; 931

(3) Access over property under the right of the casino 932  
operator or any of its affiliates, whether it be by skyways, 933  
walkways, roadways, easements, or rights of way; 934

(4) Nongaming amenities. 935

**Sec. 3772.31.** (A) The commission, by and through the 936

executive director of the commission and as required under section 937  
125.05 of the Revised Code, may enter into contracts necessary to 938  
ensure the proper operation and reporting of all casino gaming 939  
authorized under this chapter. The commission ~~may determine it to~~ 940  
~~be necessary and adopt rules to authorize~~ shall not require use of 941  
a central system by a casino operator if the casino operator is in 942  
compliance with this chapter. If the commission determines, after 943  
written notice to the casino operator and a hearing under section 944  
3772.04 of the Revised Code, that a casino operator is not in 945  
compliance with this chapter, the commission may determine it is 946  
necessary to require the casino operator to install and implement 947  
a central system under such conditions as the commission may 948  
require. Before any such hearing, the commission shall provide the 949  
casino operator with written notice that the casino operator is 950  
not in compliance with a specific requirement of this chapter, 951  
describe the requirement, and provide the casino operator at least 952  
thirty days to cure the noncompliance or, if the cure cannot be 953  
reasonably rectified within thirty days, require the casino 954  
operator to demonstrate to the commission's satisfaction that the 955  
casino operator is diligently pursuing the required cure. The 956  
system shall be operated by or under the commission's control. If 957  
the commission determines that a central system is necessary and 958  
adopts rules authorizing a central system, casino operators shall 959  
be responsible for the costs of the central system as it relates 960  
to casino facilities. 961

(B) The commission shall certify independent testing 962  
laboratories to scientifically test and technically evaluate all 963  
slot machines, mechanical, electromechanical, or electronic table 964  
games, slot accounting systems, and other electronic gaming 965  
equipment for compliance with this chapter. The certified 966  
independent testing laboratories shall be accredited by a national 967  
accreditation body. The commission shall certify an independent 968

testing laboratory if it is competent and qualified to 969  
scientifically test and evaluate electronic gaming equipment for 970  
compliance with this chapter and to otherwise perform the 971  
functions assigned to an independent testing laboratory under this 972  
chapter. An independent testing laboratory shall not be owned or 973  
controlled by, or have any interest in, a gaming-related vendor of 974  
electronic gaming equipment. The commission shall prepare a list 975  
of certified independent testing laboratories from which 976  
independent testing laboratories shall be chosen for all purposes 977  
under this chapter. 978

Sec. 3772.34. There is hereby created in the state treasury 979  
the casino operator settlement fund. The fund shall receive any 980  
money paid to the state by the operators of casino facilities in 981  
excess of any licenses or fees provided by this chapter or by 982  
Section 6(C) of Article XV, Ohio Constitution, and in excess of 983  
any taxes as provided by Title LVII of the Revised Code. Moneys in 984  
the fund may be used for activities related to workforce 985  
development, economic development, job creation, training, 986  
education, food banks, and expenses. 987

**Sec. 5751.01.** As used in this chapter: 988

(A) "Person" means, but is not limited to, individuals, 989  
combinations of individuals of any form, receivers, assignees, 990  
trustees in bankruptcy, firms, companies, joint-stock companies, 991  
business trusts, estates, partnerships, limited liability 992  
partnerships, limited liability companies, associations, joint 993  
ventures, clubs, societies, for-profit corporations, S 994  
corporations, qualified subchapter S subsidiaries, qualified 995  
subchapter S trusts, trusts, entities that are disregarded for 996  
federal income tax purposes, and any other entities. 997

(B) "Consolidated elected taxpayer" means a group of two or 998

more persons treated as a single taxpayer for purposes of this 999  
chapter as the result of an election made under section 5751.011 1000  
of the Revised Code. 1001

(C) "Combined taxpayer" means a group of two or more persons 1002  
treated as a single taxpayer for purposes of this chapter under 1003  
section 5751.012 of the Revised Code. 1004

(D) "Taxpayer" means any person, or any group of persons in 1005  
the case of a consolidated elected taxpayer or combined taxpayer 1006  
treated as one taxpayer, required to register or pay tax under 1007  
this chapter. "Taxpayer" does not include excluded persons. 1008

(E) "Excluded person" means any of the following: 1009

(1) Any person with not more than one hundred fifty thousand 1010  
dollars of taxable gross receipts during the calendar year. 1011  
Division (E)(1) of this section does not apply to a person that is 1012  
a member of a consolidated elected taxpayer; 1013

(2) A public utility that paid the excise tax imposed by 1014  
section 5727.24 or 5727.30 of the Revised Code based on one or 1015  
more measurement periods that include the entire tax period under 1016  
this chapter, except that a public utility that is a combined 1017  
company is a taxpayer with regard to the following gross receipts: 1018

