



# Ohio Legislative Service Commission

## Bill Analysis

Amber Hardesty

### S.B. 263

128th General Assembly  
(As Introduced)

Sens. Faber, Niehaus, Goodman

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## **BILL SUMMARY**

### **Ethics, lobbying, political contributions**

(R.C. 101.70, 102.02, 102.03, 121.60, and 3517.1015)

- Generally, applies the legislative lobbying law and its requirements to the Ohio Casino Control Commission, a Commissioner, the Commission's executive director, a Commission employee, and a Commission agent.
- Specifies that under the legislative lobbying law for the persons listed above, a person is a "legislative agent" even if the individual does not during at least a portion of the individual's time actively advocate as one of the individual's main purposes.
- Requires the Commission, the Commission's executive director, all the Commission's professional employees, and all the Commission's technical employees who perform an internal audit function to file a disclosure statement with the appropriate Ethics Commission.
- Prohibits a present or former Commission official from, during public service or for twelve months thereafter, representing a client, being employed or hired by a person regulated by the Commission, or acting in a representative capacity for any person on any matter before or concerning the Commission.
- Prohibits a present or former Commission employee from, during public employment or for twelve months thereafter, representing a client or acting in a representative capacity for any person on any matter in which the employee personally participated as a Commission employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.
- Requires all licensees to disclose quarterly to the Secretary of State any contribution of \$100 or more made to the holder of or any candidate for a statewide office, a member of the General Assembly, or a local government official of a jurisdiction where a casino facility is located, or to any ballot issue.
- Prohibits a Commissioner, the executive director, or a Commission employee from:



- Accepting a gift, gratuity, emolument, or employment from a casino operator, management company, or other person subject to the Commission's jurisdiction, or from an officer, attorney, agent, or employee of a casino operator, management company, or other person subject to the Commission's jurisdiction;
  - Soliciting, suggesting, requesting, or recommending, directly or indirectly, to a casino operator, management company, or other person who is subject to the Commission's jurisdiction, or to an officer, attorney, agent, or employee of a casino operator, management company, or other person who is subject to the Commission's jurisdiction, the appointment of a person to an office, place, position, or employment;
  - Participating in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located.
- States that whoever violates the provision directly above forfeits the individual's office or employment.
  - Prohibits a present public official or employee with a casino gaming regulatory function from indirectly investing, by way of an entity the public official or employee has an ownership interest or control in, or directly investing in a casino operator, management company, holding company, casino facility, or gaming-related vendor.
  - Prohibits a present public official or employee with a casino gaming regulatory function from directly or indirectly having a financial interest in, having an ownership interest in, being the creditor or holding a debt instrument issued by, or having an interest in a contractual or service relationship with a casino operator, management company, holding company, casino facility, or gaming-related vendor.
  - Specifies that the above provision does not prohibit or limit permitted passive investing by the public official or employee.
  - Defines "passive investing" as investment by the public official or employee by means of a mutual fund or blind trust in which the public official or employee has no control of the investments or investment decisions.

## Ohio Casino Control Commission membership

(R.C. 3772.01 and 3772.02)

- Creates the Ohio Casino Control Commission described in the Ohio Constitution.
- Defines "Commission" as the Ohio Casino Control Commission for purposes of the Casino Gaming Law.
- Requires the Commission to consist of seven members appointed within one month of the bill's effective date by the Governor with the advice and consent of the Senate and requires the Governor to forward all appointments to the Senate within 24 hours.
- Permits each Commissioner to be reappointed at the Governor's discretion, but prohibits any Commissioner from being appointed for more than three terms.
- Requires the Governor to select one member to serve as chairperson and permits the Governor to remove and replace the chairperson at any time.
- Requires each Commissioner to be an Ohio resident.
- Requires the following: at least one Commissioner to be experienced in law enforcement and criminal investigation; at least one Commissioner to be a certified public accountant experienced in accounting and auditing; at least one Commissioner to be an Ohio attorney; and at least one Commissioner to be a resident of a county where one of the casino facilities is located.
- Prohibits more than four Commissioners from being of the same political party.
- Prohibits any Commissioner from having any affiliation with an Ohio casino operator or facility.
- Requires Commissioners to serve four-year terms, except that when the Governor makes initial appointments to the Commission, requires the Governor to appoint three members to serve four-year terms with not more than two such members from the same political party, two members to serve three-year terms with such members not being from the same political party, and two members to serve two-year terms with such members not being from the same political party.
- Requires each Commissioner to hold office from the date of appointment until the end of the term for which the member was appointed and requires any member appointed to fill a vacancy occurring before the expiration of the term for which the

member's predecessor was appointed to hold office for the remainder of the unexpired term.

- Specifies any member must continue in office after the expiration date of the member's term until the member's successor takes office, or until a period of 60 days has elapsed, whichever occurs first.
- Requires a vacancy in the Commission membership to be filled in the same manner as the original appointment.
- Requires Commissioners to select one member to serve as vice-chairperson who must assume the chairperson's duties in the absence of the chairperson and who must be from the opposite political party as the chairperson.
- Requires the chairperson and vice-chairperson to perform additional duties as are prescribed by Commission rule, but any such rules do not limit their duties.
- Permits a Commissioner to not devote the member's full time to Commission membership.
- Specifies that each member must receive compensation of \$60,000 per year, payable in monthly installments for the first four years of the Commission's existence.
- Requires each member to receive the member's actual and necessary expenses incurred in the discharge of the member's official duties.
- Prohibits the Governor from appointing any person to the Commission, and a person from serving on the Commission, if the person has been convicted of or pleaded guilty or no contest to a disqualifying offense.
- Requires a Commissioner coming under indictment or bill of information of a disqualifying offense to resign.
- Requires at least five Commissioners to be present for the Commission to meet and requires the concurrence of four members for the Commission to take any action.
- Specifies that all members must vote on the adoption of rules, and the approval of, and the suspension or revocation of, the licenses of casino operators or management companies, unless a member has a written leave of absence filed with and approved by the chairperson.
- Allows a Commissioner to be removed or suspended from office under current law's provisions regarding the removal or suspension of a Governor's appointee.

- Requires each Commissioner, before serving, to make an oath to uphold the Ohio Constitution and laws, to give a \$10,000 bond, payable by the Commission, to the Treasurer of State, with sufficient sureties to be approved by the Treasurer, and to file it with the Secretary of State.
- Requires the Commission to hold one regular meeting each month and to convene other meetings at the request of the chairperson or a majority of the members.
- States that a member who fails to attend at least three-fifths of the regular and special Commission meetings during any two-year period forfeits Commission membership.
- Specifies that all Commission meetings are open meetings under the Open Meetings Law except as otherwise allowed by law.

### **Commission jurisdiction and rules**

(R.C. 3772.03)

- To ensure the integrity of casino gaming, states that the Commission has authority to complete the functions of licensing, regulating, investigating, and penalizing casino operators, management companies, holding companies, key employees, and gaming-related vendors.
- Grants the Commission jurisdiction over all persons participating in casino gaming authorized by the Ohio Constitution and laws.
- Requires all rules adopted by the Commission to be adopted under procedures established in the Administrative Procedure Act.
- Within six months of the bill's effective date, requires the Commission to adopt initial rules as are necessary for completing its general functions and for addressing the subjects listed below.
- Also, states the Commission must adopt, and as advisable and necessary must amend or repeal, rules that include the following:
  - The prevention of practices detrimental to the public interest;
  - Prescribing the method of applying, and the form of application as described in the Casino Gaming Law;
  - Prescribing the information to be furnished by an applicant or licensee as described in the Casino Gaming Law;

- Describing the duties of an independent testing laboratory certified under the Casino Gaming Law and the relationship between the Commission, the laboratory, the gaming-related vendor, and the casino operator;
- The minimum amount of insurance that must be maintained by a casino operator, management company, holding company, or gaming-related vendor;
- The approval process for a significant change on ownership or transfer of control of a licensee as provided in the Casino Gaming Law;
- The design of gaming supplies, devices, and equipment to be distributed by gaming-related vendors;
- Identifying the casino gaming that is permitted (as otherwise described in the Casino Gaming Law related to surrounding states), identifying the gaming supplies, devices, and equipment, that are permitted, defining the area in which the permitted casino gaming can be conducted, and specifying the method of operation according to which the permitted casino gaming is to be conducted;
- Tournament play in any casino facility;
- Establishing and implementing a voluntary exclusion program that provides all of the following:
  - Except as provided by Commission rule, a person who participates in the program must agree to refrain from entering a casino facility.
  - The name of a person participating in the program must be included on a list of persons excluded from all casino facilities.
  - Except as provided by Commission rule, no person who participates in the program can petition the Commission for admittance into a casino facility.
  - The list of participating persons and their personal information must be confidential and only be disseminated to a casino operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the Commission.

- A casino operator must make all reasonable attempts as determined by the Commission to cease all direct marketing efforts to a person participating in the program.
  - A casino operator must not cash the check of a person participating in the program or extend credit to the person in any manner. However, the program must not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.
  - Any and all locations at which a person can register as a participant in the program must be published.
- Requiring a licensed casino operator to provide the Commission with any marketing materials for the Commission's review and approval before the licensed casino operator can use the materials;
  - Requiring the records, including financial statements, of any casino operator, holding company, management company, and gaming-related vendor to be maintained in a manner prescribed by the Commission and made available for inspection by the Commission upon demand;
  - Permitting a licensed casino operator, management company, key employee, or casino gaming employee to question a person suspected of violating the Casino Gaming Law;
  - The chips, tokens, tickets, electronic cards, or similar objects that may be purchased by means of an agreement under which credit is extended to a wagerer by a casino operator;
  - Establishing standards for provisional key employee licenses for a person who is required to be licensed as a key employee and is in exigent circumstances. A provisional license cannot be valid longer than 3 months. And not more than one can be issued per person.
  - Establishing approval procedures for third-party engineering or accounting firms, as described in the Casino Gaming Law;
  - Prescribing the manner in which winnings, compensation from casino gaming, and gross revenue must be computed and reported by a licensee, as described in the Casino Gaming Law and the tax law;



- Prescribing conditions under which a licensee's license can be suspended or revoked, as described in the Casino Gaming Law;
  - Prescribing the manner and procedure of all hearings to be conducted by the Commission or by any hearing examiner;
  - Prescribing technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at casino facilities, and standards and requirements for the provision of security at and surveillance of casino facilities;
  - Prescribing requirements for a casino operator to provide unarmed security services at a casino facility by licensed casino employees, and the training that must be completed by these employees;
  - Prescribing standards according to which casino operators must keep accounts and standards according to which casino accounts must be audited, and establish means of assisting the Tax Commissioner in levying and collecting the gross casino revenue tax;
  - Defining a schedule of penalties for violation of Commission rules and a process for imposing such penalties subject to the approval of the Joint Committee on Gaming and Wagering;
  - Establishing standards for decertifying contractors that violate statutes or rules of this state or the federal government;
  - Providing for any other thing necessary and proper for successful and efficient regulation of casino gaming.
- Requires the Commission to submit a written annual report with the Governor, Senate President, and Speaker of the House of Representatives before the first day of September each year.
  - Requires the annual report to include a statement describing the receipts and disbursements of the Commission, relevant financial data regarding casino gaming, including gross revenues and disbursements made under the Casino Gaming Law, actions taken by the Commission, and any additional information that the Commission considers useful or that the Governor, Senate President, and Speaker of the House of Representatives requests.

## Executive director

(R.C. 3772.06)

- Requires the Commission to appoint an executive director who serves at the Commission's pleasure.
- Specifies that the executive director is in the unclassified service, must devote full time to the duties of the office, and must hold no other office or employment.
- Requires the executive director to, by experience and training, possess management skills that equip the executive director to administer an enterprise of the Commission's nature.
- Prohibits the executive director from having a pecuniary interest in any business organization that holds a license under the Casino Gaming Law, or that does business with any person licensed under it.
- Prohibits a General Assembly member, a person who holds an elective office, or an office holder of a political party from simultaneously being eligible to be appointed executive director.
- Sets the executive director's annual salary in a range of \$66,851 to \$146,286.
- Requires the executive director, before entering upon the discharge of the executive director's official duties, to give and maintain a bond of \$25,000, payable to the state, conditioned upon the executive director's faithful and proper performance of the executive director's official duties.
- Requires the bond to be issued by a surety authorized to do business in Ohio and to be filed with the Secretary of State.
- Allows the bond to be an individual bond or a schedule or blanket bond.
- Requires the executive director or a deputy designated in writing by the executive director to attend all Commission meetings and to act as its secretary.
- Requires the executive director to keep a record of all Commission proceedings and to keep the Commission's records, files, and documents at the Commission's principal office.
- Requires the executive director to be the chief executive officer and to be responsible for keeping all Commission records and supervising and administering casino

gaming under the Casino Gaming Law, and enforcing all Commission rules adopted under the Casino Gaming Law.

