

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
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**REGULATORY IMPACT STATEMENT
and
COST-BENEFIT ANALYSIS**

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2013-088 TY

ORR rule set title:

Millionaire Parties

Department:

Treasury

Agency or Bureau/Division

Gaming Control Board

Name and title of person completing this form; telephone number:

Laurie Lander
(517) 241-1063

Reviewed by Department Regulatory Affairs Officer:

Margaret Patterson
Legislative Liaison
(517) 241-3196

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

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

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The proposed rules are consistent with similarly situated states.

In Ohio qualifying charitable organizations may conduct games of chance only at festivals of the charitable organization and for not more than a total of five days in a calendar year. A location to be leased is limited to a location from a veteran’s or fraternal organization for a rental rate not to exceed the lesser of 45% of the gross receipts of the games of chance or \$600 per day of the festival. No person receives any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance. Expenses incurred in the conduct of the games of chance, such as rent for the premises, purchase or lease of equipment or supplies necessary for the conduct of the games of chance, or advertising, may be paid only from a source of funds other than the money or assets received from the games of chance, and only to the extent that the amount paid is not more than is customary and reasonable for the goods or services provided.

Illinois licensees are permitted to conduct charitable games on not more than 4 days each year. Effective 2014, charitable game events that may be held in any one premises is limited to one charitable games event per month. A participant may cash in for currency not to exceed \$ 250 or unlimited noncash prizes. No person may receive any remuneration or compensation either directly or indirectly from any source for participating in the management or operation of the game.

Indiana’s Charity Game Night License allows for six Charity Game Night events per year and only three days in one week. Not more than one qualified organization may conduct an allowable event on the same day at the same location. An amount not to exceed two hundred dollars (\$200) per day for rent paid for facilities leased for an allowable event. If a facility or location is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

Wisconsin allows raffles and bingos only.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has 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 proposed rules duplicate overlap with the current Charitable Gaming Rules 432.21101 – 432.22008.

2012-137 TY to be completed by Lottery will rescind the duplicative overlapping rules relating to millionaire parties.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The proposed rules are designed to implement the legislative intent behind the Bingo act.

The proposed rules are designed to regulate the public gaming conducted by qualified non-profit organizations. In the last three years over \$567 million was reported to have moved through millionaire parties in Michigan. Over 1200 on-site and post-event inspections of qualified organizations have been conducted since October 2012. These investigations have uncovered hundreds of violations of the Traxler-McCauley-Law-Bowman Bingo Act, its rules, or other state laws. In particular, the investigations have found the following problems:

- Falsification of game records.
- Sale exceeding the statutory maximum of \$15,000 in chips.
- Persons other than the qualified organization conducting management activities.
- Illegal gambling.

Significant concerns have been raised related to public safety, gaming integrity, and protecting the qualified organizations. There is a lack of control over chips, cards, and cash. The hours of operation do not promote public safety and are not consistent with the Liquor Code. Further, law enforcement agencies are frequently called to millionaire party locations with reports of robberies, assaults, and fraud.

The administrative rules that govern these events are obsolete, inconsistent with the intent of the Bingo Act, do little to guarantee proper regulation of this public gaming, and do not provide sufficient protection to the public or the qualified organizations that participate in these games.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

The harm resulting from unregulated public gaming includes a lack of public safety, failure to maintain the integrity of gaming, and increased opportunity for unlawful activity. Millionaire parties have grown from an occasional church, school, and civic club sponsored “Las Vegas” night to a reported approximate \$184 million (fiscal 2012) industry and the rules to regulate such an industry have not changed to respond to the exponential growth.

Further, these rules will provide increased clarity and certainty in the regulation of gambling.

(6) Describe how the proposed rule(s) 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 encourage strict regulation of public gaming which will protect the health, safety, and welfare of Michigan citizens. The proposed rules changes will do the following:

1. Limit the number of millionaire party events that occur at a location.
2. Limit the hours of operation.
3. Provide regulatory oversight of game operation.
4. Ensure consistent game play by each qualified organization.
5. Require background checks on approved dealers
6. Require active participating by qualified organizations during millionaire party.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

Lottery, with 2012-137 TY, will be rescinding the duplicative overlapping rules relating to millionaire parties.

