

CSI - Ohio

The Common Sense Initiative

Business Regulation Impact Analysis

Agency Name: Ohio Casino Control Commission (“Commission”)

Regulation/Package Title: February 2015 – Ohio Adm. Code 3772-8-03 (Casino Gaming Employee Fees)

Rule Number(s): 3772-8-03 (Amended)

Date: March 10, 2015

Rule Type:

New

Amended

5-Year Review

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The proposed amendment reduces the application and license fees required to renew a casino gaming employee license to \$100.00 and \$50.00, respectively. Presently, a licensee is required to pay a \$250.00 application fee, a \$250.00 license fee, and \$46.00 to BCI&I to process fingerprints, for a total of \$546.00 every three years. The purpose of the amendment is to reduce the total cost required to renew a three-year casino gaming employee license to \$196.00, which includes the cost to process fingerprints.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 3772.03, 3772.033, 3772.07, 3772.09, 3772.10, 3772.131, 3772.15, and 3772.17.

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- 3. 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.**

Not applicable.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question does not apply to this amendment because the federal government does not regulate casino gaming in this state. Rather, casino gaming is permitted pursuant to Article XV, Section 6(C) of the Ohio Constitution and is controlled by Ohio's Casino Control Act (i.e., R.C. Chapter 3772).

- 5. 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)?**

Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming and to prescribe rules for how casino gaming should be conducted, including the requirements for obtaining the appropriate license to conduct casino gaming. To that end, it is imperative to protect casino patrons and to ensure that all casino gaming employees meet the suitability requirements for licensure in order to hold employment at a casino in the State of Ohio. This amendment reduces the likelihood that renewing a casino gaming employee license is cost-prohibitive, thereby permitting the highest caliber of suitable licensees to remain working in Ohio's casinos.

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

Overall, the Commission will measure the success of this amendment in terms of whether it helps to ensure the integrity of casino gaming. Specifically, this amendment was developed, in part, as a result of a request by the regulated business community because they considered the existing language cost-prohibitive. Therefore, the success of this regulation, in part, will be determined after the first round of license renewals and be based on whether the regulated community still considers the reduced renewal fees to be cost-prohibitive.

Development of the Regulation

- 7. 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.

Casino Operators and/or Management Companies

- Penn National Gaming, Inc. ("Penn") (Hollywood Casinos Columbus & Toledo)
- Rock Ohio Caesars ("ROC")— joint venture between Rock Gaming and Caesars Entertainment (Horseshoe Casinos Cleveland & Cincinnati)
- Horseshoe Cincinnati Management, LLC
- Horseshoe Cleveland Management, LLC

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On or about October 21, 2014, the Commission's Executive Director and Deputy Executive Director/General Counsel met with four senior officials from ROC and Penn: John Payne, CEO of Caesars Entertainment Operating Company; Marcus Glover, Senior Vice President and General Manager of Horseshoe Casino Cleveland; John Finamore, Senior Vice President of Regional Operations at Penn; and Frank Donaghue, Chief Compliance Officer and Vice President of Regulatory Affairs at Penn. Those representatives requested that the Commission reduce the fees required to renew a casino gaming employee license and supplied examples of lower renewal fees in other jurisdictions.

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

The Commission discussed Penn and ROC's request at its public meeting on January 21, 2015. (Exhibit 1.) The Commission's Executive Director noted that there is a significant benefit in having well-trained, experienced, and compliant individuals who are familiar in the multitude of casino internal controls renew their license. Although none of the interested parties listed above spoke at the Commission meeting, representatives from each of the entities were present for the Commission's public discussion of their request. Their input, coupled with Commission staff's own research and consideration of license renewal fees charged in other jurisdictions, was integral in determining a reasonable reduction of fees required to renew a casino gaming employee license.

9. 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?

