

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

Treasury

**Bureau name:**

Bureau of State Lottery

**Name of person filling out RIS:**

Mike Gallagher

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**Rule Set Information:**

**ARD assigned rule set number:**

2020-84 TY

**Title of proposed rule set:**

Charitable Gaming

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

**A. Are these rules required by state law or federal mandate?**

These rules are authorized under § 13 of the Traxler-McCauley-Law-Bowman Bingo Act, MCL 432.113, which says that the “commissioner shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this article.” MCL 432.113.

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

There are no applicable federal standards.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

States similar to Michigan (in the Midwest) do not specify any requirements or prohibitions to allowing a Random Number Generator (RNG). The standards that we developed are designed to ensure the integrity of gaming that best suits the interest of the public welfare. Any potential issues that could arise from providing a RNG are covered under existing rules that govern equipment, methods of play and disputed games. The state of Virginia, although not similar to Michigan, does allow for a RNG with requirements similar to what we are proposing.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

Creating specific rules for using a RNG provides non-profit organizations additional opportunities to attract players and increase revenue to further their lawful purposes. There are no additional costs to the Bureau of State Lottery (Bureau) that are associated with using a RNG. There are no added costs for non-profit organizations choosing to use a RNG.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

The proposed rules do not duplicate, overlap, or conflict with other laws, rules, or legal requirements.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The rules have not been coordinated because there are no other federal, state, or local laws, rules, or other legal requirements that duplicate, overlap, or conflict with the subject matter of the proposed rules.

**4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.**

MCL 24.232(8) does not apply to the proposed rules.

**5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.**

MCL 24.232(9) does not apply to the proposed rules.

## **Purpose and Objectives of the Rule(s)**

**6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

These rules will allow bingos to be conducted with a random number generator; allow for the use of an alternative method for players to declare a bingo; and allow unclaimed raffle prizes for in-house raffles conducted using a method approved by the bureau to be disbursed to a charitable organization.

These rules also amend the compensation a licensee may provide its workers; amend the financial reporting requirements of licensees; and amend the advertising requirements of licensees.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

There is no expected change in the frequency of the targeted behavior except that licensed qualified organizations will have additional flexibility when conducting charitable gaming in Michigan.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

The amended rules will allow the following practices, which are not permitted under the current rules:

- Conducting bingos using a random number generator instead of physical bingo balls.
- Permitting an alternative method for players to declare a bingo (e.g. the use of honking a car horn to conduct socially distanced games of bingo by players in their cars).
- Permitting in-house raffles to disburse unclaimed prizes to a charitable organization under certain conditions.

**C. What is the desired outcome?**

The desired outcome of promulgating these rules is to allow licensees more flexibility when conducting charitable gaming in Michigan and to reduce current regulatory burdens.

**7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

The proposed rules allow licensees to adopt new practices and technology to remain competitive in a changing market for gaming in Michigan. The proposed rules will allow bingos to be conducted with a random number generator; allow for the use of an alternative method for players to declare a bingo; and allow unclaimed raffle prizes for in-house raffles conducted using a method approved by the bureau to be disbursed to a charitable organization.

The proposed rules also amend the compensation a licensee may provide its workers; amend the financial reporting requirements of licensees; and amend the advertising requirements of licensees.

Moreover, by allowing licensees to establish an alternative method for players to declare bingos, the proposed rules provide licensees with additional options to tailor charitable gaming events consistent with social distancing, and other important health and safety practices.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

The rationale for amending the rules instead of leaving them as currently written is to allow licensees to adopt new practices and technology to remain competitive in the changing landscape of Michigan gambling.

The proposed rules will allow bingos to be conducted with a random number generator; allow for the use of an alternative method for players to declare a bingo; and allow unclaimed raffle prizes for in-house raffles conducted using a method approved by the bureau to be disbursed to a charitable organization.

The proposed rules also amend the compensation a licensee may provide its workers; amend the financial reporting requirements of licensees; and amend the advertising requirements of licensees.

Furthermore, by allowing licensees to establish an alternative method for players to declare bingos, these proposed rules provide licensees that have resumed charitable gaming events with additional options to tailor these events consistent with social distancing and other important public health and safety practices.

**8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The proposed rules promote a regulatory environment that is the least burdensome alternative for those required to comply by:

- allowing bingos to be conducted with a random number generator;
- allowing for the use of an alternative method for players to declare a bingo;
- permitting in-house raffles to disburse unclaimed prizes to a charitable organization under certain conditions;
- amending the compensation a licensee may provide its workers;
- amending the financial reporting requirements of licensees; and
- amending the advertising requirements of licensees.

Moreover, by allowing licensees to establish an alternative method for players to declare bingos (e.g. a “socially-distanced” bingo game where players declare bingo by honking their car horn), the proposed rules advance the public health and safety of Michigan by providing licensees with additional options that are consistent with social distancing and other important public health and safety practices.

Furthermore, by providing licensees greater flexibility to offer socially-distanced events, this measure also advances public welfare by providing an important source of revenue for charitable organizations in Michigan.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are no rules in the affected rule set that are obsolete or unnecessary or that could be rescinded.

**Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

There is no anticipated fiscal impact on the Michigan Bureau of State Lottery from the proposed amended rules.

**11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

Section 41 of the McCauley-Traxler-Law-Bowman-McNeely Lottery Act creates the state lottery fund in the state treasury. MCL 432.41. All fees and revenue collected by the commissioner under the Bingo Act are deposited into the state lottery fund. See MCL432.108(1). Upon appropriations, the Commissioner can expend money from the fund to cover the costs of regulating and enforcing the act. MCL 432.108(1).

**12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The proposed rules are necessary to regulate charitable gaming in Michigan. The outcome of the amendments to the rules will be a reduction in current regulatory burdens.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

Any burdens on a licensee are necessary to regulate charitable gaming in Michigan. The proposed rules do not place additional burdens on licensees.

## **Impact on Other State or Local Governmental Units**

**13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

There are no anticipated increases or decreases in revenues or any increases or reductions in costs to state or local governmental units as a result of the proposed rules.

**14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, township, village, or school district as a result of these proposed rules.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

There are no anticipated actions that a governmental unit must take to comply with these proposed rules.

**15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

No appropriations have been made to any governmental unit as a result of these rules. No additional expenditures are anticipated or intended as a result of the proposed rules.

## **Rural Impact**

**16. In general, what impact will the rules have on rural areas?**

The proposed rules are intended to provide greater flexibility and ease regulatory burdens on qualified organizations that conduct charitable gambling to raise funds. Per the Bingo Act, a qualified organization is a “religious, educational, service, senior citizens, fraternal, [or] veterans’ organization.” MCL 432.103a(d)(i). Qualified organizations are located throughout the state, including in rural areas.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

Although qualified organizations are located throughout the state, including in rural areas, the proposed rules should have no particular impact on public or private interests in rural areas.

## **Environmental Impact**

### **17. Do the proposed rules have any impact on the environment? If yes, please explain.**

The proposed rules do not have an environmental impact.

## **Small Business Impact Statement**

### **18. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

In making the proposed rule changes, the agency did not consider exempting small businesses. The only small businesses affected by the rule changes are bingo halls. There are 43 bingo halls; 20 are small businesses. These small businesses cannot be exempted from the proposed rules because they must be licensed under the Bingo Act. Halls are licensed to ensure patron safety and protect qualified organizations conducting charitable gaming at these locations. Moreover, the rule changes result in fewer restrictions for these small businesses.

### **19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

Although small businesses were not exempted from the proposed rule changes, the agency has reduced the economic impact on the small businesses by promulgating less restrictive means of conducting business. Under the current rules, halls are limited on means of advertising and are not allowed to offer or give away anything of value, such as food or transportation, to players or bingo licensee workers. With the elimination of these subsections in the rules, bingo halls will be allowed to promote their bingo halls to players and qualified organizations with fewer restrictions. Because bingo halls are either small businesses or owned by qualified organizations, as defined in the Bingo Act, there is no disproportionate impact to the small businesses.

#### **A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

The proposed changes to the rules related to bingo halls will impact 20 small businesses.

#### **B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

The agency has not established differing compliance or reporting requirements for small businesses under the new rules as the proposed changes to the rules provide a less restrictive means of conducting business.

#### **C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

By eliminating restrictions on advertising and allowing the small business to offer or give away anything of value, such as food or transportation to players or bingo licensee workers, the agency has simplified compliance and is promoting growth of the small business.

#### **D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

The agency did not establish performance standards to replace design or operation standards to small businesses.

### **20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

There is no disproportionate impact on small businesses because of their size or geographical location. The only impact would be if a bingo hall decided to not take advantage of the opportunity to advertise or offer or give away anything of value, such as food or transportation, to patrons or bingo licensees.

### **21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

The proposed rule changes for bingo halls do not require any report.

### **22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

There are no costs of compliance for small businesses affected by the proposed rules.

**23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

There are no costs to small businesses for legal, consulting, or accounting services related to the proposed rules.

**24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

Because there are no costs to small businesses related to the proposed rules small businesses do not require an ability to absorb costs.

**25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

The rules do not and cannot exempt or set lesser standards for compliance for small businesses.

**26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

If the agency had exempted or set lesser standards of compliance for the affected small businesses (bingo halls), the public interest in providing safe, clean, and well-maintained locations for patrons and bingo licensees to participate in charitable gaming would have been jeopardized.

**27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

Bingo halls have periodically expressed concern about limitations on providing anything of value to attract patrons and bingo licensees. Moreover, advertising limitations were also problematic for the bingo halls.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

No small businesses were directly involved in the drafting of the proposed amended rules.