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, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

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

It is not anticipated that the rules will require additional expenditures to license and regulate millionaire parties.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

All necessary expenses incurred in the licensing and the regulating of millionaire parties are financed with Section 8 of 1972 PA 382, MCL 432.108.

Impact on Other State or Local Governmental Units:

(10) 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 on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

With the implementation of the proposed rules it is expected there will be a decrease in expense to local law enforcement because there will be a decrease in the hours of operation, decrease in the number of millionaire parties occurring at a single location, and a greater ability to regulate the gaming through the use of consistent game rules. There is no anticipated increase in revenue to the State.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

There will not be any new responsibility added to a city, county, town, village, or school district except to the extent a qualified organization, which may be a school, will have to comply with the new rules to conduct a millionaire party.

(12) 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 rule(s).

No appropriation or funding source has been provided for any additional expenditure associated with the proposed rules.

Rural Impact:

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

If there is any impact on rural areas, it will be because a qualified organization will be required to conduct its millionaire party at a location within the same or adjacent county from where it is located.

Environmental Impact:

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules have no environmental impact.

Small Business Impact Statement:

[Please refer to the discussion of "small business" on page 2 of this form.]

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

Gaming is a highly regulated industry. Because the Bingo Act authorizes the conduct of millionaire parties by qualified organizations, which are not small businesses, the proposed rules do not contemplate exemptions for small businesses. To the extent that small businesses participate in public gaming, the small businesses must comply with all laws to ensure public safety and the integrity of gaming.

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) 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 rule(s) 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.

These rules will not have a disproportionate impact on small business. Under the Bingo Act, the legislature mandated that only the qualified organization be given a license to conduct public gaming. Qualified organizations are not small businesses.

To the extent the proposed rules impact licensed millionaire party suppliers, which meet the definition of small business, the suppliers will be required to required background checks for their employees, which will result in additional costs to the supplier.

Because the proposed rules limit the number of millionaire party events at a location to 30 per year, suppliers will have the opportunity to provide equipment and supplies at several locations, rather than providing equipment and supplies at one location for nearly 365 days/year.

Finally, it is not known to what extent whether qualified organizations will seek more or fewer millionaire party licenses. If more qualified organizations request millionaire party licenses, suppliers may see an increase in demand for their goods and services. Likewise if fewer are requested suppliers may see a decrease in demand for their goods and services.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

There are currently 41 suppliers. Under the current rules, a supplier's payment can decrease depending on the profits of the millionaire party. Whether the suppliers see increased or decreased demand for their goods and services will depend entirely on the number of qualified organizations wishing to conduct millionaire parties.

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

The proposed rules do not establish differing compliance or reporting requirements for small businesses.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

The proposed rules have not consolidated or simplified compliance or reporting requirements.

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

The proposed rules do not establish performance standards.

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules do not have a disproportionate impact on small businesses because of their size or

geographical location.

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

The proposed rules do not add additional reporting requirements; thus there is no estimated cost for preparation of such a report by a small business.

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

The cost of compliance for all small businesses affected by the proposed rule changes are not anticipated to change.

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There is no anticipated change to the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur with the proposed rule changes.

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

If a small business incurs additional costs with the proposed rules changes, it is anticipated that the cost will be necessary and reasonable. These rules are not likely to add additional costs to small business other than diminimus cost for background checks.

(22) 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.

To regulate public gaming effectively and in the public's best interest, small businesses cannot be exempt from complying with the proposed rules. Is impossible to estimate the costs to the agency of administering or enforcing the proposed rules if small businesses were exempted.

(23) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is a significant public interest in the strict regulation of public gaming. The impact on the public interest if small businesses are exempted from compliance with the proposed rules will not promote public safety and such illegal activities like robberies, assaults, and fraud, will continue to take place. Eliminating the opportunity for these activities to take place by reducing the number of millionaire parties that happen at a certain location, reducing the hours of operation, requiring identification of players, and requiring the gaming to take place in a demarcated area will protect the public interest.

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

While conducting the more than 1200 on-site and post-event inspections, staff has been in contact with qualified organizations, suppliers, and location owners. Through these interactions, as well as meeting with the Charitable Gaming Association, information has been gathered on how to more effectively regulate this form of public gaming.

Any additional comments made at the public hearing will be taken under consideration.

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

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). 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.

