

Sub. S.B. 220
L_132_0943-9

Topic: Key employee

_____ moved to amend as follows:

- In line 1 of the title, after "To" insert "amend section 3772.01 and to" 1 2
- In line 5 of the title, after "program" insert "and to alter the definition of "key employee" under the Casino Gaming Law" 3 4
- In line 6, after "That" insert "section 3772.01 be amended and" 5 6
- Between lines 184 and 185, insert: 7
- "**Sec. 3772.01.** As used in this chapter: 8
- (A) "Applicant" means any person who applies to the commission for a license under this chapter. 9 10
- (B) "Casino control commission fund" means the casino control commission fund described in Section 6(C)(3)(d) of Article XV, Ohio Constitution, the money in which shall be used to fund the commission and its related affairs. 11 12 13 14
- (C) "Casino facility" means a casino facility as defined in Section 6(C)(9) of Article XV, Ohio Constitution. 15 16
- (D) "Casino game" means any slot machine or table game as defined in this chapter. 17 18

(E) "Casino gaming" means any type of slot machine or table game wagering, using money, casino credit, or any representative of value, authorized in any of the states of Indiana, Michigan, Pennsylvania, and West Virginia as of January 1, 2009, and includes slot machine and table game wagering subsequently authorized by, but shall not be limited by, subsequent restrictions placed on such wagering in such states. "Casino gaming" does not include bingo, as authorized in Section 6 of Article XV, Ohio Constitution and conducted as of January 1, 2009, or horse racing where the pari-mutuel system of wagering is conducted, as authorized under the laws of this state as of January 1, 2009.

(F) "Casino gaming employee" means any employee of a casino operator or management company, but not a key employee, and as further defined in section 3772.131 of the Revised Code.

(G) "Casino operator" means any person, trust, corporation, partnership, limited partnership, association, limited liability company, or other business enterprise that directly or indirectly holds an ownership or leasehold interest in a casino facility. "Casino operator" does not include an agency of the state, any political subdivision of the state, any person, trust, corporation, partnership, limited partnership, association, limited liability company, or other business enterprise that may have an interest in a casino facility, but who is legally or contractually restricted from conducting casino gaming.

(H) "Central system" means a computer system that provides the following functions related to casino gaming equipment used in connection with casino gaming authorized under this chapter: security, auditing, data and information retrieval, and other purposes deemed necessary and authorized by the commission.

(I) "Cheat" means to alter the result of a casino game, the element of chance, the operation of a machine used in a casino game, or the method of selection of criteria that determines (a) the result of the casino game, (b) the amount or frequency of payment in a casino game, (c) the value of a wagering instrument, or (d) the value of a wagering credit. "Cheat" does not include an individual who, without the assistance of another individual or without the use of a physical aid or device of any kind, uses the individual's own ability to keep track of the value of cards played and uses predictions formed as a result of the tracking information in the individual's playing and betting strategy.

(J) "Commission" means the Ohio casino control commission.

(K) "Gaming agent" means a peace officer employed by the commission that is vested with duties to enforce this chapter and conduct other investigations into the conduct of the casino gaming and the maintenance of the equipment that the commission considers necessary and proper and is in compliance with section 109.77 of the Revised Code.

(L) "Gaming-related vendor" means any individual, partnership, corporation, association, trust, or any other group of individuals, however organized, who supplies gaming-related equipment, goods, or services to a casino operator or management company, that are directly related to or affect casino gaming authorized under this chapter, including, but not limited to, the manufacture, sale, distribution, or repair of slot machines and table game equipment.

(M) "Holding company" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person which directly or indirectly does any of the following:

(1) Has the power or right to control a casino operator,	79
management company, or gaming-related vendor license applicant or	80
licensee;	81
(2) Holds an ownership interest of five per cent or more, as	82
determined by the commission, in a casino operator, management	83
company, or gaming-related vendor license applicant or licensee;	84
(3) Holds voting rights with the power to vote five per cent	85
or more of the outstanding voting rights of a casino operator,	86
management company, or gaming-related vendor applicant or	87
licensee.	88
(N) "Initial investment" includes costs related to	89
demolition, engineering, architecture, design, site preparation,	90
construction, infrastructure improvements, land acquisition,	91
fixtures and equipment, insurance related to construction, and	92
leasehold improvements.	93
(O) "Institutional investor" means any of the following	94
entities owning five per cent or more, but less than fifteen per	95
cent, of an ownership interest in a casino facility, casino	96
operator, management company, or holding company: a corporation,	97
bank, insurance company, pension fund or pension fund trust,	98
retirement fund, including funds administered by a public agency,	99
employees' profit-sharing fund or employees' profit-sharing trust,	100
any association engaged, as a substantial part of its business or	101
operations, in purchasing or holding securities, including a hedge	102
fund, mutual fund, or private equity fund, or any trust in respect	103
of which a bank is trustee or cotrustee, investment company	104
registered under the "Investment Company Act of 1940," 15 U.S.C.	105
80a-1 et seq., collective investment trust organized by banks	106
under Part Nine of the Rules of the Comptroller of the Currency,	107
closed-end investment trust, chartered or licensed life insurance	108

company or property and casualty insurance company, investment 109
 advisor registered under the "Investment Advisors Act of 1940," 15 110
 U.S.C. 80 b-1 et seq., and such other persons as the commission 111
 may reasonably determine to qualify as an institutional investor 112
 for reasons consistent with this chapter, and that does not 113
 exercise control over the affairs of a licensee and its ownership 114
 interest in a licensee is for investment purposes only, as set 115
 forth in division (E) of section 3772.10 of the Revised Code. 116

(P) "Key employee" means any executive, employee, ~~or agent,~~ 117
or other individual who has the power to exercise significant 118
influence over decisions concerning any part of the operation of a 119
person that has applied for or holds a casino operator ~~or,~~ 120
 management company licensee ~~having the power to exercise~~ 121
~~significant influence over decisions concerning any part of the~~ 122
~~operation of such licensee, or gaming-related vendor license or~~ 123
the operation of a holding company of a person that has applied 124
for or holds a casino operator, management company, or 125
gaming-related vendor license, including: 126

(1) ~~An officer, director, trustee, or partner of a person~~ 127
~~that has applied for or holds a casino operator, management~~ 128
~~company, or gaming related vendor license or of a holding company~~ 129
~~that has control of a person that has applied for or holds a~~ 130
~~casino operator, management company, or gaming related vendor~~ 131
~~license, or an equivalent fiduciary;~~ 132

(2) ~~A person that~~ An individual who holds a direct or 133
 indirect ownership interest of ~~more than one~~ five per cent ~~in a~~ 134
~~person that has applied for or holds a casino operator, management~~ 135
~~company, or gaming related vendor license or holding company that~~ 136
~~has control of a person that has applied for or holds a casino~~ 137
~~operator, management company, or gaming related vendor license~~ or 138

more; 139

~~(3) A managerial employee of a person that has applied for or holds a casino operator or gaming related vendor license in Ohio, or a managerial employee of a holding company that has control of a person that has applied for or holds a casino operator or gaming related vendor license in Ohio,~~ An individual who performs the function of a principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer ~~or;~~

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~~(4) Any other person~~ individual the commission determines to have the power to exercise significant influence over decisions concerning any part of the operation ~~of such licensee.~~

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~~The commission shall determine whether an individual whose duties or status varies from those described in this division also is considered a key employee.~~

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(Q) "Licensed casino operator" means a casino operator that has been issued a license by the commission and that has been certified annually by the commission to have paid all applicable fees, taxes, and debts to the state.

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(R) "Majority ownership interest" in a license or in a casino facility, as the case may be, means ownership of more than fifty per cent of such license or casino facility, as the case may be. For purposes of the foregoing, whether a majority ownership interest is held in a license or in a casino facility, as the case may be, shall be determined under the rules for constructive ownership of stock provided in Treas. Reg. 1.409A-3(i)(5)(iii) as in effect on January 1, 2009.

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(S) "Management company" means an organization retained by a casino operator to manage a casino facility and provide services such as accounting, general administration, maintenance,

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recruitment, and other operational services. 169

(T) "Ohio law enforcement training fund" means the state law 170
 enforcement training fund described in Section 6(C)(3)(f) of 171
 Article XV, Ohio Constitution, the money in which shall be used to 172
 enhance public safety by providing additional training 173
 opportunities to the law enforcement community. 174

(U) "Person" includes, but is not limited to, an individual 175
 or a combination of individuals; a sole proprietorship, a firm, a 176
 company, a joint venture, a partnership of any type, a joint-stock 177
 company, a corporation of any type, a corporate subsidiary of any 178
 type, a limited liability company, a business trust, or any other 179
 business entity or organization; an assignee; a receiver; a 180
 trustee in bankruptcy; an unincorporated association, club, 181
 society, or other unincorporated entity or organization; entities 182
 that are disregarded for federal income tax purposes; and any 183
 other nongovernmental, artificial, legal entity that is capable of 184
 engaging in business. 185

(V) "Problem casino gambling and addictions fund" means the 186
 state problem gambling and addictions fund described in Section 187
 6(C)(3)(g) of Article XV, Ohio Constitution, the money in which 188
 shall be used for treatment of problem gambling and substance 189
 abuse, and for related research. 190

(W) "Promotional gaming credit" means a slot machine or table 191
 game credit, discount, or other similar item issued to a patron to 192
 enable the placement of, or increase in, a wager at a slot machine 193
 or table game. 194

(X) "Slot machine" means any mechanical, electrical, or other 195
 device or machine which, upon insertion of a coin, token, ticket, 196
 or similar object, or upon payment of any consideration, is 197
 available to play or operate, the play or operation of which, 198

whether by reason of the skill of the operator or application of 199
the element of chance, or both, makes individual prize 200
determinations for individual participants in cash, premiums, 201
merchandise, tokens, or any thing of value, whether the payoff is 202
made automatically from the machine or in any other manner, but 203
does not include any device that is a skill-based amusement 204
machine, as defined in section 2915.01 of the Revised Code. 205

(Y) "Table game" means any game played with cards, dice, or 206
any mechanical, electromechanical, or electronic device or machine 207
for money, casino credit, or any representative of value. "Table 208
game" does not include slot machines. 209

(Z) "Upfront license" means the first plenary license issued 210
to a casino operator. 211

(AA) "Voluntary exclusion program" means a program provided 212
by the commission that allows persons to voluntarily exclude 213
themselves from the gaming areas of facilities under the 214
jurisdiction of the commission by placing their name on a 215
voluntary exclusion list and following the procedures set forth by 216
the commission." 217

In line 185, after "2." insert "That existing section 3772.01 218
of the Revised Code is hereby repealed. 219

Section 3." 220

The motion was _____ agreed to.