This question does not apply to this amendment because no scientific data was necessary to develop or measure its outcome. Instead, Commission staff reviewed how other jurisdictions approached establishing license renewal fees and the request made by Penn and ROC. In so doing, the Commission was able to develop casino gaming employee license renewal fees that were not cost-prohibitive but still permitted the Commission to conduct a thorough and complete suitability investigation.

10. 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?

The Commission staff reviewed the renewal fees for comparable licenses in other jurisdictions, including Michigan, Pennsylvania, Kansas and New Jersey. In Ohio, a casino gaming employee license is effective for three years, but the license terms in other jurisdictions varied so it was necessary to calculate their costs over three years to have an accurate comparison. Further, the Commission staff specifically considered comments from the regulated community, and the fact that casino operators and/or management companies, as a practice, collect reimbursement for its payment of the fees on behalf of its employees. This amendment is a reflection of similar fees charged in other jurisdictions with adaptations made for Ohio.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**
Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

This rule is not performance-based because it governs the fees charged to apply for renewal and to renew a casino gaming employee license.

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

This question does not apply to this rule because there are no other regulations that govern the casino gaming employee license renewal fees.

- 13. 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.**

The first casino gaming employee license renewals will become effective on March 21, 2015, and will continue to do so on a rolling basis. Therefore, to ensure that the same renewal fees are applied to all licensees, the Commission intends to defer collecting any payments for casino gaming employee license renewals until after this amendment becomes effective.

Adverse Impact to Business

- 14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**

The casino operators and management companies are the impacted business community with respect to this amendment.

- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The nature of the potential adverse impact from this amendment includes the cost of each application and license fee to renew a casino gaming employee license.

- c. Quantify the expected adverse impact from the regulation.**

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.

The proposed amendment reduces the application and license fees required to renew a casino gaming employee license to \$100.00 and \$50.00, respectively. Presently, a licensee is required to pay a \$250.00 application fee, a \$250.00 license fee, and \$46.00 to BCI&I to process fingerprints, for a total of \$546.00 every three years. The amendment reduces to total cost to renew a casino gaming employee license from \$546.00 to \$196.00 every three years, reducing the cost by \$350.00.

Ohio Adm. Code 3772-8-03(C) requires a casino operator or management company that makes a specific request for an individual to obtain a casino gaming employee license to pay the related fees. However, the Commission has discovered that each of the four casinos collects the amount paid on an individual's behalf through payroll deductions. Although a casino operator and/or management company is responsible for the initial payment of the application and license fees, each individual casino gaming employee licensee is ultimately responsible for the cost of obtaining and/or renewing their casino gaming employee license and, as a result of this amendment, they will enjoy the reduced renewal costs. Therefore, the Commission anticipates that the casino operators and/or management companies will only be responsible for license renewal costs that they were unable to collect from their employees and, as a result of this amendment, that amount will be substantially reduced. There is no anticipated adverse impact on business or cost of compliance related to this amendment because, as stated, the total cost to renew a casino gaming employee license will be reduced by \$350.00. It is anticipated that this reduction will allow suitable, experienced licensees to continue employment at the casinos, and limit the need for new employees, which would require casino operators and management companies to pay higher application and license fees than renewal applicants and would require the casino operators and management companies to expend more resources to train the new employees.

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

As stated above, the Commission does not anticipate any adverse impact on the regulated business community because this amendment reduces the total costs required to renew a casino gaming employee license. Further, this amendment developed, in part, at the request of the regulated business community. Nonetheless, casino gaming is a highly regulated industry. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework for the regulated community and has done so with this proposed amendment, which reduces the total cost to renew a casino gaming employee license.

Regulatory Flexibility

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

Yes (indirectly), though it is unlikely this will be necessary since these regulations only impact the casinos and casino gaming employee licensees, none of which likely constitute a small business. Further, this amendment indirectly provides exemption or alternative means of compliance through Ohio Adm. Code 3772-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3772, including these rules, if doing so is in the best interest of the public and will maintain the integrity of casino gaming in the State of Ohio.

17. 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?