- Requires the executive director to hire staff, including an assistant director or deputy directors, as necessary to assist the executive director in the executive director's duties.
- Permits the executive director to employ employees as necessary, unless the Commission determines otherwise.
- Except as otherwise provided in the Casino Gaming Law, requires all costs of administration incurred by the executive director and the executive director's employees to be paid out of the Casino Control Commission Fund.
- Requires a state agency or other unit of state government to cooperate with the Commission, and to provide the Commission with information and services the Commission considers necessary to carry out the Commission's duties and functions in relation to gaming activity.
- Requires the executive director to confer at least once each month with the Commission, at which time the executive director must advise it regarding the operation and administration of the Commission and casino gaming.
- Requires the executive director to make available at the Commission's request all documents, files, and other records pertaining to the Commission's operation and administration and casino gaming.
- Requires the executive director to prepare and make available to the Commission each month a complete and accurate accounting of gross casino gaming revenues, and all other relevant financial information, including an accounting of all transfers made from the Casino Control Commission Fund.

### **Hearings, investigations, and penalties**

(R.C. 121.54, 3772.033, 3772.04, 3772.05, 3772.051, 3772.30, 3772.99, and 5502.03)

- Permits the Commission to do all the following and to designate any such responsibilities to the executive director, its employees, or to the gaming agents:
  - Inspect and examine all premises where casino gaming is conducted or gaming supplies, devices, or equipment are manufactured, sold, or distributed;

- Inspect all gaming supplies, devices, and equipment in or about a casino facility;
  - Summarily impound and seize and remove from the casino facility premises gaming supplies, devices, and equipment for the purpose of examination and inspection;
  - Determine any facts, or any conditions, practices, or other matters, as the Commission considers necessary or proper to aid in the enforcement of the Casino Gaming Law or rule;
  - Audit gaming operations that have ceased operation;
  - Investigate, for the purpose of prosecution, any suspected violation of a Casino Gaming Law or rule;
  - Investigate as appropriate to aid the Commission and to seek the executive director's advice in adopting rules;
  - Make, execute, and otherwise effectuate all contracts and other agreements, including contracts for necessary purchases of goods and services. The Commission must ensure use of Ohio products or services in compliance with the Buy Ohio provisions of current law and rules.
  - Employ the services of persons the Commission considers necessary for the purposes of consultation or investigation, and fix the salaries of, or contract for the services of, legal, accounting, technical, operational, and other personnel and consultants;
  - Secure, by agreement, information and services as the Commission considers necessary from any state agency or other unit of state government;
  - Acquire furnishings, equipment, supplies, stationery, books, and all other things the Commission considers necessary or desirable to successfully and efficiently carry out the Commission's duties and functions; and
  - Perform all other things the Commission considers necessary to effectuate the intents and purposes of the Casino Gaming Law.
- If, as the result of an investigation, the Commission concludes that a license or finding required by the Casino Gaming Law should be limited, conditioned, or restricted, or suspended or revoked, requires the Commission to conduct an adjudication under the Administrative Procedure Law.

- Requires the Commission to appoint a hearing examiner to conduct the hearing in the adjudication and allows a party to the adjudication to file written objections to the hearing examiner's report and recommendations not later than the 30th day after they are served upon the party or the party's attorney or other representative of record.
- Prohibits the Commission from taking up the hearing examiner's report and recommendations earlier than the 30th day after the hearing examiner's report and recommendations were submitted to the Commission.
- If the Commission finds that a person has violated a Casino Gaming Law or, permits the Commission to issue an order:
  - Limiting, conditioning, or restricting, or suspending or revoking, a license;
  - Limiting, conditioning, or restricting, or suspending or revoking, a finding;
  - Requiring a casino facility to exclude a licensee from the casino facility or requiring a casino facility not to pay to the licensee any remuneration for services or any share of profits, income, or accruals on the licensee's investment in the casino facility; or
  - Fining a licensee or other person according to the schedule of penalties adopted by the Commission.
- Permits an order to be judicially reviewed under the Administrative Procedure Act.
- In conducting a study or investigation, permits the Commission to direct that public hearings be held at a time and place, prescribed by the Commission, in accordance with the Public Meetings Law.
- Requires the Commission to give notice of all public hearings in such manner as will give actual notice to all interested parties.
- Permits the Commission to require that testimony be given under oath and to administer the oath, issue subpoenas compelling the attendance of witnesses and the production of any papers, books, and accounts, and cause the deposition of any witness.
- If a person refuses without good cause to comply with the terms of a subpoena or refuses to testify on matters about which the person can lawfully be questioned, permits the prosecuting attorney of the county in which the person resides, upon the

petition of the Commission, to bring a proceeding for contempt against the person in the court of common pleas of that county.

- When conducting a public hearing, prohibits the Commission from limiting the number of speakers who may testify.
- Permits the Commission to set reasonable time limits on the length of an individual's testimony or the total amount of time allotted to proponents and opponents of an issue before the Commission.
- Permits an administrative law judge appointed by the Commission to conduct a hearing under the Casino Gaming Law and recommend findings of fact and decisions to the Commission.
- Upon cessation of gaming operations, requires a former licensee to furnish, books, papers, and other records as necessary for the executive director or gaming agent to audit the ceased gaming operation.
- Requires a former licensee to maintain all books, papers, and other records for three years after the cessation of gaming operations.
- If a civil action or criminal proceeding relating to the former licensee is pending, or if an administrative adjudication or judicial review of an administrative adjudication relating to the former licensee is pending, requires the former licensee to maintain all books, papers, and other records until the matter has been finally determined.
- If a person disobeys a subpoena or subpoena duces tecum, or refuses to testify as directed by a subpoena, requires the Commission to request the prosecutor of the county in which the person resides to apply to the court of common pleas for an order compelling the person to attend or to produce tangible evidence, or to testify, as directed by the subpoena or subpoena duces tecum.
- Requires the court to treat the application as if it were disobedience to comply with a subpoena or subpoena duces tecum issued by the court or a refusal to testify in the court.
- To carry out the provisions of the Casino Gaming Law and other enforcement provisions provided for under Ohio laws, permits the Tax Commissioner, the Inspector General, and the Commission, and their respective employees, to demand access to and inspect books, accounts, records, and memoranda of any person that is not protected by privilege and that is subject to the provisions of the Casino Gaming Law, and to examine under oath any officer, agent, or employee of that person.

- Permits the Commission to rely, in whole or in part, upon investigations, conclusions, or findings of other casino gaming commissions or other government regulatory bodies in connection with licensing, investigations, or other matters relating to an applicant or licensee under the Casino Gaming Law.
- If any person violates the Casino Gaming Law or rules, grants the Attorney General a cause of action to restrain the violation, which must be a civil action, governed by the Rules of Civil Procedure.
- Upon receiving a request from the Commission or the executive director, requires the Attorney General to commence and prosecute such an action to completion.
- Requires the court to give priority to such an action over all other civil actions and specifies such an action does not preclude an administrative or criminal proceeding on the same facts.
- Permits the Attorney General to enter into agreements with any state or local law enforcement agency to carry out its duties.
- Requires a sheriff, chief of police, and prosecuting attorney to furnish to the Commission, on prescribed forms, all information obtained during the course of any substantial investigation or prosecution if it appears a violation of the Casino Gaming Law has occurred and specifies any such information is not a public record until such information would otherwise become a public record.
- As it relates in any way to state funds or public officials subject to the investigatory authority of the Inspector General, authorizes the Inspector General to investigate all wrongful acts or omissions that have been committed by or are being committed by any member of the Commission or its employees, any entity or individual regulated or licensed by the Commission, or, for casino-related matters, any other contractors, vendors, or persons doing business with the state.
- Requires the Inspector General to design and conduct a program of random review of the processing of contracts associated with the Commission or any casino facility or any slot or table game operated at any casino facility and states the program is confidential and can be altered by the Inspector General at any time.
- Requires all state employees and all agents, employees, licensees, and officials of all casino operators, management companies, holding companies, or gaming-related vendors to cooperate with and provide assistance to the Inspector General in the performance of any investigation conducted by the Inspector General.

- In particular, requires those persons to make their premises, equipment, personnel, books, records, and papers readily available to the Inspector General.
- In the course of an investigation, permits the Inspector General to question any state employee, casino operator, management company, or holding company, official, or employee, or gaming-related vendor, and any person transacting business with the Commission, any casino operator, management company, holding company, the state, or a state agency on a casino-related matter.
- Requires the Inspector General to take care to preserve the confidentiality of information contained in responses to questions or in books, records, or papers that are made confidential by law.
- In performing any investigation, requires the Inspector General to avoid interfering with the ongoing operations of the entities being investigated, except insofar as is reasonably necessary to successfully complete the investigation.
- At the conclusion of an investigation, requires the Inspector General to deliver to the executive director of the Commission, depending on the subject of the investigation, and to the Governor, any case for which remedial action is necessary.
- Requires the Inspector General to maintain a public record of the activities of the Inspector General to the extent permitted under these provisions, ensuring that the rights of the parties involved in each case are protected.
- Requires the Inspector General to include in its annual report a summary of the activities of the Inspector General under these provisions during the previous year.
- Prohibits any person from disclosing any information that is designated as confidential or any confidential information that is acquired in the course of an investigation to any person who is not legally entitled to disclosure of that information.
- Requires the Commission to levy and collect penalties for noncriminal violations of the Casino Gaming Law.
- Credits to the General Revenue Fund moneys collected from such penalty levies.
- If a licensed casino operator, management company, holding company, gaming-related vendor, or key employee violates the Casino Gaming Law or engages in a fraudulent act, permits the Commission to:
  - Suspend or revoke the license;



- Suspend, revoke, or restrict the casino gaming operations of a casino operator;
- Require the removal of a management company, holding company, key employee, or discontinuance of services from a gaming-related vendor.
- Requires the Commission to impose civil penalties against a person who violates the Casino Gaming Law under the schedule of penalties adopted by the Commission and approved by the Joint Committee on Gaming and Wagering.
- States that a person who knowingly or intentionally does any of the following commits a misdemeanor of the first degree on the first offense and a felony of the fifth degree for a subsequent offense:
  - Makes a false statement on an application submitted under the Casino Gaming Law;
  - Permits a person less than 21 years of age to make a wager;
  - Aids, induces, or causes a person less than 21 years of age who is not an employee of the casino gaming operation to enter or attempt to enter a casino facility;
  - Enters or attempts to enter a casino while under 21 years of age, unless the person enters a designated area;
  - Wagers or accepts a wager at a location other than a casino facility;
  - Is a casino operator or employee and participates in casino gaming other than as part of operation or employment.
- States that a person who knowingly or intentionally does any of the following commits a felony of the fifth degree on a first offense and a felony of the fourth degree for a subsequent offense and requires the Commission to revoke the person's license after the first offense:
  - Offers, promises, or gives anything of value or benefit to a person who is connected with the casino operator, management company, holding company, or gaming-related vendor, including their officers and employees, under an agreement to influence or with the intent to influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a casino game or an official action of a Commissioner;

- Solicits, accepts, or receives a promise of anything of value or benefit while the person is connected with a casino, including an officer or employee of a casino operator, management company, or gaming-related vendor, under an agreement to influence or with the intent to influence the actions of the person to affect or attempt to affect the outcome of a casino game or an official action of a Commissioner;
- Uses or possesses with the intent to use a device to assist in projecting the outcome of the game, keeping track of the cards played, analyzing the probability of the occurrence of an event relating to the casino game, or analyzing the strategy for playing or betting to be used in the game, except as permitted by the Commission;
- Cheats at a casino game;
- Manufactures, sells, or distributes any cards, chips, dice, game, or device that is intended to be used to violate the Casino Gaming Law;
- Alters or misrepresents the outcome of a casino game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;
- Places a wager on the outcome of a casino game after acquiring knowledge that is not available to all players and concerns the outcome of the casino game that is the subject of the wager;
- Aids a person in acquiring the knowledge described directly above for the purpose of placing a wager;
- Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a casino game with the intent to defraud or without having made a wager contingent on winning a casino game;
- Claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a casino game;
- Uses or possesses counterfeit chips or tokens in or for use in a casino game;
- Possesses a key or device designed for opening, entering, or affecting the operation of a casino game, drop box, or an electronic or a mechanical device connected with the casino game or removing coins, tokens, chips, or other contents of a casino game (this provision does not apply to a casino operator,

- management company, or gaming-related vendor or their agents and employees in the course of agency or employment);
- Possesses materials used to manufacture a slug or device intended to be used in a manner that violates the Casino Gaming Law;
  - Operates a casino gaming operation in which wagering is conducted or is to be conducted in a manner other than the manner required under the Casino Gaming Law.
  - The possession of more than one of the devices described above creates a rebuttable presumption that the possessor intended to use the devices for cheating.
- Includes in the duties of the Division of Homeland Security in the Department of Public Safety regarding the coordination efforts of state and local governments and private organizations to enhance the security and protection of critical infrastructure, casino facilities as critical infrastructure.
  - Permits a person who is convicted of a felony described in the Casino Gaming Law to be barred for life from entering a casino facility by the Commission.