(a) Taxable gross receipts directly attributed to a public 1019  
utility activity, but not directly attributed to an activity that 1020  
is subject to the excise tax imposed by section 5727.24 or 5727.30 1021  
of the Revised Code; 1022

(b) Taxable gross receipts that cannot be directly attributed 1023  
to any activity, multiplied by a fraction whose numerator is the 1024  
taxable gross receipts described in division (E)(2)(a) of this 1025  
section and whose denominator is the total taxable gross receipts 1026  
that can be directly attributed to any activity; 1027

(c) Except for any differences resulting from the use of an 1028

accrual basis method of accounting for purposes of determining 1029  
gross receipts under this chapter and the use of the cash basis 1030  
method of accounting for purposes of determining gross receipts 1031  
under section 5727.24 of the Revised Code, the gross receipts 1032  
directly attributed to the activity of a natural gas company shall 1033  
be determined in a manner consistent with division (D) of section 1034  
5727.03 of the Revised Code. 1035

As used in division (E)(2) of this section, "combined 1036  
company" and "public utility" have the same meanings as in section 1037  
5727.01 of the Revised Code. 1038

(3) A financial institution, as defined in section 5725.01 of 1039  
the Revised Code, that paid the corporation franchise tax charged 1040  
by division (D) of section 5733.06 of the Revised Code based on 1041  
one or more taxable years that include the entire tax period under 1042  
this chapter; 1043

(4) A dealer in intangibles, as defined in section 5725.01 of 1044  
the Revised Code, that paid the dealer in intangibles tax levied 1045  
by division (D) of section 5707.03 of the Revised Code based on 1046  
one or more measurement periods that include the entire tax period 1047  
under this chapter; 1048

(5) A financial holding company as defined in the "Bank 1049  
Holding Company Act," 12 U.S.C. 1841(p); 1050

(6) A bank holding company as defined in the "Bank Holding 1051  
Company Act," 12 U.S.C. 1841(a); 1052

(7) A savings and loan holding company as defined in the 1053  
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 1054  
only in activities or investments permissible for a financial 1055  
holding company under 12 U.S.C. 1843(k); 1056

(8) A person directly or indirectly owned by one or more 1057  
financial institutions, financial holding companies, bank holding 1058  
companies, or savings and loan holding companies described in 1059

division (E)(3), (5), (6), or (7) of this section that is engaged 1060  
in activities permissible for a financial holding company under 12 1061  
U.S.C. 1843(k), except that any such person held pursuant to 1062  
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 1063  
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 1064  
directly or indirectly owned by one or more insurance companies 1065  
described in division (E)(9) of this section that is authorized to 1066  
do the business of insurance in this state. 1067

For the purposes of division (E)(8) of this section, a person 1068  
owns another person under the following circumstances: 1069

(a) In the case of corporations issuing capital stock, one 1070  
corporation owns another corporation if it owns fifty per cent or 1071  
more of the other corporation's capital stock with current voting 1072  
rights; 1073

(b) In the case of a limited liability company, one person 1074  
owns the company if that person's membership interest, as defined 1075  
in section 1705.01 of the Revised Code, is fifty per cent or more 1076  
of the combined membership interests of all persons owning such 1077  
interests in the company; 1078

(c) In the case of a partnership, trust, or other 1079  
unincorporated business organization other than a limited 1080  
liability company, one person owns the organization if, under the 1081  
articles of organization or other instrument governing the affairs 1082  
of the organization, that person has a beneficial interest in the 1083  
organization's profits, surpluses, losses, or distributions of 1084  
fifty per cent or more of the combined beneficial interests of all 1085  
persons having such an interest in the organization; 1086

(d) In the case of multiple ownership, the ownership 1087  
interests of more than one person may be aggregated to meet the 1088  
fifty per cent ownership tests in this division only when each 1089  
such owner is described in division (E)(3), (5), (6), or (7) of 1090

this section and is engaged in activities permissible for a 1091  
financial holding company under 12 U.S.C. 1843(k) or is a person 1092  
directly or indirectly owned by one or more insurance companies 1093  
described in division (E)(9) of this section that is authorized to 1094  
do the business of insurance in this state. 1095

(9) A domestic insurance company or foreign insurance 1096  
company, as defined in section 5725.01 of the Revised Code, that 1097  
paid the insurance company premiums tax imposed by section 5725.18 1098  
or Chapter 5729. of the Revised Code based on one or more 1099  
measurement periods that include the entire tax period under this 1100  
chapter; 1101

(10) A person that solely facilitates or services one or more 1102  
securitizations or similar transactions for any person described 1103  
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 1104  
For purposes of this division, "securitization" means transferring 1105  
one or more assets to one or more persons and then issuing 1106  
securities backed by the right to receive payment from the asset 1107  
or assets so transferred. 1108