Though it is unlikely R.C. 119.14 will apply to these rules and amendments because the rules only impact the casinos and casino gaming employee licensees, none of which likely constitute a small business, the Commission will adhere to the statutory requirements thereunder, if applicable.

To the extent R.C. 119.14 would apply to a violation of these rules and amendments, the Commission will provide verbal and written notification to the small business in an attempt to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate casino gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
10 W. Broad Street, 6th Floor
Columbus, Ohio 43215
- Commission's toll free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007
- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov

Also, all members of the regulated community may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-1-04, request waivers and variances from Commission regulations.

OHIO CASINO CONTROL COMMISSION
MEETING MINUTES
10:00 A.M. – January 21, 2015
RHODES TOWER, LOBBY HEARING ROOM
30 W. BROAD STREET
COLUMBUS, OHIO 43215

EXHIBIT 1

The regular meeting of the Ohio Casino Control Commission (OCCC) was called to order at 10:12 a.m. by Chair Jo Ann Davidson. Commissioners McKinley Brown, Will Lucas, Ranjan Manoranjan, John Steinhauer, and June Taylor were also in attendance. Commissioner Martin Hoke had an excused absence. The minutes of the December 17, 2014 meeting were approved following a motion by Commissioner Lucas, seconded by Commissioner Steinhauer.

Executive Director Schuler began his report with an update on license renewals. Anthony Forchione, Director of Licensing and Investigations, and his staff have been traveling to the casinos and working with Human Resources casino staff on the collection of casino gaming employee renewal applications. Mr. Schuler reported he recently visited the Horseshoe Casino Cleveland (UCL) with Licensing and Investigations to participate in a licensing event to get first-hand experience in the application submission and fingerprinting process. Mr. Schuler noted that to date, the Commission has issued over 7,000 casino gaming licenses.

Mr. Schuler reviewed the quarterly criminal statistics for each of the casino properties, noting that the statistics did not take into account the active number of investigations in which state, local, and federal entities are involved. Mr. Schuler then deferred to Noah Browning, OCCC Fiscal Officer and Acting Director of Operations, to present the quarterly review of agency revenues and expenditures. Mr. Browning reported that the Commission was ahead of cash flow, and remained on a strong financial footing.

Mr. Schuler ended his report with a status update and recommendation regarding Penn National and Caesars' request to reduce casino gaming employee license (CGE) fees. Both entities had approached the Commission to lower CGE fees due to lower fees found in other state jurisdictions. Mr. Schuler specified that Ohio's legal requirements provided strict framework on what the Commission must accomplish. Mr. Schuler noted that there is a significant benefit in having well trained, experienced, and compliant individuals already well-versed in the multitude of casino internal controls renew their license.

Mr. Schuler recommended the renewal CGE licensing fee be reduced to \$196.00. Mr. Schuler noted that a new rule would need to be established, which could take up to six months. To ensure the same fee is applied to all licensees, the fee would be deferred until the updated rule is approved. Commissioner Lucas questioned whether the proposed reduced renewal fee would leave enough room for variable costs. Mr. Schuler explained that licensing fees and a percentage of casino fees are the only source of revenue that go into supporting the entire Commission, however, renewal fees would comprise only a part of that revenue needed to support the Commission. Commissioner Lucas indicated he was compassionate to lowering the fee, but wanted to ensure the Commission continues to have enough revenue to uphold the integrity of casino gaming. Mr. Schuler ended his report indicating that the Commission would bring a draft rule reducing the renewal fee for discussion at the next Commission meeting.

Anthony Forchione, Director of Licensing and Investigations then presented to the Commission for consideration, Key Employee Licenses for two individuals. The OCCC Division of Licensing and Investigation had completed background investigations of the applicants and recommended approval. Mr. Forchione recommended approval of Commission Resolution 2015-01, granting three-year key employee licenses to David Archey, Director of Security, Horseshoe Casino Cleveland, and Gregory Stechyshyn, Slot Performance Manager, Hollywood Casino Toledo. A motion to approve the Resolution was made by Commissioner Taylor. The motion was seconded by Commissioner Brown and approved.