### **Audits of the Commission**

(R.C. 126.45 and 3772.061)

- Requires the Office of Internal Auditing in the Office of Budget and Management to conduct internal audits of the Commission to improve their operations in the areas of risk management, internal controls, and governance.
- Requires the executive director to appoint the number of professional, technical, and clerical employees that is necessary, in the executive director's reasonable opinion, for conducting internal audits, as an internal auditing department, of the Commission.
- Requires these professional and technical employees to be qualified by education, licensing (if relevant), and experience to perform the internal audit function successfully and efficiently.
- Requires these employees, together with clerical employees necessary for their support, to be assigned only to the internal audit function and not to any other function of the Commission.

- Requires the internal auditing department, at reasonable intervals and as necessary, to conduct internal audits of the Commission.
- Requires the internal audits to audit the accounts and transactions of the Commission, ascertain the condition of funds used by the Commission, and make an inventory of the funds and of the assets under the control of the Commission.
- Requires the internal audit report to be signed by the employee who was principally responsible for conducting the internal audit.
- Requires a copy of the signed report to be forwarded to the Commission and to the Auditor of State.
- States that the report is not a public record that is open to public inspection and copying until it has been forwarded.

### **Gaming agents**

(R.C. 109.71, 109.77, 109.79, 3772.01, and 3772.03)

- Requires the Commission to employ and assign gaming agents as necessary to assist the Commission in carrying out its duties.
- To maintain employment as a gaming agent, requires the gaming agent to successfully complete all continuing training programs required by the Commission and to not have been convicted of or pleaded guilty to a disqualifying offense.
- Requires gaming agents to be peace officers, to comply with all peace officer training requirements, and to have all general peace officer authority.
- Defines "gaming agent" as a peace officer employed by the Commission that is vested with duties to enforce the Casino Gaming Law and conduct other investigations into the conduct of casino gaming and the maintenance of the equipment that the Commission considers necessary and proper and is in compliance with required peace officer training.
- Requires the Ohio Peace Officer Training Commission to create a gaming-related curriculum for gaming agents.
- Requires the Ohio Peace Officer Training Commission to use money distributed to the Ohio Peace Officer Training Academy from the Ohio Law Enforcement Training Fund to first support the academy's training programs for gaming agents and gaming-related curriculum.

- Defines the "Ohio Law Enforcement Training Fund" as the state law enforcement training fund described in the Ohio Constitution, the money in which must be used to enhance public safety by providing additional training opportunities to the law enforcement community.
- States that the Commission and its gaming agents have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing gaming offenses, and have access to casino facilities to carry out the requirements of the Casino Gaming Law.

## **Background checks**

(R.C. 109.572 and 3772.07)

- Requires the following appointing or licensing authorities to obtain a criminal records check of the person who is to be appointed or licensed:
  - The Governor, before appointing an individual as a Commissioner;
  - The Commission, before appointing an individual as executive director or a gaming agent;
  - The Commission, before issuing a license for a key employee or casino gaming employee, and before issuing a license for each investor, except an institutional investor, for a casino operator, management company, holding company, or gaming-related vendor;
  - The executive director, before appointing an individual as a professional, technical, or clerical employee of the Commission.
- Requires the appointing or licensing authority to obtain a criminal records check of the same individual at three-year intervals.
- Requires the appointing or licensing authority to provide to each person of whom a criminal records check is required a copy of the form and the standard fingerprint impression sheet.
- Requires the person to complete the form and impression sheet and return them to the appointing or licensing authority.
- If a person fails to complete and return the form and impression sheet within a reasonable time, states that the person is ineligible to be appointed or licensed or to continue in the appointment or licensure.

- Requires the appointing or licensing authority to forward the completed form and impression sheet to the Superintendent of the Bureau of Criminal Identification and Investigation (BCII).
- Requires the appointing or licensing authority to request the Superintendent also to obtain information from the federal bureau of investigation, including fingerprint-based checks of the national crime information databases, and from other states and the federal government under the national crime prevention and privacy compact as part of the criminal records check.
- Requires the Commission to pay the fee BCII charges for all criminal records checks, requires an applicant for a casino operator, management company, holding company, or gaming-related vendor license to reimburse the Commission for the amount of the fee paid on the applicant's behalf, and requires an applicant for a key employee or casino gaming employee license to reimburse the Commission for the amount of the fee paid on the applicant's behalf, unless the applicant is applying at the request of a casino operator or management company, in which case the casino operator or management company must reimburse the Commission.
- Requires the appointing or licensing authority to review the results of a criminal records check.
- When the Governor appoints a Commissioner, requires the Governor to forward the results of the criminal records check to the Senate President before the Senate advises and consents to the Commissioner's appointment.
- Prohibits the appointing or licensing authority from appointing or licensing or retaining the appointment or licensure of a person a criminal records check discloses has been convicted of or has pleaded guilty or no contest to a disqualifying offense.
- Defines a "disqualifying offense" as any gambling offense, any theft offense, any offense having an element of fraud or misrepresentation, any offense having an element of moral turpitude, and any felony not otherwise included in the foregoing list, except as otherwise provided in the Casino Gaming Law for casino gaming employees.
- Specifies that the report of a criminal records check is not a public record that is open to public inspection and copying.
- Prohibits the Commission from making the report available to any person other than the person who was the subject of the criminal records check or the person's agent; an appointing or licensing authority; a member, the executive director, or an employee of the Commission; or any court or agency, including a hearing examiner,

in a judicial or administrative proceeding in which the criminal records check is relevant.

- On receipt of a request for a criminal records check from an appointing or licensing authority, a completed form, and a set of fingerprint impressions, requires the Superintendent of the BCII to conduct a criminal records check to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty or no contest to any offense under any existing or former law of Ohio, any other state, or the United States that is a disqualifying offense or substantially equivalent to such an offense.

## **Casino gaming and wagering**

(R.C. 3772.01, 3772.08, 3772.09, 3772.20, 3772.21, 3772.22, 3772.23, 3772.24, 3772.27, 3772.29, and 3772.31)

- Defines "casino facility" as casino facility as defined in the Ohio Constitution (the Ohio Constitution specifies four properties in Cleveland, Toledo, Columbus, and Cincinnati, all or any part of which constitutes a casino facility).
- Defines "casino gaming" as any type of slot machine or table game wagering, using money, casino credit, or any representative of value, authorized in any of the states of Indiana, Michigan, Pennsylvania, and West Virginia as of January 1, 2009, and includes slot machine and table game wagering subsequently authorized by, but will not be limited by, subsequent restrictions placed on wagering in those states.
- Specifies that "casino gaming" does not include bingo, as authorized in the Ohio Constitution and conducted as of January 1, 2009, or horse racing where the pari-mutuel system of wagering is conducted, as authorized under the laws of Ohio as of January 1, 2009.
- Requires casino gaming to be conducted only by licensed casino operators of the four casino facilities or by a licensed management company retained by a licensed casino operator.
- Permits a licensed casino operator, licensed management company, or another person to provide nongaming amenities at the casino facility.
- Permits the Commission, by and through the executive director, to enter into contracts necessary to ensure the proper operation and reporting of all authorized casino gaming.

- Permits the Commission to determine it to be necessary and adopt rules to authorize a central system that must be operated by or under the Commission's control.
- Defines "central system" as a computer system that provides the following functions related to casino gaming equipment used in connection with authorized casino gaming: security, auditing, data and information retrieval, and other purposes deemed necessary and authorized by the Commission.
- Requires the Commission to certify independent testing laboratories to scientifically test and technically evaluate all slot machines, mechanical, electromechanical, or electronic table games, slot accounting systems, and other electronic gaming equipment for compliance with Casino Gaming Law.
- Requires the certified independent testing laboratories to be accredited by a national accreditation body.
- Requires the Commission to certify an independent testing laboratory if it is competent and qualified to scientifically test and evaluate electronic gaming equipment for compliance with Casino Gaming Law and to otherwise perform the functions assigned to an independent testing laboratory.
- Prohibits an independent testing laboratory from being owned or controlled by, or having any interest in, an electronic gaming equipment vendor, manufacturer, or retailer.
- Requires the Commission to prepare a list of certified independent testing laboratories from which an independent testing laboratory must be chosen.
- Requires the Commission to adopt rules that describe the duties of an independent testing laboratory and the relationship between the Commission, the laboratory, the gaming-related vendor, and the casino operator.
- Before a licensed casino operator can conduct casino gaming at a casino facility, requires a licensed casino operator to engage a third-party engineering or accounting firm to certify expenses of its required initial investment of \$250 million and to provide documentation to the Commission.
- Defines "initial investment" to include costs related to engineering, architecture, design, site preparation, construction, infrastructure improvements, and leasehold improvements and specifies "initial investment" does not include costs related to land acquisition, fixtures and equipment, inventory, insurance, working capital, and any state incentives.



- Requires the third-party engineering or accounting firm to be approved by the Commission and to certify expenses in accordance with Commission rules and permits the Commission to request the Department of Administrative Services to assist the Commission in carrying out these duties.
- Defines "slot machine" as 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 anything of value, whether the payoff is made automatically from the machine or in any other manner.
- Defines "table game" as any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, casino credit, or any representative of value and specifies that "table game" does not include slot machines.
- Sets a maximum of 5,000 slot machines that can be operated at a casino facility.
- Requires each casino operator for each casino facility to determine the total number of slot machines in their facility, up to the maximum.
- States that there is no limit on the number of table games allowed at each casino facility.
- Permits any slot machine game or table game currently authorized in, and any future slot machine or table game authorized in Indiana, Michigan, Pennsylvania, and West Virginia to be conducted at casino facilities in Ohio at the discretion of a licensed casino operator but only after being approved, upon application by a licensed casino operator, by the Commission.
- Requires casino operators to determine minimum and maximum wagers, subject to the Commission's approval.
- Prohibits a slot machine from being set to pay out less than the theoretical payout percentage, which must be not less than 85%, as specifically approved by the Commission.
- Requires the Commission to adopt rules that define the theoretical payout percentage of a slot machine based on the total value of the jackpots expected to be paid by a slot machine divided by the total value of slot machine wagers expected to be made on that slot machine during the same portion of the game cycle.

- Requires casino gaming equipment and supplies customarily used in conducting casino gaming to be purchased or leased only from licensed gaming-related vendors.
- Requires a management company owning casino gaming devices, supplies, and equipment to be licensed as a gaming-related vendor.
- Requires a gaming-related vendor to furnish annually to the Commission a list of all equipment, devices, and supplies offered for sale or lease in connection with authorized casino gaming.
- Requires a gaming-related vendor to keep books and records for the furnishing of equipment, devices, and supplies to gaming operations separate from books and records of any other business operated by the gaming-related vendor.
- Requires a gaming-related vendor to file a quarterly return with the Commission listing all sales and leases.
- Requires a gaming-related vendor to permanently affix the gaming-related vendor's name to all of the gaming-related vendor's equipment, devices, and supplies for casino gaming operations.
- Requires a gaming-related vendor's equipment, devices, or supplies that are used by a person in an unauthorized casino gaming operation to be forfeited to the Commission.
- Requires all casino facility operations to use a cashless wagering system whereby all wagerers' money is converted to chips, tokens, tickets, electronic cards, or similar objects at the request of the wagerer that can only be used for wagering at a casino facility.
- Prohibits wagering from being conducted with money or other negotiable currency.
- States that wagers may be received only from a person present at a casino facility.
- Prohibits a wagerer present at a casino facility from placing or attempting to place a wager on behalf of an individual who is not present at the casino facility.
- Requires all tokens, chips, or electronic cards that are used to make wagers to be purchased from the casino operator or management company while at an approved casino facility.
- Allows chips, tokens, tickets, electronic cards, or similar objects to be used while at the casino facility only for the purpose of making wagers on casino games.

