

CHARITABLE GAMING: DEFINITION OF “OCCASION”

Phone: (517) 373-8080
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House Bill 4431 as reported from committee
Sponsor: Rep. Kevin Hertel
Committee: Regulatory Reform
Complete to 5-18-21

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4431 would amend the Traxler-McCauley-Law-Bowman Bingo Act to delete the definition of the term “occasion” for purposes of the act.

FISCAL IMPACT: The bill would result in an indeterminate fiscal impact to the state. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

When 2019 PA 159 was enacted to amend the Bingo Act, which regulates charitable gaming, the new law, among other changes, changed the definition of the term “occasion” from meaning *the hours of the day for which a license is issued* to its current definition of *a single day for which a license to conduct games is issued under the act*.

However, the definition of “occasion” in the Michigan Administrative Code (MAC), which was the same as the previous statutory definition, remained unchanged.¹ Prior to this change in the definition, and under provisions in the MAC, qualified charities could offer multiple bingo games per day² and halls could hold up to 14 licensed events a week.³ Further, a charity could be licensed to conduct a bingo event and a raffle on the same day at the same location, though not at the same time.⁴

Although the change made by 2019 PA 159 appears to be a minor clarification, it effectively restricts charities and halls from the longstanding practice of holding more than one event a day. This is because, in the event of a conflict between them, a statute carries more force of law than a departmental rule. It has been suggested that if the definition of “occasion” from the bingo act were eliminated, it would allow the departmental rules to prevail and restore the practices that were limited by 2019 PA 159.

THE CONTENT OF THE BILL:

House Bill 4431 would delete the provision that defines the term *occasion* for purposes of the Bingo Act. Currently, *occasion* means a single day for which a license to conduct games is issued under the act.

MCL 432.103

¹ R 432.21101(2)(o): https://www.michigan.gov/documents/cg/BSL-CG-RulesPart01_189386_7.pdf

² R 432.21305: https://www.michigan.gov/documents/cg/BSL-CG-RulesPart03_189388_7.pdf

³ R 432.22006(2): https://www.michigan.gov/documents/cg/BSL-CG-RulesPart10_189394_7.pdf

⁴ R 432.21513(5): https://www.michigan.gov/documents/cg/BSL-CG-RulesPart05_189390_7.pdf

BACKGROUND INFORMATION:

The bill is a reintroduction of House Bill 5902 of the 2019-20 legislative session, although that bill would have amended the act to restore the previous definition of “occasion,” rather than deleting it from the act as HB 4431 proposes to do.

FISCAL INFORMATION:

The bill would increase charitable gaming revenues by an unknown amount due to the estimated increase in authorized games. Prior to 2019 PA 159, the definition of occasion mirrored the language effectively proposed by HB 4431. The definitional change under 2019 PA 159 effectively reduced the number of daily games at authorized locations to one, thereby reducing charitable gaming revenues. Due to reporting lags and closures caused by the COVID-19 pandemic, an estimate of the reduction of charitable gaming revenues due to this definitional change cannot be determined with any accuracy.

After deducting Charitable Gaming Division expenses, net revenue is deposited in the state’s general fund. The general fund transfer totaled \$1.9 million in FY 2019, which is the last full pre-pandemic year.

ARGUMENTS:

For:

Sometimes an amendment to a statute results in an unintended consequence that requires an additional legislative “fix.” The statutory change in the definition of “occasion” made by 2019 PA 159 inadvertently hampered the fundraising ability of charities by reducing the number of bingos and raffles they could hold on the same day and hurt halls by limiting the number of charitable events they could host in a week. This was not the intent. By eliminating the definition from the statute, the bill would allow the definition within departmental rules to prevail, would not affect the regulation of charitable gaming, and would restore the practices that had been in place for years.

POSITIONS:

The following entities indicated support for the bill (4-27-21):

- Michigan Lottery
- Michigan Gaming Control Board

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.