

3772-50-01 Definitions.

As used in this chapter, words have the following meanings, unless the context clearly indicates otherwise:

(A) “Advertisement” means any notice or communication to the public or any information concerning a type-B or type-C skill-based amusement machine or an applicant, licensee, or certified independent skill-based amusement machine testing laboratory under this chapter through broadcasting, publication, or any other means of dissemination, including electronic dissemination.

(B) “Applicant” means any person who applies to the commission for a license under this chapter.

(C) “Card for the purchase of gasoline” means a gift card, gift certificate, or other cash representation that can be used solely for the purchase of gasoline. A card for the purchase of gasoline may not be used to receive any non-gasoline merchandise, goods, or services.

(D) “Certified independent skill-based amusement machine testing laboratory” means any independent testing laboratory certified by the commission to test skill-based amusement machines. Certification under section 3772.03 of the Revised Code and rule 3772-15-01 of the Administrative Code does not grant authority to test skill-based amusement machines and equipment.

(E) “Commission” means the Ohio casino control commission.

(F) “Conduct” means to back, promote, offer, organize, manage, carry on, sponsor, or prepare for the operation of a skill-based amusement machine.

(G) “Licensee” means any person who has been granted a license under this chapter by the commission.

(H) “Merchandise prize” has the same meaning as in section 2915.01 of the Revised Code, but does not include currency, including digital currency and gold or silver bullion, coins, rounds, bars, or ingots. Merchandise prize does not include replays of a skill-based amusement machine, unless permitted under paragraph (V) of this rule, with or without additional consideration paid by the player.

(I) “Participate in conducting” means:

- (1) To have a part in or share of backing, promoting, offering, organizing, managing, carrying on, sponsoring, or preparing the operation of a skill-based amusement machine; or
- (2) To manufacture, distribute, sell, lease, or otherwise supply or provide skill-based amusement machine equipment, goods, or services.

(J) “Payout percentage function” means a setting or function that inhibits the ability of a player to achieve the result of the game or receive a merchandise prize based upon the prior number of plays, the outcome of those plays, or the amount of revenue generated by the machine.

(K) “Person” has the same meaning as in section 3772.01 of the Revised Code.

(L) “Player” means any person who plays a skill-based amusement machine.

(M) “Redeemable voucher” means any ticket, token, coupon, receipt, or other non-cash representation of value. Redeemable vouchers may not be used in combination with any gift card, cash, or the equivalent thereof to receive anything of value.

(N) “Revenue-sharing agreement” means any contract or agreement between a skill-based amusement machine operator and type-C skill-based amusement machine location for the placement or operation of skill-based amusement machines in which skill-based amusement machine revenue is divided between the parties.

(O) “Skill-based amusement machine” has the same meaning as in section 2915.01 of the Revised Code but does not include concession games licensed by the Ohio department of agriculture under section 1711.11 of the Revised Code.

(P) “Skill-based amusement machine key employee” means any of the following, as determined by the commission:

- (1) Any individual who 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 license as a skill-based amusement machine vendor, type-B skill-based amusement machine operator, or type-C skill-based amusement machine operator;
- (2) Any individual who holds a direct or indirect ownership interest in a person that has applied for or holds a license as a skill-based amusement machine vendor, type-B skill-based amusement machine operator, type-C skill-based amusement machine operator, or type-C skill-based amusement machine location; and
- (3) Any other individual identified as a skill-based amusement machine key employee by the commission.

(Q) “Skill-based amusement machine location” means any place or site in the state of Ohio at which at least one skill-based amusement machine is operated or otherwise made available for play.

(R) “Skill-based amusement machine operator” means a person that provides, offers, leases or otherwise makes available at a location, a skill-based amusement machine. Any person who has any ownership or leasehold interest in a skill-based amusement machine that is made available to a player is a skill-based amusement machine operator.

(S) “Skill-based amusement machine revenue” means all consideration paid by any and all players to play a skill-based amusement machine.

(T) “Skill-based amusement machine tournament” means any contest, competition, or event that has a defined starting and ending date; is open to participants who compete to win a merchandise prize or redeemable voucher for a merchandise prize; and utilizes a skill-based amusement machine.

(U) “Skill-based amusement machine vendor” means a person who manufactures, distributes, sells, or otherwise provides skill-based amusement machine equipment, goods, or services to a skill-based amusement machine vendor or operator.

(V) “Type-A skill-based amusement machine” means a skill-based amusement machine that does not enable or entitle a player to receive tickets, tokens, vouchers, coupons, merchandise, or any other thing of value, however delivered. Points or any other score-keeping mechanism cannot be exchanged for anything of value, at any time, including a merchandise prize or redeemable voucher.