- Prohibits a casino operator from obtaining a license to: operate a check-cashing business; provide small loans; or provide short-term loans.
- Permits an individual who is less than 21 years of age to enter a designated area of a casino facility where casino gaming is being conducted, as established by the Commission, to pass to another area where casino gaming is not being conducted.
- Permits an employee of a casino facility who is between 18 and 21 to be present in the area of a casino facility where casino gaming is being conducted, if the employee's duties are related solely to nongaming activities.
- Requires casino operators to notify the Commission of the days and hours during which casino gaming will be conducted.
- Provides all shipments of gaming supplies, devices, and equipment, including slot machines, into Ohio are exempt from section 2 of "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce."

## Licensing

### General considerations

(R.C. 3772.01, 3772.09, 3772.091, 3772.10, 3772.14, and 3772.15)

- Requires casino operators, management companies, holding companies, gaming-related vendors, key employees, and casino gaming employees to obtain a license.
- In determining whether to grant or maintain a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor license, requires the Commission to consider:
  - The reputation, experience, and financial integrity of the applicant, and any other person that directly controls the applicant;
  - The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;
  - The past and present compliance of the applicant and its affiliates or affiliated companies with casino-related licensing requirements in this state or any other jurisdiction, including whether the applicant has a history of noncompliance with the casino licensing requirements of any jurisdiction;

- If the applicant has been indicted, convicted, pleaded guilty or no contest, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations;
  - If the applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
  - If the applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under federal, state, or local law that has been delinquent for one or more years;
  - If the applicant is or has been a defendant in litigation involving its business practices;
  - If awarding a license would undermine the public's confidence in the casino gaming industry in Ohio;
  - If the applicant meets other standards for the issuance of a license that the Commission adopts by rule which must not be arbitrary, capricious, or contradictory to the Casino Gaming Law.
- Defines "applicant" as any person who applies to the Commission for a license under the Casino Gaming Law.
  - Defines "majority ownership interest" in a license or in a casino facility, as the case may be, as ownership of more than 50% of such license or casino facility, as the case may be.
  - For purposes of the foregoing, requires whether a majority ownership interest is held in a license or in a casino facility, as the case may be, to be determined under the rules for constructive ownership of stock provided in Treas. Reg. 1.409A-3(i)(5)(iii) as in effect on January 1, 2009.
  - Defines "person" to include an individual or a combination of individuals; a sole proprietorship, firm, company, joint venture, partnership, joint-stock company, corporation, corporate subsidiary, limited liability company, business trust, or any other business entity or organization; an assignee; a receiver; a bankruptcy trustee; 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.

- If the Commission determines that a person is eligible to be issued a license as a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor, the Commission must issue such license for not more than three years, as determined by Commission rule, if all other requirements of the Casino Gaming Law have been satisfied.
- Prohibits the Commission from issuing a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor license to an applicant if:
  - The applicant has been convicted of a disqualifying offense, unless the person is an applicant for a casino gaming employee license. For an offense other than a gambling offense, an applicant for a casino gaming employee license may prove to the Commission, by clear and convincing evidence, that the applicant's activities and employment record for at least ten years after the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.
  - The applicant has or submitted an application for license that contains false information.
  - The applicant is a Commissioner.
  - The applicant owns an ownership interest that is unlawful under the Casino Gaming Law, unless waived by the Commission.
  - The applicant violates specific Commission rules related to denial of licensure.
  - The applicant is a member of or employed by a gaming regulatory body of a governmental unit in Ohio, another state, or the federal government, or is employed by a governmental unit of Ohio (this provision does not prohibit a casino operator from hiring special duty law enforcement officers if the officers are not specifically involved in gaming-related regulatory functions).
  - The Commission otherwise determines the applicant is ineligible for the license.
- Requires the Commission to investigate the qualifications before any license is issued and before any finding with regard to acts or transactions for which Commission approval is required is made.

- Requires the Commission to continue to observe the conduct of all licensees and all other persons having a material involvement directly or indirectly with a casino operator or holding company to ensure that licenses are not issued to or held by, or that there is not any material involvement with a casino operator or holding company by, an unqualified, disqualified, or unsuitable person or a person whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations.
- Permits the executive director to recommend to the Commission that it deny any application, or limit, condition, or restrict, or suspend or revoke, any license or finding, or impose any fine upon any licensee or other person under the Casino Gaming Laws and rules.
- States that a license issued under the Casino Gaming Law is a revocable privilege and that no licensee has a vested right in or under any license issued under the Casino Gaming Law.
- Specifies that the initial determination of the Commission to deny, or to limit, condition, or restrict, a license can be appealed under current law's provisions on appeals of Commission orders.
- States that no license is transferable and that a new majority ownership interest or control requires a new license.
- States that a significant change in or transfer of control, as determined by the Commission, must require the filing of an application for a new license and submission of a license fee with the Commission before any such change or transfer of control is approved.
- Specifies that a change in or transfer of control to an immediate family member is not considered a significant change under this section.
- Defines, "control" as either of the following:
  - Either:
    - Holding 50% or more of the outstanding voting securities of a licensee; or
    - For an unincorporated licensee, having the right to 50% or more of the profits of the licensee, or having the right in the event of dissolution to 50% or more of the assets of the licensee.

- Having the contractual power presently to designate 50% or more of the directors of a for-profit or not-for-profit corporation, or in the case of trusts described in paragraphs (c)(3) to (5) of 16 C.F.R. 801.1, the trustees of such a trust.
- Defines "institutional investor" as any of the following entities owning five per cent or less, or a percentage between five and ten per cent as approved by the Commission for a waiver on a case-by-case basis, ownership interest in a casino facility, casino operator, management company, or holding company: a corporation, bank, insurance company, pension fund or pension fund trust, retirement fund, including funds administered by a public agency, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee, investment company registered under the "Investment Company Act of 1940," collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, closed-end investment trust, chartered or licensed life insurance company or property and casualty insurance company, investment advisor registered under the "Investment Advisors Act of 1940," and such other persons as the Commission reasonably determines to qualify as an institutional investor.
- Presumes the suitability of an institutional investor upon submitting documentation sufficient to establish qualifications as an institutional investor and upon certifying all of the following:
  - The institutional investor owns, holds, or controls publicly traded securities issued by a licensee or holding, intermediate, or parent company of a licensee or in the ordinary course of business for investment purposes only.
  - The institutional investor does not exercise influence over the affairs of the issuer of such securities nor over any licensed subsidiary of the issuer of such securities.
  - The institutional investor does not intend to exercise influence over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities, in the future, and that it agrees to notify the Commission in writing within 30 days if such intent changes.
- States that the exercise of voting privileges for publicly traded securities does not constitute the exercise of influence over the affairs of a licensee.

- Requires the Commission to rescind the presumption of suitability for an institutional investor at any time if the institutional investor exercises or intends to exercise influence or control over the affairs of the licensee.
- Prohibits the above provision from being construed to preclude the Commission from investigating the suitability or qualifications of an institutional investor if the Commission becomes aware of facts or information that may result in the institutional investor being found unsuitable or disqualified.
- Requires information provided on the application to be used as a basis for a thorough background investigation of each applicant.
- States that a false or incomplete application is cause for denial of a license.
- Requires all applicants and licensees to consent to inspections, searches, and seizures and to the disclosure to the Commission and its agents of confidential records, including tax records, held by any federal, state, or local agency, credit bureau, or financial institution and to provide handwriting exemplars, photographs, fingerprints, and information as authorized in the Casino Gaming Law and rules.
- After notice and opportunity for an adjudication conducted under the Administrative Procedure Act, permits the Commission to suspend, revoke, or refuse to issue or renew a license in accordance with Commission rules.
- Without in any manner limiting the authority of the Commission to impose the level and type of discipline it considers appropriate, the Commission may take into consideration:
  - If the licensee knew or reasonably should have known that the action complained of was a violation of any law, regulation, or condition on the licensee's license;
  - If the licensee has previously been disciplined by the Commission;
  - If the licensee has previously been subject to discipline by the Commission concerning the violation of any law, regulation, or condition of the licensee's license;
  - If the licensee reasonably relied upon professional advice from a lawyer, doctor, accountant, or other recognized professional, which was relevant to the action resulting in the violation;



- If the licensee or licensee's employer had a reasonably constituted and functioning compliance program;
  - If the imposition of a condition requiring the licensee to establish and implement a written self-enforcement and compliance program would assist in ensuring the licensee's future compliance with all statutes, regulations, and conditions to the license;
  - If the licensee realized a pecuniary gain from the violation;
  - If the amount of any fine or other penalty imposed would result in disgorgement of any gains unlawfully realized by the licensee;
  - If the violation was caused by an officer or employee of the licensee, the level of authority of the individual who caused the violation;
  - If the individual who caused the violation acted within the scope of the individual's authority as granted by the licensee;
  - The adequacy of any training programs offered by the licensee or licensee's employer which were relevant to the activity that resulted in the violation;
  - If the licensee's action substantially deviated from industry standards and customs;
  - The extent to which the licensee cooperated with the Commission during the investigation of the violation;
  - If the licensee has initiated remedial measures to prevent similar violations;
  - The magnitude of penalties imposed on other licensees for similar violations;
  - The proportionality of the penalty in relation to the misconduct;
  - The extent to which the amount of any fine imposed would punish the licensee for the conduct and deter future violations;
  - Any mitigating factors offered by the licensee; and
  - Any other factors the Commission in its sole and absolute discretion considers relevant.
- Unless a license is suspended, expires, or is revoked, requires the license to 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 the Casino Gaming Laws and rules and after the licensee pays a fee.

- Requires a licensee to undergo a complete investigation at least every three years, as determined by Commission rule, to determine that the licensee remains in compliance with the Casino Gaming Law.
- Permits the Commission to investigate a licensee at any time the Commission determines it is necessary to ensure that the licensee remains in compliance with Casino Gaming Law.
- Requires all licensees to bear the cost of an investigation of the licensee, except for key employees casino gaming employees who are employed by a casino operator, in which case costs must be paid by the casino operator.

### **Public record applicability of application information**

(R.C. 3772.16)

- Specifies that any information concerning the following submitted, collected, or gathered as part of an application to the Commission for a license is confidential and not subject to disclosure as a record under the Public Records Law:
  - A minor child of an applicant;
  - The social security number of an applicant or the spouse of an applicant;
  - The home telephone number of an applicant or the spouse or children of an applicant;
  - An applicant's birth certificate;
  - The driver's license number of an applicant or the applicant's spouse;
  - The name or address of a previous spouse of the applicant;
  - The date of birth of the spouse of an applicant;
  - The place of birth of the spouse of an applicant;
  - The personal financial information and records of an applicant or the spouse or minor child of an applicant, including tax returns and information, and records of criminal proceedings;

- Any information concerning a victim of domestic violence, sexual assault, or stalking;
  - The e-mail address of a spouse or family member of the applicant;
  - An applicant's home addresses;
  - Any trade secret.
- Notwithstanding any other law, upon written request from a person, requires the Commission to provide the following information to the person except as otherwise provided:
    - The information provided under the Casino Gaming Law concerning a licensee or an applicant;
    - The amount of the wagering tax and admission tax paid daily to Ohio by a licensed applicant or an operating agent;
    - A copy of a letter providing the reasons for the denial of an applicant's license or an operating agent's contract and a copy of a letter providing the reasons for the Commission's refusal to allow an applicant to withdraw the applicant's application, but with confidential information redacted if that information is the reason for the denial or refusal to withdraw.