(11) Except as otherwise provided in this division, a 1109  
pre-income tax trust as defined in division (FF)(4) of section 1110  
5747.01 of the Revised Code and any pass-through entity of which 1111  
such pre-income tax trust owns or controls, directly, indirectly, 1112  
or constructively through related interests, more than five per 1113  
cent of the ownership or equity interests. If the pre-income tax 1114  
trust has made a qualifying pre-income tax trust election under 1115  
division (FF)(3) of section 5747.01 of the Revised Code, then the 1116  
trust and the pass-through entities of which it owns or controls, 1117  
directly, indirectly, or constructively through related interests, 1118  
more than five per cent of the ownership or equity interests, 1119  
shall not be excluded persons for purposes of the tax imposed 1120  
under section 5751.02 of the Revised Code. 1121

(12) Nonprofit organizations or the state and its agencies, 1122

instrumentalities, or political subdivisions.	1123
(F) Except as otherwise provided in divisions (F)(2), (3),	1124
and (4) of this section, "gross receipts" means the total amount	1125
realized by a person, without deduction for the cost of goods sold	1126
or other expenses incurred, that contributes to the production of	1127
gross income of the person, including the fair market value of any	1128
property and any services received, and any debt transferred or	1129
forgiven as consideration.	1130
(1) The following are examples of gross receipts:	1131
(a) Amounts realized from the sale, exchange, or other	1132
disposition of the taxpayer's property to or with another;	1133
(b) Amounts realized from the taxpayer's performance of	1134
services for another;	1135
(c) Amounts realized from another's use or possession of the	1136
taxpayer's property or capital;	1137
(d) Any combination of the foregoing amounts.	1138
(2) "Gross receipts" excludes the following amounts:	1139
(a) Interest income except interest on credit sales;	1140
(b) Dividends and distributions from corporations, and	1141
distributive or proportionate shares of receipts and income from a	1142
pass-through entity as defined under section 5733.04 of the	1143
Revised Code;	1144
(c) Receipts from the sale, exchange, or other disposition of	1145
an asset described in section 1221 or 1231 of the Internal Revenue	1146
Code, without regard to the length of time the person held the	1147
asset. Notwithstanding section 1221 of the Internal Revenue Code,	1148
receipts from hedging transactions also are excluded to the extent	1149
the transactions are entered into primarily to protect a financial	1150
position, such as managing the risk of exposure to (i) foreign	1151
currency fluctuations that affect assets, liabilities, profits,	1152

losses, equity, or investments in foreign operations; (ii) 1153  
interest rate fluctuations; or (iii) commodity price fluctuations. 1154  
As used in division (F)(2)(c) of this section, "hedging 1155  
transaction" has the same meaning as used in section 1221 of the 1156  
Internal Revenue Code and also includes transactions accorded 1157  
hedge accounting treatment under statement of financial accounting 1158  
standards number 133 of the financial accounting standards board. 1159  
For the purposes of division (F)(2)(c) of this section, the actual 1160  
transfer of title of real or tangible personal property to another 1161  
entity is not a hedging transaction. 1162

(d) Proceeds received attributable to the repayment, 1163  
maturity, or redemption of the principal of a loan, bond, mutual 1164  
fund, certificate of deposit, or marketable instrument; 1165

(e) The principal amount received under a repurchase 1166  
agreement or on account of any transaction properly characterized 1167  
as a loan to the person; 1168

(f) Contributions received by a trust, plan, or other 1169  
arrangement, any of which is described in section 501(a) of the 1170  
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1171  
1, Subchapter (D) of the Internal Revenue Code applies; 1172

(g) Compensation, whether current or deferred, and whether in 1173  
cash or in kind, received or to be received by an employee, former 1174  
employee, or the employee's legal successor for services rendered 1175  
to or for an employer, including reimbursements received by or for 1176  
an individual for medical or education expenses, health insurance 1177  
premiums, or employee expenses, or on account of a dependent care 1178  
spending account, legal services plan, any cafeteria plan 1179  
described in section 125 of the Internal Revenue Code, or any 1180  
similar employee reimbursement; 1181