- (1) For purpose of paragraph (V) of this rule, a type-A skill-based amusement machine may entitle or enable a player to replay the game without additional consideration; and
- (2) An unused free replay cannot be exchanged for anything of value, at any time, including a merchandise prize or redeemable voucher.

(W) “Type-B skill-based amusement machine” means a stand-alone, fully-enclosed skill-based amusement machine that entitles or enables a person to receive a merchandise prize, not to exceed a wholesale value of ten dollars, automatically and directly from the machine, and that has the following characteristics:

- (1) The merchandise prize awarded automatically and directly from the machine is not redeemable and must constitute the sole prize available to a player;
- (2) The merchandise prize is not a card for the purchase of gasoline;
- (3) The machine does not employ a payout percentage function, regardless of whether the function is turned off or on;
- (4) The claw, crane, or other mechanism, which is used to receive a merchandise prize, must be capable of being manipulated by a player to receive the merchandise prize;
- (5) The machine does not contain a video display monitor;
- (6) The machine is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations; and

(7) The machine does not simulate, display, or utilize rolling or spinning reels or wheels.

(X) “Type-B skill-based amusement machine operator” means any skill-based amusement machine operator of type-B skill-based amusement machines, but not type-C skill-based amusement machines.

(Y) “Type-C skill-based amusement machine” means a skill-based amusement machine that is not a type-A skill-based amusement machine or type-B skill-based amusement machine.

(Z) “Type-C skill-based amusement machine location” means a skill-based amusement machine location where one or more type-C skill-based amusement machines are made available to a player.

(AA) “Type-C skill-based amusement machine operator” means any skill-based amusement machine operator of one or more type-C skill-based amusement machines.

3772-50-02 Authority and purpose.

(A) To ensure the integrity of skill-based amusement machine gaming, the commission shall have jurisdiction over all persons conducting or participating in the conduct of skill-based amusement machine gaming authorized by Chapters 2915. and 3772. of the Revised Code, including the authority to complete the functions of licensing, regulating, investigating, and penalizing those persons in a manner that is consistent with the commission's authority to do the same with respect to casino gaming.

(B) The commission may adopt, amend, or repeal such rules as it deems necessary and proper for the successful and efficient regulation of skill-based amusement machine gaming under Chapters 2915. and 3772. of the Revised Code.

(C) This chapter shall be construed in a manner consistent with rule 3772-1-05 of the Administrative Code.

(D) The commission may delegate its authority under any provision of this chapter in a manner consistent with rule 3772-2-05 of the Administrative Code.

(E) To ensure the integrity of skill-based amusement machine gaming, the commission may utilize its subpoena power in accordance with rule 3772-2-06 of the Administrative Code.

3772-50-03 General licensing requirements.

(A) No skill-based amusement machine operator, vendor, key employee, or location shall conduct or participate in conducting skill-based amusement machine gaming without first obtaining a license from the commission, except:

- (1) A person that conducts or participates in conducting type-A skill-based amusement machine gaming is not required to obtain a license from the commission provided that the person does not conduct or participate in conducting any type-B or type-C skill-based amusement machine gaming.
- (2) A skill-based amusement machine location that conducts or participates in conducting type-B skill-based amusement machine gaming is not required to obtain a license from the commission provided that the location does not conduct or participate in conducting any type-C skill-based amusement machine gaming.
- (3) A person licensed as a type-C skill-based amusement machine operator by the commission that conducts or participates in conducting skill-based amusement machine gaming at a location wholly owned or operated by the licensee is not required to be licensed as a type-C skill-based amusement machine location by the commission.

(B) A person licensed by the commission as a type-C skill-based amusement machine operator may conduct or participate in conducting type-A, type-B, or type-C skill-based amusement machine gaming.

(C) Information provided on the application, and any additional information provided to the commission, shall be used as a basis for an investigation of each applicant or licensee.

(D) An incomplete application, or an application containing false, misleading, or omitted information, is cause for administrative action by the commission.

(E) All applicants and licensees consent to inspections, searches, and seizures and to the disclosure to the commission and its agents of confidential records, including tax records, held by any federal, state, or local agency, credit bureau, or financial institution and to provide handwriting exemplars, photographs, fingerprints, and any other information requested by the commission.

(F) The commission may reopen a licensing investigation or adjudication at any time.

(G) The executive director may recommend to the commission that it deny any application, or limit, condition, restrict, suspend, or revoke any license or impose any fine upon any licensee or other person according to this chapter.

(H) No person may re-apply for a license under this chapter for three years from the date the person's application for licensure was denied or license was revoked by the commission.