### **Casino operators, management companies, and holding companies**

(R.C. 3772.01, 3772.11, 3772.111, and 3772.112)

- Permits a person to apply to the Commission for a casino operator, management company, or holding company license to conduct casino gaming at a casino facility as provided in the Casino Gaming Law.
- Requires the application to be made under oath on forms provided by the Commission and to contain information as prescribed by rule, including, all of the following:
  - The name, business address, business telephone number, social security number, and, where applicable, the federal tax identification number of any applicant;
  - The identity of every person having a greater than five per cent direct interest in the applicant casino facility for which the license is sought;

- An identification of any business, including the state of incorporation or registration if applicable, in which an applicant, or the spouse or children of an applicant, has an equity interest of more than five per cent;
- The name of any casino operator, management company, holding company, and gaming-related vendor in which the applicant has an equity interest of at least five per cent;
- If an applicant has ever applied for or has been granted any gaming license or certificate issued by a licensing authority in Ohio or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;
- If an applicant has ever filed or had filed against it a civil or administrative bankruptcy action or proceeding, including the date of filing, the name and location of the court, the case caption, the docket number, and the disposition;
- The name and business telephone number of any attorney representing an applicant in matters before the Commission;
- Information concerning the amount, type of tax, the taxing agency, and times involved, if the applicant has filed or been served with a complaint or notice filed with a public body concerning a delinquency in the payment of or a dispute over a filing concerning the payment of a tax required under federal, state, or local law;
- A description of any proposed casino gaming operation and related casino enterprises, including the type of casino facility, location, expected economic benefit to the community, anticipated or actual number of employees, any statement from an applicant regarding compliance with federal and state affirmative action guidelines, projected or actual admissions, projected or actual gross receipts, and scientific market research;
- Financial information in the manner and form prescribed by the Commission;
- If an applicant has directly made a political contribution, loan, donation, or other payment of \$100 or more to a statewide officeholder, a member of the General Assembly, or a local government official elected in a jurisdiction where a casino facility is located, or a ballot issue 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;

- Any criminal conviction;
  - Other information required by the Commission under Commission rules.
- Requires any holding company or management company, its directors, executive officers, and any shareholder who holds more than five per cent ownership interest of a holding company or management company to submit the same information as required by an applicant.
  - In determining whether to grant a casino operator license, requires the Commission to also consider:
    - The facilities or proposed facilities for the conduct of casino gaming;
    - The prospective total revenue to be collected by Ohio from the conduct of casino gaming; and
    - The extent to which the applicant exceeds or meets other standards adopted by the Commission.
  - Before a license is issued to a casino operator, requires the casino operator to post and maintain a surety bond of \$1 million payable to the state, conditioned on the casino operator complying with the applicable Ohio constitutional provisions, the Casino Gaming Law and rules.
  - Requires the bond to be issued by a surety that is licensed to do business in Ohio, and to be approved by the Commission.
  - States that the total aggregate liability of the surety on the bond is limited to the amount specified in the bond.
  - Prohibits the surety from canceling the bond unless the surety has given the Commission, for nonpayment of premium, ten days' notice of the intention to cancel, for any other cause, 30 days' notice of the intention to cancel.
  - If the bond is to be canceled, and if the casino operator fails to post and maintain a new surety bond in the specified amount on or before the day of cancellation, voids the casino operator's license.

- Defines "casino operator" as any person, trust, corporation, partnership, limited partnership, association, limited liability company, or other business enterprise that directly holds an ownership or leasehold interest in a casino facility.
- Specifies that "casino operator" does not include an agency of Ohio, any political subdivision of Ohio, any person, trust, corporation, partnership, limited partnership, association, limited liability company, or other business enterprise that may have an interest in a casino facility, but who is legally or contractually restricted from conducting casino gaming.
- Defines "licensed casino operator" as a casino operator that has been issued a license by the Commission and that has been certified annually by the Commission to have paid all applicable fees, taxes, and debts to the state.
- Defines "management company" as an organization retained by a casino operator to manage a casino facility and provide services such as accounting, general administration, maintenance, recruitment, and other operational services.
- Defines "holding company" as any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person which directly owns, has the power or right to control, or holds with power to vote, any part of an applicant, casino operator, management company, or gaming-related vendor license.

### **Gaming-related vendor**

(R.C. 3772.01, 3772.12, and 3772.121)

- Defines "gaming-related vendor" as any individual, partnership, corporation, association, trust, or any other group of individuals, however organized, who supplies equipment, goods, or services to a casino operator or management company, that are directly related to or affect authorized casino gaming, including the manufacture, sale, distribution, testing, or repair of slot machines and table game equipment.
- Allows a person to apply for a gaming-related vendor license.
- Requires all applications to be made under oath.
- Authorizes a person who holds a gaming-related vendor's license to sell or lease, and to contract to sell or lease, equipment and supplies to any licensee involved in the ownership or management of a casino facility.

- Prohibits gambling supplies and equipment from being distributed unless they conform to standards adopted in Commission rules.
- Requires the Commission to issue a gaming-related vendor's license to an applicant who has:
  - Applied for the gaming-related vendor's license;
  - Paid a nonrefundable license fee;
  - Submitted two sets of the applicant's fingerprints; and
  - The Commission has determined that the applicant is eligible for a gaming-related vendor's license.
- Requires a gaming-related vendor to furnish to the Commission a list of all equipment, devices, and supplies offered for sale or lease in connection with casino games authorized under Casino Gaming Law.
- Forfeits to the state, a gaming-related vendor's equipment, devices, or supplies that are used by a person in an unauthorized casino gaming operation.

### **Key employee**

(R.C. 3772.01 and 3772.13)

- Defines "key employee" as any executive, employee, or agent of a casino operator or management company licensee having the power to exercise significant influence over decisions concerning any part of the operation of such licensee, including:
  - An officer, director, trustee, or partner of a person that has applied for or holds a casino operator, management company, or gaming-related vendor license or of a holding company that has control of a person that has applied for or holds a casino operator, management company, or gaming-related vendor license;
  - A person that holds a direct ownership interest of more than five per cent in a person that has applied for or holds a casino operator, management company, or gaming-related vendor license or holding company that has control of a person that has applied for or holds a casino operator, management company, or gaming-related vendor license;
  - A managerial employee of a person that has applied for or holds a casino operator or gaming-related vendor license in Ohio, or a managerial employee

of a holding company that has control of a person that has applied for or holds a casino operator or gaming-related vendor license in Ohio, who performs the function of principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer.

- Requires the Commission to determine if an individual whose duties or status varies from those described also is considered a key employee.
- Prohibits any person from being employed as a key employee unless the person is the holder of a valid key employee license issued by the Commission.
- Requires each applicant to, before the issuance of any key employee license, produce information, documentation, and assurances as are required under the Casino Gaming Law and rules.
- Requires each applicant, in writing, to authorize the examination of all bank accounts and records as the Commission deems necessary.
- To be eligible for a key employee license, requires the applicant to be at least 21 and to meet the criteria set forth by Commission rule.
- Requires each application for a key employee license to be on a form prescribed by the Commission and to contain all information required by the Commission.
- Requires the applicant to set forth in the application if the applicant has been issued prior gambling-related licenses; if the applicant has been licensed in any other state under any other name, and, if so, the name under which the license was issued and the applicant's age at the time the license was issued; any criminal conviction the applicant has had; and if a permit or license issued to the applicant in any other state has been suspended, restricted, or revoked, and, if so, the cause and the duration of each action.
- Requires each applicant to submit with each application, on a form provided by the Commission, two sets of fingerprints and a photograph.
- Requires the Commission to charge each applicant an application fee set by the Commission to cover all actual costs generated by each licensee and all required background checks.
- Requires the casino operator, management company, or holding company by whom a person is employed as a key employee to terminate the person's employment in any capacity requiring a license and to not in any manner permit the person to exercise a significant influence over the operation of a casino facility if:



- The person does not apply for and receive a key employee license within three months of being issued a provisional license, as established by Commission rule.
  - The person's application for a key employee license is denied by the Commission.
  - The person's key employee license is revoked by the Commission.
- Requires the Commission to notify the casino operator, management company, or holding company who employs such a person by certified mail of any such finding, denial, or revocation.
- Prohibits a casino operator, management company, or holding company to pay to a person whose employment is terminated under the above provision any remuneration for any services performed in any capacity in which the person is required to be licensed, except for amounts due for services rendered before notice was received under that provision.
- Permits a contract or other agreement for personal services or for the conduct of any casino gaming at a casino facility between a casino operator, management company, or holding company and a person whose employment is terminated the above provision to be terminated by the casino operator, management company, or holding company without further liability on the part of the casino operator, management company, or holding company and deems any such contract or other agreement to include a term authorizing its termination without further liability on the part of the casino operator, management company, or holding company upon receiving notice under that provision (that a contract or other agreement does not expressly include such a term is not a defense in any action brought to terminate the contract or other agreement, and is not grounds for relief in any action brought questioning termination of the contract or other agreement).
- Prohibits a casino operator, management company, or holding company, without having obtained the prior Commission approval, from entering into any contract or other agreement with a person who has been found unsuitable, who has been denied a license, or whose license has been revoked under the above provision, or with any business enterprise under the control of such a person, after the date on which the casino operator, management company, or holding company receives notice under that provision.

## Casino gaming employees

(R.C. 3772.01 and 3772.131)

- Requires all casino gaming employees to have a casino gaming employee license.
- Defines "casino gaming employee" as any employee of a casino operator or management company, but not a key employee, and as the following and their supervisors:
  - Individuals involved in operating a casino gaming pit, including dealers, skills, clerks, hosts, and junket representatives;
  - Individuals involved in handling money, including cashiers, change persons, count teams, and coin wrappers;
  - Individuals involved in operating casino games;
  - Individuals involved in operating and maintaining slot machines, including mechanics, floor persons, and change and payoff persons;
  - Individuals involved in security, including guards and game observers;
  - Individuals with duties similar to those described above.
- Specifies that "casino gaming employee" does not include an individual whose duties are related solely to nongaming activities such as entertainment, hotel operation, maintenance, or preparing or serving food and beverages.
- Permits the Commission to issue a casino gaming employee license to an applicant if it determines that the applicant is eligible for a license under Commission rules and has paid any applicable fee.
- Requires all applications to be made under oath.
- Requires a casino gaming employee license applicant to be at least 21 years of age.
- Requires each application for a casino gaming employee license to be on a form prescribed by the Commission and to contain all information required by the Commission.
- Requires the applicant to set forth in the application if the applicant has been issued prior gambling-related licenses; if the applicant has been licensed in any other state under any other name, and, if so, the name under which the license was issued and the applicant's age at the time the license was issued; any criminal convictions the

licensee has had; and if a permit or license issued to the applicant in any other state has been suspended, restricted, or revoked, and, if so, the cause and the duration of each action.

- Requires each applicant to submit with each application, on a form provided by the Commission, two sets of fingerprints and a photograph.
- Requires the Commission to charge each applicant an application fee set by the Commission to cover all actual costs generated by each licensee and all required background checks.

### **License fees**

(R.C. 3772.01 and 3772.17)

- Sets the upfront license fee to obtain a license as a casino operator at \$50 million per casino facility.
- Defines "upfront license" as the first plenary license issued to a casino operator.
- Requires new casino operator, management company, and holding company license and renewal license fees to be set by rule, subject to the approval of the Joint Committee on Gaming and Wagering.
- Sets the nonrefundable fee to obtain an application for a casino operator, management company, or holding company license at \$2 million dollars per application and requires the application fee to be deposited into the Casino Control Commission Fund.
- Requires license fees for a gaming-related vendor to be set by rule, subject to the approval of the Joint Committee on Gaming and Wagering and allows the Commission to assess an applicant a reasonable fee in the amount necessary to process a gaming-related vendor license application.
- Requires the license fees for a key employee to be set by rule, subject to the approval of the Joint Committee on Gaming and Wagering and allows the Commission to assess an applicant a reasonable fee in the amount necessary to process a key employee license application. (If the license is being sought at the request of a casino operator, such fees shall be paid by the casino operator.)
- Requires the license fees for a casino gaming employee to be set by rule, subject to the approval of the Joint Committee on Gaming and Wagering. (If the license is being sought at the request of a casino operator, the fee shall be paid by the casino operator.)

## Requirements for certain licensees

(R.C. 3772.18, 3772.19, 3772.25, 3772.26, and 3772.28)

- Requires each casino operator, management company, and holding company involved in the application and ownership or management of casino gaming operations to provide to the Commission as applicable:
  - An annual balance sheet;
  - An annual income statement;
  - An audited financial statement;
  - A list of the stockholders or other persons having at least a five per cent ownership interest in the casino gaming activities of the person who has been issued license or operating agent contract and any other information the Commission considers necessary for the effective administration of the Casino Gaming Law;
  - The applicant's plan and process to provide employment opportunities;
  - Notification of any material changes to the applicant's or licensee's stockholders must be provided to the Commission within 60 days of the change. Notification of any refinancing and debt issuance must be in accordance with rules adopted by the Commission.
- Requires each casino operator to submit quarterly updates and an annual report to the Commission of its adherence to the plans and goals described above.
- Requires preference to be given to public and private Ohio-based institutions to train employees for casino-related employment opportunities.
- Prohibits a person from holding a majority ownership interest in, or being a management company for, more than two casino facilities at any one time and prohibits a person from holding a majority ownership interest in, or being a management company for, more than two tracks at which horse racing where the pari-mutuel system of wagering is conducted at any one time, of which not more than one can be a track for thoroughbred horses.
- Provides that the following are not subject to, or limited by, the requirements of the Casino Gaming Law or the related provisions of the Ohio Constitution:
  - Authorized charitable gaming;

- Authorized charitable bingo;
  - Authorized lottery games; and
  - Authorized pari-mutuel wagering.
- Provides that each of the four casino facilities are subject to all applicable Ohio laws and local ordinances related to health and building codes, or any related requirements and provisions.
  - Prohibits any local zoning, land use laws, subdivision regulations or similar provisions from prohibiting the development or operation of the casino facilities, or casino gaming, provided that no casino facility can be located in a district zoned exclusively residential as of January 1, 2009.
  - States that no municipal corporation or other political subdivision in which a casino facility is located will be required to provide or improve infrastructure, appropriate property, or otherwise take any affirmative legislative or administrative action to assist development or operation of a casino facility, regardless of the source of funding, but if such action is essential to the development or operation of a casino facility, the municipal corporation or other political subdivision may charge the casino operator any costs incurred for such action.
  - Prohibits a casino operator from entering into a debt transaction without the Commission's approval.
  - Requires the casino operator to submit, in writing, a request for approval of a debt transaction that contains at least the following information:
    - The names and addresses of all parties to the debt transaction;
    - The amount of the funds involved;
    - The type of debt transaction;
    - The source of the funds to be obtained;
    - All sources of collateral;
    - The purpose of the debt transaction;
    - The terms of the debt transaction;
    - Any other information deemed necessary by the Commission.