**Cost-Benefit Analysis of Rules (independent of statutory impact)**

**28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

There are no statewide compliance costs of the rule amendments on businesses or groups. However, because bingo licensees will no longer be limited to paying a bingo worker \$10.00 for food and beverages consumed while working, and the chairperson and record keeper may earn up to \$75.00 (instead of \$50) and workers may earn up to \$50.00 (instead of \$30), qualified organizations may incur additional costs as a result of the proposed rules if they choose to increase their payments to these persons.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

The businesses or groups who will be directly affected by the proposed rules are: (1) bingo halls; and (2) bingo licensees, which must either meet the definition of “qualified organization” in MCL 432.103a(d) as certain nonprofit organizations, or qualify for licensure under an extreme hardship exception to that definition, pursuant to MCL 432.104a(2).

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

No additional costs will be imposed as a result of the proposed rules. However, because bingo licensees will no longer be limited to paying a bingo worker \$10.00 for food and beverages consumed while working, and the chairperson and record keeper may earn up to \$75.00 (instead of \$50) and workers may earn up to \$50.00 (instead of \$30), qualified organizations may incur additional costs as a result of the proposed rules if they choose to increase their payments to these persons.

**29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

The proposed rules are not expected to impose any additional compliance costs on regulated individuals. However, because bingo licensees will no longer be limited to paying a bingo worker \$10.00 for food and beverages consumed while working, and the chairperson and record keeper may earn up to \$75.00 (instead of \$50) and workers may earn up to \$50.00 (instead of \$30), qualified organizations may incur additional costs as a result of the proposed rules if they choose to increase their payments to these persons.

The proposed rules will not impose compliance costs on the public.

**A. How many and what category of individuals will be affected by the rules?**

The proposed amended rules will affect the following:

- 875 bingo licensees
- 8,224 raffle licensees
- 18 licensed suppliers,
- 43 licensed bingo halls.

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

The proposed amendments allow licensees the option of providing workers at a licensed bingo event more compensation than permitted under the current rules.

**30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

The proposed rules may reduce costs for qualified organizations and bingo halls by promulgating less restrictive means of conducting business, which simplify the advertising and compensation requirements imposed on qualified organizations and bingo halls.

Under the current rules, qualified organizations are limited on means of advertising, and may not compensate bingo licensee workers with more than \$10 in retail value worth in food and beverages; moreover, under the current rules, halls are also limited on means of advertising and are not allowed to offer or give away anything of value, such as food or transportation, to players or bingo licensee workers.

The elimination of these subsections in the rules, will reduce the regulatory burden imposed on qualified organizations and bingo halls, and may also reduce their costs.

**31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

The primary and direct benefits of the proposed rules are to provide bingo halls and bingo licensees with more flexibility in conducting events, potentially increasing their competitiveness with other forms of regulated gaming in Michigan. Workers at these events may also benefit if the licensees choose to increase their pay, as the proposed rules allow.

**32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

The proposed rules could impact business growth for licensed bingo halls by providing more flexibility in their operations and permitting increased use of modern technology. The rules are not expected to have an impact on business growth or job creation or elimination in Michigan.

**33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

The proposed rules apply to qualified organizations who hold a license to conduct charitable gaming in Michigan. As such, individuals or businesses will not be disproportionately affected by the proposed rules as a result of their industrial sector, segment of the public, business size, or geographic location.

**34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

The Commissioner relied upon agency staff and its regulatory experience to determine the impact of the proposed rules.

Specifically, agency staff identified the following important changes to allow licensees more flexibility when conducting charitable gaming in Michigan and to reduce current regulatory burdens:

- Allowing bingos to be conducted with a random number generator;
- Allowing for the use of an alternative method for players to declare a bingo;
- Allowing in-house raffles conducted using a method approved by the bureau to disburse unclaimed prizes to a charitable organization;
- Amending the compensation a licensee may provide its workers;
- Amending the financial reporting requirements of licensees;
- Amending the advertising requirements of licensees.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

The Commissioner relied on agency staff and its regulatory experience to formulate estimates and determine the need for the proposed rules.

## **Alternative to Regulation**

**35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

To provide greater flexibility and ease regulatory burdens on bingo halls and qualified organizations that conduct charitable games to raise funds, there are no reasonable alternatives to the proposed rules.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

There is no reasonable alternative to the proposed rules and, thus, no statutory amendment is necessary.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

No alternative to promulgated administrative rules, including private market-based mechanisms, is feasible to regulate charitable gaming.

The Legislature has found it to be in the best interest of this state and its citizens to regulate this activity by establishing a secure, responsible, fair, and legal system of charitable gaming. Moreover, the Legislature has charged the Commissioner with supervising certain charitable gaming and has granted the Commissioner powers and duties to administer, regulate, and enforce the aspects of charitable gaming under his authority in Michigan. The Legislature has also required the Commissioner to promulgate rules to implement Article 1 of the Bingo Act. See MCL 432.113. The Commissioner is not aware of any states that use a private market-based system, as opposed to a state regulatory body, for this purpose.

**37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

Due to the nature of charitable gaming, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. However, the subject matter of the amendments to the rules includes concerns expressed by bingo licensees and bingo halls.

## **Additional Information**

**38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

The rules explicitly inform persons of most requirements. Other information will be available from the Bureau of State Lottery, Charitable Gaming Division.