(I) No license issued under this chapter is transferable. A significant change in or transfer of control of a licensee, as determined by the commission, shall require the filing of a new application and submission of the applicable fees under this chapter before any change or transfer of control is approved by the commission.

3772-50-04 Skill-based amusement machine vendor licensure.

(A) A person seeking a skill-based amusement machine vendor license shall complete an application form prescribed by the commission, comply with all instructions, and pay a non-refundable fifteen-thousand dollar application fee.

(B) An applicant for a skill-based amusement machine vendor license shall establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant or maintain the privilege of a skill-based amusement machine vendor license, the commission shall evaluate each applicant and licensee in a manner consistent with the commission's authority to do the same with respect to casino gaming, including:

- (1) The reputation, experience, and financial integrity of the applicant or licensee and the applicant's or licensee's affiliates or affiliated companies;
- (2) The reputation, experience, and financial integrity of any person that directly or indirectly controls or influences the decision-making of the applicant or licensee;
- (3) If the applicant or licensee has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise resolve the payment of any debt;
- (4) If the applicant or licensee is or has been a defendant in litigation involving the applicant's or licensee's business practices;
- (5) Whether and to what extent the applicant or licensee has associated with members of organized crime and other persons of disreputable character;
- (6) The extent to which the applicant or licensee has cooperated with the commission;
- (7) Whether the applicant or licensee has provided accurate and complete information as required by the commission or submitted false or misleading information to the commission;
- (8) If the applicant or licensee or any person that directly or indirectly controls the applicant or licensee has been indicted, convicted, or pleaded guilty or no contest concerning any criminal offense under the laws of any jurisdiction, excluding minor traffic violations;
- (9) If the applicant or licensee has been served with a complaint or other notice filed with any public body regarding a payment of any tax, required under federal, state, or local law, that has been delinquent for one or more years;
- (10) If the applicant or licensee has shown a disregard of or otherwise failed to comply with the laws and regulations of this state or any other jurisdiction;

(11) If awarding or maintaining a license would undermine the public's confidence in skill-based amusement machine gaming in this state; and

(12) The suitability of any other material person, as determined by the commission.

(D) A skill-based amusement machine vendor licensee must maintain its suitability at all times during the licensure period.

(E) Upon determination by the commission that an applicant for a new or renewal skill-based amusement machine vendor license is suitable to be issued a license, the applicant shall pay an upfront non-refundable license fee of five-thousand dollars.

(F) If the commission determines that a person is suitable to be issued a skill-based amusement machine vendor license and all other requirements of this chapter have been met, the commission shall issue a license for not more than three years.

3772-50-05 Skill-based amusement machine key employee licensure.

(A) A person seeking a skill-based amusement machine key employee license shall complete an application form prescribed by the commission, comply with all instructions, and pay a non-refundable application fee of two hundred fifty dollars.

(B) An applicant for a skill-based amusement machine key employee license shall establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant or maintain the privilege of a skill-based amusement machine key employee license, the commission shall evaluate each applicant and licensee in a manner consistent with the commission's authority to do the same with respect to casino gaming, including:

- (1) Whether the applicant or licensee possesses good character, honesty, and integrity;
- (2) Whether the applicant or licensee possesses financial stability, integrity, and responsibility;
- (3) Whether and to what extent the applicant or licensee has associated with members of organized crime and other persons of disreputable character;
- (4) The extent to which the applicant or licensee has cooperated with the commission;
- (5) Whether the applicant or licensee has provided accurate and complete information as required by the commission or submitted false or misleading information to the commission;
- (6) If the applicant or licensee has shown a disregard of or otherwise failed to comply with the laws and regulations of this state or any other jurisdiction;
- (7) If awarding or maintaining a license would undermine the public's confidence in skill-based amusement machine gaming in this state; and
- (8) If the applicant or licensee has been indicted, convicted, or pleaded guilty or no contest concerning any criminal offense under the laws of any jurisdiction, excluding minor traffic violations.

(D) A skill-based amusement machine key employee licensee must maintain his or her suitability at all times during the licensure period.

(E) Upon determination by the commission that an applicant for a new or renewal skill-based amusement machine key employee license is suitable to be issued a license, the applicant shall pay an upfront non-refundable license fee of two hundred fifty dollars.

(F) If the commission determines that a person is suitable to be issued a skill-based amusement machine key employee license and all other requirements of this chapter have been met, the commission shall issue a license for not more than five years.

3772-50-06 Type-B skill-based amusement machine operator licensure.

(A) A person seeking a type-B skill-based amusement machine operator license shall complete an application form prescribed by the commission, comply with all instructions, and pay a non-refundable one thousand five hundred dollar application fee.