- Defines "debt transaction" as a transaction totaling \$500,000 or more in which a casino operator acquires debt, including bank financing, private debt offerings, and any other transaction that results in the encumbrance of assets.

## **Conservator**

(R.C. 3772.33)

- Defines "conservator" as a person appointed by a court of common pleas as a fiduciary to temporarily manage and control a casino facility.
- Requires the Commission to adopt rules under the Administrative Procedure Act relating to the administration of a casino facility by a conservator.
- Permits the Commission to petition the court of common pleas of the county in which the casino facility is located for appointment by the court of a conservator to manage and control the casino facility if any of the following occurs:
  - The Commission revokes the casino operator's license;
  - The Commission declines to renew the casino operator's license;
  - The Commission suspends a casino operator's license for more than 120 days;
  - A proposed buyer is denied a casino operator's license, and the licensed casino operator is unable or unwilling to retain ownership or control of the casino facility;
  - A natural disaster or bankruptcy halts operations at a casino facility;
  - A licensed casino operator agrees in writing to relinquish control of a casino facility to a conservator.
- States that these provisions do not apply if the casino facility for which a casino license has been issued has not been in operation and open to the public.
- Requires the petition to contain the names of two or more persons the Commission believes are suitable and qualified to manage and control the casino facility and are available for appointment as a conservator.
- Upon receipt of the petition, requires the court to appoint as conservator a person who is named in the petition. Requires the court to immediately notify the Commission of the appointment.

- Upon receipt of notice from the court, requires the Commission to immediately notify the casino operator and the conservator.
- Requires the court that appoints the conservator to set reasonable compensation, out of the revenue of the casino facility, for the services, costs, and expenses of the conservator and for any other persons whom the conservator may engage to aid the conservator in performing the conservator's duties.
- Specifies that a conservator is subject to the Casino Gaming Laws and rules as if the conservator were a licensed casino operator.
- Requires a conservator to be deemed to be a licensed casino operator and to perform all acts that the conservator is required or permitted to perform without approval or other action.
- Requires the conservator to take immediately into possession all property of the casino facility, including its money, accounts, books, records, and evidences of debts owed to the casino operator, and to continue the business of the casino facility.
- Requires a conservator to file with the Commission reports on the administration of the casino facility in such form and at such intervals as the Commission may prescribe.
- If at any time the court finds that a conservator is not qualified or available to serve as conservator, requires the court to request from the Commission the names of two or more persons who the Commission believes are suitable and qualified to manage and control a casino facility and are available to serve as a conservator.
- Allows the Commission to, at any time after the appointment of a conservator, petition the court for the removal of the conservator and the appointment of a new conservator or for the termination of the conservator.
- Requires a conservator to, before assuming the conservator's duties, execute and file a bond for the faithful performance of the conservator's duties payable to the Commission with such surety or sureties and in such form as the Commission approves and in such amount as the Commission prescribes.
- Requires the Commission to require that the former casino operator purchase liability insurance, in an amount determined by the Commission, to protect a conservator from liability for any acts or omissions of the conservator occurring during the duration of the conservatorship that are reasonably related to, and within the scope of, the conservator's duties.

- Grants the former licensed casino operator 180 days after the date on which the conservator is appointed to sell the casino facility to another person who satisfies the requirements of the Casino Gaming Law for obtaining a casino operator's license and is approved by the Commission.
- If the person is unable to sell the casino facility in the time required, permits the conservator to take any action necessary to sell the casino facility to another person who satisfies the requirements of the Casino Gaming Law for obtaining a casino operator's license and is approved by the Commission.
- Requires the Commission to direct the court of common pleas to discontinue a conservatorship when any of the following occurs:
  - The Commission determines that the cause for which the conservatorship was instituted no longer exists;
  - The former casino operator or the conservator has with the approval of the Commission, consummated the sale, assignment, conveyance, or other disposition of the casino facility.
- Upon the discontinuation of the conservatorship and with the approval of the Commission, requires the conservator to take steps as necessary to affect an orderly transfer of the property of the former casino operator.

### **Ejection or exclusion from casino facility**

(R.C. 3772.01, 3772.03, 3772.031, and 3772.034)

- Permits the Commission to eject or exclude or authorize the ejection or exclusion of and permits gaming agents to eject a person from casino facilities for any of the following reasons:
  - The person's name is on the list of persons voluntarily excluding themselves from all casinos in a program established according to rules adopted by the Commission;
  - The person violates or conspires to violate Casino Gaming Laws or rules; or
  - The Commission determines that the person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations.



- Allows a person, other than a person participating in a voluntary exclusion program, to petition the Commission for a public hearing on the person's ejection or exclusion.
- States that a casino operator and a management company has the same authority to eject or exclude a person from the management company's casino facilities as does the Commission.
- States that the General Assembly finds that the exclusion or ejection of certain persons from casino facilities is necessary to effectuate the intents and purposes of the Casino Gaming Law and to maintain strict and effective regulation of casino gaming.
- Requires the Commission, by rule, to provide for a list of persons who are to be excluded or ejected from a casino facility.
- Requires persons on the exclusion list to be identified by name and physical description.
- Requires the Commission to publish the exclusion list on its web site and to transmit a copy of the exclusion list periodically to casino operators, as it is initially issued and thereafter as it is revised.
- Requires a casino operator to take steps necessary to ensure that all its key employees and casino gaming employees are aware of and understand the exclusion list and its function and are kept aware of the content of the exclusion list as it is issued and revised.
- Permits the exclusion list to include any person whose presence in a casino facility is determined by the Commission or by the executive director to pose a threat to the interests of the state, to achieving the intents and purposes of the Casino Gaming Law, or to the strict and effective regulation of casino gaming.
- In determining whether to include a person on the exclusion list, permits the Commission or executive director to consider:
  - Any prior conviction of a crime that is a felony under the laws of Ohio, another state, or the United States, a crime involving moral turpitude, or a violation of the gaming laws of Ohio, another state, or the United States;
  - A violation, or a conspiracy to violate, any provision of the Casino Gaming Law that consists of:

- A failure to disclose an interest in a gaming facility for which the person must obtain a license;
    - Purposeful evasion of taxes or fees;
    - A notorious or unsavory reputation that would adversely affect public confidence and trust that casino gaming is free from criminal or corruptive elements;
    - A violation of a Commission order or of any other governmental agency that warrants exclusion or ejection of the person from a casino facility.
  - Pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations in any state;
  - A person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations;
  - A person is a career or professional offender whose presence in a casino facility would be adverse to the interest of licensed gaming in Ohio.
  - A person has a known relationship or connection with a career or professional offender whose presence in a casino facility would be adverse to the interest of licensed gaming in Ohio;
  - If the Commission has suspended the person's gaming privileges;
  - If the Commission has revoked the person's licenses;
  - If the person poses a threat to the safety of patrons or employees of a casino facility;
  - A person has a history of conduct involving the disruption of gaming operations within a casino facility.
- States that race, color, creed, national origin or ancestry, or sex is not grounds for placing a person on the exclusion list.
  - Requires the Commission to notify a person of the Commission's intent to include the person on the exclusion list.

- Requires the notice to be provided by personal service, by certified mail to the person's last known address, or, if service cannot be accomplished by personal service or certified mail, by publication daily for two weeks in a newspaper of general circulation within the county in which the person resides and in a newspaper of general circulation within each county in which a casino facility is located.
- States that a person who receives notice of intent to include the person on the exclusion list is entitled to an adjudication hearing under Administrative Procedure Act, except as provided, in which the person may demonstrate why the person should not be included on the exclusion list.
- Requires the person to request an adjudication hearing within 30 days after the person receives the notice by personal service or certified mail, or within 30 days after the last newspaper publication of the notice.
- If the adjudication hearing or any appeal results in an order that the person should not be included on the exclusion list, requires the Commission to publish a revised exclusion list that does not include the person.
- Requires the Commission to notify casino operators that the person has been removed from the exclusion list.
- Requires a casino operator to take all steps necessary to ensure its key employees and casino gaming employees are made aware that the person has been removed from the exclusion list.
- Specifies that the provisions related to the exclusion list do not apply to the voluntary exclusion list created as part of the voluntary exclusion program.
- Defines "voluntary exclusion program" as a program provided by the Commission that allows persons to voluntarily exclude themselves from the gaming areas of facilities under the Commission's jurisdiction by placing their name on a voluntary exclusion list and following the procedures set forth by the Commission.
- Absent gross negligence, entitles a casino operator, management company, holding company, gaming-related vendor, the state, and employees of those entities to immunity from any type of civil or criminal liability if a person participating in the voluntary exclusion program enters a casino facility.

## Problem gaming and addiction services

(R.C. 3772.01, 3772.18, 3772.062, 3793.02, and 3793.032)

- Requires an applicant for a casino operator, management company, or holding company license involved in the application of casino gaming operations to submit its compulsive and problem gambling plan to the Commission.
- Requires a casino operator to submit an annual summary of its compulsive and problem gambling plan to the Commission.
- Requires the plan at a minimum to contain the following elements:
  - The goals of the plan and procedures and timetables to implement the plan;
  - The identification of the individual who will be responsible for the implementation and maintenance of the plan;
  - Policies and procedures including the following:
    - The commitment of the casino operator to train appropriate employees;
    - The duties and responsibilities of the employees designated to implement or participate in the plan;
    - The responsibility of patrons with respect to responsible gambling;
    - Procedures for providing information to individuals regarding community, public and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members;
    - The provision of printed material to educate patrons about compulsive and problem gambling and to inform them about treatment services available to compulsive and problem gamblers and their families;
    - The employee training program;
    - Procedures to prevent underage gambling;
    - Procedures to prevent intoxicated patrons from gambling;

- The plan for posting signs within the casino facility containing gambling treatment information.
- Requires the executive director to enter into an agreement with the Department of Alcohol and Drug Addiction Services under which the Department provides a program of gambling and addiction services on behalf of the Commission.
- Requires the Department to provide a program of gambling and addiction services on behalf of the Commission.
- Permits the Department to enter into agreements with county alcohol, drug addiction, and mental health service districts, and nonprofit organizations to provide gambling and addiction services and substance abuse services, and with state institutions of higher education to perform related research.
- Requires the Director of Alcohol and Drug Addiction Services to administer the Problem Casino Gambling and Addictions Fund and to use the money in the fund to support programs that provide gambling addiction services, alcohol and drug addiction programs that provide alcohol and drug addiction services, other programs that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse.
- Requires the Director to prepare an annual report describing the use of the fund for these purposes and to submit the report to the Commission, the Speaker of the House, the Senate President, and the Governor.
- Defines "Problem Casino Gambling and Addictions Fund" as the state problem gambling and addictions fund described in the Ohio Constitution, the money in which must be used for treatment of problem gambling and substance abuse, and for related research.

### **Permanent Joint Committee on Gaming and Wagering**

(R.C. 3772.032)

- Establishes the Permanent Joint Committee on Gaming and Wagering consisting of six members.
- Requires the Speaker of the House of Representatives to appoint to the Committee three members of the House of Representatives and the Senate President to appoint three members of the Senate.
- Prohibits more than two members appointed from each chamber from being members of the same political party.