(h) Proceeds received from the issuance of the taxpayer's own 1182  
stock, options, warrants, puts, or calls, or from the sale of the 1183

taxpayer's treasury stock;	1184
(i) Proceeds received on the account of payments from	1185
insurance policies, except those proceeds received for the loss of	1186
business revenue;	1187
(j) Gifts or charitable contributions received; membership	1188
dues received by trade, professional, homeowners', or condominium	1189
associations; and payments received for educational courses,	1190
meetings, meals, or similar payments to a trade, professional, or	1191
other similar association; and fundraising receipts received by	1192
any person when any excess receipts are donated or used	1193
exclusively for charitable purposes;	1194
(k) Damages received as the result of litigation in excess of	1195
amounts that, if received without litigation, would be gross	1196
receipts;	1197
(l) Property, money, and other amounts received or acquired	1198
by an agent on behalf of another in excess of the agent's	1199
commission, fee, or other remuneration;	1200
(m) Tax refunds, other tax benefit recoveries, and	1201
reimbursements for the tax imposed under this chapter made by	1202
entities that are part of the same combined taxpayer or	1203
consolidated elected taxpayer group, and reimbursements made by	1204
entities that are not members of a combined taxpayer or	1205
consolidated elected taxpayer group that are required to be made	1206
for economic parity among multiple owners of an entity whose tax	1207
obligation under this chapter is required to be reported and paid	1208
entirely by one owner, pursuant to the requirements of sections	1209
5751.011 and 5751.012 of the Revised Code;	1210
(n) Pension reversions;	1211
(o) Contributions to capital;	1212
(p) Sales or use taxes collected as a vendor or an	1213

out-of-state seller on behalf of the taxing jurisdiction from a 1214  
consumer or other taxes the taxpayer is required by law to collect 1215  
directly from a purchaser and remit to a local, state, or federal 1216  
tax authority; 1217

(q) In the case of receipts from the sale of cigarettes or 1218  
tobacco products by a wholesale dealer, retail dealer, 1219  
distributor, manufacturer, or seller, all as defined in section 1220  
5743.01 of the Revised Code, an amount equal to the federal and 1221  
state excise taxes paid by any person on or for such cigarettes or 1222  
tobacco products under subtitle E of the Internal Revenue Code or 1223  
Chapter 5743. of the Revised Code; 1224

(r) In the case of receipts from the sale of motor fuel by a 1225  
licensed motor fuel dealer, licensed retail dealer, or licensed 1226  
permissive motor fuel dealer, all as defined in section 5735.01 of 1227  
the Revised Code, an amount equal to federal and state excise 1228  
taxes paid by any person on such motor fuel under section 4081 of 1229  
the Internal Revenue Code or Chapter 5735. of the Revised Code; 1230

(s) In the case of receipts from the sale of beer or 1231  
intoxicating liquor, as defined in section 4301.01 of the Revised 1232  
Code, by a person holding a permit issued under Chapter 4301. or 1233  
4303. of the Revised Code, an amount equal to federal and state 1234  
excise taxes paid by any person on or for such beer or 1235  
intoxicating liquor under subtitle E of the Internal Revenue Code 1236  
or Chapter 4301. or 4305. of the Revised Code; 1237

(t) Receipts realized by a new motor vehicle dealer or used 1238  
motor vehicle dealer, as defined in section 4517.01 of the Revised 1239  
Code, from the sale or other transfer of a motor vehicle, as 1240  
defined in that section, to another motor vehicle dealer for the 1241  
purpose of resale by the transferee motor vehicle dealer, but only 1242  
if the sale or other transfer was based upon the transferee's need 1243  
to meet a specific customer's preference for a motor vehicle; 1244

(u) Receipts from a financial institution described in 1245  
division (E)(3) of this section for services provided to the 1246  
financial institution in connection with the issuance, processing, 1247  
servicing, and management of loans or credit accounts, if such 1248  
financial institution and the recipient of such receipts have at 1249  
least fifty per cent of their ownership interests owned or 1250  
controlled, directly or constructively through related interests, 1251  
by common owners; 1252

(v) Receipts realized from administering anti-neoplastic 1253  
drugs and other cancer chemotherapy, biologicals, therapeutic 1254  
agents, and supportive drugs in a physician's office to patients 1255  
with cancer; 1256

(w) Funds received or used by a mortgage broker that is not a 1257  
dealer in intangibles, other than fees or other consideration, 1258  
pursuant to a table-funding mortgage loan or warehouse-lending 1259  
mortgage loan. Terms used in division (F)(2)(w) of this section 1260  
have the same meanings as in section 1322.01 of the Revised Code, 1261  
except "mortgage broker" means a person assisting a buyer in 1262  
obtaining a mortgage loan for a fee or other consideration paid by 1263  
the buyer or a lender, or a person engaged in table-funding or 1264  
warehouse-lending mortgage loans that are first lien mortgage 1265  
loans. 1266

(x) Property, money, and other amounts received by a 1267  
professional employer organization, as defined in section 4125.01 1268  
of the Revised Code, from a client employer, as defined in that 1269  
section, in excess of the administrative fee charged by the 1270  
professional employer organization to the client employer; 1271

(y) In the case of amounts retained as commissions by a 1272  
permit holder under Chapter 3769. of the Revised Code, an amount 1273  
equal to the amounts specified under that chapter that must be 1274  
paid to or collected by the tax commissioner as a tax and the 1275  
amounts specified under that chapter to be used as purse money; 1276

