



# Ohio Legislative Service Commission

## Bill Analysis

Dennis M. Papp

### S.B. 141

130th General Assembly  
(As Introduced)

**Sens.** Obhof, Hughes

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#### BILL SUMMARY

- Specifies that a person who knowingly or intentionally does any of the following 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 for a subsequent offense:
  - (1) Causes or attempts to cause a casino facility to fail to file a specified financial transaction report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, or to fail to file a report or maintain a record required by an order issued under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508;
  - (2) Causes or attempts to cause a casino facility to file a specified financial transaction report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, to file a specified financial transaction report or to maintain a record required by any order issued under 31 U.S.C. §5326, or to maintain a record required under any regulation prescribed under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 that contains a material omission or misstatement of fact;
  - (3) Structures a transaction, as defined in R.C. 1315.51, assists in structuring a transaction, or attempts to structure or assist in structuring a transaction with one or more casino facilities.

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\* The correction made in this analysis is to include on page 7 the R.C. 1315.51 definition of "structure a transaction" that was omitted from the prior version due to an oversight.

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## CONTENT AND OPERATION

### New criminal penalties for specified types of conduct related to casino gambling or a casino facility

#### Operation of the bill

Existing law establishes many duties and prohibitions with respect to casino gambling that is authorized in Ohio. Depending upon the prohibition and the person or entity that commits 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 (see "**Background**," below, for a summary of the existing prohibitions and sanctions).

The bill enacts criminal penalties for a person who engages in specified types of conduct related to casino gambling or a casino facility. Pursuant to a provision of existing law that applies with respect to the bill's provisions, in addition to the criminal penalties, a person who is convicted of a felony under any of those provisions may be barred for life from entering a casino facility by the Casino Control Commission.<sup>1</sup> Under the bill, 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 R.C. Chapter 3772. (the Casino Control Law) commits a fifth degree felony on a first offense and a fourth degree felony for a subsequent offense:<sup>2</sup>

(1) Causes or attempts to cause a casino facility to fail to file a report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, or to fail to file a report or maintain a record required by an order issued under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 (see "**Provisions of federal and state law referred to in bill**," below, for summaries of 31 U.S.C. §5313(a), 31 U.S.C. §5325, and R.C. 1315.53);

(2) Causes or attempts to cause a casino facility to file a report required under 31 U.S.C. §§5313(a) or 5325 or any regulation prescribed thereunder or R.C. 1315.53, to file a report or to maintain a record required by any order issued under 31 U.S.C. §5326, or to maintain a record required under any regulation prescribed under section 21 of the "Federal Deposit Insurance Act" or section 123 of Pub. L. No. 91-508 that contains a material omission or misstatement of fact (see "**Provisions of federal and state law**

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<sup>1</sup> R.C. 3772.99(I).

<sup>2</sup> R.C. 3772.99(H).



**referred to in bill,"** below, for summaries of 31 U.S.C. §5313(a), 31 U.S.C. §5325, R.C. 1315.53, and 31 U.S.C. §5326);

(3) "Structures a transaction," as defined in R.C. 1315.51, assists in structuring a transaction, or attempts to structure or assist in structuring a transaction with one or more casino facilities (see "**Provisions of federal and state law referred to in bill,"** below, for the R.C. 1315.51 definition of "structure a transaction").

### **Provisions of federal and state law referred to in bill**

(1) **31 U.S.C. §5313(a).** 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 in accordance with 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 the institution in the United States. One of the specified types of institutions is a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 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" has the same meaning as in 12 U.S.C. §461(b)(1)(A), and includes any branch, agency, or commercial lending company (as defined in 12 U.S.C. §3101), any corporation chartered under 12 U.S.C. §611, and any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under 12 U.S.C. §§601, *et seq.* "Qualified business customer" means a business that maintains a transaction account (as defined in 12 U.S.C. §461(b)(1)(C)) at the depository institution, frequently engages in transactions with the depository institution which are subject to the reporting requirements of the preceding clause, 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.<sup>3</sup>

(2) **31 U.S.C. §5325.** 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 such 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 in accordance with 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 in accordance with regulations that the Secretary prescribes. Any information required to be recorded by any financial institution under this provision must be reported by the institution to the Secretary at the request of the Secretary.

As used in these provisions, "transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. It includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.<sup>4</sup>

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<sup>3</sup> 31 U.S.C. §§5312 and 5313(a).

<sup>4</sup> 12 U.S.C. §461(b)(1)(C) and 31 U.S.C. §5325.



(3) **R.C. 1315.53.** R.C. 1315.53 requires a money transmitter that is required to file a report regarding business conducted in Ohio pursuant to 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 money in one transaction or who receive more than \$10,000 in money through two or more related transactions, and who are required to file returns under 20 U.S.C. §60501 and 26 C.F.R. 1.6050I, 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. The section specifies that the good faith filing of a report that it requires with the appropriate federal agency is considered compliance with the reporting requirements of the section.

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

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

(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 is required to be filed pursuant to the section;

(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 report required under the section, or to cause the making or filing of a report required under the section 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.



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. The fine must be paid to the state treasury to the credit of the General Revenue Fund. Each transaction conducted or attempted to be conducted and each exemption from reporting claimed in violation of the section constitutes a separate, punishable offense.<sup>5</sup>

(4) **31 U.S.C. §5326.** 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 31 U.S.C. §5311 *et seq.*, 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

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<sup>5</sup> R.C. 1315.53 and 1315.99.

reportable transaction to which that provision applies, to submit (in addition to any 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.