- Requires the chairperson to be from the opposite party as the chairperson of the Joint Committee on Agency Rule Review.
- If the chairperson is to be from the House of Representatives, requires the Speaker of the House to designate a member as the chairperson and the Senate President to designate a member as the vice-chairperson.
- If the chairperson is to be from the Senate, requires the Senate President to designate a member as the chairperson and the Speaker of the House to designate a member as the vice-chairperson.
- Requires the committee to:
  - Review all constitutional amendments, laws, and rules governing the operation and administration of casino gaming and all authorized gaming and wagering activities and recommend to the General Assembly and Commission any changes it finds desirable with respect to the language, structure, and organization of those amendments, laws, or rules;
  - Make an annual report to the Governor and General Assembly with respect of the operation and administration of casino gaming;
  - Approve all changes of fees and penalties as provided in the Casino Gaming Laws and rules;
  - Study all proposed changes to the Ohio Constitution and laws and to Commission rules governing the operation and administration of casino gaming, and report to the General Assembly on their adequacy and desirability as a matter of public policy.
- Requires any study, or any expense incurred, in furtherance of the Committee's objectives to be paid for from, or out of, the Casino Control Commission Fund or other appropriation provided by law.
- States that the members are to receive no additional compensation, but are to be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

## **State Racing Commission**

(R.C. 3769.081)

- Requires the State Racing Commission to administer the Ohio State Racing Commission Fund and requires the Racing Commission to use the money in the

fund to support purses, breeding programs, race track operations, and Racing Commission operations.

- Requires the Racing Commission, considering the relative importance of these purposes in light of prevailing circumstances in the horse racing industry, to determine the percentage of the money in the fund that is to be applied to each of these purposes.

## **Liquor permits**

(R.C. 4301.355, 4301.62, 4303.181, 4303.182, and 4303.30)

- Creates a D-5n liquor permit and requires the permit D-5n to be issued to either a licensed casino operator or a casino management company that operates a casino facility to sell beer, intoxicating liquor, wine, and mixed beverages at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as can be sold by the holders of D-1 and D-2 permits.
- In addition to those privileges, allows the holder of a D-5n permit to exercise the same privileges as the holder of a D-5 permit.
- Prohibits transfers of a D-5n permit to another location.
- Permits only one D-5n permit to be issued per casino facility and no more than four D-5n permits to be issued in Ohio.
- Establishes a \$25,000 fee for a permit D-5n.
- Permits the holder of a D-5n permit to conduct casino gaming on the permit premises notwithstanding any provision of Ohio law or rules.
- Allows a permit D-5o to be issued to the owner or operator of a retail licensed food establishment or a food service operation that operates as a restaurant and that is located within a casino facility for which a D-5n permit has been issued.
- Permits the holder of a D-5o permit to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises where sold as can be sold by the holders of D-1 and D-2 permits.
- Specifies that in addition to these privileges, the holder of a D-5o permit can exercise the same privileges as the holder of a D-5 permit.

- Prohibits a D-5o permit from being transferred to another location.
- Specifies that no quota restrictions are to be placed on the number of D-5o permits that can be issued.
- Sets the fee for a D-5o permit at \$2,344.
- Requires a permit D-6 to be issued to a holder of a D-5n or D5-o permit to allow sale under that permit during certain Sunday hours for a fee of \$500.
- Requires the rights granted by a D-5n or D-5o permit to be exercised at not more than two fixed counters, commonly known as bars, in rooms or places on the permit premises, where beer, mixed beverages, wine, or spirituous liquor is sold to the public for consumption on the premises.
- For each additional fixed counter on the permit premises where those beverages are sold for consumption on the premises, requires the permit holder to obtain a duplicate D-5n or D-5o permit.
- Upon application, requires the Division of Liquor Control to grant the holder of any D-5n or D-5o permit a duplicate D-5n or D-5o permit for each additional fixed counter.
- Sets the fee for a duplicate D-5o permit at \$1,000 and the fee for a duplicate D-5n permit at \$100 or an amount which is 20% of the fees payable for D-5n or D-5o permits issued to the same premises, whichever is higher.
- Allows a local option election and form of ballots contesting a particular location of a D-5n and D-5o permit.
- Modifies law to make changes to election to allow liquor permit law and open container law for the D-5n and D-5o permit.

### **Income tax withholding at casino facilities**

(R.C. 3772.32)

- Requires a casino operator to deduct and withhold Ohio income tax from a person's winnings at a rate of 6% of the amount won when the person's winnings at a casino facility are an amount for which reporting to the Internal Revenue Service is required under 26 U.S.C. § 6041 (or a subsequent, analogous statute).



- Specifies that the amount of a person's winnings is to be determined each time the person exchanges amounts won in tokens, chips, casino credit, or other pre-paid representations of value for cash or a cash equivalent.
- Requires a casino operator to issue a receipt to a person from whose winnings an amount has been deducted and withheld, and also to obtain additional information from the person that will be necessary for the casino operator to prepare the returns required by the income tax withholding provisions of the bill.
- Requires a casino operator to require a person whose winnings at a casino facility require reporting to the Internal Revenue Service also to state in writing, under penalty of falsification, whether the person is in default under a support order. (This statement will notify the Tax Commissioner to apply any refund to which the person may be entitled to any delinquent support the person may owe.)
- Declares that amounts deducted and withheld by a casino operator are held in trust for the benefit of the state.
- Requires a casino operator, on the tenth banking day of each month, to file a return electronically with the Tax Commissioner that identifies the persons from whose winnings amounts were deducted and withheld and that reports the amount of each such deduction and withholding during the preceding calendar month.
- Requires the casino operator to remit electronically to the Tax Commissioner with the return all amounts deducted and withheld during the preceding month.
- Specifies that, together with the return and remittance, the casino operator must transmit electronically to the Tax Commissioner a copy of each receipt issued and a copy of each support order statement made as described above.
- Requires a casino operator, annually on or before January 31, to file an annual return electronically with the Tax Commissioner indicating the total amount deducted and withheld during the preceding calendar year.
- Requires the casino operator to remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted.
- Specifies that if the identity of a person and the amount deducted and withheld with respect to that person were omitted on a monthly return, that information must be indicated on the annual return.
- Specifies that if a copy of a receipt and a support order statement pertaining to a person was not previously transmitted to the Tax Commissioner, the receipt and

statement must be transmitted electronically to the Tax Commissioner with the annual return.

- Specifies that a casino operator is personally liable for amounts deducted and withheld if the casino operator fails to file a return and remit the amounts deducted and withheld.
- Authorizes the Tax Commissioner to impose a penalty up to \$1,000 if a return is filed late, if amounts deducted and withheld are remitted late, if a return is not filed, or if amounts deducted and withheld are not remitted.
- Specifies that interest accrues on past due amounts deducted and withheld at a rate equal to the federal short-term interest rate.
- Authorizes the Tax Commissioner to collect past due amounts deducted and withheld and penalties and interest thereon by assessment as if they were income taxes collected by an employer.
- Specifies that if a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld and any penalties and interest thereon are immediately due and payable.
- Requires the successor casino operator to withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld and penalties and interest thereon until the predecessor casino operator produces either a receipt from the Tax Commissioner showing that the amounts deducted and withheld and penalties and interest thereon have been paid or a certificate from the Tax Commissioner indicating that no amounts deducted and withheld or penalties and interest thereon are due.
- Specifies that a successor casino operator who fails to withhold purchase money is personally liable, up to the amount of the purchase money, for payment of the amounts deducted and withheld and penalties and interest thereon.
- Requires a casino operator, annually on or before January 31, to issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year.
- Requires the information return to show the total amount deducted from the person's winnings by the casino operator during the preceding year.

- Specifies that the failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve the person from liability for the state income tax with respect to those winnings.
- Specifies that compliance with the casino income tax withholding provisions of the bill does not relieve a casino operator or a person who has winnings at a casino facility from compliance with relevant provisions of the Internal Revenue Code.
- Requires the Tax Commissioner to prescribe the form of the receipt, support order statement, and returns required by the income tax withholding provisions of the bill.

### **Casino winnings subject to state income tax**

(R.C. 5747.02)

- Specifies that every individual, trust, and estate earning or receiving winnings on casino gaming is liable for state income tax on those winnings.

### **Gross casino revenue tax**

(R.C. 1705.48 and 5753.02)

- Levies a tax on the gross casino revenue received by a casino operator of a casino facility at the rate of 33% of the casino operator's gross casino revenue at the casino facility.
- Specifies that the gross casino revenue tax is in addition to any other taxes or fees imposed under the Revised Code or other law and for which the casino operator is liable under Ohio Constitution, art. XV, § 6(C)(2).
- Declares that the gross casino revenue tax is for the purpose of funding the needs of cities, counties, public school districts, law enforcement, and the horse racing industry; funding efforts to alleviate problem gambling and substance abuse; defraying Commission operating costs; and defraying the cost of administering the gross casino revenue tax.
- Excepts casino operators from the rules conferring limited liability on members of limited liability companies insofar as they are liable for the gross casino revenue tax.

### **Gross casino revenue tax: definitions**

(R.C. 5753.01)

- Generally, incorporates by reference into the gross casino revenue tax provisions, definitions from the casino regulation provisions of the bill.

- Defines "gross casino revenue" as 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.

**Gross casino revenue tax: distribution of tax revenue**

(R.C. 5703.052 and 5753.03)

- Creates the following funds in the state treasury for the purpose of receiving and distributing, and accounting for, revenue received from the gross casino revenue tax:
  - The Casino Tax Revenue Fund
  - The Gross Casino Revenue County Fund
  - The Gross Casino Revenue County Student Fund
  - The Gross Casino Revenue Host City Fund
  - The Ohio State Racing Commission Fund
  - The Ohio Law Enforcement Training Fund
  - The Problem Casino Gambling and Addictions Fund
  - The Casino Control Commission Fund
  - The Casino Tax Administration Fund.
- Requires the Treasurer of State to credit all revenue received from the gross casino revenue tax to the Casino Tax Revenue Fund.
- Requires the Treasurer of State to transfer as needed from the Casino Tax Revenue Fund to the Tax Refund Fund, amounts equal to refunds of the gross casino revenue tax that have been certified by the Tax Commissioner.
- After making any transfers required above, but not later than the 15th day of each calendar month, requires the Treasurer of State to transfer the balance of the Casino Tax Revenue Fund as it existed at the close of business on the last day of the preceding month into funds as follows:
  - 51% to the Gross Casino Revenue County Fund to make payments to all 88 counties in proportion to each county's respective population;

- 34% to the Gross Casino Revenue County Student Fund to make payments to all 88 counties in proportion to each county's public school district student population;
  - Five per cent to the Gross Casino Revenue Host City Fund for the benefit of the cities in which casino facilities are located;
  - Three per cent to the Ohio State Racing Commission Fund to support horse racing in Ohio at which the pari-mutuel system of wagering is conducted;
  - Two per cent to the Ohio Law Enforcement Training Fund to support law enforcement functions in Ohio;
  - Two per cent to the Ohio Problem Gambling and Substance Abuse Fund to support efforts to alleviate problem gambling and substance abuse in Ohio;
  - Three per cent to the Casino Control Commission Fund to support the operations of the Commission and to defray the cost of administering the tax.
- Requires the Treasurer of State to make payments to counties under using annualized data possessed by the Tax Commissioner and requires the Tax Commissioner to make the data available to the Treasurer for this purpose.
  - Requires revenues credited under the above to be paid over to the public school districts located in whole or in part in the county.
  - Of the money credited to the Law Enforcement Training Fund, requires the Treasurer to distribute 85% of the money to the Ohio Peace Officer Training Academy and 15% of the money to the Division of Criminal Justice Services.
  - Requires the Treasurer of State to transfer one per cent of the money credited to the Casino Control Commission Fund to the Casino Tax Administration Fund, to be used by the Tax Commissioner to defray the costs incurred in administering the tax.
  - Requires the Tax Commissioner to use the Casino Tax Administration Fund to defray the costs incurred in administering the gross casino revenue tax.

**Gross casino revenue tax: tax returns**

(R.C. 5753.01 and 5753.04; Section 3)

- Requires a casino operator to file a return electronically with the Tax Commissioner, daily each day banks are open for business, not later than noon.

- Specifies that the return must be in the form required by the Tax Commissioner.
- Specifies that a return must reflect the relevant tax period.
- Defines the "tax period" to mean, as the case may be, either (1) the day before a return is filed or (2) the days beginning with the day on which the previous return was filed through the day before the day on which the current return is filed.
- Specifies that the return must include, but is not limited to, the amount of the casino operator's gross casino revenue for the tax period and the amount of tax due on that revenue for the tax period.
- Specifies that the first return is to reflect the tax period consisting of or beginning on the day on which operations of the casino facility commence.
- Requires a casino operator to remit the gross casino revenue tax due electronically with the return.
- Specifies that if a casino operator ceases to be a taxpayer at any time, the casino operator must indicate the last date for which the casino operator was liable for the gross casino revenue tax.
- Specifies that the return must include a space for this purpose.