(z) Qualifying distribution center receipts.	1277
(i) For purposes of division (F)(2)(z) of this section:	1278
(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.	1279 1280 1281 1282
(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.	1283 1284 1285 1286 1287 1288 1289 1290
(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center.	1291 1292 1293 1294 1295 1296 1297 1298
(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.	1299 1300
(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.	1301 1302 1303
(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified	1304 1305 1306 1307

distribution center on or before the first day of September before 1308  
the qualifying year or within forty-five days after the 1309  
distribution center opens, whichever is later. 1310

The applicant must substantiate to the commissioner's 1311  
satisfaction that, for the qualifying period, all persons 1312  
operating the distribution center have more than fifty per cent of 1313  
the cost of the qualified property shipped to a location such that 1314  
it would be situated outside this state under the provisions of 1315  
division (E) of section 5751.033 of the Revised Code. The 1316  
applicant must also substantiate that the distribution center 1317  
cumulatively had costs from its suppliers equal to or exceeding 1318  
five hundred million dollars during the qualifying period. (For 1319  
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 1320  
excludes any person that is part of the consolidated elected 1321  
taxpayer group, if applicable, of the operator of the qualified 1322  
distribution center.) The commissioner may require the applicant 1323  
to have an independent certified public accountant certify that 1324  
the calculation of the minimum thresholds required for a qualified 1325  
distribution center by the operator of a distribution center has 1326  
been made in accordance with generally accepted accounting 1327  
principles. The commissioner shall issue or deny the issuance of a 1328  
certificate within sixty days after the receipt of the 1329  
application. A denial is subject to appeal under section 5717.02 1330  
of the Revised Code. If the operator files a timely appeal under 1331  
section 5717.02 of the Revised Code, the operator shall be granted 1332  
a qualifying certificate, provided that the operator is liable for 1333  
any tax, interest, or penalty upon amounts claimed as qualifying 1334  
distribution center receipts, other than those receipts exempt 1335  
under division (C)(1) of section 5751.011 of the Revised Code, 1336  
that would have otherwise not been owed by its suppliers if the 1337  
qualifying certificate was valid. 1338

(VII) "Ohio delivery percentage" means the proportion of the 1339

total property delivered to a destination inside Ohio from the 1340  
qualified distribution center during the qualifying period 1341  
compared with total deliveries from such distribution center 1342  
everywhere during the qualifying period. 1343

(ii) If the distribution center is new and was not open for 1344  
the entire qualifying period, the operator of the distribution 1345  
center may request that the commissioner grant a qualifying 1346  
certificate. If the certificate is granted and it is later 1347  
determined that more than fifty per cent of the qualified property 1348  
during that year was not shipped to a location such that it would 1349  
be situated outside of this state under the provisions of division 1350  
(E) of section 5751.033 of the Revised Code or if it is later 1351  
determined that the person that operates the distribution center 1352  
had average monthly costs from its suppliers of less than forty 1353  
million dollars during that year, then the operator of the 1354  
distribution center shall be liable for any tax, interest, or 1355  
penalty upon amounts claimed as qualifying distribution center 1356  
receipts, other than those receipts exempt under division (C)(1) 1357  
of section 5751.011 of the Revised Code, that would have not 1358  
otherwise been owed by its suppliers during the qualifying year if 1359  
the qualifying certificate was valid. (For purposes of division 1360  
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 1361  
is part of the consolidated elected taxpayer group, if applicable, 1362  
of the operator of the qualified distribution center.) 1363

(iii) When filing an application for a qualifying certificate 1364  
under division (F)(2)(z)(i)(VI) of this section, the operator of a 1365  
qualified distribution center also shall provide documentation, as 1366  
the commissioner requires, for the commissioner to ascertain the 1367  
Ohio delivery percentage. The commissioner, upon issuing the 1368  
qualifying certificate, also shall certify the Ohio delivery 1369  
percentage. The operator of the qualified distribution center may 1370  
appeal the commissioner's certification of the Ohio delivery 1371

percentage in the same manner as an appeal is taken from the 1372  
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 1373  
of this section. 1374

Within thirty days after all appeals have been exhausted, the 1375  
operator of the qualified distribution center shall notify the 1376  
affected suppliers of qualified property that such suppliers are 1377  
required to file, within sixty days after receiving notice from 1378  
the operator of the qualified distribution center, amended reports 1379  
for the impacted calendar quarter or quarters or calendar year, 1380  
whichever the case may be. Any additional tax liability or tax 1381  
overpayment shall be subject to interest but shall not be subject 1382  
to the imposition of any penalty so long as the amended returns 1383  
are timely filed. The supplier of tangible personal property 1384  
delivered to the qualified distribution center shall include in 1385  
its report of taxable gross receipts the receipts from the total 1386  
sales of property delivered to the qualified distribution center 1387  
for the calendar quarter or calendar year, whichever the case may 1388  
be, multiplied by the Ohio delivery percentage for the qualifying 1389  
year. Nothing in division (F)(2)(z)(iii) of this section shall be 1390  
construed as imposing liability on the operator of a qualified 1391  
distribution center for the tax imposed by this chapter arising 1392  
from any change to the Ohio delivery percentage. 1393

