

3769-20-01

General definitions.

- (A) "Capital Investment" means cost related to demolition, engineering, architecture, design, site preparation, construction, infrastructure improvements, land acquisitions, furniture, fixtures, equipment, insurance related to construction, capitalized interest and other financing costs, leasehold improvements, video lottery terminal acquisition and related technology, surveillance and security equipment, and such other costs as approved by the director which are usual and customary for the industry.
- (B) "Commission" and "racing commission" mean the Ohio racing commission under Chapter 3769. of the Revised Code.
- (C) "Director" means the executive director of the state lottery under Chapter 3770. of the Revised Code.
- (D) "Permit Holder" means a corporation, trust, partnership, limited partnership, association, person or other group of persons who or which has been granted a permit to conduct a horse racing meeting under Chapter 3769. of the Revised Code.
- (E) "Temporary Facility" is a location where a permit holder who conducts live racing and simulcasting according to the requirements of Chapter 3769. of the Revised Code and will simulcast racing according to the requirements set forth in Section 3769.089 of the Revised Code. The permit holder will simulcast all Ohio horse races and horse races conducted at facilities located outside this state made available on each day that video lottery games are operated.
- (F) "Video Lottery" means the operation of video lottery games through the use of video lottery terminals, central monitoring systems, control systems, communications processes and/or associated equipment and activities connected and/or associated therewith.
- (G) "Video Lottery Game" means any game that is played on a video lottery terminal.
- (H) "Video Lottery Sales Agent" means a permit holder that conducts live racing in accordance with Chapter 3769. of the Revised Code, and that is licensed by the director to sell video lottery games through video lottery terminals, and who continues to be a permit holder while authorized by the director to conduct video lottery games.
- (I) "Video Lottery Terminal or VLT" is a device used by a video lottery sales agent in connection with the sale of video lottery games.
- (J) "Incremental Economic Benefits" means demonstrating a substantial positive gain in:
- (1) Job creation;
 - (2) Capital investment in a new facility;

(3) Video lottery terminal revenue to support school districts; and

(4) Local tax base.

(K) "Race Track" means any place or enclosure where a permit holder conducts live horse racing and simulcasting for profit at a race meeting under Chapter 3769. of the Revised Code. "Race Track" includes facilities or premises contiguous to those places, tracks, or enclosures.

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3769-20-02

Permit holders eligible to conduct video lottery sales.

A permit holder who, as of the effective date of this rule, is operating a commercial race track where live horse racing and simulcasting are conducted in accordance with Chapter 3769. of the Revised Code is eligible to apply for a video lottery sales agent license. The scope of such a license, and its approval, shall be subject to the Director's discretion.

3769-20-03

Application to relocate a race track facility.

- (A) A permit holder eligible to become a video lottery sales agent may make application to relocate its race track using a form prescribed by the racing commission.
- (B) The application to relocate a race track shall be made in the manner prescribed by the racing commission and may include information required by 3769-2-08 or 3769-12-08 of the Administrative Code. The application shall also:
- (1) Indicate whether or not a temporary facility will be used to conduct business at the new location;
 - (2) Identify the location for the new track by city or township, county, address and zip code;
 - (3) Disclose the incremental economic benefits to the state in a certificate of compliance that shall be a part of the application; and
 - (4) Provide other information as required by the racing commission.
- (C) If a permit holder's current race track is located on property owned by a political subdivision and the application indicates that the new location is twenty miles or less from its current location, the racing commission shall calculate the distance and provide its calculation to the applicant. If the permit holder's calculation differs significantly from the racing commission's calculation of the distance, then the racing commission's determination of the distance between the two locations will be controlling.
- (D) An application to relocate a race track facility must be submitted to the racing commission on or before October 17, 2013.
- (E) Each application to relocate a race track shall be accompanied by a relocation fee to be determined by the commission, except that a permit holder who makes application for a new location and is currently on property owned by a political subdivision and is twenty (20) miles or less from its current location shall not pay a fee. If the permit holder's calculation differs significantly from the racing commission's calculation of the distance, then the racing commission's determination of the distance between the two locations will be controlling.
- (F) A permit holder who currently conducts live horse-racing meetings at a facility owned by a political subdivision may apply for a permit to conduct horse racing as follows:
- (1) The application to relocate must be submitted on or before October 17, 2013.
 - (2) The new location proposed in the application must be:
 - (a) A place where horse-racing meetings have not previously been conducted

except for county fairs:

(b) In the same county or a contiguous county; and

(c) Within twenty (20) miles of the current location for which the permit has been issued, but is not in the same county as another location at which horse-racing meetings were conducted prior to October 17, 2011, except for at county fairs.

3769-20-04

Facility requirements.

(A) Capital investment plan. A master facility plan shall be submitted for review and approval by the racing commission and the director of the lottery. The plan shall propose capital investments totaling a minimum of one-hundred fifty (150) million dollars in categories as defined in Division (A) of 3769-20-01 of the Administrative Code.

(1) Up to twenty-five (25) million dollars of the capital investment may be allocated for existing land and facilities.

(2) Capital investments made in a temporary facility which becomes part of the permanent master facility plan may be considered for inclusion in the minimum capital investment requirement.

(B) Schedule. The capital investment shall be completed within three years from issuance of a license.

(C) Reporting. The video lottery sales agent shall provide status reports in a format and according to a schedule established by the racing commission and the lottery director. The video lottery sales agent shall maintain supporting records detailing actual expenditures and shall make those records available for inspection.

(D) Facility requirements. A permit holder who has been licensed as a video lottery sales agent shall submit a master facility plan which may meet the following requirements:

(1) The facility design must comply with applicable building and safety codes. If not already accessible, renovated and new facilities should meet the requirements of the Americans with Disabilities Act.

(2) The facility plan shall identify proposed improvements in the following areas if applicable:

(a) Track length, width, design or materials;

(b) Public facility components, including access and sanitary facilities;

(c) Grandstand components, including betting areas and concessions;

(d) Clubhouse components, including betting areas, restaurants and offices;

(e) Facilities for licensees, race horses in barn and stable area;

(f) Other buildings for driver, jockey and groom quarters and recreation halls;

(g) Security plans for the racing facility; and

(h) All other components set forth in Chapter 3769, or 3770, of the Revised Code or any administrative rules promulgated in furtherance thereof.

(E) Temporary facility requirements:

- (1) A permit holder may submit a proposal for review and approval of the racing commission and the lottery director to operate at a temporary facility;
- (2) The temporary facility shall comply with the requirements for a permanent facility set forth in section (G) of this rule;
- (3) A permit holder may request a deviation from the facility plan requirements in writing for consideration and approval by the racing commission and the lottery director. No deviation may be undertaken without the express approval of the racing commission and the lottery director; and
- (4) The minimum capital investment in a temporary facility shall total five (5) million dollars, exclusive of the cost of acquisition of video lottery terminals.

(F) Facility relocation. The permit holder may submit to the racing commission a proposal for the relocation of a facility as provided in Section 3 of the Substitute House Bill 277, as enacted by the 129th General Assembly. The application must be submitted by October 17, 2013 and shall contain a facility plan meeting the requirements set forth in this rule.

(G) Relocation costs. If the racing commission approves a temporary facility, the permit holder shall be responsible for all costs associated with the transition from the temporary facility to a permanent facility including the cost of relocating the central monitoring system and components.

(H) A permit holder also licensed as a video lottery sales agent shall comply with all of the facility requirements set forth in Section 3770:2-12 of the Administrative Code.

(I) Simulcasting of races shall commence on or before the date that the temporary facility begins video lottery sales.