**Gross casino revenue tax: penalties and interest**

(R.C. 5753.05)

- Prescribes penalties as follows:
  - If a casino operator fails to file a return or to remit the gross casino revenue tax due, the casino operator is liable for a penalty equal to the greater of \$500 or 10% of the tax due.
  - If the Tax Commissioner finds additional gross casino revenue tax to be due, the Tax Commissioner may impose a penalty, in addition to the penalty described above, of up to 15% of the additional tax found to be due. A delinquent payment of gross casino revenue tax made as a result of a notice or an audit is subject to this additional penalty.
  - If a casino operator fails to file a return electronically or to remit the gross casino revenue tax electronically, the Tax Commissioner may impose an additional penalty of \$50 or 10% of the tax due as shown on the return, whichever is greater.

- Specifies that if the gross casino revenue tax is not timely paid, the casino operator is liable to pay interest at the rate per year that is equal to the federal short-term interest rate, beginning on the day the tax was due through the day the tax is paid or an assessment is issued, whichever occurs first.
- Requires the Tax Commissioner to collect any penalty or interest as if it were the gross casino revenue tax.
- Specifies that penalties and interest are to be treated as if they were revenue arising from the gross casino revenue tax.
- Permits the Tax Commissioner to abate all or a portion of any penalty and to adopt rules governing abatements.
- Specifies that if a casino operator fails to file a return or to remit the tax due as required within a period of one year after the due date for filing the return or remitting the tax, the Commission may suspend the casino operator's license.

#### **Gross casino revenue tax: refunds**

(R.C. 5703.70 and 5753.06)

- Permits a casino operator to apply to the Tax Commissioner for refund of gross casino revenue taxes that were overpaid, paid illegally or erroneously, or paid on an illegal or erroneous assessment.
- Specifies that a refund application must be on a form prescribed by the Tax Commissioner.
- Requires the casino operator to provide the amount of the requested refund, along with the claimed reasons for, and documentation to support, the issuance of a refund.
- Requires a casino operator to file a refund application with the Tax Commissioner within four years after the date payment was made, unless the casino operator has waived the time limit within which an assessment must be issued (see below), in which case the four-year limitation is extended for the same period of time as the waiver.
- Requires the Tax Commissioner, upon the filing of a refund application, to determine the amount of the refund to which the applicant is entitled.

- If the amount is not less than the amount claimed, the Tax Commissioner must certify the amount to the Director of Budget and Management and the Treasurer of State for payment from the Tax Refund Fund.
- If the amount is less than the amount claimed, the Tax Commissioner must notify the applicant. The applicant then has 60 days to provide information requested by the Tax Commissioner or to request a hearing, or both.
- Entitles a casino operator who applies for a refund to interest computed at the rate equal to the federal short-term interest rate from the later of the date the gross casino revenue tax was due or the date payment of the tax was made.
- Authorizes the Tax Commissioner, with the consent of the casino operator, to credit against the gross casino revenue tax due for a tax period, the amount of any refund due the casino operator for a preceding tax period.

**Gross casino revenue tax: refund offsets**

(R.C. 5753.06 and 5753.061)

- Specifies that a refund of gross casino revenue tax to which a casino operator is entitled can be applied to satisfy debts to the state.
  - If the amount refundable is less than the amount of the debt to the state, the amount refundable may be applied in partial satisfaction of the debt.
  - If the amount refundable is greater than the amount of the debt to the state, the amount refundable remaining after satisfaction of the debt must be refunded to the casino operator.
- Defines a "debt to the state" as unpaid taxes that are due the state, unpaid workers' compensation premiums that are due, unpaid unemployment compensation contributions that are due, unpaid unemployment compensation payments in lieu of contributions that are due, unpaid fees that are payable to the state or to the clerk of courts with regard to motor vehicle titling, incorrect medical assistance payments, or any unpaid charge, penalty, or interest arising from any of the foregoing.
- Specifies that a debt to the state is not a "debt to the state" for purposes of the refund offset described above unless the liability underlying the debt has become incontestable because the time for appealing, reconsidering, reassessing, or otherwise questioning the liability has expired or the liability has been finally determined to be valid.



## **Gross casino revenue tax: assessments and audits**

(R.C. 5753.071)

- Authorizes the Tax Commissioner, on the basis of any information in the Tax Commissioner's possession, to issue an assessment against a casino operator who fails to pay the gross casino revenue tax or who fails to file a return.
- Requires the Tax Commissioner to give the casino operator written notice of an assessment by personal service or certified mail.
- Specifies that instructions on how to petition for reassessment and on how to request a hearing with respect to such a petition must accompany the notice.
- Specifies that an assessment becomes final, and the amount of the assessment becomes due and payable from the casino operator to the Treasurer of State, unless the casino operator, within 60 days after service of the notice of assessment, files with the Tax Commissioner, a written petition for reassessment. The petition must indicate the casino operator's objections to the assessment. The petition must be filed either personally or by certified mail, and must be signed by the casino operator or by the casino operator's authorized agent who has knowledge of the facts.
- Specifies that additional objections may be raised in writing if they are received by the Tax Commissioner before the date shown on the final determination (see below).
- Requires the Tax Commissioner, if a petition for reassessment has been properly filed, to proceed as follows:
  - The Tax Commissioner may, but is not required to, issue a corrected assessment or a final determination.
  - Within 60 days after the mailing of a corrected assessment, the petitioner may file a new petition for reassessment. (A corrected assessment starts the assessment process over. Only one corrected assessment is allowed.)
  - If the Tax Commissioner does not issue a corrected assessment or a final determination, the Tax Commissioner must review the pending petition for reassessment. The casino operator may request a hearing on the petition.
  - Upon review of the pending petition and the results of any hearing, the Tax Commissioner must either cancel the assessment or issue a final determination that affirms or that reduces or increases the assessment.

- A final determination may be appealed.
- Specifies, after an assessment becomes final, that if any portion of the assessment, including penalties and accrued interest, remains unpaid, the Tax Commissioner may file a certified copy of the entry making the assessment final in the office of the Clerk of the Court of Common Pleas of Franklin County or in the office of the Clerk of the Court of Common Pleas of the county in which the casino operator resides, the casino operator's casino facility is located, or the casino operator's principal place of business in Ohio is located.
- Requires the Clerk, immediately upon the filing of such an entry, to enter a judgment for the state against the casino operator assessed in the amount shown on the entry. (The Clerk may file such a judgment in a loose-leaf book entitled, "Special Judgments for the Gross Casino Revenue Tax.")
- Declares that the judgment has the same effect as other judgments, and specifies that execution is to issue upon the judgment at the request of the Tax Commissioner. All laws applicable to sales on execution apply to sales made under the judgment.
- Specifies that the portion of an assessment that is not paid within 60 days after the day the assessment was issued bears interest at the rate per year that is equal to the federal short-term interest rate, from the day the Tax Commissioner issued the assessment until the assessment is paid.
- Specifies that interest on an assessment is to be paid in the same manner as if it were the gross casino revenue tax, and specifies that interest on an assessment may be collected by the issuance of an assessment.
- Authorizes the Tax Commissioner to issue a jeopardy assessment against a casino operator who is liable for the gross casino revenue tax if the Tax Commissioner believes that collection of the gross casino revenue tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay.
- Requires the Tax Commissioner, immediately upon the issuance of a jeopardy assessment, to proceed as follows:
  - File an entry with the Clerk of Courts as described above. The Clerk then proceeds as described above.
  - Serve notice of the jeopardy assessment on the casino operator or the casino operator's authorized agent within notice is to be served on the casino operator by personal service or certified mail.

- Specifies that the total amount assessed is immediately due and payable, unless the casino operator assessed (1) files a petition for reassessment as described above and (2) provides security in a form satisfactory to the Tax Commissioner that is in an amount sufficient to satisfy the unpaid balance of the assessment.
- Requires, if a petition for reassessment has been filed, and if satisfactory security has been provided, the Tax Commissioner to proceed with regard to the petition as described above. Specifies that full or partial payment of a jeopardy assessment does not prejudice the Tax Commissioner's consideration of the petition for reassessment.
- Requires the Tax Commissioner immediately to forward to the Treasurer of State all amounts the Tax Commissioner receives as the result of an assessment, and specifies that the amounts forwarded are to be treated as if they were revenue arising from the gross casino revenue tax.
- Prohibits an assessment from being issued against a casino operator for the gross casino revenue tax more than four years after the due date for filing the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later.
- Specifies that the time limitation does not bar an assessment against a casino operator who fails to file a return or who files a fraudulent return, or when the casino operator and the Tax Commissioner waive the time limitation in writing.
- Permits the Tax Commissioner to audit a sample of a casino operator's gross casino revenue over a representative period of time if the Tax Commissioner possesses information indicating liable to pay exceeds the amount the casino operator actually paid.
- Specifies that the audit is to ascertain the amount of gross casino revenue tax that is due.
- Specifies that the Tax Commissioner may issue an assessment on the basis of an audit.
- Requires the Tax Commissioner to make a good faith effort to reach agreement with the casino operator in selecting a representative sample to be audited.
- Prohibits the Tax Commissioner from applying a sampling method unless the Tax Commissioner has prescribed the method by rule.

- Specifies, if the whereabouts of a casino operator who is liable for the gross casino revenue tax are unknown to the Tax Commissioner, the Tax Commissioner is to proceed by personal service or certified mail.
- Specifies that if a casino operator fails to pay the gross casino revenue tax within a period of one year after the due date for remitting the tax, the Commission may suspend the casino operator's license.

**Gross casino revenue tax: tax consequence of sale or quitting**

(R.C. 5753.08)

- Specifies that if a casino operator who is liable for the gross casino revenue tax sells the casino facility, disposes of the casino facility in any manner other than in the regular course of business, or quits the casino gaming business, any gross casino revenue tax owed by that casino operator becomes immediately due and payable, and the casino operator must pay the gross casino revenue tax due, including any applicable penalties and interest.
- Requires such a casino operator's successor to withhold a sufficient amount of the purchase money to cover the gross casino revenue tax and any penalties and interest that are due and unpaid until the predecessor casino operator produces either a receipt from the Tax Commissioner showing that the amounts due have been paid or a certificate indicating that no taxes are due.
- Specifies that if the successor casino operator fails to withhold purchase money, the successor is personally liable, up to the purchase money amount, for amounts that were unpaid during the operation of the casino facility by the predecessor casino operator.

**Gross casino revenue tax: administration**

(R.C. 5753.09)

- Specifies generally that the Tax Commissioner is to administer and enforce the gross casino revenue tax provisions of the bill Specifies that the Tax Commissioner, in addition to any other powers conferred upon the Tax Commissioner by law, may do all the following:
  - Prescribe all forms that are required to be filed under the gross casino revenue tax provisions of the bill.
  - Adopt rules that are necessary and proper to carry out the gross casino revenue tax provisions of the bill.

- Appoint professional, technical, and clerical employees as are necessary to carry out the Tax Commissioner's duties under the gross casino revenue tax provisions of the bill.

### **Gross casino revenue tax: record-keeping and inspection**

(R.C. 5703.19, 5703.21, and 5753.10)

- Authorizes the Tax Commissioner to prescribe requirements for the keeping of records and pertinent documents, for the filing of copies of federal income tax returns and determinations, and for computations reconciling federal income tax returns with the tax return for the gross casino revenue tax.
- Authorizes the Tax Commissioner to require a casino operator, by rule or by notice served on the casino operator, to keep records and other documents the Tax Commissioner considers necessary to show the extent to which the casino operator is liable for the gross casino revenue tax.
- Specifies that records and other documents must be open to inspection by the Tax Commissioner on demand.
- Specifies that the Tax Commissioner may impose a penalty of \$500 for each day a person refuses to comply with the Tax Commissioner's written demand to inspect books, accounts, records, and memoranda, or to examine under oath any person or any officer, agent, or employee of that person, pertaining to administration of the gross casino revenue tax--so long as the person to whom the demand was made has had at least ten days to comply therewith. The penalty may be collected by assessment (see above).
- Specifies that records and other documents must be preserved for a period of four years unless the Tax Commissioner, in writing, consents to their destruction within that period or, by order served on the casino operator, requires that they be kept longer.
- Specifies that if a casino operator normally keeps records electronically, the casino operator must provide the records electronically to the Tax Commissioner at the Tax Commissioner's request.
- Specifies that both of the following are confidential:
  - Information in the possession of the Department of Taxation concerning administration of the gross casino revenue tax.

- Information required by the Tax Commissioner under the record-keeping provisions of the gross casino revenue tax provisions of the bill.
- Specifies, however, that the otherwise confidential information in the possession of the Department of Taxation may be disclosed to the Commission insofar as doing so is necessary to verify a taxpayer's compliance with the gross casino revenue tax provisions of the bill.

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## HISTORY

| ACTION     | DATE     |
|------------|----------|
| Introduced | 05-17-10 |

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