(iv) In the case where the distribution center is new and not 1394  
open for the entire qualifying period, the operator shall make a 1395  
good faith estimate of an Ohio delivery percentage for use by 1396  
suppliers in their reports of taxable gross receipts for the 1397  
remainder of the qualifying period. The operator of the facility 1398  
shall disclose to the suppliers that such Ohio delivery percentage 1399  
is an estimate and is subject to recalculation. By the due date of 1400  
the next application for a qualifying certificate, the operator 1401  
shall determine the actual Ohio delivery percentage for the 1402  
estimated qualifying period and proceed as provided in division 1403

(F)(2)(z)(iii) of this section with respect to the calculation and 1404  
recalculation of the Ohio delivery percentage. The supplier is 1405  
required to file, within sixty days after receiving notice from 1406  
the operator of the qualified distribution center, amended reports 1407  
for the impacted calendar quarter or quarters or calendar year, 1408  
whichever the case may be. Any additional tax liability or tax 1409  
overpayment shall be subject to interest but shall not be subject 1410  
to the imposition of any penalty so long as the amended returns 1411  
are timely filed. 1412

(v) Qualifying certificates and Ohio delivery percentages 1413  
issued by the commissioner shall be open to public inspection and 1414  
shall be timely published by the commissioner. A supplier relying 1415  
in good faith on a certificate issued under this division shall 1416  
not be subject to tax on the qualifying distribution center 1417  
receipts under division (F)(2)(z) of this section. A person 1418  
receiving a qualifying certificate is responsible for paying the 1419  
tax, interest, and penalty upon amounts claimed as qualifying 1420  
distribution center receipts that would not otherwise have been 1421  
owed by the supplier if the qualifying certificate were available 1422  
when it is later determined that the qualifying certificate should 1423  
not have been issued because the statutory requirements were in 1424  
fact not met. 1425

(vi) The annual fee for a qualifying certificate shall be one 1426  
hundred thousand dollars for each qualified distribution center. 1427  
If a qualifying certificate is not issued, the annual fee is 1428  
subject to refund after the exhaustion of all appeals provided for 1429  
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 1430  
under this division may be assessed in the same manner as the tax 1431  
imposed under this chapter. The first one hundred thousand dollars 1432  
of the annual application fees collected each calendar year shall 1433  
be credited to the commercial activity tax administrative fund. 1434  
The remainder of the annual application fees collected shall be 1435

distributed in the same manner required under section 5751.20 of 1436  
the Revised Code. 1437

(vii) The tax commissioner may require that adequate security 1438  
be posted by the operator of the distribution center on appeal 1439  
when the commissioner disagrees that the applicant has met the 1440  
minimum thresholds for a qualified distribution center as set 1441  
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 1442  
section. 1443

(aa) Receipts of an employer from payroll deductions relating 1444  
to the reimbursement of the employer for advancing moneys to an 1445  
unrelated third party on an employee's behalf; 1446

(bb) Cash discounts allowed and taken; 1447

(cc) Returns and allowances; 1448

(dd) Bad debts from receipts on the basis of which the tax 1449  
imposed by this chapter was paid in a prior quarterly tax payment 1450  
period. For the purpose of this division, "bad debts" means any 1451  
debts that have become worthless or uncollectible between the 1452  
preceding and current quarterly tax payment periods, have been 1453  
uncollected for at least six months, and that may be claimed as a 1454  
deduction under section 166 of the Internal Revenue Code and the 1455  
regulations adopted under that section, or that could be claimed 1456  
as such if the taxpayer kept its accounts on the accrual basis. 1457  
"Bad debts" does not include repossessed property, uncollectible 1458  
amounts on property that remains in the possession of the taxpayer 1459  
until the full purchase price is paid, or expenses in attempting 1460  
to collect any account receivable or for any portion of the debt 1461  
recovered; 1462

(ee) Any amount realized from the sale of an account 1463  
receivable to the extent the receipts from the underlying 1464  
transaction giving rise to the account receivable were included in 1465  
the gross receipts of the taxpayer; 1466

(ff) Any receipts for which the tax imposed by this chapter 1467  
is prohibited by the Constitution or laws of the United States or 1468  
the Constitution of Ohio. 1469

