



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 141

130th General Assembly
(As Passed by the General Assembly)

Sens. Obhof and Hughes, Eklund, Faber, Hite, Jones, Uecker

Reps. Anielski, Bishoff, Buchy, Dovilla, Hackett, Mallory, Rogers, Sheehy

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ACT SUMMARY

- Specifies that a person who knowingly or intentionally does certain acts related to filing financial reports, maintaining financial records, and structuring financial transactions while participating in casino gaming or otherwise transacting with a casino facility under the Casino Control Law commits a fifth degree felony on a first offense and a fourth degree felony on a subsequent offense.
- Expands the mandatory content of the annual report that the Ohio Casino Control Commission must file and specifies that the report must cover the fiscal year that is previous to the year in which it is submitted.
- Establishes that a properly licensed charitable organization that desires to conduct instant bingo other than at a bingo session at additional locations not identified on the license may apply in writing to the Attorney General for an amended license.

CONTENT AND OPERATION

New criminal penalties for specified types of casino-related conduct

Continuing law establishes many duties and prohibitions with respect to casino gambling that is authorized in Ohio. Depending on the prohibition and the person or entity that is subject to it, the sanctions for a violation of a prohibition include suspension or revocation of the casino-related license of the person or entity, a civil penalty imposed against the person, or a criminal penalty imposed against the person.

The act enacts criminal penalties for a person that engages in specified types of conduct related to casino gambling or that engages in transactions with a casino facility that previously were not subjected to criminal penalties. The prohibited conduct relates to certain types of financial reporting requirements, financial records maintenance, and financial transactions. Under the act, a person who is convicted of a felony under any of its provisions may be barred for life from entering a casino facility by the Ohio Casino Control Commission.¹ And a person who knowingly or intentionally does any of the following while participating in casino gaming or otherwise transacting with a casino facility as permitted by the Casino Control Law commits a fifth degree felony on a first offense and a fourth degree felony on a subsequent offense:²

(1) Causes or attempts to cause a casino facility to fail to file a report required under federal law or regulation or under state law, or to fail to file a report or maintain a record required by an order issued under the Federal Deposit Insurance Act;

(2) Causes or attempts to cause a casino facility to file a report required under federal law or regulation or under state law, to file a report or to maintain a record required by any order issued under federal law, or to maintain a record required under any regulation prescribed under the Federal Deposit Insurance Act that contains a material omission or misstatement of fact;

(3) With one or more casino facilities, structures a transaction, is complicit in structuring a transaction, attempts to structure a transaction, or is complicit in an attempt to structure a transaction.³

"Structure a transaction" means dividing a "transaction" that otherwise would be reportable under Ohio's Transaction Reporting and Money Laundering Laws into two or more transactions that, if considered separately, would not be reportable. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of a payment instrument, use of a safe deposit box, or any other acquisition or disposition of property. "Payment instrument" means a check, draft, money order, travelers check, or other instrument or order for the transmission or payment of money, that is sold to one or more persons, whether or not that instrument or order is negotiable. "Payment instrument" does not include an instrument that is redeemable by the issuer in merchandise or service, a

¹ R.C. 3772.99(I).

² R.C. 3772.99(H).

³ The laws referred to generally in the preceding numbered paragraphs are explained in the Appendix to this analysis.

credit card voucher, or a letter of credit. "Property" means anything of value and includes an interest in property, including a benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.⁴

A person is "complicit" if the person, acting with the type of culpability required for the commission of an offense, (1) solicits or procures another to commit the offense, (2) aids or abets another in committing the offense, (3) conspires with another to commit the offense, or (4) causes an innocent or irresponsible person to commit the offense.⁵

Annual report of the Ohio Casino Control Commission

Continuing law requires the Ohio Casino Control Commission to submit a written annual report containing specified information to the Governor, President and Minority Leader of the Senate, Speaker and Minority Leader of the House of Representatives, and Joint Committee on Gaming and Wagering before September 1 each year. The annual report must include: a statement describing the receipts and disbursements of the Commission; relevant financial data regarding casino gaming (including gross revenues and disbursements made under the Casino Control Law); actions taken by the Commission; an update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list; and any additional information that the Commission considers useful or that the Governor, President or Minority Leader of the Senate, Speaker or Minority Leader of the House of Representatives, or Joint Committee on Gaming and Wagering requests.