As used in these provisions, "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.

(5) **R.C. 1315.51 definition of "structure a transaction."** R.C. 1315.51 defines "structure a transaction" as dividing a "transaction" that otherwise would be reportable under R.C. Chapter 1315. (which includes Ohio's Transaction Reporting and Money Laundering Laws and R.C. 1315.53, as described above in (3)) into two or more transactions that, if considered separately, would not be reportable. It defines "transaction" as including 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, 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 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.<sup>6</sup>

## **Background**

The Casino Control Law contains many prohibitions and sanctions for violation of the prohibitions.<sup>7</sup>

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<sup>6</sup> R.C. 1315.51.

<sup>7</sup> R.C. 3772.99(A) to (G) and (I).



Existing law requires the Casino Control Commission to levy and collect penalties for noncriminal violations of the Casino Control Law. Noncriminal violations include using the term "casino" in any advertisement in regard to a facility operating video lottery terminals, as defined in R.C. 3770.21, in Ohio. Moneys collected from such penalty levies are credited to the General Revenue Fund.

If a licensed casino operator, management company, holding company, gaming-related vendor, or key employee violates the Casino Law or engages in a fraudulent act, the Casino Control Commission may suspend or revoke the license and may do either or both of the following: (1) suspend, revoke, or restrict the casino gaming operations of a casino operator, or (2) require the removal of a management company, key employee, or discontinuance of services from a gaming-related vendor.

The Casino Control Commission must impose civil penalties against a person who violates the Casino Control Law under the penalties adopted by Commission rule and reviewed by the joint committee on gaming and wagering.

A person who knowingly or intentionally does any of the following commits a first degree misdemeanor on the first offense and a fifth degree felony for a subsequent offense:

- (1) Makes a false statement on an application submitted under the Casino Law;
- (2) Permits a person less than 21 to make a wager at a casino facility;
- (3) Aids, induces, or causes a person less than 21 who is not an employee of the casino gaming operation to enter or attempt to enter a casino facility;
- (4) Enters or attempts to enter a casino facility while under 21, unless the person enters a designated area as described in R.C. 3772.24;
- (5) Is a casino operator or employee and participates in casino gaming other than as part of operation or employment.

A person who knowingly or intentionally does any of the following commits a fifth degree felony on a first offense and a fourth degree felony for a subsequent offense:

- (1) Uses or possesses with the intent to use a device to assist in projecting the outcome of the casino game, keeping track of the cards played, analyzing the probability of the occurrence of an event relating to the casino game, or analyzing the strategy for playing or betting to be used in the casino game, except as permitted by the Commission;

- (2) Cheats at a casino game;
- (3) Manufactures, sells, or distributes any cards, chips, dice, game, or device intended to be used to violate the Casino Law;
- (4) Alters or misrepresents the outcome of a casino game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;
- (5) Places, increases, or decreases a wager on the outcome of a casino game after acquiring knowledge that is not available to all players and concerns the outcome of the casino game that is the subject of the wager;
- (6) Aids a person in acquiring the knowledge described in paragraph (5) for the purpose of placing, increasing, or decreasing a wager contingent on the outcome of a casino game;
- (7) Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a casino game with the intent to defraud or without having made a wager contingent on winning a casino game;
- (8) Claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a casino game;
- (9) Uses or possesses counterfeit chips, tokens, or cashless wagering instruments in or for use in a casino game;
- (10) Possesses a key or device designed for opening, entering, or affecting the operation of a casino game, drop box, or an electronic or a mechanical device connected with the casino game or removing coins, tokens, chips, or other contents of a casino game (this provision does not apply to a casino operator, management company, or gaming-related vendor or their agents and employees in the course of agency or employment);
- (11) Possesses materials used to manufacture a device intended to be used in a manner that violates this chapter;
- (12) Operates a casino gaming operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this chapter.

If the offender under any of the above provisions is a licensee under the Casino Law, the Casino Control Commission must revoke the person's license after the first offense. The possession of more than one of the devices described in paragraph (9), (10),

or (11) creates a rebuttable presumption that the possessor intended to use the devices for cheating.

A person who knowingly or intentionally does any of the following commits a third degree felony:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with the casino operator, management company, holding company, or gaming-related vendor, including their officers and employees, under an agreement to influence or with the intent to influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a casino game or an official action of a Commission member, agent, or employee;

(2) Solicits, accepts, or receives a promise of anything of value or benefit while the person is connected with a casino, including an officer or employee of a casino operator, management company, or gaming-related vendor, under an agreement to influence or with the intent to influence the actions of the person to affect or attempt to affect the outcome of a casino game or an official action of a Commission member, agent, or employee.

If an offender under any of these provisions is a licensee under the Casino Law, the Casino Control Commission must revoke the person's license after the first offense. A public servant or party official who is convicted under any of the provisions described in this paragraph is forever disqualified from holding any public office, employment, or position of trust in this state.

A person who is convicted of a felony under any of the prohibitions described above may be barred for life from entering a casino facility by the Commission.

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## HISTORY

ACTION	DATE
Introduced	06-06-13

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