(gg) Amounts realized by licensed motor fuel dealers or 1470  
licensed permissive motor fuel dealers from the exchange of 1471  
petroleum products, including motor fuel, between such dealers, 1472  
provided that delivery of the petroleum products occurs at a 1473  
refinery, terminal, pipeline, or marine vessel and that the 1474  
exchanging dealers agree neither dealer shall require monetary 1475  
compensation from the other for the value of the exchanged 1476  
petroleum products other than such compensation for differences in 1477  
product location or grade. Division (F)(2)(gg) of this section 1478  
does not apply to amounts realized as a result of differences in 1479  
location or grade of exchanged petroleum products or from 1480  
handling, lubricity, dye, or other additive injections fees, 1481  
pipeline security fees, or similar fees. As used in this division, 1482  
"motor fuel," "licensed motor fuel dealer," "licensed permissive 1483  
motor fuel dealer," and "terminal" have the same meanings as in 1484  
section 5735.01 of the Revised Code. 1485

(hh) In the case of amounts collected by a licensed casino 1486  
operator from casino gaming, amounts in excess of the casino 1487  
operator's gross casino revenue. In this division, "casino 1488  
operator" and "casino gaming" have the meanings defined in section 1489  
3772.01 of the Revised Code, and "gross casino revenue" has the 1490  
meaning defined in section 5753.01 of the Revised Code. 1491

(3) In the case of a taxpayer when acting as a real estate 1492  
broker, "gross receipts" includes only the portion of any fee for 1493  
the service of a real estate broker, or service of a real estate 1494  
salesperson associated with that broker, that is retained by the 1495  
broker and not paid to an associated real estate salesperson or 1496  
another real estate broker. For the purposes of this division, 1497  
"real estate broker" and "real estate salesperson" have the same 1498

meanings as in section 4735.01 of the Revised Code. 1499

(4) A taxpayer's method of accounting for gross receipts for 1500  
a tax period shall be the same as the taxpayer's method of 1501  
accounting for federal income tax purposes for the taxpayer's 1502  
federal taxable year that includes the tax period. If a taxpayer's 1503  
method of accounting for federal income tax purposes changes, its 1504  
method of accounting for gross receipts under this chapter shall 1505  
be changed accordingly. 1506

(G) "Taxable gross receipts" means gross receipts situated to 1507  
this state under section 5751.033 of the Revised Code. 1508

(H) A person has "substantial nexus with this state" if any 1509  
of the following applies. The person: 1510

(1) Owns or uses a part or all of its capital in this state; 1511

(2) Holds a certificate of compliance with the laws of this 1512  
state authorizing the person to do business in this state; 1513

(3) Has bright-line presence in this state; 1514

(4) Otherwise has nexus with this state to an extent that the 1515  
person can be required to remit the tax imposed under this chapter 1516  
under the Constitution of the United States. 1517

(I) A person has "bright-line presence" in this state for a 1518  
reporting period and for the remaining portion of the calendar 1519  
year if any of the following applies. The person: 1520

(1) Has at any time during the calendar year property in this 1521  
state with an aggregate value of at least fifty thousand dollars. 1522  
For the purpose of division (I)(1) of this section, owned property 1523  
is valued at original cost and rented property is valued at eight 1524  
times the net annual rental charge. 1525

(2) Has during the calendar year payroll in this state of at 1526  
least fifty thousand dollars. Payroll in this state includes all 1527  
of the following: 1528

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	1529 1530
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	1531 1532 1533
(c) Any amount the person pays for services performed in this state on its behalf by another.	1534 1535
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	1536 1537
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	1538 1539 1540
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	1541 1542
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	1543 1544
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	1545 1546 1547 1548 1549 1550 1551 1552
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	1553 1554 1555
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	1556 1557 1558

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	1559 1560
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	1561 1562
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	1563 1564 1565
(1) A person receiving a fee to sell financial instruments;	1566
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	1567 1568 1569
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	1570 1571
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	1572 1573
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	1574 1575
(Q) "Received" includes amounts accrued under the accrual method of accounting.	1576 1577
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.	1578 1579 1580 1581 1582 1583 1584
<b>Sec. 5753.01.</b> As used in Chapter 5753. of the Revised Code and for no other purpose under Title LVII of the Revised Code:	1585 1586
(A) "Casino facility" has the same meaning as in section	1587

