



Ohio Legislative Service Commission

Bill Analysis

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Sen. Schiavoni

BILL SUMMARY

- Authorizes the Ohio Casino Control Commission (OCCC) to regulate sweepstakes terminal device gaming and to license sweepstakes terminal device vendors, sweepstakes terminal device operators, and their key employees under the Gaming Law.
- Authorizes the legislative authority of a municipal corporation or a board of township trustees of an unincorporated area of a township to adopt an ordinance or resolution affirmatively allowing the operation of sweepstakes terminal devices within the municipal corporation or the unincorporated area of the township.
- If an ordinance or resolution is so adopted, the municipal corporation or township may charge sweepstakes terminal device vendors and operators fees.
- Expands the authority of the OCCC to complete the functions of licensing, regulating, investigating, and penalizing sweepstakes terminal device vendors and operators, and key employees of these vendors and operators.
- Requires, within six months of the bill's effective date, that the OCCC adopt initial rules as are necessary for completing the functions granted to it by the bill.
- Adds to the OCCC's and its gaming agents' responsibilities certain inspection duties regarding sweepstakes terminal devices and gaming.
- Requires that license applicants establish their suitability for a license by clear and convincing evidence and meet other requirements of the Gaming Law or rules adopted under it.

- Sets a nonrefundable license application fee of not less than \$10,000, assessed by the OCCC, and an additional amount assessed by the OCCC that is necessary to process the license application for a sweepstakes terminal device vendor's license.
- Requires that the license fees for a sweepstakes terminal device vendor be set by rule of the OCCC and be not less than \$15,000.
- Sets a nonrefundable license application fee of not less than \$25,000, assessed by the OCCC, and an additional amount assessed by the OCCC that is necessary to process the license application for a sweepstakes terminal device operator's license.
- Requires that the license fees for a sweepstakes terminal device operator be set by rule of the OCCC and be not less than \$100,000.
- Subjects sweepstakes terminal device operator licensees to certain restrictions regarding what other licenses they cannot obtain and the operation of their sweepstakes terminal device facilities.
- Requires that key employees of sweepstakes terminal device operators and vendors obtain a license.
- Requires the OCCC to charge each key employee license applicant an application fee it sets by rule to cover all actual costs generated by each licensee and all background checks.
- Authorizes the OCCC to assess a key employee license applicant a reasonable fee in the amount necessary to process the license application.
- Requires that all license applicants and non-key employees undergo a criminal records check.
- Prohibits an individual who is under age 21 from being employed at a sweepstakes terminal device facility by a sweepstakes terminal device operator, and from engaging in sweepstakes terminal device gaming at a facility.
- Requires sweepstakes terminal devices to be tested by certified independent testing laboratories chosen from a list of certified laboratories provided by the OCCC.
- Requires that sweepstakes terminal devices and gaming equipment and supplies customarily used in conducting sweepstakes terminal device gaming be purchased or leased only from licensed sweepstakes terminal device vendors.

- Requires the OCCC to require, and adopt rules to authorize, a central system for sweepstakes terminal device operators that is operated by or under the OCCC's control.
- Prohibits any person conducting a sweepstakes with the use of a sweepstakes terminal device from engaging in sweepstakes prohibited conduct or from conducting an illegal sweepstakes, which are offenses established by the bill.
- Makes sweepstakes prohibited conduct and conducting an illegal sweepstakes a "gambling offense" subject to prosecution under the Gambling Law.
- Prohibits an owner or lessee, or a person having control of premises from using or occupying the premises or from recklessly permitting the premises to be used in violation of Ohio laws that require a license to operate sweepstakes terminal devices; violation of this prohibition is the offense of operating a gambling house.
- Authorizes the OCCC to suspend or revoke the licenses of sweepstakes terminal device operators, sweepstakes terminal device vendors, and their key employees for violations of the Gaming Law.
- Makes sweepstakes terminal device licensees subject to civil fines and criminal penalties under the Gaming Law.
- Prohibits sweepstakes terminal device operators from obtaining licenses to operate a check-cashing business, provide loans under the Small Loan Law, or provide loans under the Short-term Loan Law.
- Extends the definition of "holding company" to include licensed sweepstakes terminal device operators and vendors, or applicants for either of those licenses.
- Adds to the jurisdiction of the Permanent Joint Committee on Gaming and Wagering the ability to review all laws, fees, and penalties and make annual reports related to sweepstakes terminal device gaming.
- Expands the OCCC's Executive Director's oversight to include sweepstakes terminal device gaming.
- Requires that the Attorney General, upon receiving a request from the OCCC or its Executive Director, must commence and prosecute actions regarding sweepstakes terminal device gaming.

- Revises the Gambling Law to include in the definition of "gambling device" skill-based amusement machines, slot machines, and sweepstakes terminal devices used in violation of that Law.
- Revises the Gaming Law regarding who pays for criminal records checks of casino licensees and makes other changes to the Gaming Law regarding casinos.

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CONTENT AND OPERATION

Regulation of sweepstakes terminal device gaming

The bill provides for the regulation of sweepstakes terminal device gaming by the Ohio Casino Control Commission (OCCC), and for the licensing by the OCCC of sweepstakes terminal device vendors, sweepstakes terminal device operators, and their key employees. As such, the bill requires, not later than 30 days after its effective date,

that any person conducting sweepstakes terminal device gaming register with the OCCC on a form provided by it.¹

A "sweepstakes" is any game, contest, advertising scheme or plan, or other promotion in which consideration is not required for a person to enter to win or to become eligible to receive any prize, the determination of which is based upon chance, but does not include bingo, or games or lotteries conducted by the State Lottery Commission.² And "sweepstakes terminal device gaming" is any sweepstakes conducted through the use of a sweepstakes terminal device, but does not include charitable gaming and bingo authorized under the Gambling Law (R.C. Chapter 2915.), pari-mutuel wagering authorized under the Horse Racing Law (R.C. Chapter 3769.), or games or lotteries authorized under the State Lottery Law (R.C. Chapter 3770.)³

Under the bill, a "sweepstakes terminal device facility" is any location in Ohio where a sweepstakes terminal device is provided to a sweepstakes entrant.⁴

Sweepstakes terminal devices

Under the bill, a "sweepstakes terminal device" is a mechanical, video, digital, or electronic machine or device, that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant who purchases a tangible product to enter a sweepstakes, and that is capable of displaying information on a screen or other mechanism. A device is a "sweepstakes terminal device" whether or not any of the following apply:

- The device is server-based.
- The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- The device utilizes software such that the simulated game influences or determines the winning or value of the prize.
- The device selects prizes from a predetermined finite pool of entries.

¹ Section 5.

² R.C. 2915.01(GGG).

³ R.C. 3772.01(X).

⁴ R.C. 3772.01(Z).

- The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- The device utilizes software to create a game result.
- The device requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
- The device requires direct payment into it, or remote activation of it.
- The device reveals the prize incrementally, even though it does not influence the awarding of a prize or the value of any prize awarded.
- The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- The device is a slot machine or other form of electrical, mechanical, or computer game.⁵

As for the terms "enter" and "entry" used in the definition of "sweepstakes terminal device," "enter" means the purchase of a tangible product by which a person becomes eligible to receive any prize offered in a sweepstakes, and "entry" means one event from the initial activation of the sweepstakes terminal device until all sweepstakes prize results from that activation are revealed. A "prize" is any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.⁶

Local control of sweepstakes terminal device gaming

At any time after the bill's effective date, a legislative authority of a municipal corporation or of an unincorporated area of a township may adopt an ordinance or resolution affirmatively allowing the operation of sweepstakes terminal devices within the municipal corporation or within the unincorporated area of the township. A legislative authority that has adopted such an ordinance or resolution may charge sweepstakes terminal device vendors and sweepstakes terminal device operators fees.

⁵ R.C. 2915.01(HHH)(1).

⁶ R.C. 2915.01(HHH)(2).

Within seven days after adopting the ordinance or resolution, the legislative authority must provide written notice to the OCCC that the operation of sweepstakes terminal devices is allowed within the municipal corporation or unincorporated area of the township.⁷

Authority of the Ohio Casino Control Commission

On the bill's effective date, the OCCC assumes jurisdiction over the regulation of sweepstakes terminal devices and device gaming under its authority in the Gaming Law (R.C. Chapter 3772.). To ensure the integrity of sweepstakes terminal device gaming, the bill gives the OCCC the authority to complete the functions of licensing, regulating, investigating, and penalizing sweepstakes terminal device vendors, sweepstakes terminal device operators, and key employees of these vendors and operators.⁸

Adoption of initial rules

Within six months of the bill's effective date, the OCCC must adopt initial rules as are necessary for completing its functions. No functions may be commenced until the initial rules are adopted.⁹ The OCCC's rules must include all of the following:

- ◆ The prevention of practices detrimental to the public interest.
- ◆ Prescribing the method an applicant must use to apply for a license.
- ◆ The information to be furnished by an applicant or licensee.
- ◆ The certification standards and duties of an independent testing laboratory and the relationship between the OCCC, the laboratory, and the sweepstakes terminal device vendor and operator.
- ◆ The minimum amount of insurance that must be maintained by a sweepstakes terminal device vendor or operator.
- ◆ The design of gaming supplies, devices, and equipment to be distributed by sweepstakes terminal device vendors.
- ◆ For all licensed sweepstakes terminal device gaming: the permitted sweepstakes terminal device gaming, gaming supplies, devices, and equipment, the

⁷ R.C. 3772.301.

⁸ R.C. 3772.03(B) and (M).

⁹ R.C. 3772.03(D)(2).

area in which the permitted gaming may be conducted, the method of operation according to which the permitted gaming is to be conducted, and gaming devices and equipment that meet the Ohio standards.

- ◆ The adoption of standards regarding the marketing materials of a licensed sweepstakes terminal device operator.

- ◆ A requirement that the records, including financial statements, of any sweepstakes terminal device vendor and operator be maintained as prescribed by, and made available for inspection upon demand by, the OCCC.

- ◆ The manner in which winnings and compensation from sweepstakes terminal devices must be computed and reported by a licensee.

- ◆ Prescribing conditions under which a licensee's license may be suspended or revoked.

- ◆ Prescribing the manner and procedure of all hearings to be conducted by the OCCC or by a hearing examiner.

- ◆ The accounting and auditing standards with which sweepstakes terminal device vendors and operators must comply, and the means by which those entities must assist the Tax Commissioner in levying and collecting all applicable taxes.

- ◆ Defining penalties for violation of OCCC rules and a process for imposing those penalties.

- ◆ The standards for the repair of sweepstakes terminal devices and related equipment.

- ◆ Any other thing necessary and proper for the successful and efficient regulation of sweepstakes terminal device gaming, including, as the OCCC may consider necessary, standards and requirements for security, surveillance, and surveillance equipment at sweepstakes terminal device facilities.

The OCCC may adopt, and as advisable and necessary may amend or rescind, rules that establish and implement a voluntary exclusion program for persons that is similar to the program established for casino facilities under continuing law.¹⁰

¹⁰ R.C. 3772.03(E).

Ejection or exclusion from a facility

The bill authorizes the OCCC to eject or exclude or authorize the ejection or exclusion of, and a gaming agent may eject, a person from a sweepstakes terminal device facility if the person violates or conspires to violate the Gaming Law or rules, or if the OCCC determines that the person's conduct or reputation is such that the person's presence within the facility may call into question the honesty and integrity of gaming operations. A person may be ejected or excluded from a sweepstakes terminal device facility if the person's name is on the list of persons voluntarily excluding themselves from facilities, but only if the OCCC adopts rules establishing and implementing a voluntary exclusion program.¹¹

Responsibilities

In addition to its existing responsibilities, the bill authorizes the OCCC to do all of the following regarding sweepstakes terminal devices and gaming:

- Inspect and examine all premises where sweepstakes terminal device gaming is conducted or where such gaming supplies, devices, or equipment are manufactured, sold, or distributed.
- Inspect all related gaming supplies, devices, and equipment in or about a sweepstakes terminal device facility.
- Summarily impound and seize and remove from the facility, gaming supplies, devices, and equipment for the purpose of examination and inspection.
- Determine any facts or conditions as the OCCC considers necessary to aid in enforcing the Gaming Law or a rule adopted under it.
- Audit sweepstakes terminal device gaming operations, including those that have ceased operation.
- Investigate any suspected violation of the Gaming Law or rule adopted under it.
- Take any other necessary and reasonable action to determine if a violation of the Gambling Law provision that applies to sweepstakes (R.C. 2915.062, discussed below), or any provision of the Gaming Law has occurred.¹²

¹¹ R.C. 3772.03(F) and (I)(2).

¹² R.C. 3772.033.

The bill also expands the OCCC's and its gaming agents' 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, to include sweepstakes terminal device facilities and access to them.¹³

Licensing

General licensing requirements

Because the bill expands the license-granting authority of the OCCC to include licensing sweepstakes terminal device vendors, operators, and their key employees, it includes those applicants in the continuing law that specifies characteristics the OCCC must consider in licensing. All applicants must establish their suitability for a license by clear and convincing evidence. A license is issued for not more than three years, as determined by OCCC rule, if all requirements of the Gaming Law have been satisfied. The OCCC cannot issue a license if the applicant: (1) has submitted an application for a license that contains false information, (2) is an OCCC member, (3) owns an unlawful ownership interest, (4) violates specific rules related to denial of licensure, (5) is a member of or employed by a gaming regulatory body or is employed by an Ohio governmental unit, (6) is ineligible as determined by the OCCC, or (7) has been convicted of a "disqualifying offense."¹⁴ A "disqualifying offense" is 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.¹⁵

The OCCC must continue to observe the conduct and qualifications of all licensees, including sweepstakes-related licensees, and all other persons having a material involvement with a licensee, including sweepstakes terminal device operators. Continuing law states that a license is a revocable privilege and that no licensee has a vested right in or under any license.¹⁶

A sweepstakes terminal device vendor, sweepstakes terminal device operator, or key employee of such a vendor or operator cannot conduct or participate in sweepstakes terminal device gaming without first obtaining a license from the OCCC.¹⁷

¹³ R.C. 3772.03(H).

¹⁴ R.C. 3772.10.

¹⁵ R.C. 3772.07.

¹⁶ R.C. 3772.10.

¹⁷ R.C. 3772.09(C).

Beginning six months after the effective date of the rules adopted by the OCCC, any person who conducts sweepstakes terminal device gaming without a license issued by the OCCC is considered to be guilty of conducting an illegal sweepstakes, a felony of the fourth degree (see "**Prohibitions and penalties**," below).¹⁸

Sweepstakes terminal device vendor license requirements

A "sweepstakes terminal device vendor" is any person, however organized, who supplies sweepstakes terminal devices or related equipment, goods, or services to a sweepstakes terminal device operator, including, but not limited to, the manufacture, sale, distribution, or repair of sweepstakes terminal devices and related equipment.¹⁹

The bill authorizes the OCCC to issue a sweepstakes terminal device vendor license if the applicant meets all requirements under the Gaming Law and under any rule adopted by the OCCC, and meets all requirements under the Gambling Law (R.C. Chapter 2915.). The bill generally permits any person to apply for a sweepstakes terminal device vendor license. The application must be made under oath on a form provided, and must contain all information required, by the OCCC. The application must be accompanied by a nonrefundable license application fee of not less than \$10,000, assessed by the OCCC, and an additional amount assessed by the OCCC that is necessary to process the license application. The license fees for a sweepstakes terminal device vendor must be set by rule of the OCCC and must be not less than \$15,000.²⁰

A sweepstakes terminal device vendor must be licensed prior to the shipment by the vendor of any sweepstakes terminal device and related gaming equipment and supplies into, within, or out of Ohio.²¹

Sweepstakes terminal device operator license requirements

A "sweepstakes terminal device operator" is a person that provides sweepstakes terminal devices to a sweepstakes entrant.²²

The OCCC may issue a sweepstakes terminal device operator license if the applicant meets all requirements under the Gaming Law and under any rule adopted by the OCCC, and meets all requirements under the Gambling Law. The bill permits

¹⁸ Section 4 and R.C. 2915.062(B)(2).

¹⁹ R.C. 3772.01(AA).

²⁰ R.C. 3772.17(F) and 3772.35.

²¹ R.C. 3772.35(C)(1).

²² R.C. 3772.01(Y).

any person to apply for a sweepstakes terminal device operator license at any time after an ordinance or a resolution is adopted by the legislative authority of the municipal corporation or of the unincorporated area of the township in which the applicant will be conducting sweepstakes terminal device gaming (see "**Local control of sweepstakes terminal device gaming**," above). The application must be made under oath on a form provided, and must contain all information required, by the OCCC. The application must be accompanied by the nonrefundable license application fee of not less than \$25,000, assessed by the OCCC, and an additional amount necessary to process a license application, also assessed by the OCCC. The license fees for a sweepstakes terminal device operator must be set by rule of the OCCC and must be not less than \$100,000.²³

A sweepstakes terminal device operator licensee is subject to all of the following restrictions:

(1) No beer or intoxicating liquor can be served or consumed in any licensed sweepstakes terminal device facility.

(2) A sweepstakes terminal device operator, including that operator's partners, affiliates, subsidiaries, and contractors, cannot obtain or retain a lottery sales agent license.

(3) The operator's sweepstakes terminal device facility cannot (1) obtain or retain a lottery sales agent license, (2) be within 500 feet of a casino facility or a race track where pari-mutuel wagering is permitted, (3) be within 1,000 feet of a primary or secondary school or a child day-care facility, or (4) be located on a parcel zoned for residential purposes.

(4) No person under age 21 can be allowed to enter or be employed at a facility.²⁴

A sweepstakes terminal device operator must be licensed before any sweepstakes terminal devices are shipped to or installed at the operator's facility. The sweepstakes terminal devices must be shipped and installed in the manner prescribed by rules adopted by the OCCC.²⁵

²³ R.C. 3772.17(G) and 3772.36(A) and (B).

²⁴ R.C. 3772.36(C).

²⁵ R.C. 3772.36(D).

A licensed sweepstakes terminal device operator must conspicuously post in each sweepstakes terminal device facility the rules of all sweepstakes the operator is conducting at the facility.²⁶

Key employee license requirements

A "key employee" is any executive, employee, or agent of a sweepstakes terminal device vendor or sweepstakes terminal device operator licensee having the power to exercise significant influence over decisions concerning any part of the operation of the licensee, including certain types of officers, persons holding direct or indirect ownership interests of more than 1% of an operator or vendor, or managerial employees, all of which are described in continuing law applying to casino key employees.²⁷

Under continuing law, the OCCC licenses key employees of a casino operator or management company licensee. The bill extends the licensing authority to include key employees of a sweepstakes terminal device vendor or operator. Each applicant for a key employee license, before its issuance, must produce information, documentation, and assurances as are required by the Gaming Law and rules adopted under it, and must, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the OCCC. The applicant must be at least 21 years of age to be eligible for a key employee license, and must meet criteria set forth by OCCC rules.

Each application for a key employee license must be on a form prescribed by the OCCC and must contain all information required by the OCCC. The applicant must set forth in the application if the applicant has been issued prior gambling-related licenses, has been licensed in any other state under any other name, and, if so, the name under which, and the applicant's age at the time, the license was issued. The applicant also must set forth in the application 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 the cause and the duration of each action.

Each key employee license applicant must submit with each application, on a form provided by the OCCC, two sets of fingerprints and a photograph. The OCCC must charge each applicant an application fee it sets by rule to cover all actual costs generated by each licensee, and all background checks. Additionally, the OCCC may

²⁶ R.C. 3772.36(F).

²⁷ R.C. 3772.01(N).

assess the applicant a reasonable fee in the amount necessary to process the license application.²⁸

Criminal records checks

Of licensees

The OCCC must obtain a criminal records check of each person who is to be licensed before issuing a sweepstakes terminal device vendor, operator, or key employee license. The applicant must pay the fee the Bureau of Criminal Identification and Investigation (BCII), or an associated vendor approved by the BCII, charges to conduct a criminal records check. If the applicant for a key employee license is applying at the request of a sweepstakes terminal device operator or vendor, the requesting entity must pay the fee charged for the criminal records check.²⁹

Of non-key employees

The bill also requires that a sweepstakes terminal device operator request that the Superintendent of the BCII conduct a criminal records check of any non-key employee employed prior to the bill's effective date, and of any applicant for employment as a non-key employee who is employed by the sweepstakes terminal device operator after the bill's effective date. The sweepstakes terminal device operator also must request that the Superintendent obtain information from the Federal Bureau of Investigation as part of the employee's or applicant's criminal records check.³⁰ No sweepstakes terminal device operator can employ any person that has been convicted of or has pleaded guilty to a disqualifying offense,³¹ as defined in "**Expansion of OCCC's authority**," above.³²

A sweepstakes terminal device operator must provide to each non-key employee or applicant for whom a criminal records check request is required a copy of the form and standard fingerprint impression sheet, and must obtain the completed form and impression sheet from the employee or applicant. The sweepstakes terminal device operator must forward the completed form and impression sheet to the Superintendent. A non-key employee or applicant who is provided a form and fingerprint impression

²⁸ R.C. 3772.13, not in the bill, and 3772.17.

²⁹ R.C. 3772.07.

³⁰ R.C. 3772.071.

³¹ R.C. 3772.071.

³² R.C. 3772.07.

sheet but who fails to complete the form or to provide fingerprint impressions cannot be employed by a sweepstakes terminal device operator in any position.

Each sweepstakes terminal device operator must pay to the BCII the fee prescribed under existing law³³ for each criminal records check conducted pursuant to the operator's request. An operator may charge an applicant a fee not exceeding the amount the operator pays, but only if the operator notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

The report of any criminal records check conducted for non-key employees or non-key employee applicants is not a public record under the Public Records Law (R.C. 149.43) and cannot be made available to any person, except the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The sweepstakes terminal device operator requesting the criminal records check or the operator's agent or representative;

(3) Any court or agency, including a hearing examiner, in a judicial or administrative proceeding relating to the individual's employment with the sweepstakes terminal device operator requesting the criminal records check and in which proceeding the criminal records check is relevant;

(4) A member, the executive director, or an employee of the OCCC.³⁴

Age limitation for employees of sweepstakes terminal device operators

The bill prohibits an individual who is under age 21 from being employed at a sweepstakes terminal device facility by a sweepstakes terminal device operator, and from engaging in sweepstakes terminal device gaming at a facility. A person under age 21 who knowingly or intentionally enters or attempts to enter a sweepstakes terminal device facility commits a misdemeanor of the first degree on the first offense, and a fifth degree felony for a subsequent offense.³⁵

³³ R.C. 109.572(C), not in the bill.

³⁴ R.C. 3772.071.

³⁵ R.C. 3772.24 and 3772.99(D)(4).

Testing and certification of sweepstakes terminal devices and equipment

Under continuing law, the OCCC certifies independent testing laboratories to test and technically evaluate machines and equipment used in casinos. The OCCC prepares a list of certified independent testing laboratories from which laboratories must be chosen. The bill extends the testing and evaluation requirements to all electronic gaming equipment, including sweepstakes terminal devices.³⁶

A sweepstakes terminal device vendor must submit each individual sweepstakes terminal device and related gaming equipment and supplies to be used in Ohio for testing, certification, and approval, as prescribed by OCCC rule. Prior to shipment and delivery, each individual sweepstakes terminal device intended to be used in this state must have permanently affixed to it a certificate of approval from a certified independent testing laboratory in a form and manner prescribed by the OCCC and must be sealed by the laboratory at the time of approval in a manner prescribed by the OCCC.³⁷

Before a licensed sweepstakes terminal device operator may conduct sweepstakes terminal device gaming at a sweepstakes terminal device facility, and prior to the installation of any sweepstakes terminal device at a facility, the operator must submit to a certified independent testing laboratory each individual sweepstakes terminal device and related gaming equipment and supplies for testing, certification, approval, and sealing as prescribed by rules adopted by the OCCC. The proof or certification of examination and approval of a sweepstakes terminal device and related gaming equipment and supplies that satisfies the requirements described in the preceding paragraph does not satisfy this requirement. A sweepstakes terminal device operator must obtain a separate and independent examination and approval of all sweepstakes terminal devices and related gaming equipment and supplies by a certified independent testing laboratory.³⁸

Purchase or lease of devices, equipment, and supplies

Sweepstakes terminal devices and gaming equipment and supplies customarily used in conducting sweepstakes terminal device gaming must be purchased or leased only from licensed sweepstakes terminal device vendors. The vendor must only provide sweepstakes terminal devices and related gaming equipment and supplies that have been approved by the OCCC to sweepstakes terminal device operators who have

³⁶ R.C. 3772.31(B).

³⁷ R.C. 3772.35(C)(2).

³⁸ R.C. 3772.36(E).

received a sweepstakes terminal device operator's license from the OCCC. The sweepstakes terminal device vendor must accept payment only by check or electronic funds transfer as approved by the OCCC for offering devices and related gaming equipment and supplies in Ohio.

A sweepstakes terminal device vendor must keep books and records for the furnishing of sweepstakes terminal devices and related gaming equipment and supplies to sweepstakes terminal device gaming operations separate from books and records of any other business operated by the vendor. The vendor must file a quarterly return with the OCCC listing all sales and leases. Also, at least once a year as determined by the OCCC, a sweepstakes terminal device vendor must furnish to the OCCC a list of all sweepstakes terminal devices and related gaming equipment and supplies offered for sale or lease by that vendor in Ohio.

Further, the bill requires a sweepstakes terminal device vendor to permanently affix the vendor's name, as filed with the OCCC, to all of the vendor's sweepstakes terminal devices and related gaming equipment and supplies used or offered for sale in Ohio.³⁹

Central system

The bill requires the OCCC to require and to adopt rules to authorize a central system for sweepstakes terminal device operators that is operated by or under the OCCC's control. The sweepstakes terminal device operators will be responsible for the costs of the central system as the system relates to sweepstakes terminal device gaming.⁴⁰

Prohibitions and penalties

Under the Gambling Law

A person conducting a sweepstakes with the use of a sweepstakes terminal device, including the entry of a sweepstakes or the reveal of a prize, is prohibited from doing any of the following:

(1) Giving to another person plays on games of chance, state lottery tickets, bingo, or instant bingo, or firearms, tobacco, or alcoholic beverages, or a redeemable voucher for any of those items as a prize for playing or participating in a sweepstakes;

³⁹ R.C. 3772.21.

⁴⁰ R.C. 3772.01(G) and 3772.31.

(2) Conducting a sweepstakes through the use of a sweepstakes terminal device without first obtaining all required licenses and certifications under the Gaming Law;

(3) Failing to display all required licenses and certifications conspicuously at any location where sweepstakes terminal device gaming is conducted or, as applicable, on the sweepstakes terminal device.⁴¹

A violation of (1), above, is sweepstakes prohibited conduct, which is a first degree misdemeanor for each redemption of a prize that is involved in the violation for a first offense, and a fifth degree felony for each subsequent offense. The maximum fine authorized to be imposed for a fifth degree felony must be imposed upon the offender.⁴² Enforcement of this violation commences on the bill's effective date.⁴³

A violation of (2) or (3), above, is conducting an illegal sweepstakes, a fourth degree felony.⁴⁴

The bill also prohibits a person from conducting a sweepstakes with the use of a sweepstakes terminal device, or supplying a sweepstakes terminal device or related equipment, goods, or services to any person for use at a sweepstakes terminal device facility, within the boundaries of a municipal corporation or township the legislative authority of which has not adopted an ordinance or resolution affirmatively allowing the operation of sweepstakes terminal devices in its jurisdiction. A violation of this prohibition is conducting an illegal sweepstakes, a fourth degree felony.⁴⁵

The bill also makes sweepstakes prohibited conduct and conducting an illegal sweepstakes a "gambling offense" subject to prosecution under the Gambling Law.⁴⁶

The bill prohibits an owner or lessee, or person having custody, control, or supervision of premises from using or occupying the premises or from recklessly permitting the premises to be used in violation of Ohio laws that require a license to operate sweepstakes terminal devices. Whoever violates this prohibition is guilty of operating a gambling house, a first degree misdemeanor, or, for a previous conviction

⁴¹ R.C. 2915.062(A).

⁴² R.C. 2915.062(D).

⁴³ Section 3.

⁴⁴ R.C. 2915.062(E).

⁴⁵ R.C. 2915.062(C) and (E).

⁴⁶ R.C. 2915.01(G) and 2915.062.

of a gambling offense, a fifth degree felony. Premises used or occupied in violation of these prohibitions constitute a nuisance subject to abatement.⁴⁷

Under the Gaming Law

The bill authorizes the OCCC to suspend or revoke the licenses of sweepstakes terminal device operators, sweepstakes terminal device vendors, and their key employees. The bill also expands the civil penalties the OCCC must impose against a person who violates the Gaming Law to include sweepstakes terminal device licensees.

Additionally, the bill makes sweepstakes terminal device licensees subject to the criminal penalties and activities under the Gaming Law. A person who is convicted of a felony described in the Gaming Law or the Gambling Law may be barred for life from entering a sweepstakes terminal device facility.⁴⁸

Prohibited licenses

Under the bill, a sweepstakes terminal device operator is prohibited from obtaining a license to operate a check-cashing business, to provide loans under the Small Loan Law, or to provide loans under the Short-term Loan Law.⁴⁹ Violation of this prohibition may result in the suspension or revocation of the operator's license.⁵⁰

Holding companies

The bill extends existing law's definition of "holding company," which means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person that directly or indirectly owns or controls casino operators, management companies, and gaming-related vendors, to licensed sweepstakes terminal device operators and vendors or applicants for either of those licenses.⁵¹ The result of this extension is not readily apparent because other laws regarding holding companies are not amended by the bill, and those laws apply only to holding companies as related to casino operations.

⁴⁷ R.C. 2915.03.

⁴⁸ R.C. 3772.99.

⁴⁹ R.C. 3772.23.

⁵⁰ R.C. 3772.99(B).

⁵¹ R.C. 3772.01(K).

Permanent Joint Committee on Gaming and Wagering

Under continuing law, the Permanent Joint Committee on Gaming and Wagering has jurisdiction to review all laws, fees, and penalties and make annual reports related to all authorized and regulated casino gaming activities. The bill extends this jurisdiction to include sweepstakes terminal device gaming.⁵²

Executive Director's oversight

Under the bill, the OCCC's Executive Director's oversight is expanded to include sweepstakes terminal device gaming. Therefore, the Executive Director must supervise and administer, enforce rules, and advise the OCCC regarding the operation and administration of sweepstakes terminal device gaming.⁵³

Authority of Attorney General

If any person violates the Gaming Law or Gambling Law prohibitions that apply to sweepstakes terminal device gaming, the Attorney General has a cause of action to restrain the violation. Upon receiving a request from the OCCC or its Executive Director, the Attorney General must commence and prosecute the action to completion.⁵⁴

Adjudications

If the OCCC finds during an adjudication hearing that a person has violated the Gaming Law or the Gambling Law provision that applies to sweepstakes (R.C. 2915.062), the OCCC may issue an order that limits, conditions, restricts, suspends, or revokes a license or that fines a licensee.⁵⁵

Gambling Law, generally

The bill includes in the definition of "gambling device" skill-based amusement machines, slot machines, and sweepstakes terminal devices used in violation of the Gambling Law. Therefore, a person unlawfully using these machines and devices can

⁵² R.C. 3772.032.

⁵³ R.C. 3772.06.

⁵⁴ R.C. 3772.30.

⁵⁵ R.C. 3772.04.

be guilty of gambling, a first degree misdemeanor for the first offense or a fifth degree felony for subsequent offenses.⁵⁶

Revisions to the Gaming Law regarding casinos

The bill requires an applicant for a casino operator, management company, holding company, gaming-related vendor, casino gaming employee, and casino key employee license to pay the fee the BCII charges to conduct a criminal records check. The bill also allows the BCII to approve associated vendors to conduct a criminal records check based on an applicant's completed form and fingerprint impressions. Under current law, the OCCC pays the fee and is then reimbursed by the applicant for the amount of the fee paid on the applicant's behalf, and only the BCII conducts the criminal records checks.⁵⁷

The bill eliminates a provision that authorizes the OCCC to employ the services of persons for the purposes of consultation or investigation, and to fix the salaries of, or contract for the services of legal, accounting, technical, operational, and other personnel and consultants.⁵⁸

HISTORY

ACTION	DATE
Introduced	03-28-12

S0317-I-129.docx/jc

⁵⁶ R.C. 2915.01(F) and 2915.02, not in the bill.

⁵⁷ R.C. 3772.07.

⁵⁸ R.C. 3772.033(J).