



# Common Sense Initiative

Mike DeWine, *Governor*  
Jim Tressel, *Lt. Governor*

Joseph Baker, *Director*

## Business Impact Analysis

Agency, Board, or Commission Name: State Lottery Commission

Rule Contact Name and Contact Information: Ian S. Litherland (216) 339 - 7993

Regulation/Package Title (a general description of the rules' substantive content):

Video lottery licenses; fines

Rule Number(s): 3770:2-3-06

Date of Submission for CSI Review: 6/3/2026

Public Comment Period End Date: 6/19/2026

**Rule Type/Number of Rules:**

New/     rules

No Change/     rules (FYR?    )

Amended/   X   rules (FYR?    )

Rescinded/     rules (FYR?    )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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**Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.  
*Please include the key provisions of the regulation as well as any proposed amendments.*

3770:2-3-06 – This rule sets forth guidelines relating to video lottery fines. The rule is being amended to clarify language related to Administrative Procedures Act and non-payment of fines. The amended sections also remove certain burdensome and unnecessary language.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Ohio Revised Code: 3770.03 Commission – powers and duties.

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?  
*If yes, please briefly explain the source and substance of the federal requirement.*

The answer is no to both questions for the rules in this package.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for

**exceeding the federal requirement.**

Not applicable.

**6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Ohio Constitution Article XV, §6, permits the General Assembly to authorize a state agency to conduct lotteries. The General Assembly has authorized the State Lottery Commission, a state agency, to license Video Lottery Sales Agent employees to sell video lottery, the net proceeds of which are used for elementary, secondary, vocational, and special education in the state. This rule is necessary to ensure the consistent and proper conduct of Video Lottery Sales Agent employees with regards to the sales of lottery games, and their integrity under standards set forth in the rules.

Specifically, 3770:2-3-06 sets forth and clarifies guidelines related to issuance of video lottery fines.

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

3770:2-3-06 - Success will be measured through the consistent enforcement of standardized requirements for Video Lottery Sales Agents, which will ensure initial and ongoing compliance with lottery rules and regulations, while maintaining the integrity of that entity. Additionally, in some instances where a license is impacted, an adjudication hearing is required, which ensures fair, impartial review by a hearing officer, as well as published outcomes.

Success will further be measured through the consistent enforcement of these standardized requirements and guidelines, which will ensure ongoing compliance with Lottery rules and regulations, while maintaining the integrity of all licensed Video Lottery Sales Agents and type C sports gaming proprietors under the jurisdiction of the Lottery.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

**Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

***If applicable, please include the date and medium by which the stakeholders were initially contacted.***

On April 15, 2026, the following Stakeholders were sent an e-mail, which included a draft copy of the proposed rule amendments.

Chris Corrado, Belterra Park  
Justin Remschneider, Belterra Park  
Scott Vuko, Belterra Park  
Mike Mueller, Scioto Downs  
John Wheatley, Scioto Downs  
David Frankhouser, Delaware North Companies  
Lauren Utz, Delaware North Companies  
Michael Carruthers, Delaware North Companies  
Shannon Patch, Delaware North Companies  
Michael Caputo, Delaware North Companies  
Karen Cincione, Delaware North Companies  
Kato Moy, Miami Valley Gaming/Delaware North Companies  
Joel Loots, Miami Valley Gaming/Delaware North Companies  
Roger Bryant, Miami Valley Gaming/Delaware North Companies  
Edward McNett, Miami Valley Gaming/Delaware North Companies  
Kyle Wentz, MGM Northfield Park  
Matt Buckley, Northfield Park  
Chris Volle, Jack Entertainment  
Ed Dick, Jack Entertainment  
Erich Zimny, Hollywood Gaming Mahoning Valley  
Kathy Lenhardt, Hollywood Gaming Mahoning Valley  
Tim Kelley, Hollywood Dayton  
Matt Becker, Hollywood Dayton  
Matt Spitnale, PENN Entertainment Inc.  
Frank Donaghue, PENN Entertainment Inc.  
Jim Baldacci, PENN Entertainment Inc.  
Samuel Porter, Ice Miller  
John Oberle, Ice Miller  
Holly Chandler, Ohio Racing Commission  
Sherry White, Ohio Racing Commission  
Scott Borgemenke, Ohio Racing Commission  
Chris Dragone, Ohio Racing Commission  
Ohio Lottery Legal Department

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

The Lottery did not receive any formal written comments on this rule package. However, we did have one Stakeholder reach out for clarification on 3770:2-3-06 changes. On April 30, 2026, the Lottery had a teleconference with Samual Porter of Ice Miller and further explained the proposed changes. No further comments were received.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

3770:2-3-06 – This rule provides clarification on when a fine is imposed, and highlights if it affects the Video Lottery Sales Agent's license, a hearing may be afforded in accordance with the Administrative Procedures Act.

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

3770:2-3-06 – This is the only regulations dealing with this Video Lottery Sales Agent subject matter.

**14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

3770:2-3-06 - All video lottery applicants seeking Video Lottery Sales Agent licenses will be held to these same standards.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

The seven horse racing organizations which currently hold a racing permit granted by the Racing commission and a Video Lottery Sales Agent license will be impacted, including those individuals interested in affiliating with these horse racing organizations. In addition, type C sports gaming proprietors under the jurisdiction of the Lottery are impacted by this rule.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

3770:2-3-06 - A monetary estimate is not possible because penalties for non-compliance with the Lottery Act, if any, are discretionary. If a Video Lottery Sales Agent is in violation, the adverse impact can be measured by the dollar amounts associated with monetary penalties, or can be measured by the dollar amounts associated with the immediate and indefinite disabling of all or a portion of the video lottery operations and/or removal of video lottery equipment at a Video Lottery Sales Agent's facility. There is no way of knowing how many video lottery sales agent licenses, if any, will be suspended or revoked in any given time, or if non-compliance will result in a penalty.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Not applicable.

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

3770:2-3-06 - Fines that may be imposed are justified because they incentivize ongoing compliance with lottery standards, as well as adherence to the Lottery Act, and lottery policies, rules and regulations. Fines also offset the cost of employing investigators who ensure compliance with the Lottery Act, and lottery policies, rules and regulations. Fairness is built into the process because any imposition of a fine triggers the right of the Video Lottery Sales Agent to request an adjudication hearing before an impartial third-party hearing examiner pursuant to the Administrative Procedures Act.

## **Regulatory Flexibility**

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

All businesses, regardless of size, are held to the same standard. If a business is too small, it may fail to operate within the required sales goals or at the level of quality that is consistent with the Ohio Lottery's security and profitability obligations.

### **19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

All monetary fines and penalties for non-compliance are discretionary. There is no automatic penalty for a paperwork violation, and all individual facts and circumstances are taken into account, including experience level, when exercising this discretion.

### **20. What resources are available to assist small businesses with compliance of the regulation?**

The impacted or potentially impacted entities can call the Ohio Lottery Hotline at (800) 686-4208 or by email to.

VLT Management of the Ohio Lottery Commission is available to assist any video lottery sales agent or employee regarding the conditions outlined in the proposed new rule. 615 W. Superior Avenue Cleveland, Ohio 44113-1870.