

OHIO CASINO CONTROL COMMISSION

John R. Kasich
Governor



June E. Taylor
Chair

May 5, 2017

VIA ELECTRONIC MAIL

Larry Wolpert, Executive Director
Joint Committee on Agency Rule Review
77 S. High St., Concourse Level
Columbus, OH 43215

Re: Testimony on proposed rule 3772-50-01(H) by Kurt O. Gearhiser

Dear Director Wolpert:

Thank you for this opportunity to provide further information regarding proposed rule 3772-50-01(H).

For many years, the state, along with local governments and law enforcement officials have worked to eliminate illegal gaming in this state, largely through criminal enforcement of R.C. Chapter 2915. Since 2006, significant efforts have been made to prohibit illegal gambling without jeopardizing legitimate businesses, such as limiting winnings to merchandise prizes with a wholesale value of ten dollars or less and specifically prohibiting cash and gift card prizes. Despite these efforts, illegal gambling has proliferated across the state, under the guise of legal skill-based gaming. Unregulated gaming poses a threat to the public welfare and raises the potential for operators and others to perpetrate fraud and abuse on Ohio consumers, particularly some of Ohio's most vulnerable citizens.

To mitigate these threats, H.B. 64 (131st General Assembly) mandated the Ohio Casino Control Commission ("Commission") to regulate skill-based amusement machines in a manner consistent with respect to the Commission's authority to regulate casino gaming. The Commission has developed proposed rules in order to fulfill this obligation, including proposed rule 3772-50-01, titled "Definitions." The purpose of the rule is to provide clear and consistent definitions for use throughout chapter 3772-50 of the Administrative Code.

In particular, 3772-50-01(H) states that, "'Merchandise prize' has the same meaning as in section 2915.01 of the Revised Code, but does not include a redeemable voucher; currency, including digital currency; and gold or silver bullion, coins, rounds, bars, or ingots." The rule amplifies the definition of "merchandise prize" in R.C. 2915.01(VV) which states that,

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(VV) “Merchandise prize” means any item of value, but shall not include any of the following:

- (1) Cash, gift cards, **or any equivalent thereof**;
- (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
- (3) Firearms, tobacco, or alcoholic beverages; or
- (4) A redeemable voucher that is redeemable for any of the items listed in division (VV)(1), (2), or (3) of this section.

(emphasis added).

In his testimony, Mr. Gearhiser asserts, incorrectly, that the Commission has exceeded its statutory authority by clarifying that a merchandise prize does not include redeemable vouchers, currency, or gold or silver bullion, coins, rounds, bars, or ingots. However, the proposed rule simply clarifies the statutory language in R.C. 2915.01(VV)(1) by further defining what constitutes the “equivalent” of cash or gift cards. After consulting with members of the stakeholder community, including members of Ohio law enforcement agencies, the Commission believes the clarification of this statutory definition is necessary to prevent past and present practices designed to subvert the intention of R.C. 2915.01 to prevent the payment of cash and gift cards as a reward for playing a skill-based amusement machine.

As part of this subversion, operators of illegal slot machines (masquerading as skill-based games) will offer patrons “redeemable vouchers” to local businesses that patrons can then use like a gift certificate or cash at other businesses for the purchase of goods or services. This practice essentially offers patrons a gift card but operators will call it a redeemable voucher to create confusion as to the legality of the practice. The testimony from Mr. Gearhiser highlights this confusion.

The testimony postulates that the Commission is seeking to prevent operators from offering redeemable vouchers for merchandise prizes in direct contravention to the language in R.C. 2915.01(UU) that allows a skill-based amusement machine operator to award a redeemable voucher for a prize. Redeemable vouchers can only be redeemed, at the site of play, for a merchandise prize. Nothing in the Commission’s proposed rule prevents an operator of legitimate skill-based amusement machines from offering a redeemable voucher for a merchandise prize as a reward for playing the game (for example, a player can win tickets after playing skee-ball and later exchange those tickets for a merchandise prize). The rules do prohibit the “redeemable voucher” from being the end prize available to a player (for example, a player could not receive a \$10 “redeemable voucher” to a restaurant and then use that voucher toward the purchase of a meal). This practice of rewarding players with gift cards but calling them “redeemable vouchers” is nothing more than an attempt to subvert the plain prohibition on cash, gift cards, and their equivalents.

The testimony further objects to the prohibition of gold or silver bullion, coins, rounds, bars or ingots as a form of merchandise prize. Again, this clarification of the prohibition on cash equivalents was developed because operators have been offering gold and silver as rewards and calling them “merchandise prizes” when, in fact, the reward of gold or silver is often another way to subvert the prohibition on cash and cash equivalents as a reward for playing the game.

The clarification in proposed rule 3772-50-01(H) is designed to aid the Commission, and members of Ohio's law enforcement community, in its efforts to eliminate illegal gambling under the guise of legal skill-based gaming. The use of "redeemable vouchers" and gold or silver bullion, coins, rounds, bars or ingots as a form of merchandise prize has, for too long, subverted the plain language and intent of R.C. 2915.01 to prohibit awarding players with cash or cash equivalents.

Thank you again for this opportunity. Please contact me if I can be of further assistance.

Respectfully yours,

A handwritten signature in blue ink that reads "Andromeda Morrison". The signature is fluid and cursive, with the first name "Andromeda" being more prominent than the last name "Morrison".

Andromeda Morrison
Director of Skill Games
Ohio Casino Control Commission