3772.01 of the Revised Code.	1588
(B) "Casino gaming" has the same meaning as in section 3772.01 of the Revised Code.	1589 1590
(C) "Casino operator" has the same meaning as in section 3772.01 of the Revised Code.	1591 1592
(D) "Gross casino revenue" means the total amount of money exchanged for the purchase of chips, tokens, tickets, electronic cards, or similar objects by casino patrons, less winnings paid to wagerers. <u>"Gross casino revenue" does not include the issuance to casino patrons or wagering by casino patrons of any promotional gaming credit as defined in section 3772.01 of the Revised Code. When issuance of the promotional gaming credit requires money exchanged as a match from the patron, the excludible portion of the promotional gaming credit does not include the portion of the wager purchased by the patron.</u>	1593 1594 1595 1596 1597 1598 1599 1600 1601 1602
(E) "Person" has the same meaning as in section 3772.01 of the Revised Code.	1603 1604
(F) "Slot machine" has the same meaning as in section 3772.01 of the Revised Code.	1605 1606
(G) "Table game" has the same meaning as in section 3772.01 of the Revised Code.	1607 1608
(H) "Tax period" means one twenty-four-hour period with regard to which a casino operator is required to pay the tax levied by this chapter.	1609 1610 1611
<b>Section 2.</b> That existing sections 2915.01, 3772.01, 3772.11, 3772.15, 3772.23, 3772.27, 3772.31, 5751.01, and 5753.01 of the Revised Code are hereby repealed.	1612 1613 1614
<b>Section 3.</b> (A) Notwithstanding sections 3769.04 and 3769.13 of the Revised Code, for a period of two years after the effective	1615 1616

date of this section, a permit holder who is eligible to become a 1617  
video lottery sales agent may apply to the State Racing Commission 1618  
to move its track to another location using the following approval 1619  
procedure: 1620

(1) The permit holder shall submit, for the consideration of 1621  
the State Racing Commission in its determination on whether to 1622  
approve the transfer, its proposal to the State Racing Commission 1623  
and shall specify the location of the new track and the 1624  
incremental economic benefits the permit holder is willing to 1625  
provide to the state. 1626

(2) The State Racing Commission shall approve or deny the 1627  
transfer. 1628

(3) The permit holder may apply to the State Lottery 1629  
Commission for a video lottery sales agent license at the new 1630  
track location. 1631

(B) The State Racing Commission, subject to division (D) of 1632  
this section, shall give preference to transfer proposals 1633  
involving moves to locations in which neither horse-racing 1634  
meetings nor casino gaming have been authorized before July 1, 1635  
2011. A permit holder that is authorized to transfer its track 1636  
under this section and that is a video lottery sales agent may 1637  
operate at a temporary facility at its new location while 1638  
constructing or otherwise preparing its new track at that 1639  
location. A temporary facility shall meet any minimal capital 1640  
investment and structure requirements established by the State 1641  
Racing Commission. 1642

(C) The state may discuss and negotiate with parties 1643  
regarding the transferring of racing permits to new track 1644  
locations and may, in its discretion, enter into agreements 1645  
regarding the transfer of permits to new locations in advance of 1646  
the process set forth in this section. 1647

(D) A permit holder who is located on property owned by a political subdivision may move its track to a new location within twenty miles of its current location. Such a permit holder shall not be charged any fee by the state in exchange for applying for a move, for having its move approved, or for moving its existing track as specified under this division. The State Racing Commission shall give a preference greater than the preference given under division (B) of this section to such a permit holder as part of the approval procedure.

(E) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries or video lotteries conducted under this section and Chapter 3770. of the Revised Code. The State Racing Commission may not adopt rules regarding the operation of lotteries or video lotteries conducted under Chapter 3770. of the Revised Code.

(F) The State Racing Commission may adopt rules under Chapter 119. of the Revised Code to effectuate this section and to establish fees to relocate tracks for applicants under this section.

(G) As used in this section:

(1) "Permit holder" means a person that has been authorized by the State Racing Commission to conduct one or more horse-racing meetings under Chapter 3769. of the Revised Code.

(2) "Track" means any place, track, or enclosure where a permit holder conducts live horse racing for profit at a racing meeting. "Track" includes facilities or premises contiguous or adjacent to those places, tracks, or enclosures.

(3) "Video lottery sales agent" means a person who is a permit holder and holds a current license issued by the State Lottery Commission to assist the Commission in conducting video lotteries through the use of video lottery terminals at a track.

**Section 4.** Notwithstanding any other provision to the 1679  
contrary in Chapter 3769. of the Revised Code, for a period of two 1680  
years after the effective date of this section, any person holding 1681  
a permit under that chapter to conduct live horse-racing meetings 1682  
at a facility owned by a political subdivision may apply for, and 1683  
the State Racing Commission may grant, a permit to conduct 1684  
horse-racing meetings at a location at which such meetings have 1685  
not previously been conducted. The Commission may only grant such 1686  
an application if the proposed location is in the same or a 1687  
contiguous county and is within fifty miles of the current 1688  
location associated with the permit, but is not in the same county 1689  
as another location at which live horse-racing meetings are 1690  
conducted. 1691

**Section 5.** The items of law contained in this act, and their 1692  
applications, are severable. If any item of law contained in this 1693  
act, or if any application of any item of law contained in this 1694  
act, is held invalid, the invalidity does not affect other items 1695  
of law contained in this act and their applications that can be 1696  
given effect without the invalid item of law or application. 1697