The act modifies this requirement in two ways. First, it expands the mandatory content of the report also to require that the report include information regarding prosecutions for conduct described above in (1), (2), and (3). Second, it specifies that the report must cover the fiscal year that is previous to the year in which it is submitted.⁶

Modification of license to conduct instant bingo other than at a bingo session

The act specifies that a properly licensed charitable organization that desires to conduct instant bingo other than at a bingo session at additional locations not identified on its license may apply in writing to the Attorney General for an amended license. The application must indicate the additional locations at which the organization desires to conduct instant bingo other than at a bingo session. Under continuing law, a license

⁴ R.C. 3772.99(J), by reference to R.C. 1315.51, not in the act.

⁵ R.C. 3772.99(J).

⁶ R.C. 3772.03(J).



modification application requires an application fee of \$250 and must be submitted at least 30 days before the desired change. Continuing law only expressly authorizes a licensee to apply for an amended license if the licensee cannot conduct bingo or instant bingo at the location, or on the day of the week or at the time, specified on the license due to circumstances that make it impractical to do so.⁷

APPENDIX

Provisions of federal and state law referred to in the act

The laws referred to generally above are explained below.

(1) **31 U.S.C. §5313(a)**. Specifies that when a "domestic financial institution" is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the U.S. Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe must file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person must make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

The Secretary must exempt a depository institution from the reporting requirements described above with respect to transactions between the depository institution and: another depository institution; a department or agency of the United States, any state, or a political subdivision of any state; any entity established under federal law, under the law of any state or a political subdivision of any state, or under an interstate compact between two or more states, that exercises governmental authority on behalf of the United States or any such state or political subdivision; or any business or category of business the reports on which have little or no value for law enforcement purposes. The Secretary may exempt a depository institution from the reporting requirements described above with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution under procedures established by the Secretary.

As used in these provisions, "financial institution" means any of 26 specified types of institutions, and "domestic financial institution" means any of those financial institutions with respect to an action of an institution in the United States. One of the specified types of institutions is a casino, gambling casino, or gaming establishment

⁷ R.C. 2915.08(F); Am. Sub. H.B. 483 of the 130th General Assembly, effective September 15, 2014, enacted identical provisions.



with annual gaming revenue of more than \$1 million that either is licensed as a casino, gambling casino, or gaming establishment under the laws of any state or a political subdivision of any state, or is an Indian gaming operation conducted under or pursuant to the federal Indian Gaming Regulatory Act other than an operation that is limited to Class I gaming. Other specified types of institutions include insured banks, commercial banks or trust companies, credit unions, securities or commodities brokers and dealers, currency exchanges, operators of a credit card system, loan and finance companies, pawnbrokers, travel agencies, etc. "Depository institution" includes any branch, agency, or commercial lending company, certain chartered corporations, and any corporation having a certain agreement or undertaking with the Board of Governors of the Federal Reserve System. "Qualified business customer" means a business that maintains a transaction account at the depository institution, frequently engages in transactions with the depository institution, which are subject to the reporting requirements, and meets criteria that the Secretary determines are sufficient to ensure that specified purposes of federal law are carried out without requiring a report with respect to the transactions.⁸

(2) **31 U.S.C. §5325.** Prohibits a financial institution from issuing or selling a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of contemporaneous transactions that involves United States coins or currency (or other monetary instruments as the U.S. Secretary of the Treasury prescribes) in amounts or denominations of \$3,000 or more unless: (a) the individual has a transaction account with the financial institution, and the financial institution verifies that fact through a signature card or other information maintained by the institution in connection with the account of the individual and records the method of verification under regulations that the Secretary prescribes, or (b) the individual furnishes the financial institution with forms of identification that the Secretary may require in regulations the Secretary prescribes, and the financial institution verifies and records the information under regulations that the Secretary prescribes. Any information required to be recorded by any financial institution must be reported by the institution to the Secretary at the Secretary's request.