The proposed rules require that a qualified organization list the persons who may be dealing at the licensed gaming event. Further, the qualified organization must provide information to show the dealers have never been convicted of, or forfeited bond upon a charge of, or pled guilty to any of the following offenses:

1. A felony.
2. A gambling offense.
3. Criminal fraud.
4. Forgery.
5. Larceny.
6. Filing a false report with a governmental agency.

The potential cost to the qualified organization to provide this information is estimated at \$10 to \$75 per dealer. Suppliers of millionaire party equipment will also bear the cost of conducting background investigation on their employees or agents. Because there is a significant public interest in strict regulation of public gaming, background checks of person dealing the games played at millionaire party events will help eliminate potential illegal activity associated with public gaming.

The public will receive a direct benefit of the proposed rule changes when the public gaming is more strictly regulated thereby eliminating potential illegal activity associated with public gaming.

Qualified organizations will have a reduced risk of loss because games will be conducted uniformly as set forth in the rules of the game. Presently, qualified organizations sometimes lose money when conducting blackjack or roulette.

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

Compliance cost should be minimal.

The license fee of \$50 and \$300 for qualified organizations and suppliers, respectively, will not change.

The qualified organizations revenue may increase because they will no longer be paying volunteers to work the event.

The qualified organization must show the dealers have never been convicted or pled guilty to various offenses and there is a cost for the background check. Suppliers will also have to provide background checks for their employees and agents.

The background checks are for the protection of the public health, safety, and welfare, and will keep convicted felons and cheats from participating in public gaming which helps to ensure fair and honest gaming.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

The proposed rules could result in a reduction of expenses that a qualified organizations incurs when conducting a millionaire party event. Under the proposed rules, workers associated with the qualified organization will no longer receive compensation other than credit for tuition, dues or similar items and food and beverage to consume while working the event.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The direct benefits of the proposed rules include:

1. Accountability for chips and funds, which helps prevent qualified organizations from suffering losses from fraud or administrative penalties.
2. Reduced hours of operation will help the qualified organization find workers for the events.
3. Having additional members of the qualified organization at the event will help maintain control over the event.
4. Provides agency with the ability to regulate millionaire parties without the confusion of having multiple qualified organizations conducting their gaming events at the same time.
5. Providing qualified organizations with approved rules of the game that will be utilized uniformly at all licensed gaming events. This will increase the integrity of the public gaming and eliminate qualified organizations from losing thousands of dollars.

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

There is potential growth for businesses. The proposed rules limit the number of days that qualified organizations may conduct millionaire party events at a location. The proposed rules also require that a qualified organization conduct its millionaire party at a location within the same or adjacent county from where it is located. With these two requirements, more businesses may have the opportunity to rent their location to a qualified organization for its licensed millionaire party.

Persons who deal at the licensed gaming event will need to be approved, which will potentially create

jobs for dealers.

The proposed rules will increase the integrity of the games and help ensure the laws are followed. If the rules are not implemented future millionaire party licenses may be eliminated or reduced because the games cannot be regulated in their current format.

(30) 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.

Individuals who have been convicted of, or forfeited bond upon a charge of, or pled guilty to any of the following offenses will be disproportionately affected by the proposed rules:

1. A felony.
2. A gambling offense.
3. Criminal fraud.
4. Forgery.
5. Larceny.
6. Filing a false report with a governmental agency.

(31) 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 a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The agency visited each location where millionaire parties are conducted, completed more than 1,200 inspections, obtained the services of a gaming consultant, relied on information from the Bureau of State Lottery, conducted meetings with the Michigan Charitable Gaming Association, studied the impact of millionaire parties on local law enforcements' resources, listened to public comment during the Michigan Gaming Control Board monthly meetings, and held discussions with Legislators.

Alternatives to Regulation:

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

No reasonable alternative to the proposed rules exists.

(33) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There is no feasibility of establishing a regulatory program to operate through private market-based mechanisms to regulate public gaming in the State of Michigan.

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

The significant alternatives considered by the agency during rule development included:

1. Hiring additional agency staff to monitor events and process applications.
2. Adding electronic point of sale devices.
3. Licensing dealers.
4. Requiring video surveillance with monitoring.

These alternatives are cost prohibitive or otherwise not authorized under the Bingo Act.

Additional Information

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

There are currently no instructions regarding the method of complying with the rules.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

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Date RIS approved:	
ORR assigned rule set number:	

Date of disapproval:	Explain:
More information needed:	Explain: