



# Ohio Legislative Service Commission

## Bill Analysis

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### Am. H.B. 491

130th General Assembly  
(As Passed by the House)

**Reps.** Buchy and Blessing, Bishoff, Curtin, Huffman, Stebelton

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## BILL SUMMARY

### Skill-based amusement machines

- States that regulation of skill-based amusement machines is governed by the Casino Law (in addition to the Gambling Law), and amends the law to comprehensively grant the Ohio Casino Control Commission authority and jurisdiction over and power to oversee the regulation of skill-based amusement machines and their operations.
- Amends and adds the following definitions in the Gambling Law or Casino Law in relation to skill-based amusement machines: gambling device, conduct, central system, gaming-related vendor, holding company, institutional investor, key employee, skill-based amusement machine, and skill-based amusement machine operator.
- States that the Commission has authority to complete the functions of licensing, regulating, investigating, and penalizing skill-based amusement machine operators, and also has jurisdiction over all persons participating in authorized skill-based amusement machine operations, and grants the Commission authority to adopt specified rules.
- Grants the Commission and its gaming agents authority over and access to skill-based amusement machine operators' facilities to carry out the law.
- Specifically amends the Commission's authority to include skill-based amusement machines, operators, and facilities.
- Requires the Commission to notify an institutional investor and the skill-based amusement machine operator in which the institutional investor invested if the

Commission finds the institutional investor to be unsuitable or unqualified under continuing law provisions.

- Extends that Commission's authority, by and through the Executive Director and as required under state contracting law, to enter into contracts necessary to ensure the proper operation and reporting of all skill-based amusement machines.
- Extends the authority of the Executive Director of the Commission to include supervising and administering skill-based amusement machines in accordance with the Casino Law and the Gambling Law.
- Prohibits a person from conducting, or participating in the conduct of, a skill-based amusement machine without first obtaining a license under the Casino Law.
- Permits a person to apply for a skill-based amusement machine operator license and permits the Commission to issue the license to an applicant who has met certain standards.
- Requires a skill-based amusement machine operator to purchase, lease, or otherwise acquire or obtain skill-based amusement machine equipment, goods, and services from a licensed gaming-related vendor.
- Extends the Commission's licensing determination authority to include determining whether to grant or maintain the privilege of a license related to skill-based amusement machines.
- Requires skill-based amusement machine operator license renewal at least every three years.
- Permits the Commission to grant a waiver or variance from one or more of the skill-based amusement machine operator licensure requirements.
- Requires the Commission to obtain a criminal records check of a person who is to be licensed as a skill-based amusement machine operator, key employee, or gaming-related vendor.
- Provides that the license fees for a skill-based amusement machine operator must be set by rule, subject to review by the Joint Committee on Gaming and Wagering.
- Prohibits skill-based amusement machine operators from obtaining a license to: operate a check-cashing business, provide small loans, or provide short-term loans.



- Prohibits the Commission from requiring use of a central system by a skill-based amusement machine operator if the operator is in compliance with the Casino Law and the Gambling Law.
- Requires the Commission to certify independent testing laboratories to scientifically test and technically evaluate all skill-based amusement machines and related equipment, supplies, and devices.
- Applies the Casino Law's penalty provisions that apply to other licensees under the Casino Law to skill-based amusement machine operations.
- Authorizes the Joint Committee on Gaming and Wagering to review laws governing the operation and administration of skill-based amusement machines, to make an annual report with respect to the operation and administration of skill-based amusement machines, and to study all proposed law changes governing the operation and administration of skill-based amusement machines.
- Adds a violation of the skill-based amusement machine law to the offenses that may lead to a person being guilty of operating a gambling house.

### **Other casino-related changes**

- Includes slot machines used in violation of the Gambling Law or the Casino Law in the definition of "gambling device" in the Gambling Law.
- Includes in the definition of "gambling offense" in the Gambling Law, conducting an illegal casino game and certain offenses under the Casino Law.
- Clarifies that the definition of "key employee" in the Casino Law includes a holding company and a gaming-related vendor.
- Entitles an Ohio Casino Control Commission member to an annual salary of \$30,000.
- Removes a deadline by which the Commission must have adopted initial casino-related rules.
- Clarifies that the Commission's rule-making authority related to independent testing laboratories extends to management companies.
- Makes changes to the voluntary exclusion program regarding surrendering any money or other thing of value a person in the program has converted or attempted to convert into a wagering instrument.

- Expands the Commission's gaming agents' authority to include assisting the Commission in carrying out its duties under the Gambling Law, in addition to the Casino Law.
- Clarifies to what extent the Commission and its gaming agents have authority with regard to the detection and investigation of the seizure of evidence and the apprehension and arrest of persons.
- Clarifies that the Commission's authority to investigate includes violations of the Gambling Law or any other law that may affect the integrity of casino gaming.
- Clarifies that an investigation related to license renewal includes checking for compliance with the Gambling Law, in addition to the Casino Law.
- Clarifies that the Commission's authority regarding limiting, conditioning, restricting, suspending, revoking, denying, or not renewing a license extends to a licensee's failure to meet requirements under the Gambling Law and violations of laws or rules under that law.
- Expands the provisions relating to the central system to apply to management companies.
- States that license and renewal license fees for a new casino operator, management company, and holding company of or affiliated with a casino facility must be set by rule, subject to review by the Joint Committee on Gaming and Wagering.
- Allows a person who holds a gaming-related vendor's license to otherwise provide, and to contract to otherwise provide (in addition to being able to sell or lease), equipment, goods, and services to licensees.
- Prohibits a licensed gaming-related vendor from providing equipment, goods, and services other than those that have been approved by the Commission.
- Removes a redundant provision related to forfeiting unauthorized equipment, devices, or supplies to the state.
- Prohibits a person from conducting, or participating in the conduct of, a casino game without first obtaining a license under the Casino Law.
- Adds using or occupying premises for gambling in violation of the prohibition on conducting an illegal casino game to the offenses that may lead to a person being guilty of operating a gambling house.

- Changes the mental state necessary to constitute the crime of operating a gambling house from "recklessly" to "knowingly."
- Changes the mental state that must accompany certain Casino Law violations from knowingly or intentionally to purposely or knowingly.
- Specifies that possessing materials used to manufacture a device intended to be used in a manner that violates the Gambling Law is a felony under the Casino Law.
- Includes convictions of felonies under the Gambling Law as cause for which the convicted person may be barred for life from entering a casino facility.
- Requires an appeal from an order of the Commission to be taken to the Court of Common Pleas of Franklin County.
- Authorizes a court to suspend an order of the Commission if it appears to the court that (1) an unusual hardship to the appellant will result from execution of the order pending determination of the appeal and (2) the health, safety, and welfare of the public will not be threatened by suspension of the order.
- Specifies that any order issued by the court of common pleas or court of appeals suspending an order of the Commission must terminate within six months after the Commission's record of the adjudication that resulted in the order was filed with the clerk of the court of common pleas.
- Prohibits such a suspension from being extended.
- Requires the court of common pleas, and the court of appeals on appeal, to render judgment on an order of the Commission within six months after the Commission's record of the adjudication was filed with the clerk of the court of common pleas.
- Requires an appeal from an order of the Commission to be set down for hearing at the earliest possible time, and specifies that such an appeal takes precedence over all other actions.

### **Lottery Law changes**

- Eliminates the requirement for Controlling Board approval of application, renewal, and administrative fees charged by the State Lottery Commission for lottery sales agent licenses.
- Modifies the qualification of a person appointed as a Commission member to require the member to have experience or training in the area of problem gambling or other addictions and in assistance to recovering gambling or other addicts.



- Allows the Commission to begin discussions and the planning process for a statewide joint lottery game before the Governor directs the Director of the State Lottery Commission to enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games.
- Specifies that the Commission must not file any rules pertaining to a statewide joint lottery game for publication in the *Register of Ohio* or for legislative review before the Governor directs the Director to enter into the agreement for the game.

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## TABLE OF CONTENTS

Skill-based amusement machines.....	7
Definitions .....	7
Ohio Casino Control Commission rules .....	9
Commission authority.....	11
Executive Director .....	12
License requirement.....	12
Conducting an illegal skill-based amusement machine.....	12
Skill-based amusement machine prohibited conduct .....	12
License requirements .....	13
Waiver or variance .....	14
Criminal records check.....	15
Fees .....	15
Prohibited businesses .....	15
Central system .....	15
Independent testing laboratory .....	16
Penalties .....	16
Joint Committee on Gaming and Wagering .....	16
Gambling house.....	17
Other casino-related changes .....	17
Definitions .....	17
Ohio Casino Control commissioner salary.....	17
Rules and Commission authority.....	18
Fees.....	19
Gaming-related vendors.....	19
Conducting an illegal casino game; gambling house .....	20
Casino Law penalty provisions .....	20
Appeals from Commission orders .....	20
Lottery law changes .....	21
Removal of Controlling Board approval of lottery sales agent license fees .....	21
State Lottery Commissioner qualification .....	22
Statewide joint lottery games.....	22



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## CONTENT AND OPERATION

### Skill-based amusement machines

(R.C. 2915.061 and 3772.03)

Generally, the bill states that regulation of skill-based amusement machines is governed by the Casino Law<sup>1</sup> (in addition to the Gambling Law<sup>2</sup>), and amends the law to comprehensively grant the Ohio Casino Control Commission authority and jurisdiction over, and power to oversee, the regulation of skill-based amusement machines and their operations. Current law provides that, notwithstanding any law to the contrary, beginning on July 1, 2011, the Commission must assume jurisdiction over and oversee the regulation of skill-based amusement machines.

#### Definitions

(R.C. 2915.01 and 3772.01)

To that end, the bill amends definitions in the Gambling Law as follows:

**Gambling device** – The bill includes skill-based amusement machines used in violation of the Gambling Law or the Casino Law in the definition of "gambling device." Continuing Gambling Law provisions prohibit a person, with purpose to violate certain Gambling Laws provisions, from acquiring, possessing, controlling, or operating any gambling device. A violation is a first degree misdemeanor on the first offense or, if the offender previously has been convicted of any gambling offense, a fifth degree felony.<sup>3</sup>

**Conduct** – The bill includes skill-based amusement machines in the definition of "conduct," which means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

Additionally, the bill amends and adds definitions in the Casino Law to account for skill-based amusement machines as follows:

**Central system** – means skill-based amusement machine equipment that provides security, auditing, data and information retrieval, and other purposes deemed necessary and authorized by the Commission.

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<sup>1</sup> R.C. Chapter 3772.

<sup>2</sup> R.C. Chapter 2915.

<sup>3</sup> R.C. 2915.02, not in the bill.



Gaming-related vendor – means any individual, partnership, corporation, association, trust, or any other group of individuals, however organized, who supplies skill-based amusement machine equipment, goods, or services to a skill-based amusement machine operator.

Holding company – 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 does any of the following: (1) has the power or right to control a skill-based amusement machine operator, applicant, or licensee, (2) holds an ownership interest of 5% or more, as determined by the Commission, in a skill-based amusement machine operator applicant or licensee, or (3) holds voting rights with the power to vote 5% or more of the outstanding voting rights of a skill-based amusement machine operator applicant or licensee.

Institutional investor – means any of the following entities owning 5% or more, but less than 15%, of an ownership interest in a skill-based amusement machine operator: 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, including a hedge fund, mutual fund, or private equity fund, 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 may reasonably determine to qualify as an institutional investor for reasons consistent with the Casino Law, and that does not exercise control over the affairs of a licensee and its ownership interest in a licensee is for investment purposes only.

Key employee – means any executive, employee, or agent who has the power to exercise significant influence over decisions concerning any part of the operation of a skill-based amusement machine operator, including:

(1) An officer, director, trustee, or partner of a person that has applied for or holds a skill-based amusement machine operator license or an officer, director, trustee, or partner of a holding company that has control of a person that has applied for or holds a skill-based amusement machine operator license;

(2) A person that holds a direct or indirect ownership interest of more than 1% in a person that has applied for or holds a skill-based amusement machine operator





license or a holding company that has control of a person that has applied for or holds a skill-based amusement machine operator license;

(3) A managerial employee who performs the function of principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer or other person the Commission determines has the power to exercise significant influence over decisions concerning any part of the operation of a person that has applied for or holds a skill-based amusement machine operator license or a holding company that has control of a person that has applied for or holds a license.

The Commission must determine whether an individual whose duties or status varies from those described above also is to be considered a key employee.

Skill-based amusement machine – means the same as the term is defined in the current Gambling Law, which is a mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

(1) The wholesale value of a merchandise prize awarded as a result of a single play of a machine does not exceed \$10;

(2) Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10;

(3) Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and

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

Skill-based amusement machine operator – means a person that provides skill-based amusement machines to a player or participant.

### **Ohio Casino Control Commission rules**

(R.C. 3772.03)

To ensure the integrity of skill-based amusement machines, the bill states that the Commission has authority to complete the functions of licensing, regulating, investigating, and penalizing skill-based amusement machine operators and also has jurisdiction over all persons participating in authorized skill-based amusement machine



operations. In that regard, the bill grants the Commission authority to adopt rules as follows:<sup>4</sup>

(1) Describing the certification standards and duties of a certified independent testing laboratory and the relationship between the Commission, the laboratory, the gaming-related vendor, and the skill-based amusement machine operator;

(2) The minimum amount of insurance that must be maintained by a skill-based amusement machine operator;

(3) The design of skill-based amusement machine supplies, devices, and equipment to be distributed by gaming-related vendors;

(4) Identifying the skill-based amusement machine supplies, devices, and equipment that are permitted, and requiring skill-based amusement machine devices and equipment to meet Ohio standards;

(5) Requiring the Commission to adopt standards regarding the marketing materials of a skill-based amusement machine operator, including allowing the Commission to prohibit marketing materials that are contrary to the adopted standards;

(6) Requiring that the records, including financial statements, of any skill-based amusement machine operator be maintained in the manner prescribed by the Commission and made available for inspection upon demand by the Commission, subject to confidentiality standards;

(7) Permitting a licensed skill-based amusement machine operator to question a person who is suspected of violating the Casino Law;

(8) Prescribing the manner in which winnings or compensation from skill-based amusement machine operations must be computed and reported by a licensee;

(9) Prescribing standards according to which skill-based amusement machine operators must keep accounts and standards according to which the accounts must be audited;

(10) Establishing standards for the repair of skill-based amusement machines;

(11) Prescribing, for institutional investors in or holding companies of a skill-based amusement machine operator that fall below the threshold needed to be considered an institutional investor or a holding company, standards regarding what

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<sup>4</sup> This grant of rule-making authority is analogous to rule-making authority for other licensees under the Casino Law.

any employees, members, or owners of those investors or holding companies can do and must not do in relation to skill-based amusement machines, which standards must rationally relate to the need to proscribe conduct that is inconsistent with passive institutional investment status; and

(12) Providing for any other thing necessary and proper for successful and efficient regulation of skill-based amusement machines.

### **Commission authority**

(R.C. 3772.03, 3772.033, 3772.10, and 3772.31)

The bill grants the Commission and its gaming agents authority over and access to skill-based amusement machine operators' facilities to carry out the law. The bill allows the Commission to do all the following and to designate any such responsibilities to the Executive Director of the Commission, to the Commission's employees, or to the gaming agents:

(1) Inspect and examine all premises where skill-based amusement machines are operated or where skill-based amusement machine supplies, devices, or equipment are manufactured, sold, or distributed;

(2) Inspect all skill-based amusement machine supplies, devices, and equipment in or about a skill-based amusement machine operator facility;

(3) Summarily impound and seize and remove from the skill-based amusement machine operator facility premises, skill-based amusement machine supplies, devices, and equipment for the purpose of examination and inspection;

(4) Audit skill-based amusement machine operations, including those that have ceased operation; and

(5) Investigate, for the purpose of prosecution, any suspected violation of the Casino Law or rules or of the Gambling Law or any other Ohio law that may affect the operation of skill-based amusement machines.

Additionally, if the Commission finds an institutional investor to be unsuitable or unqualified under continuing law provisions, the Commission must notify the institutional investor and the skill-based amusement machine operator in which the institutional investor invested. Continuing law provides for a period of time to cure the problem before the Commission may begin proceedings to deny, suspend, or revoke the license of the skill-based amusement machine operator in which the institutional investor invested or to deny the renewal of any license.



The bill extends the Commission's authority, by and through the Executive Director and as required under state contracting law, to enter into contracts necessary to ensure the proper operation and reporting of all skill-based amusement machines.

### **Executive Director**

(R.C. 3772.06)

The bill extends the authority of the Executive Director of the Commission to include supervising and administering skill-based amusement machines in accordance with the Casino Law and the Gambling Law. Also, the Executive Director must make available at the request of the Commission all documents, files, and other records pertaining to the operation and administration of skill-based amusement machines.

### **License requirement**

(R.C. 2915.06, 3772.07, 3772.10, 3772.14, 3772.15, 3772.17, 3772.23, and 3772.25)

### **Conducting an illegal skill-based amusement machine**

The bill establishes a new licensing requirement for persons who conduct skill-based amusement machines, and creates a criminal penalty for such conduct without the appropriate license. Specifically, the bill prohibits a person from conducting, or participating in the conduct of, a skill-based amusement machine without first obtaining a license under the Casino Law. A violator of this provision is guilty of conducting an illegal skill-based amusement machine, a first degree misdemeanor for the first offense and a fifth degree felony for subsequent offenses.

Under the bill, a person who has obtained a license from the Director of Agriculture to operate concessions at a fair or exhibition conducted by a county or independent agricultural society or by the Ohio Expositions Commission, are exempt from the new licensing requirement. Furthermore, the bill specifies that such "concessions" are not subject to the requirements of Casino Law or Ohio Constitution, article XV, section 6(C).<sup>5</sup>

### **Skill-based amusement machine prohibited conduct**

Under continuing law, a violation of the "skill-based amusement machine prohibited conduct" law is a first degree misdemeanor for the first violation. And, if the offender has previously been convicted of a violation, the penalty is a fifth degree felony. The bill specifies that the increased penalty for a subsequent offense will apply if

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<sup>5</sup> This provision of the Ohio Constitution authorizes casino gaming at four casino facilities and specifies the tax that must be levied and collected by the state on gross casino revenue.



the offender has been previously convicted of any gambling offense, rather than specifically a "skill-based amusement machine prohibited conduct" offense.

Under continuing law, skill-based amusement machine prohibited conduct constitutes giving to another person certain prohibited items in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-price game won on a skill-based amusement machine. The prohibited items are cash, gift cards, or any equivalent; plays on games of chance, state lottery tickets, bingo, or instant bingo; firearms, tobacco, or alcoholic beverages; or a redeemable voucher that is redeemable for any of the items listed.

Under the bill, premises used or occupied in violation of the skill-based amusement machine law constitute a nuisance subject to abatement.

### **License requirements**

The bill permits a person to apply for a skill-based amusement machine operator license. All applications must be made under oath and be on a form prescribed by and contain all of the information required by the Commission. The Commission may issue a skill-based amusement machine operator license to an applicant who has done all of the following: (1) applied for the license, (2) paid a nonrefundable license fee, (3) submitted two sets of the applicant's fingerprints, and (4) been determined by the Commission to be eligible for a skill-based amusement machine operator license.

A person who holds a skill-based amusement machine operator license can offer skill-based amusement machines at a location approved by the Commission and as authorized by the Casino Law and rules adopted thereunder, by the Gambling Law, and as approved by the Commission.

A skill-based amusement machine operator must only purchase, lease, or otherwise acquire or obtain skill-based amusement machine equipment, goods, and services from a licensed gaming-related vendor.

The bill extends the Commission's licensing determination authority to include determining whether to grant or maintain the privilege of a license related to skill-based amusement machines. In that regard, the bill requires all skill-based amusement machine related licensees to establish their suitability for a license by clear and convincing evidence. The Commission must issue a license for not more than three years. The bill also extends the reasons for which the Commission must not issue a license to licenses related to skill-based amusement machines. The Commission must investigate the qualifications of each applicant before any license is issued and before any finding with regard to acts or transactions for which Commission approval is



required is made. The Commission must continue to observe the conduct of all licensees and all other persons having a material involvement directly or indirectly in skill-based amusement machine operations to ensure that licenses are not issued to or held by, or that there is not any material involvement with a licensee 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.

Unless a license is suspended, expires, or is revoked, the license must be renewed for three years, as determined by Commission rule, after a determination by the Commission that the licensee is in compliance and after the licensee pays a fee. The Commission may assess the license renewal applicant a reasonable fee in an amount set by rule that is necessary to cover the Commission's costs associated with the review of the license renewal application. A licensee must 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 Law or Gambling Law. The Commission may investigate a licensee at any time.

#### **Waiver or variance**

Upon written request from and good cause shown by a person that is required to apply for and obtain a skill-based amusement machine operator license, the Commission can grant a waiver or variance from one or more of the skill-based amusement machine operator licensure requirements. (The sufficiency of good cause is as determined by the Commission.) A waiver or variance request must contain all of the following: (1) the requestor's name, mailing address, telephone number, facsimile number, and electronic mail address, as available, (2) a contact person and that person's mailing address, telephone number, facsimile number, and electronic mail address, as available, (3) a detailed description of the specific requirement or requirements that the requestor is seeking to have waived or to vary from and the reason or reasons justifying the request, (4) the requestor's signature or the signature of a duly authorized agent, employee, or representative of the requestor, and (5) any other information required by the Commission.

The Commission can consider any properly submitted waiver or variance request at a meeting held under the Casino Law or may designate this responsibility to the Commission Chairperson or the Executive Director. If such a designation occurs, the Commission Chairperson or the Executive Director must provide a written response to the requestor indicating whether the waiver or variance has been granted or denied. The Commission, or the Commission Chairperson or Executive Director, if designated, must retain sole authority to grant or deny a waiver or variance request. The request may be denied for any reason except that no denial must be done in an arbitrary or capricious manner. Denial of any waiver or variance request must not require notice



and an opportunity for a hearing nor must it be considered an adjudication or final appealable order for purposes of the Administrative Procedure Act or an appeal under the Appellate Procedure Act.

### **Criminal records check**

Under the bill, the Commission, before issuing a skill-based amusement machine key employee license or a skill-based amusement machine operator license, must obtain a criminal records check of the person who is to be licensed. Continuing law already requires gaming-related vendor applicants to undergo criminal records checks; the bill would extend this requirement to gaming-related vendors who supply skill-based amusement machine equipment, goods, or services. The person, unless applying at the operator's request, must pay the related fee. If the key employee is applying at the request of the operator, the operator must pay the fee.

### **Fees**

The bill provides that the license fees for a skill-based amusement machine operator must be set by rule, subject to review by the Joint Committee on Gaming and Wagering. Additionally, the Commission may assess an applicant a reasonable fee in the amount necessary to process a skill-based amusement machine operator application.

### **Prohibited businesses**

The bill prohibits skill-based amusement machine operators from obtaining a license to: operate a check-cashing business, provide small loans, or provide short-term loans.

### **Central system**

(R.C. 3772.31)

The bill prohibits the Commission from requiring use of a central system by a skill-based amusement machine operator if the operator is in compliance with the Casino Law and the Gambling Law. If the Commission determines, after written notice to the operator and a hearing under the Casino Law, that an operator is not in compliance, the Commission may determine it is necessary to require the operator to install and implement a central system under such conditions as the Commission may require. Before the hearing, the Commission must provide the operator with written notice that the operator is not in compliance with a specific requirement, describe the requirement, and provide the operator at least 30 days to cure the noncompliance or, if the cure cannot be reasonably rectified within 30 days, require the operator to demonstrate to the Commission's satisfaction that the operator is diligently pursuing the required cure. The system must be operated by or under the Commission's control.





If the Commission determines that a central system is necessary and adopts rules authorizing a central system, skill-based amusement machine operators must be responsible for the costs of the central system as it relates to skill-based amusement machines.

### **Independent testing laboratory**

(R.C. 3772.31(B))

The bill requires the Commission to certify independent testing laboratories to scientifically test and technically evaluate all skill-based amusement machines and related equipment and goods for compliance with the Casino Law and the Gambling Law.

### **Penalties**

(R.C. 3772.99)

Generally, the bill applies the Casino Law's penalty provisions that apply to other licensees under the Casino Law to skill-based amusement machine operations. If a licensee violates the Casino Law or engages in a fraudulent act, the Commission may suspend or revoke the license and may do either or both of the following: (1) suspend, revoke, or restrict the skill-based amusement machine operations of a skill-based amusement machine operator, and (2) require the removal of a management company, key employee, or discontinuance of services from a gaming-related vendor.

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

(R.C. 3772.032)

The bill authorizes the Joint Committee on Gaming and Wagering to: (1) review all constitutional amendments, laws, and rules governing the operation and administration of skill-based amusement machines, and recommend to the General Assembly and Commission any changes it may find desirable with respect to the language, structure, and organization of those amendments, laws, or rules, (2) make an annual report to the Governor and to the General Assembly with respect to the operation and administration of skill-based amusement machines, and (3) study all proposed changes to the Ohio Constitution and laws and to the rules adopted by the Commission governing the operation and administration of skill-based amusement machines, and report to the General Assembly on their adequacy and desirability as a matter of public policy.



## **Gambling house**

(R.C. 2915.03)

The bill changes the required culpable mental state in the crime of operating a gambling house to "knowingly." Under current law, the culpable mental state is "recklessly."

Also, under the bill, a violation of the skill-based amusement machine law is added to the offenses that may lead to a person being guilty of operating a gambling house.

## **Other casino-related changes**

The bill makes numerous changes in several topic areas in the Gambling Law and Casino Law as described below.

### **Definitions**

(R.C. 2915.01 and 3772.01)

The bill includes slot machines used in violation of the Gambling Law or the Casino Law in the definition of "gambling device" in the Gambling Law. Also, included in the definition of "gambling offense" in the Gambling Law is conducting an illegal casino game and certain offenses under the Casino Law (e.g. making a false statement on a casino-related application, entering a casino facility while under 21 years of age, cheating at a casino game, using or possessing counterfeit chips, tokens, or cashless wagering instruments in or for use in a casino game).

The bill clarifies that the definition of "key employee" in the Casino Law includes a holding company and a gaming-related vendor.

### **Ohio Casino Control commissioner salary**

(R.C. 3772.02)

The bill entitles each member of the Ohio Casino Control Commission to receive compensation of \$30,000 per year, payable in monthly installments. Under current law, each member must receive compensation of \$60,000 per year, payable in monthly installments for the first four years of the Commission's existence. The Commission was created in 2010.



## Rules and Commission authority

(R.C. 3772.03, 3772.033, 3772.04, 3772.07, 3772.15, and 3772.31)

The bill removes a deadline by which the Commission must have adopted initial casino-related rules within six months of September 10, 2010. The bill also clarifies that its rule-making authority related to independent testing laboratories extends to management companies.

Under the bill, a person who enters a casino facility while participating in the voluntary exclusion program must surrender to the Commission for deposit in the Problem Casino Gambling and Addictions Fund any money or other thing of value the person has converted or attempted to convert into a wagering instrument, including chips, tokens, prizes, jackpots, noncomplimentary pay vouchers, cash, cash equivalents, electronic credits, and vouchers representing electronic credits.

The bill expands the Commission's gaming agents' authority to include assisting the Commission in carrying out its duties under the Gambling Law, in addition to the Casino Law. The bill clarifies by modifying current law that the Commission, as a law enforcement agency, and its gaming agents, as law enforcement officers, 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 violations of the Casino Law or gambling offenses as defined in the Gambling Law or violating any other Ohio law that may affect the integrity of casino gaming or the operation of skill-based amusement machines.

The bill clarifies that the Commission's authority to investigate includes violations of the Gambling Law or any other law that may affect the integrity of casino gaming and permits the Commission to perform as necessary to effectuate the purpose of the Gambling Law, in addition to the Casino Law. Also, the bill clarifies that an investigation related to license renewal includes checking for compliance with the Gambling Law, in addition to the Casino Law. The bill clarifies that the cost of an investigation of certain employees is to be borne by the employer.

Additionally, the bill clarifies that the Commission's authority regarding limiting, conditioning, restricting, suspending, revoking, denying, or not renewing a license extends to a licensee's failure to meet requirements under the Gambling Law and violations of laws or rules adopted under that law.

Regarding issuing emergency orders for the suspension, limitation, or conditioning of any license, registration, approval, or certificate issued, approved, granted, or otherwise authorized by the Commission, the bill clarifies that a holding company of or affiliated with a casino facility is an exception to this authority.



The bill removes an incorrect cross-reference in the description of a disqualifying offense for the purposes of criminal background checks.

The bill applies the provisions relating to the central system to management companies, in addition to casino operators as permitted under current law. Current law provisions permit the Commission to require a central system under certain circumstances and after notice and a hearing.

### **Fees**

(R.C. 3772.17)

The bill states that license and renewal license fees for a new casino operator, management company, and holding company of or affiliated with a casino facility must be set by rule, subject to the review of the Joint Committee on Gaming and Wagering. Current law similarly provides that new casino operator, management company, and holding company license and renewal license fees must be set by rule, subject to the review of the Committee.

### **Gaming-related vendors**

(R.C. 3772.12, 3772.121, and 3772.21)

Generally, the bill allows a person who holds a gaming-related vendor's license to otherwise provide, and to contract to otherwise provide (in addition to being able to sell or lease), equipment, goods, and services to licensees. The bill also prohibits a licensed gaming-related vendor from providing equipment, goods, and services other than those that have been approved by the Commission. Conversely, such equipment, goods, and services must only be purchased, leased, or otherwise acquired or obtained from licensed gaming-related vendors.

The bill prohibits casino gaming and skill-based amusement machine equipment and goods from being distributed in Ohio unless the equipment and goods conform to standards in rules adopted by the Commission.

The bill modifies some requirements related to gaming-related vendors. Under the bill, a gaming-related vendor must furnish to the Commission a list of all equipment, goods, and services offered for sale, lease, or otherwise provided. Current law requires a gaming-related vendor to furnish to the Commission a list of all equipment, devices, and services offered for sale or lease. Under continuing law, modified in part by the bill, all books and records related to furnishing equipment, devices, and supplies to a licensee must be kept separate from other books and records.

The bill removes a redundant provision related to forfeiting unauthorized equipment, devices, or supplies to the state.

### **Conducting an illegal casino game; gambling house**

(R.C. 2915.03 and 2915.062)

Except as otherwise expressly permitted by law, the bill prohibits a person from conducting, or participating in the conduct of, a casino game without first obtaining a license under the Casino Law, and provides that: (1) a violation is a first degree misdemeanor on the first offense and a fifth degree felony for subsequent offenses and (2) premises used or occupied in violation of this provision constitute a nuisance subject to abatement.

The bill adds using or occupying premises for gambling in violation of the prohibition on conducting an illegal casino game to the offenses that may lead to a person being guilty of operating a gambling house. The bill changes the mental state and adds to this offense knowingly permitting a premises to be used or occupied for gambling in violation of that prohibition or operating 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 Law.

### **Casino Law penalty provisions**

(R.C. 3772.99)

Throughout the Casino Law penalty provisions, the bill changes the mental state that must accompany certain violations from knowingly or intentionally to purposely or knowingly. The bill also specifies that possessing materials used to manufacture a device intended to be used in a manner that violates the Gambling Law is a felony under the Casino Law. Finally, the bill includes convictions of felonies under the Gambling Law as cause for which the convicted person may be barred for life from entering a casino facility.

### **Appeals from Commission orders**

(R.C. 119.12)

The bill requires an appeal from an order of the Commission to be taken to the Court of Common Pleas of Franklin County. Under continuing law generally, a party adversely affected by an order of an agency may appeal to the Court of Common Pleas of the county of residence. However, appeals from orders of certain state agencies, including the Liquor Control Commission, the State Medical Board, the State



Chiropractic Board, and the Board of Nursing, also must be taken to the Court of Common Pleas of Franklin County.

The bill authorizes the court to suspend an order of the Commission, and to fix the terms of the suspension, if it appears to the court that (1) an unusual hardship to the appellant will result from execution of the order pending determination of the appeal and (2) the health, safety, and welfare of the public will not be threatened by suspension of the order. Continuing law includes the same authorization for a court with respect to an appeal from an order of the State Medical Board and the State Chiropractic Board.

The bill specifies that any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the Commission that limits, conditions, restricts, suspends, revokes, denies, not renews, fines, or otherwise penalizes an applicant, licensee, or person excluded or ejected from a casino facility must terminate not more than six months after the date of the filing of the Commission's record with the clerk of the court of common pleas. The bill prohibits a court from extending such a suspension.

The bill also requires the court of common pleas, or the court of appeals on appeal, to render a judgment in the matter within six months after the date of the filing of the Commission's record with the clerk of the court of common pleas. A court of appeals is prohibited from issuing an order suspending the effect of an order that extends beyond six months after the date on which the Commission's record is filed with the clerk of a court of common pleas.

Finally, the bill specifies that an appeal of the Commission's order is to be set down for hearing at the earliest possible time and is to be given precedence over all other actions. Continuing law gives precedence to hearings on appeals from orders of the Liquor Control Commission, the State Medical Board, and the State Chiropractic Board.

## **Lottery law changes**

### **Removal of Controlling Board approval of lottery sales agent license fees**

(R.C. 3770.05)

The bill eliminates the current requirement for the Controlling Board to approve certain fees for a lottery sales agent license; it retains current authority for the Director of the State Lottery Commission to establish the amount of the fees by rule. The fees pertain to an original license application, to a renewal application, and to administrative costs for making changes to those types of applications.



## State Lottery Commissioner qualification

(R.C. 3770.01)

The bill requires one person appointed as a member of the Commission to have experience or training in the area of problem gambling or other addictions and in assistance to recovering gambling or other addicts. Under current law, this Commission member is to represent an organization that deals with problem gambling and assists recovering gambling addicts.

Continuing law creates the Commission consisting of nine members appointed by the Governor with the advice and consent of the Senate. Not more than five Commission members can be members of the same political party. All Commission members must be United States citizens and Ohio residents. The Commission members must represent the various geographic regions of Ohio. No Commission member is permitted to have any pecuniary interest in any contract or license awarded by the Commission.

## Statewide joint lottery games

(R.C. 3770.02)

Before the Governor directs the Director of the Commission to enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games, the bill permits the Commission to begin discussions and the planning process for a statewide joint lottery game, but prohibits the Commission from filing the rules for the game for publication in the *Register of Ohio* or for legislative review before the Governor directs the Director to enter into the agreement.

Under continuing law, if the Governor directs the Director to do so, the Director must enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games. If the Governor signs the agreement personally or by means of an authenticating officer, the Director then can conduct statewide joint lottery games under the agreement.

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## HISTORY

ACTION	DATE
Introduced	03-18-14
Reported, H. Policy and Legislative Oversight	05-13-14
Passed House (90-3)	05-21-14

H0491-PH-130/ks