"Transaction account" means a deposit or account on which the depositor or account holder may make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items to make payments or transfers to third persons or others. It includes demand deposits,

⁸ 31 U.S.C. §§5312 and 5313(a).



negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.⁹

(3) **R.C. 1315.53.** Requires a money transmitter that is required to file a report regarding business conducted in Ohio under the federal Currency and Foreign Transactions Reporting Act to file a duplicate of that report with the Attorney General. It also requires all persons engaged in a trade or business, who receive more than \$10,000 in one transaction or who receive more than \$10,000 through two or more related transactions, and who are required to file returns under certain federal provisions, to complete and file with the Attorney General the information required by those federal provisions. A money transmitter that is regulated under the federal Currency and Foreign Transactions Reporting Act and that is required to make available prescribed records to the U.S. Secretary of the Treasury upon request at any time must follow the same prescribed procedures and create and maintain the same prescribed records relating to a transaction and must make those records available to the Attorney General on request at any time. A good faith filing of a required report with the appropriate federal agency is considered compliance with the provision's reporting requirements.

The provision prohibits a person from doing any of the following:

(a) Purposely violating or failing to comply with the described requirements;

(b) With the intent to conceal or disguise the fact that money or a payment instrument is the proceeds of unlawful activity, or to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful activity, knowingly furnishing or providing to a money transmitter, a person engaged in a trade or business, an officer, employee, agent, or authorized delegate of a money transmitter or person engaged in a trade or business, or the Attorney General, false, inaccurate, or incomplete information or knowingly concealing a material fact in connection with a transaction for which a report must be filed;

(c) With the intent to conceal or disguise the fact that money or a payment instrument is the proceeds of unlawful activity, or to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of unlawful activity, or to avoid the making or filing of a required report, or to cause the making or filing of a required report that contains a material omission or misstatement, conducting or structuring or attempting to conduct or structure a transaction by or through one or more money transmitters or persons engaged in a trade or business.

⁹ 12 U.S.C. §461(b)(1)(C) and 31 U.S.C. §5325.



A violation of this prohibition is a fourth degree felony. In addition to the criminal sanctions imposed for the violation, the sentencing court may impose upon the offender an additional fine of three times the value of the property involved in the transaction or, if no transaction is involved, \$5,000. Each transaction conducted or attempted to be conducted and each exemption from reporting claimed in violation of the provision constitutes a separate, punishable offense.¹⁰

(4) **31 U.S.C. §5326.** Provides that, if the U.S. Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate federal or state law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of federal law, and prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or nonfinancial trade or business or group of domestic financial institutions or nonfinancial trades or businesses in a geographic area to do all of the following:

(a) Obtain such information as the Secretary describes in the order concerning any transaction in which the financial institution or nonfinancial trade or business is involved for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments as the Secretary describes in the order), the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe, and concerning any other person participating in such transaction;

(b) Maintain a record of the information for such period of time as the Secretary requires;

(c) File a report with respect to any transaction described in paragraph (a) in the manner and to the extent specified in the order.

The Secretary, by regulation or order, may require any depository institution to request any financial institution or nonfinancial trade or business (other than a depository institution) that engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution or nonfinancial trade or business with respect to any prior transaction between the financial institution or nonfinancial trade or business and any other person that involved any portion of the coins or currency or monetary instruments that are involved in the reportable transaction with the depository institution. The Secretary also may require, if no copy of any report described in the preceding sentence is received by the depository institution in connection with any reportable transaction to which that provision applies, to submit (in addition to any

¹⁰ R.C. 1315.53 and 1315.99.



report required with respect to the reportable transaction) a written notice to the Secretary that the financial institution or nonfinancial trade or business failed to provide a copy of the report.

"Reportable transaction" means any transaction involving coins or currency (or other monetary instruments as the Secretary describes in the regulation or order), the total amounts or denominations of which are equal to or greater than an amount which the Secretary prescribes. "Depository institution" means any national bank, any state bank, any federal branch and insured branch, any federal savings association, any state savings association, any corporation (other than a bank) that the Board of Directors and the Comptroller of the Currency jointly determine to be operating in substantially the same manner as a savings association, and any former savings association.

HISTORY

ACTION	DATE
Introduced	06-06-13
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