(B) An applicant for a type-B skill-based amusement machine operator license shall establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant or maintain the privilege of a type-B skill-based amusement machine operator license, the commission shall evaluate each applicant and licensee in a manner consistent with the commission's authority to do the same with respect to casino gaming, including:

- (1) The reputation, experience, and financial integrity of the applicant or licensee and the applicant's or licensee's affiliates or affiliated companies;
- (2) The reputation, experience, and financial integrity of any person that directly or indirectly controls or influences the decision-making of the applicant or licensee;
- (3) If the applicant or licensee or any person that directly or indirectly controls the applicant or licensee has been indicted, convicted, or pleaded guilty or no contest concerning any criminal offense under the laws of any jurisdiction, excluding minor traffic violations;
- (4) Whether the applicant or licensee has provided accurate and complete information as required by the commission or submitted false or misleading information to the commission;
- (5) The extent to which the applicant or licensee has cooperated with the commission;
- (6) If the applicant or licensee has been served with a complaint or other notice filed with any public body regarding a payment of any tax, required under federal, state, or local law, that has been delinquent for one or more years;
- (7) If the applicant or licensee has shown a disregard of or otherwise failed to comply with the laws and regulations of this state or any other jurisdiction;
- (8) If awarding or maintaining a license would undermine the public's confidence in skill-based amusement machine gaming in this state; and
- (9) The suitability of any other material person, as determined by the commission.

(D) A type-B skill-based amusement machine operator licensee must maintain its suitability at all times during the licensure period.

(E) Upon a determination by the commission that an applicant for a new or renewal type-B skill-based amusement machine operator license is suitable to be issued a license, the applicant shall pay an upfront, non-refundable license fee of one thousand five hundred dollars.

(F) If the commission determines that a person is suitable to be issued a type-B skill-based amusement machine operator license and all other requirements of this chapter have been met, the commission shall issue a license for not more than three years.

3772-50-07 Type-C skill-based amusement machine operator licensure.

(A) A person seeking a type-C skill-based amusement machine operator license shall complete an application form prescribed by the commission, comply with all instructions, and pay a non-refundable fifteen thousand dollar application fee.

(B) An applicant for a type-C skill-based amusement machine operator license shall establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant or maintain the privilege of a type-C skill-based amusement machine operator license, the commission shall evaluate each applicant and licensee in a manner consistent with the commission's authority to do the same with respect to casino gaming, including:

- (1) The reputation, experience, and financial integrity of the applicant or licensee and the applicant's or licensee's affiliates or affiliated companies;
- (2) The reputation, experience, and financial integrity of any person with direct or indirect ownership interest or that directly or indirectly controls or influences the decision-making of the applicant or licensee;
- (3) If the applicant or licensee has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise resolve the payment of any debt;
- (4) If the applicant or licensee is or has been a defendant in litigation involving the applicant's or licensee's business practices;
- (5) Whether the applicant or licensee possesses good character, honesty, and integrity;
- (6) Whether and to what extent the applicant or licensee has associated with members of organized crime and other persons of disreputable character;
- (7) The extent to which the applicant or licensee has cooperated with the commission;
- (8) Whether the applicant or licensee has provided accurate and complete information as required by the commission or submitted false or misleading information to the commission;
- (9) If the applicant or licensee or any person that directly or indirectly controls the applicant or licensee has been indicted, convicted, or pleaded guilty or no contest concerning any criminal offense under the laws of any jurisdiction, excluding minor traffic violations;
- (10) If the applicant or licensee has been served with a complaint or other notice filed with any public body regarding a payment of any tax, required under federal, state, or local law, that has been delinquent for one or more years;

(11) If the applicant or licensee has shown a disregard of or otherwise failed to comply with the laws and regulations of this state or any other jurisdiction;

(12) If awarding or maintaining a license would undermine the public's confidence in skill-based amusement machine gaming in this state; and

(13) The suitability of any other material person, as determined by the commission.

(D) A type-C skill-based amusement machine operator licensee must maintain its suitability at all times during the licensure period.

(E) Upon determination by the commission that an applicant for a new or renewal type-C skill-based amusement machine operator license is suitable to be issued a license, the applicant shall pay an upfront non-refundable license fee of five thousand dollars.

(F) If the commission determines that a person is suitable to be issued a type-C skill-based amusement machine operator license and all other requirements of this chapter have been met, the commission shall issue a license for not more than three years.

3772-50-08 Type-C skill-based amusement machine location licensure.

(A) A person seeking a type-C skill-based amusement machine location license shall complete an application form prescribed by the commission, comply with all instructions, and pay a non-refundable two hundred fifty dollar application fee.