Patrick Martin, Director of Regulatory Compliance, presented to the Commission for their consideration, Internal Controls being requested by all four casinos. All of the proposed changes had been reviewed and recommended by the OCCC staff.

- Hollywood Casino Columbus (HWC) sought organizational changes to its General, Player Services, Marketing, Security, Slots, and Table Games plans, including details on how dice are re-inspected if accidentally thrown a table during Craps. Commissioner Manoranjan made a motion to approve the proposed changes. The motion was seconded by Commissioner Steinhauer and approved.
- Hollywood Casino Toledo (HWT) requested organizational changes to its General, Player Services, Player Services, Information Technology, Slots, and Table Games plans. Importantly, HWT added controls to establish how “commercial reasonableness” of credit extensions will be established, and removed the self-imposed requirement of having two divisions being involved in the removal of intoxicated patrons. HWT also included controls for the “dice off table” situations in Craps similar to those adopted by its sister property HWC. Commissioner Lucas made a motion to approve the proposed changes. The motion was seconded by Commissioner Taylor and approved.
- Horseshoe Casino Cincinnati (UCI) sought changes to its Slot and Table Game plans, including changes to clarify the handling of counterfeit chips, and game play in Blackjack and Mini Baccarat. Commissioner Taylor made a motion to approve the proposed changes. The motion was seconded by Commissioner Lucas and approved.
- Horseshoe Casino Cleveland (UCL) requested changes to its Table Games, Sensitive Keys, and Promotions plans, and sought to add a new record retention plan as its sister property UCI adopted. Commissioner Manoranjan made a motion to approve the proposed changes. The motion was seconded by Commissioner Taylor and approved.

The next item on the agenda was a presentation by Caesars Entertainment Operating Company (CEOC) and Rock Ohio Ventures, LLC regarding their financial status. Appearing before the Commission on behalf of Caesars were Eric Hension, Senior Vice President of Compliance for Caesars Entertainment Corporation; Susan Carletta, Vice President of Compliance for Caesars Entertainment Corporation; Tim Donovan, Executive Vice President and General Counsel and Chief Regulatory and Compliance Officer for Caesars Entertainment Corporation; Matt Cullen, President, Chief Operating Officer for Rock Gaming; and Dan Reinhart, VP of Legal and Government Affairs for Rock Gaming.

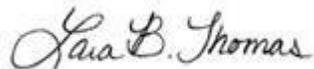
Mr. Hession reviewed the recent capital restructuring of Caesars and forbearance agreement. He told the Commission the Chapter 11 bankruptcy filed on January 15, 2015, would enable Ceasars to facilitate working with lenders and reducing interest expenses. Mr. Donovan indicated that Ceasars has attempted to be as transparent during the bankruptcy process, and hoped to be out of a the Chapter 11 bankruptcy by the end of the year. Speaking jointly, Mr. Cullen and Mr. Reinhart reported that Rock Ohio Ventures, LLC was closely studying the CEOC restructuring and what impact it would have on the Ohio properties, and attempting to introduce the best business practices to work through this process.

Chair Davidson made a motion to go into executive session pursuant to R.C. 121.22(G)(5), stating the following: "The material terms of Rock Ohio Ventures LLC and Caesars Entertainment Operating Company's corporate and financial restructurings contain matters required to be kept confidential by state statute. In particular, discussion of these terms requires consideration of financial and trade-secret information that is deemed confidential under R.C. 3772.16(A)(9) and (12), respectively." The motion was seconded by Commissioner Steinhauer and a roll call vote followed with six ayes and no nays. The Commission went into executive session at 11:08 a.m.

The regular meeting of the Commission resumed at 1:22 p.m.

There being no further business before the Commission, the meeting was adjourned.

Signed,

A handwritten signature in cursive script that reads "Lara B. Thomas".

Lara B. Thomas
Commission Clerk

Approved: February 11, 2015