(B) An applicant for a type-C skill-based amusement machine location license shall establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant or maintain the privilege of a type-C skill-based amusement machine location license, the commission shall evaluate each applicant and licensee in a manner consistent with the commission's authority to do the same with respect to casino gaming, including:

- (1) The reputation, experience, and financial integrity of the applicant or licensee and the applicant's or licensee's affiliates or affiliated companies;
- (2) The reputation, experience, and financial integrity of any person that directly or indirectly controls or influences the decision-making of the applicant or licensee;
- (3) If the applicant or licensee or any person that directly or indirectly controls the applicant or licensee has been indicted, convicted, or pleaded guilty or no contest concerning any criminal offense under the laws of any jurisdiction, excluding minor traffic violations;
- (4) Whether the applicant or licensee has provided accurate and complete information as required by the commission or submitted false or misleading information to the commission;
- (5) If the applicant or licensee has been served with a complaint or other notice filed with any public body regarding a payment of any tax, required under federal, state or local law, that has been delinquent for one or more years;
- (6) The extent to which the applicant or licensee has cooperated with the commission;
- (7) If the applicant or licensee has shown a disregard of or otherwise failed to comply with the laws and regulations of this state or any other jurisdiction;
- (8) If awarding or maintaining a license would undermine the public's confidence in skill-based amusement machine gaming in this state; and
- (9) The suitability of any other material person, as determined by the commission.

(D) A type-C skill-based amusement machine location licensee must maintain its suitability at all times during the licensure period.

(E) Upon determination by the commission that an applicant for a new or renewal type-C skill-based amusement machine location license is suitable to be issued a license, the applicant shall pay an upfront non-refundable license two hundred fifty dollars.

(F) If the commission determines that a person is suitable to be issued a type-C skill-based amusement machine location license and all other requirements of this chapter have been met, the commission shall issue a license for not more than five years.

3772-50-09 Registration of operation of skill-based amusement machine.

(A) A person otherwise required to be licensed as a type-B or type-C skill-based amusement machine operator under this chapter that conducts or participates in conducting type-B or type-C skill-based amusement machine gaming upon the effective date of this rule may continue to operate type-B or type-C skill-based amusement machines provided that:

- (1) The person files with the commission, on a form prescribed by the commission, within ninety days of the effective date of this rule:
 - (a) A complete list, including legal name, business name, address, and business phone number, of locations where the person conducts or participates in conducting type-B or type-C skill-based amusement machine gaming;
 - (b) A complete list of skill-based amusement machines, including model, serial number, manufacturer, and machine or game name, in each of the skill-based amusement machine locations;
 - (c) A complete list, including mailing address and phone number, of all skill-based amusement machine vendors with which the person conducts or otherwise transacts business; and
 - (d) Any other information requested by the commission.
- (2) The person submits a completed application for licensure, in accordance with this chapter, to the commission within one hundred twenty days of the effective date of this rule;
- (3) The person operates skill-based amusement machines in accordance with Chapters 2915. and 3772. of the Revised Code;
- (4) The person pays a two hundred dollar fee for each location provided in paragraph (A)(1)(a) of this rule where type-C skill-based amusement machines are operated; and
- (5) The person pays a fifty dollar fee for each location provided in paragraph (A)(1)(a) of this rule where type-B skill-based amusement machines are operated.

(B) Except as provided in paragraph (C) of this rule, a registration under this rule shall remain in effect until the commission renders a final determination on the person's application for licensure under this chapter.

(C) Registration under this rule expires if a person fails to submit a completed application for licensure in the time required in paragraph (A)(2) of this rule.

(D) A person that has registered skill-based amusement machine gaming according to this rule may not increase the number of skill-based amusement machines at a location, change the skill-based amusement machines at a location, or increase the number of skill-based amusement

machine locations where the person conducts or participates in conducting skill-based amusement machine gaming, until a licensure decision is made by the commission, unless:

- (1) The person provides a detailed written request to the commission that describes the planned changes and planned date of implementation;
 - (2) The person submits a non-refundable fee of one hundred dollars with the request; and
 - (3) The person receives written approval from the commission's executive director, or his or her designee.
- (E) Registration under this rule does not constitute any license provided under this chapter.
- (F) A person that has registered skill-based amusement machine gaming according to this rule shall advertise in compliance with rule 3772-50-14 of the administrative code.
- (G) A person that has registered skill-based amusement machine gaming according to this rule is under a continuing duty to update the commission if any of the information submitted to the commission in connection with registration has changed.
- (H) Nothing in this rule shall preclude enforcement of violations of Chapter 2915. or 3772. of the Revised Code.